

**CITY OF LEWISTON  
PLANNING BOARD MEETING  
MINUTES for February 22, 2000 - Page 1 of 9**

**I. ROLL CALL:**

This meeting was called to order at 8:04 p.m. and chaired by **Tom Peters**.

**Members In Attendance:** Muriel Minkowsky, John Cole, Tom Peters, Rob Robbins, & Lewis Zidle.

**Staff Present:** James Lysen, Planning Director; James Fortune, Planning Coordinator; Gil Arsenault, Deputy Development Director; and Doreen Asselin, Administrative Secretary.

**Members Absent:** Mark Paradis and Dennis Mason.

**II. READING OF THE MINUTES:** *Draft of the Minutes from the February 8, 2000 Planning Board Meeting.*

The following changes were made to the minutes, by **Jim Andrews** - Community Development Director, after the draft minutes had been photocopied and included in the Planning Board Members packets.

- On Page No. 5, VI. Other Business, A. New Business, Item No. 1. *Presentation and discussion by the Community Development Division concerning the Citizen Participation Plan (5-Year Consolidation Plan), Second Paragraph. Delete the sentence, "The plan for this year has already been approved." In the Third Paragraph, the fourth sentence shall read, "These two (2) Public Hearings will be held on February 22, 2000 and March 21, 2000." Delete the words, "April 2000".*

In addition to the changes reflected above, **Tom Peters** requested that a copy of the conditional zoning agreement for 16 Wellman Street (**John Bolduc**) be attached to these minutes for the record. The following motion was made.

**MOTION:** by **John Cole**, seconded by **Lewis Zidle** to accept the Planning Board Meeting Minutes of February 8, 2000, as drafted, and place them on file.

**VOTED:** 4-0-1 (Robbins).

**III. CORRESPONDENCE:** *Letter from **Shawn K. Bell** of **Bonneau & Geismar LLC** requesting a tabling of the development review proposal for the **Bob's Discount** project at 1750 Lisbon Street for the March 28, 2000 Planning Board Meeting.*

This is also pertains to Item No. IV. Final Hearing, as listed on the agenda.

**MOTION:** by **John Cole**, seconded by **Muriel Minkowsky** to accept the above correspondence and to grant the motion to table this item until the next regularly scheduled Planning Board Meeting of March 28, 2000 and place it on file to be read at the appropriate time.

**VOTED:** 4-0-1 (Robbins).

Also included as correspondence are: a. The letter dated February 16, 2000 from Jane L. Lincoln, Deputy Commissioner for the State of Maine Department of Transportation, which reiterates that the Planning Board has jurisdiction over 200 PCE at Peak Hour of Generation; b. A Petition for Re-Zoning (the signatures have not been verified, the Warranty Deed, and a map depicting the proposal to re-zone from "NCA" to "CB" for the property located at 780 Lisbon Street, which pertains to Item V. Other Business, A. New Business, Item No. 2. "Workshop and discussion concerning the proposed re-zoning of the property at 780 Lisbon Street and potentially amending the Community

*Business District to allow mixed-use buildings.” It was decided that a motion for the above items were not necessary and that they be accepted for information only and read at the appropriate time.*

**Tom Peters** mentioned that items were being consolidated and that there were not enough issues on the agenda for the Planning Board Meeting regularly scheduled for March 14, 2000, therefore, this meeting is being skipped.

**V. OTHER BUSINESS:**

A. New Business:

1. *Review of a revised subdivision plan and the Declaration of Covenants, Easements and Restrictions, for the Bates Mill Complex Commercial Subdivision.*

**Jim Lysen** gave an overview of his memorandum dated February 18, 2000. **Jim Lysen** mentioned that **Steve Myers** of Platz Associates was present at this meeting for questions and comments.

Enclosed in the Planning Board packets were: a. A copy of the Revised Plan of the Bates Mill Complex Commercial Subdivision, which was previously approved at the September 30, 1999 Planning Board Meeting; b. The proposed “Declaration of Easements, Covenants, and Restrictions” (DECR), which were reviewed and approved by City Attorney Robert S. Hark; and c. The September 30, 1999 Planning Board Action sheet including the six conditions made as part of the approval.

The subdivision plan includes the easterly boundary line of the subdivision along the canal. A note was added that Mill Street has been designated as a public easement. **Tom Peters** said that Item No. 3 is the only item not previously agreed upon. This is a modification to the plan. **Jim Lysen** said that this item should be considered a diminimus change. Item No. 3 is the portion of Hines Alley that begins on Lincoln Street, which continues to be shown as 30 feet. **Chris Branch**, Public Works Director, has recommended that the City vacate the additional 20 feet to the south of Hines Alley and make it part of Lot No. 5, so the plan reflects this recommendation. Also, the Courtyard area has been properly labeled and a note has been added to the plan that requires membership in the Bates Mill Complex Owner’s Association for all lot owners. The mylar was submitted that reflects these changes.

The utility easements are covered on Page No. 2 of the DECR in Section 1.6, Utilities, as per **Chris Branch**’s request.

Conditions that deal with the Fire Department with respect to maintaining access are being done as the mill gets redeveloped. Both Platz Associates and the City of Lewiston are involving the Fire Department in decision-making that goes along with maintaining access to the mill.

Also, as part of the overall study of the Bates Mill, the City will explore the addition of a lead left-hand turn signal. This was another recommendation that the Planning Board wanted to see.

**Steve Myers** said that the ultimate goal is to transfer ownership.

**Tom Peters** said that this document (DECR) will control a lot of items down the road, i.e. easements, power, etc. and that he wants to avoid having any problems.

**Jim Lysen** said that subdivision plans could be dynamic too. He said that he is confident that this meets the legal requirements of the code.

**Gil Arsenault** said that in respect to easements, this appears to be non-specific. There are really no specifications.

**Steve Myers** said that the DECR was reviewed by City Attorney **Robert Hark** and attorneys **Pat Maiorino**, of Platz Associates, and **Kelly Matzen**, of Trafton & Matzen.

On Page No. 1 of the DECR in reference to WHEREAS No. 3, **Gil Arsenault** questioned the association maintaining landscaping on the lots. **Steve Myers'** response was that it is the intent of the landowners association to take care of the landscaping so that it is kept in a uniform state and that the cost is shared by all of the lot owners.

**Jim Lysen** mentioned that all the easements cannot be documented, it would be mind-boggling on this subdivision. This is not a typical subdivision.

There were no comments from the public since no public was present on this item. **Steve Myers** was the only person present at this meeting. His firm, Platz Associates, are in the midst of purchasing three (3) of the mill buildings.

As stated by **Tom Peters**, he said the Planning Board moves that the conditions have been met on the subdivision plan.

**John Cole** referenced Article 8, General Provisions, Section 8.1, Amendment, of the DECR. He said that this could be a real impediment to future development. Paragraph B. of this section kicks in after the lot is sold. Paragraph B states that, *“By unanimous consent of the Lot Owners or upon vote of two thirds (2/3rds) of the members in either case evidenced by a certificate recorded in the Androscoggin County Registry of Deeds indicating the amendment, signed by the President of the Association.”*

**Steve Myers** said that right now there is only one owner of the Bates Mill and that is the City of Lewiston. Three lots (Lot Nos. 2, 3, and 5) are being sold to Platz Associates. Currently, there are only two (2) parties involved - Platz Associates and the City of Lewiston.

**Steve Myers** said that each of the items in the DECR have been reviewed thoroughly. Each lot will have one (1) vote regardless of the size of the land. Any comments can be made to the City Attorney, **Robert S. Hark**.

**John Cole** said that he is concerned with the City's investment and the 2/3rds requirement - Section 8.1. **John Cole** asked, "Is this vote too restrictive?" The City needs some flexibility and some control. He thinks that this should say a simple majority. This could be a real roadblock or hold-up to getting any kind of change. Again, the City needs to maintain control. The City of Lewiston is the originator of the project and the City of Lewiston shall retain some control.

**Rob Robbins** said that this is the center piece of downtown Lewiston. He also added that this is a very special, large project. He agrees that the City should retain some level of control.

**John Cole** said that he is not sure if the Planning Board has the right to dictate one (1) way or another. This is something that is worthy of further thought. **John Cole** said the primary developer ought to retain the right with the City of Lewiston. The right to veto prior to any amendment. **John Cole** said that the language is sufficient there. The paragraph under Paragraph B, "*Any such Amendment affecting the Plan or the approval of the Development by the City of Lewiston shall be submitted to the City for approval upon adoption by the Association.*" Coming back to the City means going through the Planning Board. **John Cole** re-emphasized that the City's investment and control needs to be looked at. This could be a real impediment to the further development of the Bates Mill. This is a major development.

**Tom Peters** said that the record should reflect **John Cole's** point. **John Cole** maintains that instead of the 2/3 vote, it should say, "*simple majority and perhaps consent from the originator - which is the City of Lewiston.*" The City of Lewiston needs to maintain control.

**Rob Robbins** said that he takes a different view than **John Cole's**. He said he does, however, agree in theory with **John Cole's** point. This is an issue that needs to be considered.

**John Cole** feels that this should be looked at in reducing the number of lot owners required to make a change to reflect a simple majority. After the first lot is conveyed, the City of Lewiston, as the originators, shall still maintain a measure of control. Even if the City sells all the lots, the City shall maintain a measure of control. With the enormous investment already made by the City of Lewiston, this may never be recovered.

As stated by **John Cole**, he explained that the City, as the primary developer and declarant of the DECR ought to retain the right, as the originator, to consent to any amendment before it occurs with the City of Lewiston having the right to veto. **Rob Robbins** said that he was in agreement with that.

**Jim Lysen** said that if a change in there affects the plan or approval, it has to come back to the City. Both **Tom Peters** and **John Cole** (form of a motion, but not voted on) said that as to Article 8.1, the paragraph below Paragraph B, the wording should be struck out up to the word “*shall*” and continue to say “*approved by the City of Lewiston Planning Board.*”

**Tom Peters** said that the City of Lewiston is trying to put the Lewiston Mill Redevelopment Corporation (LMRC) out of business. This item should be sent back with concerns made apparent to the City Council.

**Gil Arsenault** asked, “What happens if someone wants to buy Lot No. 4? Lot No. 4 supplies heat to all the buildings. **John Cole** said that this was a very good point. This could be the bug controlling the whole project. **Steve Myers** said that this is one (1) of the many questions that have not been answered, but development can still proceed without it. One (1) of the agreements with the City is that the City will sell steam to the users of Lot No. 2, which could be Platz Associates. Again, Platz Associates are proposing to buy Mill Nos. 2, 3, and 5. **Tom Peters** also commented, that currently, each tenant is paying for their own utilities. This does not include Lot No. 5 because it has its own heating system.

The covenants need to be approved by the City Administrator **Robert Mulready**.

**Tom Peters** suggested that the following motion take place and that a letter be drafted with this concern and to make sure that the LMRC Board Members, the Land Committee, and the City Council see this document.

**MOTION:** by **John Cole**, seconded by **Lewis Zidle** to move that the Planning Board table the approval and signing of the final plan until the March 28, 2000 Planning Board Meeting subject to the following:

1. That the Board finds that the change to the right-of -way or Hines Alley is diminimus in nature and is acceptable;
2. That the plan meets all of the other approval conditions placed on the subdivision at the September 30, 1999 meeting;
3. That a letter be drafted by the Planning Board Chair to the City Attorney Robert S. Hark conveying concerns of the Board with respect to the language in the Declaration of Easements, Covenants, and Restrictions (DECR), Article 8.1, with respect to the amendment procedures; and
4. That, when acceptable language under Article 8.1 is returned to the Board, the Chair will sign off on the Subdivision Plan.

**VOTED:** 5-0.

If was further discussed after this motion that this is a diminimus change and that the DECR will be accepted after it has met all the requirements of the Planning Board, however, the Planning Board is requesting an amendment to Article 8.1 Paragraph B for the last sentence to read two thirds (2/3rds) of the members and approval by the declarant. The consensus of the Board would then approve it. Public easements will remain the same. The mylar signing is, therefore, tabled until clarification.

2. *Workshop and discussion concerning the proposed re-zoning of the property at 780 Lisbon Street and potentially amending the Community Business District to allow mixed-use buildings.*

**Jim Fortune** read his memorandum dated February 17, 2000. **Al Marin**, the Owner, would like to discuss a proposal to re-zone his property located at 780 Lisbon Street from the Neighborhood Conservation "A" (NCA) District to the Community Business (CB) District. His property is at the corner of Lisbon Street/Androscoggin Avenue and Thompson Street. Access to this property is off of Thompson Street.

His building is currently used as a multi-family dwelling with four (4) units, which is a conforming use in the NCA District. **Al Marin** would like to change the use of three (3) of these units from residential to a commercial/retail use for his computer service business, which would be non-conforming in the NCA District. He wants to maintain one (1), residential unit in the building.

**Al Marin**, the Owner, was present at this meeting. **Al Marin** has determined that the best course of action would be to ask the Planning Board to re-zone the property to the CB District rather than conditionally re-zone this property. This item was initiated by a petition. This petition was distributed at the Planning Board meeting. The signatures have not been verified by the City Clerk's Office.

This item will require a Public Hearing. This was brought to the Planning Board to provide direction to the applicant, **Al Marin**. Planning Board Staff supports this change. This is a necessary change to go through with for re-zoning. The CB District would extend to the first two (2) lots on Androscoggin Avenue.

**Gil Arsenault** asked, "Is this straight re-zoning or a conditional re-zoning? **Gil Arsenault** favors a conditional re-zoning. Conditional re-zoning would need to be drafted. What you are asking for does not limit what you put there. This projects the neighborhood. If conditional - what types of uses. There are limitations on parking, number of employees, etc.

**Muriel Minkowsky** said that the petition should pertain to the neighborhood. The current petition is signed by people out of the immediate area.

The following motion was made.

**MOTION:** by **John Cole**, seconded by **Lewis Zidle** to schedule the proposal to conditionally re-zone 780-782 Lisbon Street from the Neighborhood Conservation "A" (NCA) District to the Community Business (CB) District for a Public Hearing at the April 11, 2000 Planning Board Meeting.

**VOTED:** 5-0.

After this motion was made, it was decided that no additional fees would be charged to the applicant, since the Planning Board is initiating to conditionally re-zone this property and that this will be done all at once.

*Out of sequence to the agenda, the following items were discussed.*

5. *Discussion concerning a proposal to change the Planning Board regular meeting schedule to the first and third Wednesday of each month, starting in January 2001.*

This item was placed on the agenda at the request of the Development Department for the Planning Board to consider changing their regular meeting schedule from the second and fourth Tuesdays of each month to the first and third Wednesday of each month starting in 2001. If the Planning Board meet the same week as the City Council, this would give Staff more time to prepare Planning Board actions for the City Council. This change would allow the Planning Division more time to make changes to documents and put them in proper form. This would also help the City Clerk's Office by eliminating the need to put items on the City Council agenda at the last minute. In whole, this would create a more efficient process, improve customer service, and avoid scheduling conflicts with the City Council Chambers. It was agreed that this item be placed back on the agenda for the regular Planning Board Meeting of June 13, 2000 as an "Other Business" item for further discussion.

4. *No Name Pond Watershed Plan Update.* The next regularly scheduled meeting is scheduled for Monday, February 28, 2000. An outline of the components of the Watershed Management Plan will be presented for review and comment. The next update to the Planning Board will be on Tuesday, April 11, 2000, and this item will be placed on the agenda for that date. There will be information available on the grant by then to update the Planning Board with.

After this item, Tom Peters mentioned placing the East-Side Corridor and Grove Street/Sabattus Street Connector issues back on the agenda as an "Old Business" item for the last meeting in May 2000, which is May 23, 2000.

3. *Continue discussions concerning downtown re-zoning, including use regulations and district boundaries and begin the discussion on space and bulk standards.*

This item was last discussed at the Planning Board Meeting on November 23, 1999. At that meeting the Planning Board and the Mayor's Downtown Renaissance Task Force (MDRTF) reviewed the proposed district boundaries and the proposed uses for the new districts developed by the Planning Board Staff. The Planning Board also looked at each use in the matrix and made some modifications based on their discussion with the Staff and the MDRTF. The updated matrix includes the changes requested at the 11/23/99 meeting and the Staff Meeting held on 2/16/00. The Staff Meeting changes were only to clarify use categories and to clean up the matrix.

Included in the Planning Board packets were the updated version of the matrix on District Regulations (Existing - UE, D, NCB, OR, and IO and Proposed - RF, DR, CV, and MD) and the Downtown Re-Zoning: Space & Bulk Standards. The District Regulations matrix is 95 percent the same as what was previously approved. There are no significant changes to the uses. A lot of duplication was eliminated.

It was mentioned that the Riverfront (RF) District is for residential and recreation, not single-family. There were no questions on the District Regulations. Under the Space & Bulk Standards, the question was asked, "How did you come up with lot size?" The response was to look at the NCA for the minimum lot size. There was some concern as the minimum setbacks of ten feet (10'). It was agreed between Planning Board Staff and Members that both these items need to be forwarded to the Mayor's Downtown Renaissance Advisory Board (MDRAB) Members for review. Heights are reflective of the typical standard in downtown buildings. **Jim Lysen** said that this is consistent with the NCA requirements.

**MOTION:** by **Tom Peters**, seconded by **John Cole** that the Planning Board moves to send both packets, the matrix on District Regulations (Existing and Proposed) and the Space and Bulk Standards to the Mayor's Downtown Renaissance Advisory Board (MDRAB) for their review and to make suggestions as to the setback requirements, etc. for their input.

**VOTED:** 5-0.

After this motion was passed, **Jim Lysen** said that the MDRAB will be holding an organizational meeting and will be discussing the downtown re-zoning proposal. This organizational meeting is scheduled for Monday, March 6, 2000. A joint meeting with the MDRAB is needed for a presentation on their review and suggestions to the Planning Board in order to schedule this for a Public Hearing. This joint meeting has been tentatively scheduled for March 28, 2000. It was agreed that this item be placed back on the agenda for the Planning Board Meeting scheduled for April 11, 2000 as a Public Hearing before going to the City Council.

**B. Old Business:**

1. *Public Hearing to consider re-zoning properties on LaFayette Street.* To be dealt with at the March 28, 2000 Planning Board Meeting.
2. *Joint meeting with the Mayor's Downtown Renaissance Advisory Board to discuss downtown re-zoning.* To be dealt with at the March 28, 2000 Planning Board Meeting. The initial meeting of the M.D.R.A.B. is scheduled for 6:00 p.m. on Monday, March 6, 2000 in Meeting Room "A" on the Third Floor of the City Building. A joint meeting is now scheduled from 6:00-7:00 p.m. with the M.D.R.A.B. on Tuesday, March 14, 2000 before the Planning Board Meeting that evening.
3. *Comprehensive Plan Update.* To be dealt with at the 03/28/00 Planning Board Meeting.
4. *City property acquisition and disposition process.* To be dealt with at the March 28, 2000 Planning Board Meeting.
5. *John F. Murphy Homes, Inc. - Consistency of the Zoning and Land Use Code with respect to the Federal Fair Housing Act.* To be dealt with at the April 11, 2000 Planning Board Meeting.
6. *Supreme Judicial Court of Maine decision concerning Planning Board jurisdiction with respect to Rena W. Perkins et. al. vs. the Town of Ogunquit and Robert W. Scanlon, Jr.* To be dealt with at the April 11, 2000 Planning Board Meeting.

The next Planning Board Meeting is scheduled for Tuesday, 03/28/00, in the City Council Chambers.

**VIII. ADJOURNMENT:**

The following motion was made to adjourn.

**MOTION:** by **John Cole**, seconded by **Rob Robbins** to adjourn this meeting at 9:47 p.m.

**VOTED:** 5-0.

Respectfully submitted,

Mark Paradis, Secretary

DMA:dma

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