

**City of Lewiston
PLANNING BOARD MEETING
Minutes of October 14, 1997**

I. ROLL CALL

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

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

Members Absent: none

Staff Present: J. Lysen; G. Dycio; S. Pleau

II. READING OF THE MINUTES OF SEPTEMBER 23, 1997.

MOTION: by D. Theriault, seconded by D. Jacques to accept the minutes of September 23, 1997 as written.

VOTE: Passed 5-0-2 (H. Skelton and T. Peters abstained).

III. CORRESPONDENCE

- 1) Plant list from George Dycio.
- 2) Bates Mill packet from Robert Mulready.

MOTION: by T. Peters, seconded by D. Theriault to accept the above correspondence to be read at the appropriate time.

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

IV. PUBLIC HEARING

A. Proposed Amendment to the Zoning and Land Use Code

Re: Proposal to Amend Article II, Section 2, (Definitions) where the Frontage definition would be amended to allow existing lots of record to gain their frontage along a private mobile home park road that has been reviewed and approved pursuant to Article XIII, Development Review, since January 9, 1988.

Jim Lysen read the proposed amendment to Appendix A, Article II (Definitions), Zoning and Land Use Code at this time.

T. Peters questioned City Attorney, Bob Hark, on what kind of issues the City would have if this

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proposal would be adopted. B. Hark explained that the maintenance agreement would be an issue if adopted. He also noted that the proposed amendment of the definitions would need to be revised to address how legal arrangements would have to be made for maintenance of the road before lot owners could develop their lot(s). B. Hark explained that there would be issues on who would be responsible to maintain the road. (*ex. The last lot is developed and the owner is maintaining the road, then the owner of the first lot feels the road is already being maintained so that owner would not share the expense of maintaining the road because they do not use the portion of the road beyond their property.*)

Discussion was opened to the public at this time.

Attorney John "Jack" Grygiel, representing the Mays, owners of property on Lessard Street, noted that Mr. Foss feels he has rights to the deed. J. Grygiel noted that the title is to Mr. Foss and property owners that abut the road. T. Peters explained that, if approved tonight there would be other meetings regarding this issue. J. Grygiel concurred, if approved, there would be future meetings.

Attorney Brian Dench, representing Stetson Brook Estates, handed a packet to board members regarding this issue. B. Dench spoke in regard to the policy the city voted in almost 10 years ago. He mentioned that the Mays purchased their property in 1989 and knew that the lot did not have frontage on a city street. B. Dench mentioned that the lot sold for \$10,000.00 which was considerably less than a buildable lot went for at that time. In 1991, Stetson Brook Estates improved the road to meet the board's request so that it could be an access road into the mobile home park and has kept it maintained since then. B. Dench noted that the owners of the lots have benefited from the tax breaks they received because they own land that is not buildable. Stetson Brook Estates paid to have the access road built and maintained since 1991. Dench also mentioned that the private rights should not be transferred because the lot owners need the street frontage. The lot owners did not contribute to building the road so why should they get rights to it. B. Dench noted that the proposed amendment to the Definitions would give the lot owners the rights to the road, but they would not have to maintain it.

T. Peters noted that, if the amendment is granted, legal arrangements would have to be met before permits are issued to develop the property. B. Dench noted that the proposed amendment does not mention legal arrangements. B. Hark said the proposed amendment does not mention a legal agreement between all parties. B. Hark noted, that if the board feels that changes should be made to the definitions to give a better explanation of the meanings, they could do so. H. Milliken questioned that, if the proposal was granted, could permits be issued without arrangements being made on maintaining the road. B. Hark noted that the definition does not mention that at this time. B. Hark noted that Code Enforcement could evict single-family home owners if the legal arrangements were not met.

Debbie May, property owner, noted that they purchased the land for \$10,000.00 from a distant relative and assumed they could develop the property once the road was built. Ms. May offered to pay for the cost of the road and maintenance, but Robert Foss is not willing to agree. Ms. May noted that liability and maintenance should not be an issue because of one single-family home.

Patricia Pelletier owns two lots on Lessard Street and would like to be able to develop these lots in the

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future. Ms. Pelletier purchased the lots when they were buildable lots.

Public portion was closed at this time.

H. Milliken also questioned if the owners of the lots on Lessard Street would have the right to build the road to meet city standards for an accepted street. B. Hark noted that the abutters have the right to build the road to meet city standards, but would have to know who owned the road and the city would have to have free interest in the road. T. Peters questioned the possibility of the property owners getting together and having the road built to meet city standards. J. Lysen noted it is an option for the twelve property owners on Lessard Street to build the road to city standards. G. Dycio noted that Public Works calculated an estimate amount of \$103,000.00 for open storm drain system to \$274,000.00 for closed storm drain system (*not including public water and sewer*) for building the road to city standards. This estimate is to build the entire road. The entire road would not have to be built to city standards. The property owners could build the road to city standards up to and including their property and the remainder of the road would be considered an access road and would be maintained by Stetson Brook Estates. Piece meal standardization of the road was not supported by the Planning Board.

MOTION: by D. Theriault, seconded by M. Paradis to send an unfavorable recommendation to City Council on a proposal to amend Article II, Section 2 of the Zoning and Land Use Code where the *frontage* definition would be amended to allow existing lots of record to gain their frontage along a private mobile home park road that has been reviewed and approved pursuant to Article XIII, Development Review, since January 9, 1988.

DISCUSSION: H. Milliken said that Mr. Foss (Stetson Brook Estates) has a significant investment in the road and an agreement should be made before any ordinance change. D. Theriault agreed with H. Milliken and stated that, if the owners could share the cost of building the road to city standards.

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

B. Proposed Amendment to the Zoning and Land Use Code

Re: Proposal to amend Article IV, Section 1, (Official Map, City of Lewiston) of the Zoning and Land Use Code where a portion of the property located at 49-51 Hamel Road would be rezoned from an Office-Service (OS) District to a Rural Agricultural (RA) District.

H. Milliken waived the reading of the memo regarding this proposal.

The board commented on the memo from Robert Mulready regarding the occasional lack of a quorum where the Planning Board has full membership. D. Theriault noted that the Council should have dealt with this issue. The Council has clearly acted on past issues without Planning Board recommendation, where they were directed by code to do so. H. Milliken expressed that during his

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years on the board, the Planning Board has never failed to meet a quorum.

J. Lysen noted that the Guay property would not be used as an industrial property. He feels that this is not a complicated issue. D. Theriault questioned how this area became light industrial. J. Lysen mentioned the fact that the old chicken barns could be used as light industrial. T. Peters was concerned about problems that could arise with the light industrial and residential property owners. Mr. Boyd, an abutter, would bring up the issues if/when applicable. The property would have to be buffered.

H. Milliken opened the discussion to the public at this time.

No comments from the public at this time.

H. Milliken closed the public portion at this time.

MOTION: by D. Theriault, seconded by M. Paradis to send a favorable recommendation to the City Council on the proposal to rezone a portion of the property located at 49-51 Hamel Road from an Office-Service (OS) District to a Rural Agricultural (RA) District, as submitted by the petitioner.

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

H. Skelton resumed voting status.

C. Proposed Amendment to the Zoning and Land Use Code

Re: Proposal to amend Article IV, Section 1, (Official Map, City of Lewiston) of the Zoning and Land Use Code where two options are being proposed for rezoning properties located at 284-286 and 292 East Avenue. Option "A" would rezone property located at 284-286 East Avenue from Neighborhood Conservation "A" (NCA) District to Community Business (CB) District. Option "B" would include a property located at 292 East Avenue.

J. Lysen read a memo regarding this issue at this time.

Mike Gotto, Technical Services, explained how they are requesting this proposal because Rite-Aid has options on the properties on the corner of East Avenue and Sabattus Street to construct a new building to house a new Rite-Aid. M. Gotto mentioned that a abutting property owner was interested in rezoning his property located at 292 East Avenue at the same time (option "B").

Norman Pelletier, Wilson Street, Lewiston had concerns regarding the plans for the Rite-Aid project and what the property abutting his would be used for. Mr. Lecompte, Sabattus Street Associates, briefly explained the plans regarding the construction of the building and how the building would be situated on the property. Mr. Lecompte also mentioned that Andre Dionne, owner of the property located at 292 East Avenue, requested to have his property rezoned. J. Lysen noted that rezoning 292

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East Avenue would bring the multi-family to a conforming use. Mr. Pelletier had no objections to the Rite Aid project, but wanted to know if there was going to be any changes with the Dionne property. D. Theriault noted that there could be changes in the future, but they would probably have to go in front of the board before changing the use. Bob Richard, Lewiston, questioned the board on who wanted the zone changed and had concerns regarding the Rite Aid project. Mr. Lecompte explained the project to Mr. Richard and offered to review the plans with him at his office at a future date. Mr. Richard agreed to meet with Mr. Lecompte at his office.

H. Milliken closed the public portion at this time.

T. Peters made a motion to send a favorable recommendation to the City Council on Option "B" but, after a discussion with the board in regard to not having anything in writing and not having a representative present for 292 East Avenue, T. Peters withdrew his motion.

MOTION: by H. Skelton, seconded by M. Paradis to send a favorable recommendation to the City Council on Option "A" to rezone 284-286 East Avenue from Neighborhood Conservation "A" (NCA) District to Community Business (CB) District.

VOTE: Passed 7-0.

V. REVIEW OF DEVELOPMENT PROPOSALS - FINAL HEARING

A. Re: Rite-Aid - Corner of East Avenue and Sabattus Street

Richard Lecompte submitted plans for a proposal to construct an 11,180 square foot (130' x 86') single-story building for a new Rite-Aid Store, located at the north westerly corner of East Avenue and Sabattus Street.

George Dycio read a memo dated October 7, 1997 regarding the Rite-Aid project at this time.

D. Theriault asked Mr. Lecompte if the final product would look like the picture that was in the packet the board received regarding this project. Mr. Lecompte briefly explained the construction of the building and how the completed product would look like the picture in the packet. J. Lysen noted that the City would like a traffic study of the area. H. Skelton questioned if this Rite-Aid was going to replace an existing Rite-Aid. Mr. Lecompte noted that the proposed Rite-Aid store would be replacing the Rite-Aid store located across the street. Mr. Pelletier voiced his concerns on drainage and privacy on Wilson Street. Charles Freeman, Delta Engineer, explained the drainage system and how an eight foot high fence and shrubs would be installed to provide privacy. H. Milliken questioned easements for utilities in the area. Mr. Lecompte noted that the utilities are located in the street right of way.

MOTION: by D. Theriault, seconded by H. Skelton that the requested waivers of submission requirements by Rite-Aid be granted because of the size of the

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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 7-0.

B. Maine Bucket - Replacement Building - 21 Fireslate Place

Doug Boyd submitted plans for a proposal to construct a new 25, 000 square foot (200' x 125'), single-story building on Lot #5 of the Fireslate Place subdivision to replace the one recently destroyed by fire. Also included in the project proposal is an additional 5,102 square foot office building for accessory sales that will be constructed at a later date, located on Lot #7.

At this time G. Dycio read a memo dated October 7, 1997 regarding this project.

H. Skelton excused himself from the meeting at this time due to a conflict of interest.

D. Theriault has concerns with the proposed building being built too close to the abutting building which stores tires. H. Milliken questioned how far the new building would be from the building storing the tires. Mr. Boyd mentioned that the back of the new building would be approximately 25 to 35 feet from the existing storage building. Mr. Boyd called the State for support to remove the tires. D. Theriault is in favor of this project, but would like to know if the Fire Chief has any concerns.

MOTION: by D. Theriault, seconded by H. Skelton that the requested waivers of submission requirements by Maine Bucket 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 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 D. Theriault, seconded by L. Zidle that the application of Maine Bucket be determined to be complete, and that review of the completed application be scheduled on October 28, 1997 at 7:00 p.m; and that the final hearing be a public hearing.

VOTE: Passed 6-0.

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C. L&A Molding Corp. Warehouse - 57-61 Westminster Street

Lloyd Watt has submitted plans for a proposal to construct a 20,000 square foot (100' x 200') free standing cold storage building with a 600 square foot (20' x 30') connector to the existing facility, located in the Lewiston Industrial Park.

At this time G. Dycio read a memo dated October 7, 1997 regarding this project.

Mike Gotto was in attendance to represent the applicant and asked if he could answer any questions the board had regarding this project. D. Theriault asked why the waiver is required for this proposed building. G. Dycio noted the buffering requirements and ratio on landscaping which is why this project requires the waiver.

MOTION: by D. Theriault, seconded by L. Zidle that the requested waivers of submission requirements by L&A Molding Corp. 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 D. Theriault, seconded by L. Zidle that the application of L&A Molding Corp. be determined to be complete, and that review of the completed application be scheduled on October 28, 1997 at 7:00 p.m; and that the final hearing be a public hearing.

VOTE: Passed 6-0.

VI. OTHER BUSINESS

A. New Business

1. Review and discussion of a proposed amendment to the Zoning and Land Use Code where the Planning Board's review process for development of existing lots within a commercial/industrial subdivision that was previously approved by the Planning Board (i.e. since the DEP site law of January 1, 1970) would only require one meeting.

G. Dycio noted that the proposal is self-explanatory. D. Theriault noted that the applicant should be told that they have the option of Development Review or the Planning Board. G. Dycio said that language can be added.

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2. Discussion regarding the November and December Planning Board meetings.

J. Lysen noted that the Council will be meeting once in November so the Planning Board could schedule their next meeting for November 25, 1997. G. Dycio noted that the month of December should not be a busy month for projects and suggested that the board wait to see what would be on the agenda for December. H. Milliken noted the workshop regarding the Bates Mill Master Plan tentatively scheduled for October 28, 1997 (before the scheduled Planning Board meeting) or perhaps it should be scheduled before the Council meeting of November 18, 1997.

3. LCIP Process - Request for a Planning Board representative.

H. Milliken nominated D. Theriault to be a representative for LCIP Process with no objections from the board. D. Theriault accepted the position.

4. St. Mary's Hospital - Minor plan revision.

G. Dycio explained that Mark Johnson of SMRT, on behalf of St. Mary's Hospital, submitted plans for a minor revision to an approved plan. A minor change in the cross-pitch of the drive under the newly constructed canopy was proposed. The Planning Staff found that this change is very minor and asked that the Planning Board to review and approve the change. Copies of the letter and plans were forwarded to the Fire and Public Works departments for their review and comments. Neither department had any concerns. Therefore, Staff asked that the change be approved and the applicant's representative will submit a revised mylar for signature once the change is approved.

MOTION: by T. Peters, seconded by L. Zidle to accept St. Mary's Hospital's minor plan revision.

VOTE: Passed 5-0-1 (D. Theriault abstained).

B. Old Business

1. Proposed (Paper) Streets

H. Milliken noted that forms to be completed for paper streets should be available for both vacating and/or not vacating streets since the board will eventually review all proposed paper streets. G. Dycio will put together a form for both vacating and/or not vacating paper streets.

2. Streamlining Proposal

J. Lysen suggested to postpone the streamlining workshop until after the Bates Mill meeting on October 28, 1997. Board members agreed with postponing streamlining until after October 28, 1997.

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C. Other Business

D. Theriault spoke in regard to the storage of tires on the property at Fireslate Place.

MOTION: by D. Theriault, seconded by D. Jacques to request a letter from Chief Lajoie or Deputy Morin with any concerns they might have regarding the tires near the Maine Bucket property.

VOTE: Passed 6-0.

VII. ADJOURNMENT

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

VOTE: Passed 6-0.

Meeting adjourned 10:05 PM

Respectfully submitted,

Denis Theriault
Planning Board Secretary

smp