

**City of Lewiston
PLANNING BOARD MEETING
Minutes of June 24, 1997**

I. ROLL CALL

The meeting was called to order at 7:00 PM.

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

Staff Present: J. Lysen; G. Dycio; D. Ouellette; Gert Mynahan, City Sanitarian, Gil
Arsenault, Code Enforcement Director.

II. READING OF THE MINUTES OF June 10, 1997

MOTION: by T. Peters, seconded by H. Skelton to accept the minutes of June 10, 1997 as written.

VOTE: Passed 7-0.

III. CORRESPONDENCE

1) Memo dated June 11, 1997 to Gerald P. Berube, City Clerk regarding Planning Board's action at it's June 10th meeting amending the Zoning and Land Use Code Article XI, Section 5.

2) Letter from City Attorney Robert Hark dated June 20, 1997 regarding paper streets.

MOTION: by H. Skelton, seconded by T. Peters to accept the above correspondence and be read at the appropriate time.

VOTE: Passed 7-0.

IV. PUBLIC HEARING

Proposed Amendment to the Zoning and Land Use Code

Re: Proposal to amend certain sections of the Zoning and Land Use Code, specifically Article II, Definitions; Article XI, District Regulations; and Article XII, Performance Standards, regarding the establishment and operation of child care facilities.

The Planning Staff, at the Planning Board's request, forwarded the proposed amendments of the Zoning and Land Use Code regarding the establishment and operation of Child Care Facilities within the City of Lewiston a week in advance of the Public hearing for the Board's review. Attached were some minor revisions to the proposed amendments regarding the Code Enforcement Official's ability to grant waivers based on a traffic engineer's report. In addition, Staff also forwarded copies of a re-structuring of the definitions requested by the Planning Board Chair through the Planning Director.

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The definition of a Child Care Facility has been removed from the *Statement of Purpose* section of the Performance Standards and placed within Article II, Definitions, at the Board's request. For clarity purposes, the Planning Board Chair requested that the definition of the three (3) different types of Child Care Facilities be subsets of the Child Care Facility definition so that all the definitions would be located in the same place within the code.

On page 7 of the proposed amendments, the language regarding a waiver based on a traffic engineer's report has been modified. Staff proposed the following language for the Board's consideration:

"The Code Enforcement Official may grant a waiver to this prohibition, or permit backing into those city streets not specifically mentioned herein, if the applicant for a proposed child care facility submits a report from a traffic engineer stating that backing into a city street from the property under consideration shall not create any unsafe conditions."

The reason Staff proposed this change was that upon reading the original statement, the language only allowed for a waiver for those city streets identified within the performance standards and did not allow for a waiver provision for all city streets not specifically mentioned in these standards.

The Licensing Requirements were not incorporated into the Performance Standards since these requirements are operational in nature and provide guidance and direction for applicants rather than land use standards that direct the performance of a business or land use.

H. Milliken discussed hiring a traffic engineer and if code should still have authorization to disagree with the traffic engineer. G. Arsenault said he would most likely not go against the traffic engineer since it was their area of expertise. H. Skelton said that from his past experiences, he found that if the applicant was the one who hired the traffic engineer that the report would most likely be in favor of the applicant, and that perhaps the City should hire the engineer. T. Peters said the applicant could still appeal Code's decision.

Meeting opened to the public at 7:15 PM

Mary Leahy, 41 Googin Street said she sees between 300-500 cars a day going up Googin Street. She stated that the sidewalk was only on Sunnyside, not Googin. Traffic was backing up from the day care. She complained that one day care did not have adequate fencing for the children and thought this posed a safety issue for the children.

G. Arsenault pointed out that a sentence was missing on page 7-8 and the word "staggered" should be substituted with "stacked" on page 8.

City Councilor Paul Sampson asked if the City's rules and regulations coincided with the State's. H. Milliken said that staff tried to keep them similar with the state's standards. J. Lysen said the State does not deal with zoning issues so that part had to be different. He said that staff tried to stay as close as possible with the State's regulations. T. Peters also added that he didn't see any specific area where the City and State differed strongly.

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Ron Jean of Cram Avenue asked if a small care facility could be in a home. J. Lysen pointed him to the definition of Family Day Care Home which allowed these in the rural zone. H. Skelton said these new regulations were going to allow in-home day care in any zone.

Mrs. Leahy discussed notification of abutters and H. Milliken explained that this was new under the new proposal and that the old regulations did not have a notification clause in it. J. Lysen explained that notification of abutters would not prevent day cares from opening up if they met the performance standards even if some of the neighbors did not want them in the area. It would simply give neighbors a chance to express any certain concerns they may have and make the applicant aware of them.

T. Peters said he favored Option A and asked for a vote to accept this. D. Jacques asked if the Board would consider 6 + 4 instead of limiting it to 6 +2. G. Dycio and G. Mynahan both said that if the number of children increased then there would have to be another provider. G. Mynahan said that out of approximately 80 day cares, 60 were in the NCA and 7 in the NCB, the rest were staggered throughout the other zones.

MOTION: by T. Peters, seconded by D. Theriault to adopt Option A matrix.

VOTE: Passed 6-1 (D. Jacques).

MOTION: by H. Skelton, seconded by D. Theriault to send a favorable recommendation to the City Council regarding the proposed amendments to certain sections of the Zoning and Land Use Code, specifically Article II, Definitions; Article XI, District Regulations; and Article XII, Performance Standards, regarding the establishment and operation of child care facilities with the changes suggested by G. Arsenault and change suggested by G. Dycio specifically to page 7; and to adopt the Matrix labeled "Option A" to be placed in the Code's Appendix.

VOTE: Passed 7-0.

V. REVIEW OF DEVELOPMENT PROPOSALS - FINAL HEARING

Central Maine Medical Center - High Street and Hammond Street Improvements

Frank Crabtree of Harriman Associates, on behalf of Central Maine Medical Center submitted plans for a proposal to amend a previously approved plan where the width of High Street would be reduced from 33 feet to 24 feet, four (4) previously approved traffic island deleted, and the circular drive between #10 and #12 High Street would be revised to only one curb cut. The project also includes the creation of a paved and landscaped parking lot on the west side of Hammond Street between Main Street and Lowell Street.

Pursuant to Article XIII, Section 3 (h)(5), the applicant requested a number of modifications and non applicable status requests to the application requirements listed under Section 3 (h)(1 4).

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Upon review of the requests Staff found that the requests to be justified and recommended that the Board grant them. However, the applicant requested a waiver instead of a modification for a Traffic Analysis. After discussing the need for a Traffic Analysis with the Public Works Director, the applicant was told that one would not be required. Staff asked that the Board consider this additional request and act on it accordingly.

Copies of the plans have been submitted to the Police, Fire and Public Works Departments for their review and comments. Upon review of the plans, the Police and Fire Departments had no concerns. The Public Works Department had some minor concerns, most of which center around the new parking lot off Hammond Street. The applicant worked closely with the Public Works Department to address these concerns, and in speaking with a representative from Public Works Staff has been informed that the minor concerns can easily be addressed. Staff will forward any comments from Public Works to the Board as soon as they are received.

Therefore, the Planning Staff recommended that the Planning Board grant final approval to the project with a condition that any concerns from Public Works be adequately addressed prior to construction, if necessary.

Bill Horton of CMMC said the biggest issue was for safety in getting people across the street. By narrowing the street, it should be safer for pedestrian crossing from the parking lot to the hospital and medical offices. The plan added greenery and additional parking. Andy DeHayes and Frank Crabtree from Harriman Associates showed the Board a colored rendition of the proposed plan. H. Milliken asked what the size of a normal street was. G. Dycio said the paved surface is 28 feet which allows parking; 24 feet without parking is sufficient. It provides for two-way traffic. T. Peters asked if there would be any problems with ambulances going by. Mr. DeHayes said there were two other ways to get to the hospital's emergency room entrance besides High Street, one being through Hammond Street and through the parking lot itself. H. Milliken asked to see something in writing from Chris Branch, Public Works Director, that specifically addresses the narrowness of the street and that his department had no problems with it. G. Dycio said the right of way was still 50 feet, but the paved area would be 24 feet. Mr. Milliken asked if the hospital would have a problem building it up to 28 feet. Mr. DeHayes said they would lose the green space and could not creep into the parking lot. D. Theriault expressed his concerns with snow on such a narrow street. Mr. Horton said the City has come before to remove the snow and the hospital is committed to keeping the sidewalks cleaned. H. Milliken said he would vote against it at this point because it is not the standard 28 foot wide and wants documentation from Public Works. He asked what was required by ordinance. G. Dycio said there needed to be a 50 foot right of way and a 28 foot paved travel way. J. Lysen said that perhaps the Board could get a letter from Chris Branch. D. Theriault asked about the Fire Department and G. Dycio said Deputy Morin had no concerns. D. Theriault asked if it was a snow issue or a safety issue that had Mr. Milliken concerned. H. Milliken said it was both and that he would feel more comfortable with something in writing from Chris Branch saying it was fine at 24 feet. L. Zidle said he was concerned with the width of the street for the snow removal equipment. D. Theriault said he agreed with H. Milliken and would like something in writing from Chris Branch. H. Milliken asked about CMMC's schedule. Mr. Horton said he would like to start the project in mid-September. T. Peters said that this was not a routine

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project and would also like to see a letter from Chris Branch. He also would like to know what Chris' original concerns were. D. Theriault said the hospital was asking the Board to waive a traffic study and was uncomfortable with that idea. **Phil Libby of Sam's Sandwich Shop** said they got notification last week regarding this project and has met with the hospital and Chris Branch. The hospital has cooperated with Sam's Shop in allowing their tractor trailer trucks to use the hospital's land and has taken care of a water problem for Sam by adding a storm drain in the parking lot. The hospital will also remove a tree that will allow the trucks to maneuver easier. **Ron Jean** stated that he thought High Street was traveled by many trucks and asked if the narrowness was creating a problem.

D. Theriault said he wanted a letter from Chris Branch. H. Milliken said he would not vote on this matter until he sees a letter from Chris.

MOTION: by T. Peters, seconded by L. Zidle to have the secretary write a letter to Chris Branch expressing the Board's concerns with the narrowness of High Street and to place this on the agenda for a final hearing on July 22nd.

VOTE: Passed 6-0-1 abstention (H. Skelton).

G. Dycio asked if the board wanted to table the traffic study also. D. Theriault said yes.

VI. OTHER BUSINESS

A. New Business

Proposed Amendment to the Zoning and Land Use Code.

Proposal to amend the *Frontage* definition for developed lots of record containing multiple parcels with frontage on opposing streets.

The Board reviewed a letter from City Attorney Hark's assistant regarding frontage ordinance along with a hand drawn map from Gary Campbell. There is a two-family home on Old Green Road that also has back lots with frontage on Thorne Avenue. The code reads that a property owner needs 125 feet frontage and 12,500 square footage. This owner wants to divide the property and if he does so, he would be non-conforming. The rear parcel is on Thorne Avenue whereas his two-family faces Old Greene Road. H. Skelton pointed out that this house is already on a non-conforming lot and is presently grandfathered. H. Milliken said he did not think the code should be changed to produce a non-conforming lot; the Board was in agreement. If this were a single-family home, then the lots could be divided; however, this is a two-family home.

MOTION: by D. Theriault, seconded by H. Skelton to deny the request to amend the code to alter the frontage and square footage requirements in the NCA zone.

VOTE: Passed 7-0 Motion carried..

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B. Old Business

1. Application Fees

A proposed policy for application fees in proper form with revisions suggested at the last Planning Board meeting was submitted to the Board for its consideration. The Board accepted these revisions and asked that it be sent to City Council.

MOTION: by H. Skelton, seconded by D. Theriault to send a favorable recommendation to the City Council to amend the Applications Fees with respect to both City Council and Planning Board initiated Zoning and Land Use Code Amendments.

VOTE: Passed 7-0.

2. Urban Enterprise (UE) District within the downtown area.

J. Lysen said that there is nothing new at this time, but that it was in the works.

H. Milliken asked staff to call Peter Crichton to let him know that Tom Peters will be representing him at the 5 PM meeting at City Hall regarding paper streets.

VII. ADJOURNMENT

MOTION: by D. Theriault, seconded by H. Skelton to adjourn the meeting.

VOTE: 7-0.

Meeting adjourned 9:25 PM

Respectfully submitted,

Denis Theriault
Planning Board Secretary

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