

City of Lewiston
PLANNING BOARD MEETING
Minutes of April 8, 1997

I. ROLL CALL

The meeting was called to order at 6:05 PM.

Members Present: H. Milliken, H. Skelton, D. Theriault, T. Peters, D. Jacques,
L. Zidle, M. Paradis

Staff Present: J. Lysen, G. Dycio, D. Ouellette
G. Arsenault, Code Enforcement Director and G. Mynahan, Sanitarian

II. WORK SHOP - Day Care Facilities

The Development Department Staff has reviewed all of the day care information submitted to the Planning Board for consideration to date. Staff has also reviewed past memorandums and minutes to determine what type of changes may be necessary in order to expand the opportunities for day care in the city while protecting established neighborhoods from undue adverse impacts. Staff offers the following issues for the Planning Board to consider:

- 1) Staff continues to support the concept of expanding home child care and group child care as a permitted use for legally established, non conforming residential uses in all of the city's non residential zoning districts. Staff recommends that the Planning Board review the current licensing requirements, as part of expanding day care to other zoning districts, to ensure that issues such as parking, access, traffic, safety, etc. are adequately addressed. If not, then Staff recommends that the Board propose changes to the existing licensing requirements.
- 2) Currently, the only mechanism for receiving input from the public is through the notification process required for conditional uses or the development review process. Otherwise, no notification is given to abutters and Staff receives no input from them. This was one of the concerns abutters expressed with respect to home child care which requires no notification to abutters. One of Staff's suggestions is that a form of notification be incorporated into the licensing process where input from abutters is requested within a certain time frame. Staff recommends that the Board explore this issue further.
- 3) Now that the State has created a new category for small day care facilities which provide day care for less than 12 children in a non home setting, it is Staff's opinion that another category must be created for these types of facilities that fall somewhere between a group child care and a day care center classification. Staff suggests that these facilities be permitted in all non residential zoning districts as a matter of right, and not be permitted in any residential zoning district. These new facilities would function similar to a group child care facility, however, since they would be allowed to stand on their own they would not, in Staff's opinion, be compatible in a residential area because there would be no residential component associated with them.
- 4) With respect to the non residential zoning districts, Staff has discussed allowing day care

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centers to be established independently. Currently, day care centers are permitted as accessory to an allowed use in some of the non residential zoning districts, and conditional uses with some restrictions in the other non residential zoning districts. Should the Planning Board recommend that these facilities be established independently, Staff recommends that additional licensing standards be created to ensure that these facilities are located properly and operated in a safe and convenient manner.

5) One issue that was discussed in great detail at the Board of Appeals level was what does the term "in conjunction with a residential use" actually mean. Currently, the Zoning and Land Use Code places restrictions on day care facilities with terms like "in conjunction with a residential use," "not in conjunction with a residential use," "in conjunction with a municipal building and facility or religious facilities," and "accessory to an allowed use." Staff feels very strongly that these terms should be clarified, most likely by definition, and recommends that the Board consider amending the Zoning and Land Use Code and the day care licensing provisions accordingly.

The Planning Staff presented a revised, draft day care matrix at the workshop for further review and discussion. Staff recommended that the Board continue to discuss the issue of day care, receive input from Staff and the public, and provide further guidance and direction to Staff. Once the Board decides in which direction to proceed, Staff will draft proposed ordinance and licensing amendments for consideration and scheduling of a Public Hearing. The Planning Staff will be working closely with both the Code Enforcement Staff and the City Sanitarian while drafting these proposed changes for the Board's consideration.

J. Lysen clarified one point in the proposed chart within the residential zoning section. He said that it would have to be done in conjunction with the residential use similar to the home child care. He suggested redefining what it means to be conjunction with residential use. J. Lysen also pointed out that Staff suggested giving notification to the people in the neighborhood when day care providers obtained their license. Some of the problems that the City has had are not group child care, but rather home child care where there were concerns in the neighborhood. He also said that what the City was trying to do at this point was to remove some of the obstacles for the child care providers. H. Skelton asked if this proposal required a notification to all abutters. J. Lysen answered that right now there is no notification, but through licensing, notifications could be sent to neighbors. H. Skelton said that according to this matrix home child care would be permitted in conjunction with residential use in all districts and if this is the case, it would not address the concerns that have been presented by neighbors to the Board. H. Skelton said that the matrix showed that group child care did not have any restrictions whatsoever. J. Lysen said that he amended that. There was much discussion about the matrix and where day care could be operated under the current code and where Staff proposed under the new matrix. H. Skelton noted that the City could rely on licensing. J. Lysen said that the State says the applicant must meet local zoning. He agreed to the need to strengthen the licensing. J. Lysen and T. Peters then discussed conditional zoning and agreed as long as it did not have an adverse impact. H. Milliken said the City needed to be consistent with the State. D. Theriault also agreed that the City should mirror the State which would in turn make this easier for Gert Mynahan, Sanitarian.

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H. Milliken then opened the discussion to the public. **Rhonda Renaud** of 101 Elm Street asked what the time frame was regarding day care. H. Milliken responded that the Board was trying to be faire and will probably have one more workshop before a Public Hearing. **Ray Faucher** of 171 Pettengill Street thanked the Board for all its hard work but is concerned that day care centers can be run entirely as a business yet home day care require people to live at the home (a home operated business). H. Skelton answered that the difference was it was a conditional use, and not a permitted use. Mr. Faucher is worried that it would not allow the level of protection to the neighborhood. J. Lysen said that there were three zones that allowed this, rural area, NBR - multi-family neighborhoods, and NCB - typically the downtown area. H. Milliken said Mr. Faucher had a point where the City will not allow 12 children, but would allow 13. Zoning does not allow small facility to stand by itself in a rural district. Mr. Faucher said that if you meet the conditions, then this would be allowed. **Anna Faucher** of 171 Pettengill had a question about businesses opening up in residential areas. She wondered if people who run a day care had to live in the day care. H. Milliken explained that this is what started all of these workshops in the first place and that those who were opened today would probably be grandfathered, but new facilities would not be allowed. T. Peters noted that home based businesses are allowed in residential areas, but it was not clear that the owner had to live at the center. **Gert Myhanan** asked if Tall Pines, Lewiston Housing and Hillview would have any restrictions. J. Lysen said those were in the MDR district and those would be allowed. **Gil Arsenault** said Hillview was in NCA. T. Peters noted that it would not be allowed in this proposal. **Donna Child** of 951 Sabattus Street asked if it changes would she be able to have her day care since she is in a Highway Business District. G. Arsenault said it currently was a group child care. H. Skelton said if it was adopted in the form it is presented this evening she would not be allowed. She also asked why mothers had to count their children as a child she is caring for. H. Milliken said it mirrors the State regulations. G. Arsenault said it also pertained to staff ratio. Ms. Childs said that it was her understanding under the State rules that she could have any amount of related children. She asked if her daughter would be in the count towards her group. T. Peters said the reason for that is one person can handle so many children appropriately and effectively and in order to not exclude one's children, the State said 6 plus 2 is an appropriate number. Mr. Faucher asked about the current day care facilities would be grandfathered. T. Peters said if they got a license and are operating legally, then he was inclined to have them grandfather. However, if they sold the business or transferred it to another person, then some of these day care facilities would stop. **Allison Peters** of Summer Street, Auburn wondered if day care centers allowed in non-residential zoning if it was decided on an individual basis. H. Skelton said that what was presented to them tonight would probably be changed and encouraged Ms. Peters to attend the next meeting. Ms. Peters asked if it would be better to handle those in the industrial zones on a one-by-one basis rather than flatly saying that they are not allowed in those areas. Discussions followed with H. Skelton, and T. Peters and Ms. Peters. H. Milliken asked staff, Gert Myhanan and Gil Arsenault for suggestions whether this should be put it in as performance standards or into licensing before the next workshop.

J. Lysen suggested that if the zoning is to be relaxed that there be clear performance standards within the code that someone could go to. Then with the licensing standards and true performance standards should be repeated in the licensing. H. Skelton said that all the proposed matrix addresses is only the zoning, and the next step that the Board should take is to address performance standards and licensing requirements, which may be the same thing. H. Milliken asked that Staff have something ready for the May 13th meeting for

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another day care workshop session starting at 6PM. H. Milliken asked for volunteers to be on a board with Staff to iron out some of the issues with day care. T. Peters, D. Jacques, and H. Skelton volunteered.

Recess for 10 minutes

Meeting called to order at 7:15 PM

II. READING OF THE MINUTES OF March 25, 1997

The minutes for the March 25th meeting were not yet ready.

III. CORRESPONDENCE

1. Letter from Rev. Greg Gates, Lewiston Church of the Nazarene.
2. Memorandum from Robert Mulready, City Administrator requesting a Public Hearing regarding the Promenade Mall extension from April 30, 1997 to June 30, 1997.

MOTION: by H. Skelton, seconded by T. Peters to accept the above correspondence.

VOTE: Passed 7-0.

H. Milliken has scheduled the Promenade Mall for a Public Hearing on April 22, 1997. Attorney Matzen who represents North American Storage said he was sending letters to the abutters regarding the extension. T. Peters suggested that minutes from previous meetings might be helpful and staff would cooperate with Mr. Matzen. T. Peters noted that granting an extension would allow the Board to put additional conditions.

IV. PUBLIC HEARINGS

A. FY 1997 Community Development Block Grant (CDBG)

Re: Review of the proposed request for funding and forwarding recommendations to the City Council.

After much discussion and comments from the Board, the final figures remain the same except for the following:

PUBLIC SERVICE AGENCIES	AMOUNT REQUESTED	STAFF RECOMMENDATION	PLANNING BOARD RECOMMENDATION
Andros. Head Start	\$ 75,000.00	\$ 55,878.00	\$ 64,878.00
Andros. Home Health	\$ 34,238.00	\$ 20,000.00	\$ 23,000.00
Kid's Korner	\$ 7,500.00	\$ 2,000.00	\$ 2,625.00
Hope Haven Shelter	\$ 8,000.00	\$ 30,000.00	\$ 4,000.00

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Pathways Day Care	\$ 20,223.00	\$ 12,000.00	\$ 14,125.00
Pathways Workplace	\$ 17,500.00	\$ 13,000.00	\$ 15,000.00
Trinity Meals	\$ 24,573.00	\$ 12,000.00	\$ 10,000.00
NEW SUBTOTAL	(Includes amts that	were left the same)	\$ 219,653.00
ECONOMIC DEVELOPMENT			
50/50 Com. Rehab	\$ 50,000.00	\$ 30,000.00	\$ 25,000.00
Downtown Improv.	\$ 150,000.00	\$ 120,000.00	\$ 110,000.00
NEW SUBTOTAL			\$ 607,000.00

H. Milliken asked if there could be an alternative to St. Martin. J. Andrews said that they would qualify for a loan program. He also said that historically the City has used the money for services and not to rebuild. T. Peters suggested using percentages of the money for the services instead of taking the agencies line by line. H. Milliken said there was an April 15th deadline and it would be more expedient to do them line by line. H. Milliken opened this segment to the public, no one commented.

D. Theriault voiced his strong opposition to the Bates Mill receiving \$400,000 yearly without an end in sight. He said he felt the \$400,000 was being treated as untouchable and that the inner city was being robbed of much needed monies for street repairs as well as community programs. He also told the Board that he would vote "no" regarding the CDBG recommendation to the City Council due to his strong opposition to the yearly funding to the Bates Mill project.

J. Andrews told the Board that Maggie Chisolm from the Recreation Department has not had a chance to meet regarding the Couture Center. She had wanted to meet with Mr. Mulready and has not had a chance to do so yet.

MOTION: by H. Skelton , seconded by D. Jacques to send staff recommendations with the above modifications to the City Council.

VOTE: 5 - 2 (D. Theriault and T. Peters opposed).

B. Proposed Amendment to the zoning and Land Use Code.

Re: Proposal to amend the Urban Enterprise (UE) District where Option "A" would allow used car dealerships as a permitted use, and Option "B" would allow used car dealerships as a conditional use and to add additional standards to uses in UE areas within the downtown.

The Board asked where in the UE zone this should be permitted. H. Milliken pointed out that because the

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UE District is spread out that it was time to look at it especially in the downtown. J. Lysen said that the way Option B was written, it would allow used car dealerships in the UE District except for the areas of the downtown. H. Milliken said he had no problem with what was before him tonight.

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MOTION: by T. Peters, seconded by L. Zidle to send a favorable recommendation to the City Council concerning the proposal to allow used car dealerships as a conditional use in the Urban Enterprise (UE) District except for areas in the Downtown portion of the City as defined as north of Gulley Brook and south of Island Avenue.

VOTE: Passed 5-2 (H. Skelton and D. Theriault opposed).

C. Proposed Amendment to the Zoning and Land Use Code.

Re: Proposal to conditionally rezone property located at 218-226 River Road from Industrial (I) District to Urban Enterprise (UE) District for the purpose of establishing an Auto Repair Garage.

David R. Thibodeau submitted a proposal to amend the "Official Zoning Map, City of Lewiston" where the property located at 218 226 River Road would be conditionally rezoned from an Industrial (I) District to an Urban Enterprise (UE) District in order to establish an Auto Repair Garage.

Mr. Thibodeau initiated the rezoning process by submitting a citizens petition, as outlined under Article XVII, Section 5 (b)(1)(a) of the Zoning and Land Use Code. The petition form was submitted to the City Clerk's office for review and confirmation of the signatures. The petition was returned verifying that all ten (10) signatures were valid. The Planning Board also reviewed the proposed Conditional Rezoning Agreement, found it to be in proper form, and scheduled a Public Hearing to review the proposal on April 8, 1997.

The Planning Staff recommended that the Board review the Conditional Rezoning Agreement and the attached site plan, receive input from the general public and Staff at the Public Hearing, recommend changes to the agreement and site plan where necessary, and forward a recommendation to the City Council accordingly.

G. Dycio said that this was an intensification because of the agreement for screening and parking for more than six. This business will be open to the general public and needs to be safe.

MOTION: by H. Skelton, seconded by T. Peters to send a favorable recommendation to the City Council concerning the proposal to conditionally rezone the property located at 218-226 River Road from Industrial (I) District to Urban Enterprise (UE) District for the purpose of establishing an auto repair garage.

VOTE: Passed 7-0.

V. REVIEW OF DEVELOPMENT PROPOSALS - FINAL HEARING

A. Spare-Time Recreation Subdivision - Second Revision

Arthur W. Montana of A.R.C.C. Land Surveyors, Inc., on behalf of Lewiston Raceways, Inc., submitted

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plans for a proposal to amend an approved subdivision where Lot #8 will be divided into two (2) lots, and Falcon Road, a private way, will be extended approximately three hundred and thirty (330) feet.

The project had its Pre Application conference at the March 25th Planning Board meeting at which time the applicant requested that the Board consider the project's application for completeness. Upon review of the project's application the Planning Board determined it to be complete.

The Planning Staff has reviewed the final plans and finds that Staff's concerns have been addressed. Notes #8, #9, and #10 reflect the Board's and Staff's concerns regarding the extension of Falcon Road, a "private way." With respect to the extension of Falcon Road, the revised plans indicate that the road will be extended an additional eighty (80) feet than originally proposed in order to minimize the elimination of parking stalls for the recreation center and provide a suitable turn around area for emergency vehicles. Staff reviewed these changes with a representative from the Fire Department and they had no concerns.

The Planning Staff also reviewed the final plans against the Approval Criteria outlined under Section 4 (a u), and the Coordination with State Subdivision Law section (Section 5, 1 14) of the Zoning and Land Use Code and found that the project met all of the applicable criteria. Therefore, Staff recommended that the Planning Board grant final approval to the project with the condition that the D.E.P. concur with the Board's and Staff's findings.

The Board had no problems with this proposal.

MOTION: by T. Peters, seconded by H. Skelton that the Board find the application of James Day to meet all of the approval criteria under Article XIII, Section 4 and 5 and further that the Board grant final approval to the project provided that the Department of Environmental Protection concur with Staff's findings.

VOTE: Passed 7-0.

B. Spare-Time Recreation Center - Parking Lot Revision

Arthur W. Montana of A.R.C.C. Land Surveyors, Inc., on behalf of Lewiston Raceways, Inc., submitted plans for a proposal to amend an approved plan where eighteen (18) parking stalls will be eliminated in order to provide for the extension of Falcon Road. In addition, the applicant proposed to redesign the entrance to the parking lot and install a stop sign to aid in the internal circulation of the site.

As outlined under Article XIII, Section 3 (1)(7) of the Zoning and Land Use Code, the project is defined as a minor amendment to a major project and therefore only requires one meeting before the Planning Board.

Pursuant to Article XIII, Section 3 (h)(5), the applicant is requesting a modification and a number of non applicable status requests to the application requirements listed under Section 3 (h)(1 4). Upon review of the requests Staff found that the requests are justified and recommended that the Board grant

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them.

Copies of the plans were submitted to the Police, Fire, and Public Works Departments for their review and comments. Staff received comments from each department and all had no concerns.

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Staff had one minor issue that the applicant must address. Initially, the Spare-Time Recreation Center was determined to be an Adult Business Establishment due to the fact that the center had four (4) pool (billiard) tables. Therefore, the Planning Board also issued a Conditional Use Permit for the project as part of the Board's review of the proposed development at that time. However, now that the applicant has removed the pool tables, and the business itself no longer meets the definition of an adult business, it is Staff's opinion that another Conditional Use Permit is not required. In order to document this change, Staff asked that the applicant submit a letter to the Planning Board stating that all pool (billiard) tables have been removed from the premises, and that the business itself does not derive at least fifty (50) percent of its operating income from the retail sale of alcoholic beverages. It was Staff's opinion that the Board must receive this information in order to make a finding that the issuance of another Conditional Use Permit is not required.

The Planning Staff reviewed the final plans against the Approval Criteria outlined under Section 4 (a u) and found that the project met all of the applicable criteria. Therefore, Staff recommended that the Planning Board grant final approval to the project.

Art Montana said that where he took out the parking spaces and created a green strip.

MOTION: by T. Peters, seconded by H. Skelton that the Board find the application of James Day met all of the approval criteria under Article XIII, Section 4 and further that the Board grant final approval to the project.

VOTE: 7-0.

VI. OTHER BUSINESS-Old Business

1. Discussion of proposed policy on Application Fees with respect to both City Council and Planning Board initiating Land Use Code amendments.

J. Lysen said regarding the conditional rezoning request from the Promenade Mall, that the fees will be paid by the applicant. The policy stills need clarification.

2. Request to Chris Branch, Public Works Director, concerning street lighting on Essex Street near the Promenade Mall.

Chris Branch responded to the Board saying that the existing mercury street lights meet acceptable standards for lighting on an urban street. He did, however, also say that as part of the City's ongoing mercury street light replacement program, Public Works will be replacing these lights within the next few years, possibly as early as FY98. D. Theriault suggested sending a copy of this memo to the Councilor for that ward. The Secretary made note and did so.

3. Adoption of Comprehensive Plan by City Council with amendments.

J. Lysen sent the Board members copies of amended pages to the proposed Comprehensive Plan update that

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reflect requested changes from the City Councilors. The date changes were double underlined and narrative changes were italicized for inclusions or deleted for exclusions.

With respect to other questions concerning the Comprehensive Plan, the following was submitted:

"1) Volume II is a compendium of the many plans, reports, studies and data utilized to develop the Comprehensive Plan. This concept has been reviewed and approved by the State Planning Office who provided a majority of the funds to complete the Plan. Staff will bring to the meeting an example of the compendium. A list of all materials within Volume II will be included in the "List of Related Documents in Volume II" in the Appendix of the Plan. Supporting information found in Volume II is typically referenced in Volume I. In many cases, components of Volume II were created as plans or reports to stand on their own. Auburn created a separate Volume II document because it fit the format of their planning process.

2) In Staff's opinion, the L/A Together Report does not conflict with the Comprehensive Plan and supports many of its recommendations. There was no formal review process before the Planning Board, but most of the members were familiar with its content and recommendations.

3) With respect to the issue raised about signage, reference is made to the Downtown Component of the Comprehensive Plan, Goal 8 (page 22), and Policy 4, Strategy B (page 29). It is the intention of the Development Department to reactivate the signage sub-committee this spring to deal with issues such as the A-frame signage issue."

D. Theriault said he was under the impression that the Planning Board was going to review any changes on the Comprehensive Plan before it was submitted back to the City Council. H. Milliken was also under this impression. J. Lysen responded that one of the memo's from a City Councilor was received on the 31st, the day before the meeting. He also said that he had to have in the City Council's packet for the next day. H. Milliken said that the Planning Board received these comments the evening of the meeting and it was tabled until the next Planning Board meeting. H. Milliken asked Diane Ouellette to write a memo to the City Council on behalf of the Planning Board informing them that the Board had not ignored their request, but had simply tabled them until the next meeting in order to fully discuss them then. H. Milliken and D. Theriault asked that an executive session be on the next agenda to discuss personnel matters.

VII. ADJOURNMENT

MOTION: by D. Theriault, seconded by T. Peters to adjourn the meeting.

VOTE: 7-0

Meeting adjourned 8:50 PM

Respectfully submitted,

Dennis Theriault
Planning Board Secretary

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