

**CITY OF LEWISTON
PLANNING BOARD MEETING
MINUTES for August 31, 1999 - Page 1 of 8**

I. ROLL CALL:

This meeting was called to order at 7:10 P.M. and chaired by Harry Milliken.

- **Members in Attendance:** Rob Robbins, Tom Peters, Harry Milliken, Lewis Zidle, and Mark Paradis.
- **Staff Present:** James Lysen, Planning Director, Gil Arsenault, Deputy Development Director, David Hediger, Land Use Inspector, and Doreen Asselin, Administrative Assistant.
- **Members Absent:** John Cole and Dennis Mason.

- II. CORRESPONDENCE** - The following correspondence were distributed at this meeting: A. Memorandum prepared by James J. Lysen, AICP, Planning Director, dated August 31, 1999 in reference to the Final Hearing for the CMMC Air-Ambulance Landing Site at 300 Main Street; B. Memorandum prepared by David Hediger, Land Use Inspector for Code Enforcement dated August 31, 1999 in reference to Lewiston's Shoreland Zoning Ordinance; and C. Meeting Schedule, Regulatory Process, Sale of Bates Mills #3, #6, & #7 dated August 31, 1999. The following motion was made on the above correspondence.

MOTION: by Tom Peters, seconded by Rob Robbins to accept the above correspondence to be read at the appropriate time and to be placed on file.

VOTED: 4-0.

Lewis Zidle arrived at this meeting at 7:12 p.m.

III. FINAL HEARINGS:

- A. *Harley's-R-US (839 Main Street)* - A proposal by A.R.C.C. Land Surveyors, Inc. for the proposed removal of the existing house, paving of the graveled area, and substituting the landscaping around the sign for a new landscaped area.

Jim Lysen read the memorandum he prepared dated August 27, 1999. This proposal has been submitted to amend a site plan approved by the Planning Board at their April 13, 1999 meeting. The purpose of this amendment is to remove the existing house; pave a portion of the proposed gravel area; and substitute the approved landscaping around the sign with a new landscaped area; relocate handicapped parking spaces away from the building; show the garage in the rear of the existing house; and to delete area designations within the new building.

Both the Police and Fire Departments had no concerns. The Public Works Department has requested that an engineer's stamp be placed on the Site Plan. They are also requesting a drainage study for the increased pavement area. Jim Lysen mentioned that in response to this request and with direct communication with Chris Branch of the Public Works Department, since receipt of this request, the drainage study is to be waived at this time. Jim Lysen suggested making this a condition of approval and also suggested that Public Works

provide a letter as to the assessment and study not being necessary. Public Works also requested that the house demolition area must be stabilized to prohibit erosion of the soil.

In Arthur Montana's presentation of this project, he said that the house has been demolished, there is new pavement and new landscaping. The landscaping that is presently there will stay there. Gravel is impervious and is at a 65 to 75 percent run-off rate. Jim Lysen said that 90 percent of water will run off a paved area. The house is impervious. There will be no net increase in runoff. The added increase in the land is the grassed area. This is an improvement to this site. Harry Milliken commented that the calculations are part of the code and that they should be run as a matter-of-record.

George Schott, who is the landowner, said that there is definitely more green space. The house is less impervious than tar. He said he is just asking to have the drainage study waived. This meeting was then turned back to the Planning Board for the following three (3) motions.

MOTION: by Rob Robbins, seconded by Lewis Zidle to accept the Waiver/Modification Form, as submitted, with regard to the minor amendment.

VOTED: 5-0.

MOTION: by Rob Robbins, seconded by Lewis Zidle to amend the above motion contingent with the Public Works Department providing a letter as to the assessment and study of the drainage calculations not being necessary.

VOTED: 5-0.

MOTION: by Rob Robbins, seconded by Lewis Zidle that the Planning Board determines the application for Harley's-U-US is complete and to grant final approval to this project subject to the drainage study not being required.

VOTED: 5-0.

B. Muriel Bowie (136 and 140 Hogan Road) - A proposal by A.R.C.C. Land Surveyors, Inc. for the proposed amendments to the Lionel Baril Subdivision in order to create frontage for property at 136 Hogan Road by combining it with Lot 4 of the subdivision on Nell Street; and to create the necessary 40,000 SF of lot area for property at 140 Hogan Road by combining it with Lot 3 of the subdivision on Nell Street.

Jim Lysen read his memorandum dated August 27, 1999. The project was brought to the Planning Board for proposed amendments to the Lionel Baril Subdivision. The purpose of the amendments are to allow Mrs. Bowie to divide her property by creating the necessary frontage for her property at 136 Hogan Road by combining it with Lot No. 4 of the subdivision on Nell Street and creating the necessary 40,000 square feet of lot area for the property at 140 Hogan Road by combining it with Lot No. 3 of the subdivision on Nell Street. These properties are in the Suburban Residential (SR) District where a single-family detached dwelling not serviced by public sewerage requires 40,000 square feet of minimum lot size and 125 feet of minimum frontage. The property at 136 Hogan Road has less than

the necessary 125 feet of frontage, but the Bowie's own contiguous Lot Nos. 3 and 4 along Nell Street, which makes the parcel conforming with respect to frontage. The Bowie's wish to divide off the existing building at 140 Hogan Road, but retain a portion of that for their rear property at 136 Hogan Road. To do this, the Bowie's must add a portion of Lot No. 3 to the 140 Hogan Road property so that the area of the new lot has at least 40,000 square feet of lot area. In order for the Bowie's to retain the necessary 125 feet of frontage for the 136 Hogan Road property, they are proposing to amend the lot lines of Lot Nos. 3 and 4 to provide for 125 feet of frontage on the newly reconfigured Lot No. 4. This would be accomplished with an irregular two (2) foot by 25 foot strip of land added to Lot No. 4 from Lot No. 3.

The plans were forwarded to the Police, Fire, and Public Works Departments. Both the Police and Fire Departments had no concerns. Public Works raised an issue as to yard setback requirements on the 2' x 25' strip of land along Nell Street.

Jim Lysen feels that the parcel is conforming as to frontage. He showed the areas outlined in both blue (the blue areas are owned by the back owner) and green on the map presented at this meeting and described in the memorandum. He also said that the Statement Of Purpose on the plan describes the lot areas. Jim Lysen then went on to mention that there was an issue as to who was notified (Lemay Avenue). Harry Milliken then asked, "Did this project come before us a couple of years ago?" Jim Lysen responded with "yes, as a code amendment". The only access to this area is by the back owner's driveway. Mrs. Bowie wants to sell the front house. She needs to have 40,000 square feet, otherwise she cannot subdivide the back lot. Tom Peters suggested that she could build a public road and also put in a 50 foot Right-Of-Way. An accessory could be put into Lot No. 4. Tom Peters said that if you could put in a public road, you could put in three (3) lots. This is not changing the development anymore now than before. If there is no potential development, then you do not need to be notified. Harry Milliken then said that the 2' x 25' offset is not the intent of the code and is not in the code. This would give her her frontage, if created to meet the code. The existing farmhouse sits to the right. The 2' x 25' strip is curving so most of the side will not be impacted when selling the present home later on. It could be extended straight back and moved up. Rob Robbins mentioned that he would prefer to see the line straight back. Harry Milliken suggested moving the line ten (10) feet. The question was then raised, "Is the lot line of 2' x 25' legal?" Jim Lysen responded that it is legal. Gil Arsenault made reference to CDA 156, "Lots in which narrow strips are used or are prohibited." Arthur Montana mentioned that Mrs. Bowie was told she could do this. Tom Peters said that Mrs. Bowie should not have put the lots in one (1) name when she purchased them.

This meeting was then turned to the public for comments. Since there were no comments from the public, this item was then brought back to the Planning Board for discussion. Tom Peters said that there were other options that she could do. The 2' x 25' lot line could be modified and still she could get what she wants. It was then decided by Arthur Montana, who was representing Mrs. Bowie, to have this item tabled and brought back to the Planning Board on September 9, 1999. The following motion was then made.

MOTION: by Tom Peters, seconded by Rob Robbins to move that the applicant has requested for this project to be tabled to the September 9, 1999 Planning Board Meeting.

VOTED: 5-0.

Rob Robbins stepped down from the Planning Board.

- C. Central Maine Medical Center (CMMC) Air-Ambulance Landing Site Underground Fuel Tank & Fueling Cabinet (300 Main Street) - A proposal by The Ames Corporation for the proposed 10,000-gallon, double-walled, DEP approved, underground storage tank to contain Jet-A fuel and a fueling cabinet to support the air-ambulance services at CMMC.

Jim Lysen read the memorandum he prepared which was dated August 27, 1999. In this memorandum he mentioned that this item was submitted as a proposal to amend the site plan previously approved by the Planning Board on October 13, 1999. This proposal includes a 10,000-gallon, double-walled, DEP approved, underground storage tank to contain Jet-A fuel and a fueling cabinet to support the air-ambulance services at CMMC. Included in the packets, at the Planning Board's request, was a copy of the correspondence from the U.S. Dept. of Transportation Federal Aviation Administration dated March 9, 1999. There were no concerns from the Police and Public Works Departments. The Fire Department had no concerns with this project as long as the installation of the underground fuel tank meets DEP requirements, dispensing of the Jet-A fuel is performed in accordance to applicable sections of NFPA 407, and that the requirements of NFPA 407 be applied to all components of the project.

Also present at this meeting were Vinal Applebee of the Ames Corporation, Pat DeFilipp of Central Maine Medical Center, Tom Judge the Director of LifeFlight of Maine, and Ron Lebel, Legal Counsel for CMMC.

Harry Milliken made reference to the memorandum prepared by Jim Lysen dated August 31, 1999. This memorandum was in reference to Staff not receiving a letter from the MDEP concerning this project. Jim Lysen stated in this memo that, "the approval is subject to the MDEP not exerting jurisdiction over the project under the Site Location Law; or that the applicant conform to any conditions that may be placed on this project by the DEP pursuant to their review."

Vinal Applebee briefly went over this project. He said that this is a highly successful program. There have been over 100 flights since approval in October 1998. Presently LifeFlight of Maine goes to Auburn for refueling - one (1) departure and one (1) landing. These flights will be lessened by 43 percent if CMMC has refueling on site. This would involve the same supplier and the same installer as what the Auburn-Lewiston airport has. This is Class 2 fuel. Vinal Applebee then made reference to the memorandum from the Fire Department as to NFPA 407. He stated that this is a 50-page document. This project does conform to NFPA 407. The Fire Department has gone through training at CMMC.

There is a fire extinguisher on site. There will be a 30-lb. fire extinguisher located on this site which contains a special chemical inside. This is required by state law. Foam filter will also be available on the pad. Foam/fire extinguishers will be provided. Part of the daily operations will include a daily report. Currently there are from 3-4 deliveries of fuel per year and the deliveries are done at a late hour. Harry Milliken asked, what time would the late night deliveries be? Tom Judge's response was, "after real business hours". He does not foresee this being done in the middle of the night. Spill containment material is available on the truck. A spill response list will be kept in the accessory building. This proposal has no negative impacts on traffic, drainage, and noise. As to safety, there are trained professional personnel. The benefits to this would be a quicker response time. With the fuel being on site, there would be a greater area of coverage (more available = less "down" time). The benefits are substantial. The access to this site will be by High Street. The access into the site will be off of High Street. There is no storm water management. There will be no additional vehicles involved. As far as utilities, this will require a buried electrical facility. As to groundwater protection - this is DEP approved. There will be underground tanks. Technical and financial ability - a letter has been provided from CMMC. As to buffering, this is a 12 x 5 foot cabinet, which is partially hidden by the building. Harry Milliken questioned the vent pipe and the helicopter's use of kerosene. "Is this the same type of tank as a residential home?" The response was, "yes". This is Jet-A fuel, not high octane aviation fuel. This does not have gas. Harry Milliken suggested running the vent pipe up to a higher area. There is a natural gas furnace in the building. He would like to see the vent pipe moved to a new location. Tom Peters agreed saying that it would then be less susceptible to sabotage. This meeting was then opened to the public.

Denis Theriault - 21 Marguerette Street (former Planning Board Member). Denis Theriault asked if this will be lighted up at night when refueling? The response was that there is adequate ambient lighting on site. This is not subject to requirements. Denis also asked, "Who will oversee that this tank is installed properly?" The response was that this gets filed with the City's Electrical Inspector who will be there along with the Fire Department. Denis Theriault went on to say that this is an illegal helipad, due to the fences, and that it was totally against code. The notifications were ignored. A temporary pad was installed and nobody was notified. He feels that an apology is due from CMMC for this type of action. He said he would like to see a letter of reprimand in CMMC's file. He went on to say that he is not against this project, however he feels that it could have been done properly. He ended by saying that CMMC owes the City and the Board an apology.

Tom Peters said that the Planning Board Members need to trust the presenters. He feels that this refueling project makes sense. Both Harry Milliken and Tom Peters said to put the distrust behind them. Everybody needs to work together - better as neighbors. Ron Lebel commented that both comments are appreciated from Harry Milliken and Tom Peters. Ron Lebel also said that he would appreciate a call when

things are happening. This meeting was then closed to the public and brought back to the Planning Board for the following motions:

MOTION: by Tom Peters, seconded by Lewis Zidle to accept the Modification/Waiver Request Form, as submitted.

VOTED: 4-0.

MOTION: by Tom Peters, seconded by Mark Paradis that the wording in the memorandum, dated August 18, 1999, from the Fire Department's following conditions: 1. That the installation of the underground fuel tank meets DEP requirements; 2. The dispensing of the Jet-A fuel should also be performed in accordance with NFPA 407, Standard for Aircraft Fuel Service; and 3. That the Fire Chief recommends the requirements of NFPA 407 be included to determine the project complete and that the Planning Board grant final approval to the application for the CMMC Air-Ambulance Landing Site Underground Fuel Tank & Fueling Cabinet.

VOTED: 4-0.

Rob Robbins then rejoined the Planning

IV. OTHER BUSINESS:

A. New Business:

1. Request for "Diminimus Change" approval for Neal Specialty Compounding, LLC, 258 Goddard Road, Lot G, South Park Subdivision (Approved on 07/20/99).

Jim Lysen read the memorandum that he prepared dated August 27, 1999. Included in the Planning Board's packets was a revised site plan. The applicant is proposing to rotate the building 90 degrees to facilitate loading docks and to provide some visitor parking in the front of the building. He would also like to start construction as soon as possible. This site would remain relatively the same. With the rotation, the offices would now face Goddard Road. This revised site plan was brought to the Planning Board for them to authorize the Chair to sign the revised mylar reflecting this diminimus change.

Harry Milliken said that there is a lot of fillage. Gil Arsenault said that fill is a matter of project. Scott Neal said that there was 7,000 yards brought in. Gil Arsenault also said that the site plan should reflect what the project will have. Jim Lysen mentioned that the grading plan shows the existing contours. Scott Neal said that what has been brought in is what is needed. He also said that with the building rotated there will be better landscaping and a better view. The following motion was made.

MOTION: by Harry Milliken, seconded by Mark Paradis that this project is a diminimus change in nature and that the mylars properly reflect the changes.

VOTED: 5-0.

2. Scheduling of a Special Planning Board Meeting for Thursday, 9/9/99.

The Urban Enterprise (UE) District Code Amendment needs to be scheduled for the first meeting to make the Bates Mill Master Plan conforming. The Butler Brothers project was not available for the regularly scheduled September 14, 1999 meeting (which is canceled) and is being scheduled for the September 9, 1999 Meeting.

Also the September 9, 1999 meeting will be scheduled to begin at 6:00 p.m. and will include the Muriel Bowie project, which was tabled at this meeting. Harry Milliken will not be available for the September 9, 1999 meeting. On Thursday, September 16, 1999, the whole meeting will be set aside for the Bates Mill Master Plan Update, Subdivision, and related items. Butler Brothers will come back to the Planning Board again on the September 30, 1999 meeting. There are three (3) Thursday meetings to be scheduled in September, as follows: September 9, 16, and 30. The following motion was made to accept this schedule.

MOTION: by Rob Robbins, seconded by Tom Peters to accept the schedule for Thursdays, September 9, 16, and 30, 1999.

VOTED: 5-0.

3. Review of Proposed Amendments to the Urban Enterprise (UE) District Concerning Additional Standards and Scheduling of a Public Hearing.

Jim Lysen said that similar provisions should be drafted in the future for other areas of the downtown in addition to the Bates Mill Complex, since space and bulk standards could similarly prevent the adaptive reuse of other complexes or buildings. Such changes would also address issues concerning front setbacks in the Downtown Business District. This item was brought to the Planning Board for discussion and to schedule it for a Public Hearing for September 9, 1999. Jim Lysen said that we need to make the code work. This item is to amend the code to not require frontage in the downtown. The Bates Mill Complex Subdivision will be heard at the September 16, 1999 Planning Board Meeting. The deal calls for the actual sale of land. The Lewiston Mill Redevelopment Corporation (LMRC) is looking for an actual subdivision. Building No. 3 of the Bates Mill Subdivision is one (1) lot on a whole lot. This has been laid out as a commercial subdivision. This amendment could be tabled at the September 9, 1999 Planning Board Meeting and rescheduled for September 16, 1999. Jim Lysen said the amendments need to go forward. Both procedures and policies are a whole. Maps will be prepared with the existing buildings in the UE District and presented at the September 9, 1999 meeting. The following motion was made.

MOTION: by Mark Paradis, seconded by Lewis Zidle to schedule the proposed amendments to the Urban Enterprise (UE) District Concerning Additional Standards for a Public Hearing at the Thursday, September 9, 1999 Planning Board Meeting.

VOTED: 5-0.

4. Review of Proposed Amendments to Shoreland Zoning Standards and Scheduling of a Public Hearing.

This item was prepared by David Hediger, Land Use Inspector for the City of Lewiston. Gil Arsenault said that he would like this item to be heard as soon as possible. He would like this item to be scheduled for the September 9, 1999 Planning Board Meeting, if it can be heard before 10:00 p.m. Maps will be inserted in the Planning Board packets and will be in color. The reason for this amendment is to make Lewiston's standard more consistent with the State's requirements for shoreland zoning. This item will be placed on the agenda for the Thursday, September 9, 1999 Planning Board Meeting.

B. Old Business:

1. John F. Murphy Homes, Inc. - Consistency of the Zoning and Land Use Code with the Federal Fair Housing Act - No update.
2. Supreme Judicial Court of Maine Decision Concerning Rena W. Perkins et. al. v. Town of Ogunquit and Robert W. Scanlon, Jr. Concerning Planning Board Jurisdiction - No update.
3. No Name Pond Watershed Plan - No update.
4. Legal Opinion on LMRC Corporate vs. Municipal Status - No update.
5. An Ordinance Pertaining to Front Setbacks in the Downtown Business District - No update.
6. Comprehensive Plan Update - Fair Housing Act - No update.
7. Board of Appeals, Staff Review Committee, Historic Preservation Review Board Meeting Schedules - No update.
8. West View Bluffs Update - No update.
9. Traffic Management Standards - No update.

The following items are to be placed on the agenda for the September 9, 1999 Planning Board Meeting as Item Nos. 10 and 11:

10. Lot Configuration, and
11. Signage.

V. **READING OF THE MINUTES:**

1. Draft Minutes of Planning Board Meeting held on 07/20/99 (Tabled at 8/10/99 and 08/31/99 meetings).
2. Draft Minutes of Planning Board Meeting held on 08/10/99 (Tabled at 08/31/99 meeting). Both sets of minutes have been tabled to the next Planning Board Meeting scheduled for Thursday, September 9, 1999, since the Planning Board Secretary, Dennis Mason, was absent from this meeting.

VI. **ADJOURNMENT:** The following motion was made to adjourn.

MOTION: by Tom Peters, seconded by Lewis Zidle to adjourn this meeting at 9:27 p.m.

VOTED: 5-0.

Respectfully submitted,



Dennis Mason, Secretary