

City of Lewiston
PLANING BOARD MEETING
Minutes of November 12, 1996

I. ROLL CALL

The meeting was called to order at 7:10 P.M..

Members Present: H. Milliken, D. Theriault, H. Skelton, D. Jacques,
M. Goulet, L. Zidle

Members Absent: T. Peters

Staff Present: G. Dycio, J. Lysen, D. Ouellette, E. Friedman

II. READING OF THE MINUTES

MOTION: By Mr. Goulet, seconded by Mr. Skelton to accept the minutes of October 22, 1996.

VOTE: Passed 6 -0

III. CORRESPONDENCE

MOTION: By Mr. Skelton, seconded by Mr. Zidle to accept the following five pieces of correspondence and place on file:

- A. Letter from Peter Crichton to Tom Gagnier regarding two-family homes in the NCA-Response from M. Gagnier to Jim Lysen.
- B. Memo from George Dycio to Robert Connors regarding out-of-district student placement.
- C. Copy of the American Planning Association's Environment & Development for Sept./Oct. 1996 concerning Sustainable Development.

IV. PUBLIC HEARINGS

Letter from Peter Crichton to Tom Gagnier regarding two-family homes in the NCA zone and Mr. Gagnier's response to Jim Lysen were discussed. Mr. Gagnier informed the board that he wished to add an apartment over his existing one family home. He would make the apartment retain the look of a one family by making the addition into a garrison.

George Dycio explained that this was not permitted in this zone unless it met the density test and certain locational criteria. His proposal would require a substantial change in the code. He also

stated that no one has passed this stringent test to his knowledge in the eight (8) years that he has been here.

Mr. Skelton stated that this test was strong because most residents in a single-family zone do not want two-family units in their area.

Mr. Gagnier explained that all he wanted was an in-law apartment and that he was not building a unit to produce income.

Mr. Dycio explained that it was a full second floor that included a stove; therefore, it became a second family dwelling. At this point Mr. Gagnier explained that it was not his intent to complain about businesses in the neighborhood but could not understand why the city allowed businesses such as a beauty parlor in the neighborhood which causes more traffic than a two-family dwelling would. What he wants to do is to allow a member of his family to live in this unit.

Mr. Dycio thought that perhaps a design review requirement may be a good idea especially in a situation such as the Gagniers since they maintained style and character.

Mr. Goulet expressed a concern that if this apartment was allowed, that sometime in the future it could be sold and become a rental property.

Michael Reed from the audience spoke saying that he owned two duplexes; one on Rideout Avenue which borders Hillview. He stated that he has been looking for a place to build a new one in Lewiston, but could not come up with a place. He suggested that the Board take a look at the whole picture and that the Gagniers should not be turned down. He also said as far as impact on a neighborhood, that he has complained for years about Hillview regarding not taking care of their property; dumpsters, fences, and general condition of the complex.

Mr. Skelton said that these were separate issues about whether we should allow duplexes, and that what was being discussed here was the removal of restrictions and not the making of new rules. He also said that it was his experience that most people living in single-family homes strongly advocate not to have duplexes in their neighborhood and were in favor of how the law stands today. .

Mr. Milliken stated that the issues were addressed in the draft Comprehensive Plan under housing which will be reviewed by council early next year.

Mr. Dycio explained the NCA code in detail and Mr. Milliken suggested that there be a public hearing on this matter.

Mr. Gagnier explained that he wanted the apartment by next spring.

Jim Lysen explained that the purpose of the NCA zoning was basically to not change the character of a neighborhood and suggested that perhaps the zone should be divided into two divisions--NCA 1 and NCA 2 with areas that are strictly single-family being divided from more mixed areas.

Harold Skelton stated that he didn't think anything would be accomplished by dividing NCA.

Mr. Milliken suggested that things may have to change to allow duplexes but with limitations--perhaps to look like a single family home or built on a larger lot than a single family. These are some of things the Board would have to look at. Mr. Lysen added that the draft Comp Plan suggests using performance standards to deal with such situations.

Mr. Goulet stated that someone probably could not build a duplex in any NCA zone. Mr. Dycio explained that it was the stove that really made the unit. Mr. Lysen stated that in-law apartments allowed stoves, and the square footage was increased, but only to 750 square feet.

Mr. Therriault said that this issue will keep coming up because of the elderly population and that the planning board should address this at some time.

Mr. Milliken stated that the problem was with the next generation when the property would be sold that it could become income producing unit. Mr. Jacques also added that his concern was with what happens after the unit was sold.

The Board instructed staff to look further into two family dwellings with respect to design standards, ownership, and possible neighborhood approval.

IV. REVIEW OF DEVELOPMENT PROPOSALS - FINAL HEARING

A. River Road Industrial Park/Condominiums-Revision IV (145 River Road)

Arthur W. Montana, of A.R.C.C. Land Surveyors, Inc., on behalf of Gerard Tassel, has submitted plans for a proposal to amend an approved private industrial/commercial condominium development where Lot/Unit #6 will be increased from 1.324 acres to 6.179 acres. The area under consideration is located in the Industrial (I) District where private industrial/commercial developments are permitted as a matter of right. As outlined under Article XIII, Section 3 (l)(7) of the Zoning and Land Use Code, the proposal is defined as a minor amendment and therefore only requires one meeting before the Planning Board.

Pursuant to Article XIII, Section 3 (h)(5), the applicant is requesting a number of waivers and non-applicable status requests to the application requirements listed under Section 3 (h)(1-4). Upon review of the requests Staff finds that, in our opinion, the requests are justified and recommends that the Board grant them.

MOTION: by Mr. Therriault, seconded by Mr. Skelton, that the requested waivers of submission requirements by Arthur Montana on behalf of Gerald Tassel for the River Road Industrial Park/Condominiums-Revision IV be granted because of the size of the project and the circumstances of the site such requirements would not be applicable or would be an unnecessary burden upon the applicant and that such waivers do not adversely affect the abutting landowners or the general health, safety and welfare of the city.

VOTE: Passed 6-0.

The Planning Staff has reviewed the plans against the Approval Criteria and State Subdivision Law outlined under Article XIII, Section 4 (a–u), and Section 5 (1–14) and finds that, in our opinion, the plans meet all of the applicable criteria. Staff has also forwarded copies of the plans to the Police, Fire and Public Works for their review and comments. Both the Police and Fire Departments have no concerns. Staff has spoken to a representative from the Public Works Department regarding this project and they have no concerns as well. Their comments will be forwarded to Staff prior to the meeting date. Therefore, the Planning Staff recommends that the Planning Board approve the project.

MOTION: By Mr. Goulet, seconded by Mr. Skelton that the Board find that the application of Maple Ridge Road-Revision III on behalf of Richard Murphy meets all of the approval criteria under Article XIII, Section 4 and Article XIII, Section 5 and further that the board grant final approval to the project.

VOTE: Passed 6-0.

VI. REVIEW OF DEVELOPMENT PROPOSALS - PRE-APPLICATION

Maine Department of Labor Building - Lot #12, South Park (240-246 Goddard Road)

Gary Hagan submitted plans for a proposal to construct an 18,600 square foot, single-story, wood framed office building. Mr. Hagan informed the panel that the building was similar to the United States Department of Agriculture building in South Park. It will have a gabled roof and similar landscaping.

MOTION: by Mr. Goulet, seconded by Mr. Therriault that the requested waivers of submission requirements by Maine Department of Labor Building - Lot #12 on behalf of Gary Hagan be granted because of the size of the project and the circumstances of the site such requirements would not be applicable or would be an unnecessary burden upon the applicant and that such waivers do not adversely affect the abutting landowners or the general health, safety and welfare of the city.

VOTE: Passed 6-0

MOTION: by Mr. Goulet, seconded by Mr. Skelton that the application of Gary Hagan was determined to be complete. Further moved that review of the completed application be scheduled on November 26, 1996 at 7:00 p.m.

VOTE: Passed 6-0

Recess 8:05 - 8:17 p.m.

VI. OTHER BUSINESS

- ◆ Memo from George Dycio to Robert Connors regarding out-of district student placement. Mr. Milliken asked if Mr. Connor responded. Mr. Dycio answered that he had spoken to him on the phone and that Gert Mynahan from the Code Enforcement Department would

be working closely with him; however that they had run into an issue of privacy in obtaining the information requested regarding day care providers and children attending schools in those districts from the day care. Gert should have the information by the next Planning Board meeting set for November 26th. However, it will be difficult to tell which student is from a particular day care.

- ◆ Correspondence from L. Albert and Jackie Leger, owners of Angel's Boutique on 53 Morse Avenue, Lewiston. Discussion followed regarding home businesses allowing members of the same family who reside in the premises to be employed by the business but that the business could not hire from outside the family. Mr. Lysen made the comment that Auburn is not as strict regarding this regulation as Lewiston. Mr. Skelton voiced his concern that allowing one employee now would then open the door for someone to add another and keep the business growing at home. Mr. Therriault was also concerned with the image of the neighborhood if this was allowed. Mr. Skelton suggested that perhaps the Board should analyze every particular use. Mr. Goulet stated that opening up a home occupation was like an incubation period for the business so that if it grew it could finally open up in a commercial zone. Mr. Goulet stated that Angel's did in fact have the right to hire an outside cleaning person at this time and did not understand why Angel's wanted the regulations to change since they fell within the regulations with their request.

- ◆ Mr. Therriault requested the staff have a turn around time for correspondence no longer than five working days.

At this time the Board began the review of the Housing component of the Comprehensive Plan. The following changes were made:

- Add the words "Task Force Findings" to the heading directly under "Housing"
- Strike out the last two sentences in the top paragraph of page 8 along with the whole next paragraph
- Under Recommendations of the Housing Subcommittee #2 page 10, add "private landlords" after Lewiston Housing Authority and before "individual churches"
- Under same heading, page 11 #10, change "All city ordinances, including land use, zoning and housing assistance codes, should be reviewed and amended or added to, to encourage" and replace it with "The City should encourage a diversity..."
- Under the same heading, section 12(c), page 12 take out "The city should also investigate options to reduce and mediate the tensions between the expectations and legitimate needs of the mobile home owner and those of the mobile home park owner. Such options may include advocating with the State to legislate reductions in the park owner's superior bargaining position."
- Policy 1 Strategy A: remove "(pertaining to restrictions on group homes)"
- Policy 1 Strategy F: remove "into continuing areas"
- Policy 1 Strategy I: add language exploring two family units

A discussion ensued concerning the Comprehensive Planning Process. Mr. Lysen expressed his concern on how to bring forth important recommendations made by the various sub-committees and Comprehensive Plan Committee that have been altered or eliminated by the Planning Board during their review. Mr. Therriault quoted from the statutes on the Planning Board's duties: "The planning board shall prepare and maintain a comprehensive plan as defined in 30 M.R.S.A. Section 4961 as amended and shall review and

make recommendations on all investigations, reports and plans relating to the planning and development of the city or affecting the comprehensive plan." He then explained that the Planning Board had the duty of presenting a Comprehensive Plan to the City Council and that if a member of the subcommittee had an issue that they disagreed with then they certainly had a right to appear before the City Council and be heard.

Mr. Lysen added that he is at times asked to explain or defend recommendations put forth by the subcommittees or comprehensive plan committee, some of which he may personally oppose. He explained that it is his responsibility to "frame the debate" on these issues so that consensus can be built that is in the public's interest. Mr. Lysen further explained that it was sometimes difficult on all concerned to separate personal interest from certain issues, but that should be the goal--Mr. Milliken agreed.

No changes were made at this time to the Cultural and Arts Section of the Comprehensive Plan. Instead a vote was taken to not remove all of Policy 1 and Policy 2 from the plan and a vote to simply soften the language regarding the recommendation concerning the integration of arts into education.

VOTE: 3-3 D. Theriault, H. Milliken, L. Zidel opposed
M. Goulet, D. Jacques, H. Skelton in favor
The vote ended with no action taken.

This component was tabled until the next Planing Board meeting

VII. ADJOURNMENT

MOTION: by Mr. Goulet, seconded by Mr. Skelton to adjourn at 9:55 p.m.

VOTE: Passed 6-0

Respectfully Submitted,

Marc Goulet
Secretary