

City of Lewiston
PLANNING BOARD MEETING
Minutes of August 27, 1996

I. ROLL CALL

The meeting was called to order at 6:06 PM

Members present: H. Milliken, D. Theriault, T. Peters,
 M. Goulet, L. Zidle, D. Jacques, H. Skelton

Staff present: J. Lysen, G. Dycio, A. Metivier

Mr. Lysen introduced Miss Metivier and mentioned that she is the interim Executive Secretary in the Development Department. He added that she has spent the summers and vacation periods for the past three years as an intern with the Department. The Board welcomed her.

II. READING OF THE MINUTES

MOTION: By Mr. Skelton, seconded by Mr. Zidle to accept the minutes of July 16, July 30, and August 6, 1996.

VOTE: Passed 7 - 0

IV. PUBLIC HEARING

A. Review the Draft Update of the Lewiston's Comprehensive Plan

Mr. Milliken explained the format for the meeting would include the review of the Comprehensive Plan section on Economy and Public Services from 6:00 PM to 7:00 PM then the regular agenda will begin.

Mr. Milliken mentioned to School Board on Monday night made a motion which was unanimous to include a section of education within the comprehensive plan with the goal to develop a comprehensive plan for the school department and they have 18 months to do it. Mr. Milliken stated that at that time it will be forwarded to Planning Board then submitted to the City Council to be included in the comprehensive plan.

Mr. Milliken stated that under the culture and arts program they wanted to have at least one or two meetings by the end of September to have further discussion of the culture and arts. He added the School Board seems to agree that it should be in there but want to discuss the goals and strategies and possibly change some of the wording. He stated that the meeting was very positive and lasted approximately one to one and a half hours.

Mr. Theriault asked if any future contacts with the School Board and the Press would be directed to the chairman of the Planning Board. Mr. Milliken answered yes. Mr. Theriault stated that some of the sub requirements go to Planning Department and would assume see it go from Board to Board so that nothing is lost in between.

Mr. Milliken stated that the School Committee is putting it on the agenda for September 9th meeting and anyone interested can attend the meeting at which time it is possible that a motion will be made.

Mr. Milliken stated that two section for review would be economy and public services and facilities. Mr. Milliken went over the four goals of the economy section then opened the discussion to the Board. Mr. Lysen stated that staff was in the process of putting together some retail and demographic information concerning economy. He stated that the development department has requested information on retail sales to touch upon retail sales in the area. Mr. Lysen mentioned that there has been a disturbing trend in retail when looking back into the 70's and 80's and stated that staff hopes to key in on some of the local economy issues. Mr. Lysen stated that a lot of the introduction is from the L-A Development strategy. Mr. Lysen discussed Policies 7, 8 and 9 and mentioned that this was a broad discussion on the economy

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and that they would be focusing on some of the geographical information as well as some of the specific local economy issues.

Mr. Peters asked Mr. Lysen about goal one of the economy section specifically asking what governmental services are not presently being provided effectively and what government coordination is falling down and not being done properly. Mr. Lysen stated that Policy one where LA together commission is mentioned, we can get economies of scale by melding some of the public services and government coordination. Mr. Peters asked specifically where government coordination is not as effective as it might be. Mr. Goulet stated that he felt that projects that meet all the covenants could be streamlined by not having to go before the Planning Board. Mr. Peters asked if this specific issue was dealt with in the policy and asked how streamlining would take place to make government less intrusive to economic development. Mr. Lysen stated that streamlining of government services such as water and sewer, fire and police and overall governmental service coordination. Mr. Lysen mentioned coordination with AVCOG on business and transportation end as well as forming relationships between boards and committees.

Mr. Milliken stated that the wording of "creating an environment" indicates that we do not have a good environment now. Mr. Lysen suggested stating in goal one to "create an environment that is more conducive to economic development efforts." Mr. Peters asked if there are specific things that Lewiston should be doing better to improve government coordination for business so that we can get our economy stimulated. Streamlining of government services such as going to one stop to get all permits to ensure that we are most effective and business friendly. He mentioned that we should remove anything in government that is creating a problem and our goal should reflect that.

Mr. Theriault asked what the committee came up in regards to the analysis that led to a policy decision and stated the policy must be focused. Mr. Lysen stated that coordinating public policy and formulating relationships so that we can better serve the business community. He stated that streamlining in order to make government more user-friendly or business friendly is something we can add on to.

Mr. Peters brought up an issue about most of the economy section dealing with twin cities or LA, he mentioned the Mayor's term of "coopertition" where Lewiston and Auburn work cooperatively but we still compete. He stated that a lot of the policies deal with twin cities or Lewiston-Auburn and feels that cooperation is necessary but Lewiston also needs to develop their own strategy for the economy that will move Lewiston forward regardless of what Auburn is doing. Mr. Peters asked if Mr. Lysen has given the Board a copy of what he wrote about natural resources and their uses. He stated that he felt it could be modified to some extent to be used in the economy section because he feels the city needs to take an active role in assisting the economy and the development of business. He also mentioned the example of Medaphis where there was a tremendous amount of cooperation from everywhere and feels this type of undertaking is needed to stimulate the economy.

Mr. Goulet had a concern with the retail sales figures in the economy section. He stated that retail sales per square foot have not increased as stated in the the draft. He stated that total retail sales are increasing but retail sales per square foot in the Lewiston-Auburn area has decreased over the last two years. He stated that goal one should be reworded. He suggested "continue to promote an environment that is conducive to economic development efforts by streamlining governmental services specifically permits, finance and issues with parking." Mr Milliken suggested changing it to keep the goal simple using "improve the governmental services to be more conducive to economic development," and then have policies and strategies with short goals. Mr. Peters agreed. Mr. Milliken stated that he promotes cooperation between Lewiston and Auburn but that should be one policy and that really should be just Lewiston. Responsibilities should be related strictly to city and development department. AVCOG and LAEGC should be listed as supporting agencies. The Board was in agreement.

Mr. Theriault stated that he agreed with Strategy B in Policy one, and thought there should be joint meetings between Lewiston Auburn Planning Boards. Mr. Skelton stated that he felt the more people in one room trying to deal with issues the less likely that anything comes out of it. He questioned what would be accomplished and how it would be accomplished. Mr. Theriault explained that he would like to understand what those across the river are doing that, to some degree, effects Lewiston and possibly

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effects the economic wealth of the two cities. Mr. Skelton stated that specific issues need to be discussed but establishing a mandate for meeting periodically seems unproductive. Mr. Theriault agreed specific issues should be discussed but agreed mandated meetings were unnecessary.

Mr. Peters suggested stating where joint ventures are possible then joint meetings should be held. Mr. Milliken asked if it should be under Strategy A. Mr. Skelton stated that Strategy A should be changed because it mandates regular meetings. Mr. Milliken asked how it would be worded. Mr. Skelton stated his concerns were with regular and semi-annual meetings. Mr. Lysen agreed that it should only be done when necessary but that in order to have some coordination we need to understand certain processes. Discussion ensued about meeting with Auburn on certain issues. The Board seemed to agree that more meetings was not the answer but that in those areas of joint ventures or potential coordination of efforts we encourage meetings amongst the departments of both cities.

Bob Faunce, TSI discussed how Auburn has a standing committee for modest to large scale developments where staff from engineering, code, development and planning get together to go over all aspects of the project in a positive way. He stated that the developers know the answers to all their questions when they leave the meeting.

Mr. Skelton stated that he was concerned with the fact that the developer knew before the public hearing process. He stated that this was the whole purpose of the Planning Board review and felt that this could possibly cause problems because when the developer comes in he feels that the issue has basically been decided and has thousands of dollars are committed to the project, without it coming before abutters and others concerned.

Mr. Faunce continued explanation of what Auburn does. Mr. Faunce also brought up an issue with industrial zoning in Lewiston and feels that it has a negative connotation and would like to see it in a more positive way. Mr. Peters addressed the chairman and stated that a lot of issues had been thrown out and suggested that an issue be discussed by the Board, or decide that it does not need further discussion and move on.

Mr. Milliken stated that the first concern was goal one and its wording stating that he thought they had come up with a new goal to "improve governmental services to be more conducive to economic development." Mr. Milliken stated that the goals should include items that Mr. Goulet had suggested. Mr. Goulet then read the goals to recording secretary Amy Metivier. Goal one "continue to promote environment conducive to economic development by streamlining coordination of governmental services specific to permits, finance, and development department relations." Mr. Milliken stated that these topics would make a strategy under the policy to streamline the process. Mr. Goulet stated that streamline should include letting developers know up-front what his problems are before he gets to deep into it. Mr. Skelton stated he felt the public should be given the same opportunity. Mr. Milliken suggested having a strategy that says investigate and develop before streamlining the process and then discuss how it will be done. Discussion ensued about streamlining the process.

Mr. Milliken asked the Board if they were in agreement to strike AVCOG and LAEGC from all the responsibilities and list them as supporting agencies. The Board was in agreement.

Attorney Andrew Chaot, wanted the Chamber to be included under supporting agencies.

Mr. Milliken asked how to reword Policy one to strike out the the things that focus on LA. Mr. Peters responded stating that he did not feel they needed to strike out the things that coordinate with the twin cities but rather to have a component that specifically focuses on Lewiston. Mr. Peters then mentioned what he developed on natural resources and suggested it be reworded and placed in the economy section. Mr. Goulet stated that he would like to see one statement that says we will work closely with Auburn and then strike LA from the rest and make it specifically for Lewiston. Mr. Skelton suggested allowing staff to place LA where applicable. Mr. Lysen stated where applicable they would keep LA. Mr. Milliken stated that at the next meeting there will be an updated draft .

Mr. Peters suggested developing a goal concerning how Lewiston will aggressively look to others such as

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Augusta to help make things happen. Mr. Milliken then suggested developing a goal that would include working with state agencies to develop economic opportunities. Mr. Peters mentioned he is looking for wording that states that Lewiston is aggressively seeking people to work with on these issues.

Mr. Peters then presented what he wrote up on natural resources. Discussion began about a presentation the Board had seen about the natural resources in the area. Mr. Milliken stated that it is not talking about natural resources areas and talking about marketing natural resources in the area such as the Androscoggin River. Mr. Lysen stated that now the River is in a Resource Conservation Area where nothing can be built and mentioned that other areas can be built on and stated that citizens could enjoy these natural resource areas. Mr. Goulet suggested changing it to include "building in conjunction with natural resources areas." Mr. Peters stated he felt that was fine. Discussion ensued over how to use natural resource areas in the policy. Mr. Milliken suggested that staff incorporate Mr. Peters section in economy and see what they come up with. Mr. Peters stated that he did not mind as long as the flavor remains and that it means we can use these natural resources.

Mr. Skelton stated that the language used by Mr. Peters does not work for him and that he doesn't know what he envisions. Mr. Lysen stated that he would keep it floating but try to get another handle on it. Mr. Milliken explained to Mr. Skelton what the presentations on natural resources involved and explained that natural resources could be used as an attraction to bring business into this area and let business use it as a marketing tool. Mr. Peters stated that he does not object to changing it as long as the feeling is there.

At this time Mr. Milliken set the comprehensive plan portion of the meeting aside and resumed the regular Planning Board agenda.

B. Proposed Amendment to the Zoning and Land Use Code of the City of Lewiston relative to the land areas surrounding the Lisbon Street/East Avenue intersection and the Lisbon Street/South Avenue intersection where the areas are proposed to be rezoned from Community Business (CB) District to Highway Business (HB) District, or amend the Community Business District to allow wholesale sales, warehousing and distribution facilities and transportation facilities as a conditional use.

the Mr. Dycio stated that there is a proposal before the Board to amend the Official Zoning Map where properties in vicinity of the Lisbon Street/East Avenue and Lisbon Street/South Avenue intersections would be rezoned from Community Business (CB) District to Highway Business (HB) District.

Department Mr. Dycio informed the board that it has come to the Planning Staff's attention that the Lewiston Police has received numerous complaints from Summit Avenue residents, whose properties abut the Promenade Mall, regarding noise from the mall during the late evening hours. Originally it was reported as construction noise, but it has been determined it was coming from loading docks in the area of now the former Bradlees store. Staff has sent a letter to the Summit Avenue residents who abut the mall property informing them of the Public Hearing and their opportunity to attend the Public Hearing and express their concerns. Because of the noise problem, it is the Planning Staff's opinion that a straight rezoning may not be in the best interest of the City and the Summit Street residents.

Staff would also like to explore the possibility of amending the Community Business (CB) District section of the code, as an alternative to a rezoning, where two additional land uses, warehousing and transportation facilities, would be added to the district regulations as either a permitted or conditional use with performance standards regulating the operation of the use to ensure that there would be no adverse impact on abutting residential areas. Staff has prepared additional language for the Board's review and will present it for discussion.

the Mr. Dycio stated that Staff has discussed different alternatives and is holding the public hearing to get input from public so the City can address their concerns.

Mr. Lysen explained an alternative to the standard rezoning was to utilize conditional or contract rezoning to add restrictions and conditions that would make the proposal more acceptable. He also suggested looking at the specifics and see if it is not an issue that should be dealt with by rezoning or code amendment. He added that it

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might make sense to use a conditional or contract zoning rather than straight rezoning. Mr. Milliken asked Mr. Rosenthal if he had any comment at this time. Mr. Rosenthal stated that he had no comment but was available for any questions that the Board or the public may have.

Mr. Milliken opened up the hearing to the public.

Mr. Lambert, 94 Summit Avenue stated that he was the closest neighbor to the loading docks of the Promenade Mall. He stated that about a month ago he contacted Gerry Berube to discuss his concerns with the noise from the loading docks and Mr. Berube said he would refer the issue to Code Enforcement. Mr. Lambert expressed his concerns with the noise. He explained that he spoke with Mr. Wallace, who represents Mr. Rosenthal and discussed his concerns. Mr. Lambert stated that Mr. Rosenthal has stated that the noise could be reduced by installing special equipment including hydraulic lifts to level it off to the ramp to cut the noise, as well as a sound barrier.

answered Mr. Theriault asked Mr. Lambert if the noise was coming from outside the Promenade Mall. Mr. Lambert yes, and stated that they could not hear anything from inside. Mr. Peters asked what times the noise was loud. Mr. Lambert stated that noise went on at all times. Mr. Lambert stated that he wanted the Board to take strongly into consideration the problem with the noise before amending the Official Zoning Map. Mr. Lambert stated that Mr. Rosenthal promises to keep the noise quiet and that if they have any further problem with the noise to notify him.

to Mr. Milliken asked if the noise was related to loading and unloading of trucks. Mr. Lambert stated it was related loading and unloading and that the trucks themselves are not really a problem. He stated that there is little supervision of workers.

kind Mr. Skelton asked how long trucks load and unload. Mr. Lambert said 10 to 15 minutes. Mr. Skelton asked what of trucks were there. Mr. Lambert stated tractor trailers and also stated his concerns about warehousing in the mall if it is not allowed in CB District. Mr. Milliken stated that Planning Board has had no review of the TIF process of the mall. Mr. Lambert stated that he heard that Lewiston got the business for Mr. Rosenthal. Mr. Milliken asked how far he was from the mall, to which he responded approximately 100 feet. Mr. Lambert stated it was probably less. Mr. Milliken asked if the noise was from warehousing in the front of the mall where Bradlees was located. Mr. Lambert stated yes and stated that he does not hear noise from the back. Mr. Lambert added that if they took an extra 10 minutes it would probably eliminate some of the noise. They load within 15 minutes and leave. Mr. Milliken asked if during conversation with Mr. Wallace if any suggestions were made to correct the problem. Mr. Lambert said yes.

of **Mr. Rosenthal, Developer** stated that his position on the noise is that it is unacceptable and that he was unaware the noise problem until recently because the original complaint was about construction noise and they were not doing any construction. Mr. Rosenthal stated that his son Andrew and Mr. Wallace spent the night at the mall and confirmed what Mr. Lambert has said. Mr. Rosenthal said the answer to the problem is hydraulic loading docks because as they unload trucks goes up and when the forklift comes over the plate it bangs down. He stated that hydraulic loading docks could be put in within a week or two to resolve problem as well as enclosing the loading area to make the seal between truck and inside so neighbors won't hear it. Mr. Rosenthal stated that they are not disputing the noise problem and the intent is to get rid of it.

that Mr. Peters questioned Mr. Rosenthal about Mr. Lambert suggesting that this had been going on for a while and the city may have encouraged it. Mr. Peters asked when it started and who gave permission for it. Mr. Rosenthal stated that the city had discussed R.D. Roy looking for space several months ago and that space did not become available until July when Bradless left. Mr. Rosenthal stated that in July they approached R.D. Roy and they came in the later part of July. Mr. Peters questioned who in the city encouraged him to get in contact with R.D. Roy to which Mr. Rosenthal replied that the original contact was Steve Levesque.

Mr. Rosenthal stated that the agreement with Roy was that there would be two months notice as they got tenants in. R.D. Roy would then move out because original plan is to turn the top floor of the mall back into totally a retail operation. Mr. Rosenthal stated that the income from R.D. Roy would be used to get retail into the mall. Mr. Theriault asked if R.D. Roy's warehousing would be short term. Mr. Rosenthal stated yes that intent is to turn

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all of the top floor into retail. Mr. Lambert questioned Mr. Rosenthal's willingness to make this investment for a only a short period of time. Mr. Rosenthal stated he was willing to make the investment because it is important to keep them as a tenant.

Mr. Milliken asked what the time frame would be before he would give notice to R.D. Roy before moving retail in. Mr. Rosenthal stated that if he had someone today he would notify Roy immediately. Mr. Milliken asked if Mr. Rosenthal thought R.D. Roy would be out within a year. Mr. Rosenthal stated yes. Mr. Theriault questioned the rezoning if it was only short term. Mr. Goulet asked if warehousing will continue in the rear. Mr. Rosenthal stated that the lower level is used for storage and that they have a contract with Gates Formed Fibre, and that he plans to continue warehousing and storage in the rear. Mr. Theriault stated that the disturbing noise was not coming from the back. Mr. Rosenthal agreed.

Mr. Milliken stated that he was looking to the neighborhood and city to work together. Because of interim problem instead of rezoning they could work up a conditional or contract zoning with specific items in it that would pertain to the specific issues, and possible put some time frame in it where warehousing in the upper level would have to stop. Mr. Rosenthal said they would go along with that and that they would monitor the problem and believes they could do away with it. Mr. Skelton asked how the new lifts would be operated and asked if it would have to be done manually. Mr. Rosenthal stated the lifts were automatic hydraulic and that no manual lifting would be necessary.

Pauline Gagnon, 90 Summit Avenue expressed her concerns with the noise and stated that she hopes they get out real soon and put back the retail uses in the mall. Mr. Milliken agreed something must be done. Mrs. Gagnon stated noise goes on all night. Mr. Milliken asked if there was a noise problem when Bradlees had deliveries was located there. She stated that they very seldom heard noise from Bradlees and that Bradlees only had deliveries during the day. Mr. Theriault asked if she would be satisfied if he reduced the noise. Mrs. Gagnon stated she had no choice. Mr. Theriault asked Mrs. Gagnon if the noise stops would she be happy with that. Mrs. Gagnon stated she could not guarantee that. Mr. Theriault stated the Board's basic concerns is the noise and asked if that is the problem and it is remedied would she be happy. Mrs. Gagnon stated yes if it was during the day as well as evening.

Mr. Milliken stated that conditional or contract zoning can have stipulations about noise level, and that Code Enforcement would make sure this is done or they must stop there operation. Conditional or contract zoning can be specific and include time frames to stop warehousing in upper level. Mr. Milliken stated noise must be corrected within very short period of time and that Mr. Rosenthal agreed between the next two weeks as long as he could be expected to get approval to continue the operation. Mr. Theriault stated the Board is trying to eliminate the problem that started the noise and complaints. Mr. Theriault stated that Mr. Rosenthal wants to work with the neighbors to remedy the problem

Lawrence Fox, 102 Summit Avenue asked if this facility is zoned now for warehousing. Mr. Milliken stated no. Mr. Fox asked if his property would lose its value because it is in a warehouse zone. He also expressed his concerns with the noise. Mr. Fox stated that there should be a certain hour where they can not load and unload. Mr. Theriault stated that Mr. Rosenthal mentioned enclosing the area. Mr. Rosenthal stated that would be done. Mr. Milliken asked if there was a sound ordinance. Mr. Lysen stated yes. Mr. Milliken stated that it could be put into a contract to keep it at a reasonable decibel level. Mr. Peters stated the current decibel level in the code if fairly loud.

Mr. Rosenthal stated that the original proposal included both storage and retail sales right now and has started on a 26,000 square foot bookstore to open in October. Mr. Milliken asked if original proposal included warehousing. Mr. Rosenthal stated that warehousing was allowed in lower level but when Bradlees moved out he put in R.D. Roy as an interim tenant. Mr. Peters explained the noise level ordinance from the code. Mr. Dycio stated that standards are based on abutting properties. Discussion ensued about noise ordinance.

Mr. Skelton asked if since the mall was built has warehousing ever been allowed. Mr. Lysen stated that staff would check the records and also stated that in a CB zone deliveries associated to a permitted use are not specifically regulated. Mr. Milliken asked Mr. Fox if the noise has been a problem only since Bradlees left. Mr. Fox stated yes. Mr. Milliken then questioned all concerned neighbors in attendance asking if the had any problem with noise coming front the back of the mall. The neighbors stated they had no concerns with noise from the rear.

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Robert Mulready, City Administrator stated that he has visited the neighborhood and found it to be very quiet and well kept. Mr. Mulready stated that over the past several years the city has been trying to develop a key for the city to go through change that protects residential neighborhoods and also find jobs for the city. He stated that the Promenade Mall is a community-type mall and he feels that it is good for Lewiston. He stated there have been many complaints over the last few years that there is not enough retail in the area. Mr. Mulready stated that Mr. Rosenthal has agreed in writing to put in 2 hydraulic docks, and enclose the dock area with insulated wall and two overhead doors with seals. Mr. Mulready stated that he agrees with the conditional or contract zoning approach and feels that there should be a time frame of April 30, 1997 to stop warehousing in upper level. After this time warehousing in rear could be allowed with retailing in the upper portion of the mall. Mr. Mulready stated that Mr. Rosenthal has expressed that he has no problems with these issues.

Mr. Skelton questioned why warehousing is going on right now although it is not allowed. Mr. Mulready stated that when such violations are uncovered, the City likes to let it come before the appropriate Board and/or Council to see if it can be resolved before closing them down.

Mr. Peters stated that he commends city officials for trying to move city forward but these problems could have been avoided if city officials would have realized or stated that this was not appropriate in that zone. Mr. Peters also commends Mr. Rosenthal for admitting the problem.

Mr. Milliken asked Mr. Rosenthal if the Board gave him direction that they would develop the conditional or contract zoning would he begin the work. Mr. Rosenthal stated he would begin the work next week.

Pauline Taylor, Nob Hill Avenue asked if RD Roy could be restricted from warehousing until situation is remedied. Mr. Rosenthal stated he could not speak for Mr. Roy but would ask him. Ms. Taylor asked if city had the authority to regulate the time Mr. Roy can load and unload since it is not allowed in CB zone. Mr. Mulready suggests Mr. Rosenthal ask Mr. Roy to limit the time of loading and unloading during the interim to have no loading and unloading between 10 PM and 6 AM. Mr. Rosenthal stated he would talk to Mr. Roy.

Mr. Milliken asked if work began on Tuesday how long would it take. Mr. Rosenthal stated it would depend on when he could get the hydraulic dock loaders.

Mr. Lysen explained that it is the legislative authority of the City Council to accept or deny all types of rezoning.

Mr. Milliken stated that as long as Mr. Rosenthal begins eliminating the noise now, by the time there is a public hearing it should be eliminated or the conditional or contract zoning would have to change.

Mr. Milliken asked for any other comments from the public, and sensing none closed it to the public.

PM Discussion began concerning notification to Code Enforcement about limiting the hours of operation between 10 and 6 AM during the interim, until problem is solved. Mr. Lysen suggested that a strong recommendation be made to Code Enforcement to monitor the operation where warehousing is limited during the interim.

Mr. Milliken stated that Code Enforcement must be notified of the problem. Mr. Milliken stated that Code Enforcement should be given the authority in order for them to come up with an arrangement that pleases Mr. Rosenthal and Mr. Roy. Mr. Theriault suggests giving Code some direction to let them know the rezoning proposal is in the works and heading to City Council with an alternative such as limiting hours of warehousing between 10 PM and 6 AM.

Mr. Rosenthal tried to contact Mr. Roy during a ten minute break but was unsuccessful. Mr. Milliken stated that Mr. Rosenthal would try to contact Mr. Roy on Wednesday about limiting his hours and suggested no trucking between the hours of 10 PM and 6 AM. Mr. Peters added this would be appropriate until the noise is abated to meet the code levels which is 50 decibels or less.

Mr. Lysen mentioned that research indicated that prior to the zoning in 1988 warehousing and distribution was a permitted use at the Promenade Mall.

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MOTION: By Mr. Peters, seconded by Mr. Theriault to initiate a conditional or contract rezoning proposal for the Promenade Mall with notice sent to the neighbors, and set a date for hearing at the September 10, 1996 meeting if possible and no later than the September 24, 1996 meeting; proposal will include deadline of no warehousing in upper level permitted after April 30, 1997 allowing warehousing to continue only in lower level; decibel rating will not exceed that allowed in the zone which is 50 decibels at all times even following April 30, 1997. Further that the proposal is being initiated with the understanding that the loading docks be enclosed; and hydraulic loading lifts be installed as soon as possible with the limiting of hours of operation in the upper level between 10 PM and 6 AM if at all possible.

VOTE: Passed 5-1-1 (Mr. Skelton opposed; Mr. Goulet abstained)

MOTION: By Mr. Peters, seconded by Mr. Theriault to amend the motion to add that the Promenade Mall be rezoned to Highway Business (HB) District under the conditional zoning agreement with no other exceptions; and allow what is also permitted currently in Community Business (CB) District.

VOTE: 5-1-1 (Mr. Skelton opposed; Mr. Goulet abstained)

V. FINAL HEARING

A. Turnpike Industrial Park - Revision I

Mr. Dycio stated that Robert F. Faunce, of Technical Services, Inc., on behalf of the Lewiston Development Corp., has submitted plans for a proposal to amend an approved industrial subdivision where the number of lots will be reduced from twenty-three (23) to ten (10), and the length and location of proposed streets will also be revised. As outlined under Article XIII, Section 3 (l)(7) of the Zoning and Land Use Code, the proposal is defined as a minor amendment and therefore only requires one meeting before the Planning Board. The proposal will also be reviewed by the D.E.P. as part of the City's delegated review authority.

Pursuant to Article XIII, Section 3 (h)(5), the applicant is requesting a number of waivers and a non-applicable status request to the application requirements listed under Section 3 (h) (1-4). Upon review of the requests Staff finds that, in our opinion, the requests are justified and recommends that the Board grant them.

The Planning Staff has reviewed the revised plans and forwards the following comments:

1) Part of the amendment involves the reconfiguration of Lots# 5,6,8,9 and 10 and the development of Independence Drive to provide access **and/or** frontage for these lots. The last sentence of the first paragraph on page two of the cover letter states that "the revised lots have been designed to allow development of lots 5 & 6 prior to the construction of Independence Drive". Although Staff does not have concerns with the development of the lots prior to the construction of the proposed street, Staff does have a concern with access to these lots prior to the construction of the proposed street.

In speaking with the applicant's representative, Staff has been assured that the two lots, Lots #5 & 6, will share a common drive prior to the construction of Independence Drive. However, Staff feels that the Planning Board may want to add a condition of approval to the project stating that once Independence Drive is constructed, Lots #5 & 6 must gain their access off this street. Otherwise, Staff cannot make a finding, without an opinion from a traffic engineer, that multiple curb cuts in the immediate vicinity of Independence Drive is a safe design.

The Planning Staff feels that the common drive for Lots #5 & 6 should be within the right-of-way of the proposed street, and finds that if this is a condition of approval then the transition from a shared drive to access off the proposed street will have the least impact to the development of these lots and traffic flows on Cottage Road. Staff asks that note #4 on sheet 2 of 4 be revised stating that lots 5 & 6 will share a common drive prior to the construction of Independence Drive, and that these two lots will gain their access from said street once it is constructed.

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2) The applicant is requesting a waiver from the Planning Board for street lighting (see page three, second paragraph of the cover letter). Since this is a requirement for all proposed, city- accepted streets, the Planning Board does not have the authority to grant such a waiver request. Rather, the applicant must submit this request, in writing, to the Public Works Director. However, in discussing this issue with the Public Works Director it was related to Staff that a waiver would not be granted.

In addition, the Planning Staff does not agree that the security lighting that will eventually be installed by the various building owners will be sufficient illumination for Independence Drive as the approval criteria for exterior lighting, listed under Article XIII, Section 4 (n)(1), states that "all exterior lighting will be designed and shielded to avoid undue adverse impact on neighboring properties **and rights-of-way**". As such, all security lighting for any future development on the lots adjacent to Independence Drive and Cottage Road will have to be adequately shielded so that a minimum of illumination from these lights will enter the right-of-ways.

3) As part of this minor amendment, the applicant is requesting that the Planning Board approve a grading plan for Lots #5,6,8 and 10 as indicated on the Topographic Grading Schematic (sheet 2 of 4). Staff is concerned with the proposed location of fill material as indicated by the final contour lines, especially for Lots # 5 & 10. Article XIII, Section 4 (g), Erosion Control, states that "the top of a cut or the bottom of a fill will not be closer than ten feet from a property line". The proposed fill area for lot 5 is shown as being up to, and in one location crosses over the property line into the Cottage Road right-of-way, while the proposed fill locations for lot 10 are up to property lines as well. Staff would like to bring this to the applicant's attention and asks that the schematic be revised accordingly.

In addition, Staff would also like to caution the applicant that excessive natural vegetation removal from the lots, as part of the regrading proposal, may require future lot developers to replant any vegetation deemed to have been excessively removed. Article XIII, Section 4 (k), Natural Features, clearly states that the reviewing body can require a regeneration plan for that portion of a site not directly impacted by the proposed development.

4) Due to the large land area under consideration, the site plan has been drawn at a scale of 1" = 100'. As such, the applicant should ask for a modification to the scale of the plans as part of the waiver requests.

Copies of the plans have been sent to the Police, Fire and Public Works Departments for their review and comments. As of the date of this memo Staff has received comments from the Police and Fire Departments, and they have no major concerns with the proposal (see attached comments). Discussions with a representative from Public Works indicates that they have some concerns, however they had not completed their review. Their comments will be forwarded to the Planning Board once they are received.

The Planning Staff has reviewed the project against the Approval Criteria listed under Article XIII, Section 4 (a-u) and finds that, in our opinion, the project meets all of the applicable criteria. Therefore, the Planning Staff recommends that the Planning Board approve the project with the following conditions:

- 1) That any concerns raised by the Public Works Department be adequately addressed prior to the signing and recording of the plans;
- 2) That the Department of Environmental Protection approve the proposed project, or all of their concerns be adequately addressed prior to the signing and recording of the plans;
- 3) That the access drive for lots #5 & 6 be a common drive, located within the proposed Independence Drive right-of-way (includes revising note #4, sheet 2 of 4);
- 4) That lots #5 & 6 gain their access from Independence Drive once it is constructed (includes revising note #4, sheet 2 of 4), and
- 5) That the Public Works Director grant the requested waiver for street light(s) or the plans be revised to show adequate street lighting as required.

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Mr. Dycio stated that Mr. Faunce was present to answer any questions.

Mr. Theriault asked about condition number 1, and did Public Works have any concerns. Mr. Dycio stated that Public Works had one concern with Independence Drive to maintain a maximum of 3% grade for the first 100 linear feet of roadway. Mr. Dycio stated that after going over the plan Public Works decided that it did meet the 3%. Mr. Peters asked why street lighting wasn't included in the last summary 5 conditions. Mr. Dycio stated that would come when Lots 5 & 6 come before the Planning Board.

Mr. Faunce stated that he had no comments. Mr. Milliken asked if he had any problems with the conditions. Mr. Faunce stated no and said the only concern was street lighting and he felt that would be up to Chris Branch.

Mr. Peters asked Mr. Faunce to explain the plan and why it was going to change from what it was. Mr. Faunce then proceeded to explain the plan demonstrating the map of the proposed revision. He stated that LDC approached him to Revise the plan. Mr. Peters asked if LDC was part of the City.

Al Sargent, Consultant LDC stated that LDC was not part of the City. He stated that LDC has worked with economic development for a number of years. He explained that over the last several years LDC has assisted with Lewiston Loans and as of the end of last year he decided to get back to the original 501C6 organization. He stated that the beginning process was to get involved in helping the community and get things on the table by looking for availability of lots with economic substance.

Mr. Peters asked that if LDC was a 501C6 organization was it part of the City. Mr. Sargent stated that no and that they are independent from the City which he felt was good for the community. He explained that LDC was a private non-profit organization run by a board of volunteers which come from various parts of the community. Mr. Peters asked where LDC got the money to buy land. Mr. Sargent stated that LDC has a significant amount of capital from being in the business for a long time.

Mr. Milliken asked stated that 3 years ago there was a CDBG proposal to of \$10,000 to LDC to develop one of these lots. Mr. Faunce stated that some money was spent on regrating lots 3 & 4. Mr. Milliken stated that at that time there was \$10,000 tied to up for the spec building that was never done.

Mr. Sargent stated that LDC was not a contractor and that they will try to form partnerships with people to get some results. Mr. Peters asked Mr. Faunce if he was volunteering his time. Mr. Faunce stated that he was not volunteering but was paid by LDC on a consultant basis. Mr. Peters asked if the money comes from the sale of lots and developments. Mr. Sargent stated yes. Mr. Theriault asked about the \$10,000 allocated by CDBG money and stated that it should have come back to the Board if it was not used. Mr. Milliken stated that it was and he remembered questioning it the following year. Mr. Goulet had a question on lot 1. Mr. Faunce stated that in 1991 they didn't do wetlands and slopes. He stated that lot 1 is all wet. Mr. Milliken asked if lot 1 can't be developed why not combine lots 1 & 2 and access it through lot 2. Mr. Faunce stated that it is accessible from lot 1 and felt that the development of lot 2 did not seem with worthwhile.

Mr. Milliken stated that if lot 1 can not be used why not combine then and increase the tax base on the property for the City. Mr. Sargent stated that it is difficult to market the property with 25% unusable land. Mr. Sargent also stated that he did not want to pay taxes on unusable land.

Nel Roy asked if 23 lots were accepted. Mr. Sargent stated yes. Mr. Roy asked why they would reduce it. Mr. Sargent stated that there was huge amount of road needed to be built. Mr. Faunce stated that it was not economically viable at this time. Mr. Roy asked if this would be marketable to attract business. Mr. Sargent stated yes. Mr. Roy asked if there were any potential clients.

Ron James, asked if LDC has been paying taxes on that land. Mr. Sargent stated yes since 1986. Mr. Theriault asked if LDC should dissolve would you end up with bulk of land with no use, that would come back to the City. Mr. Sargent stated that the essence of non-profit corporation is that in liquidation the assets of the LDC would be reverted back to the City or some other Community Development non-profit would be designated. Mr. Sargent stated that the LDC however has fairly significant amount of capital.

Mr. Milliken asked why they would not keep the lots subdivided. Mr. Faunce stated that the problem is that there is

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a road between two easements and it eliminates any development. Mr. Milliken asked why LDC does not develop on Cottage Road. Mr. Faunce stated that the land was mostly wetland and rock. Mr. Peters asked what information they have got since 1988 when there was 23 lots. Mr. Faunce stated that Woodard & Curran never evaluated wetlands. Mr. Skelton asked why this business decision by LDC is such a problem. He stated that it is a business decision made by them. There was general discussion about the proposal.

MOTION: By Mr. Skelton, seconded by Mr. Goulet, that the requested waivers of submission requirements by Lewiston Development Corporation 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; with a modification of scale and that all concerns by staff are addressed.

VOTE: 6-0-1 (Mr. Peters abstained)

MOTION: By Mr. Skelton, seconded by Mr. Goulet, to find that the application of Lewiston Development Corporation meets all of the approval criteria under Article XIII, Section 4 and Article XIII, Section 5 and further that the Board grant final approval to the project.

VOTE: 6-0-1 (Mr. Peters abstained)

B. CMMC Master Plan

Mr. Dycio stated that Bill Horton has submitted plans for a proposal to amend an approved plan here entrance roads to the facility and parking areas adjacent to High Street will be revised/relocated, additional handicap parking will be provided, and additional safety improvements to sidewalks and other pedestrian ways will occur.

The Planning staff did not traffic information for CMMC and therefore requested tabling.

MOTION: By Mr. Goulet, seconded by Mr. Theriault to table the Final Hearing of CMMC to September 24, 1996.

VOTE: 7-0

VI. Other Business

A. USDA Building - Dumpster Relocation

Mr. Dycio stated that concerns with the dumpster relocation the tenant felt this was appropriate but it was not in the primary interest of the building. Mr. Dycio suggests that they put a little more exercise into the relocation of the dumpster and stated that it was a minor amendment and a Code issue.

MOTION: By Mr. Theriault, seconded by Mr. Jacques to give blessing to the USDA to relocate the dumpster.

VOTE: 6-0-1 (Mr. Goulet abstained)

VII. Continue Public Hearing - Comprehensive Plan

Mr. Faunce stated that he felt there was development constraints on industrial land such as South Park. He stated that he would like to see Industrial Zone opened up more to include business offices. Mr. Faunce stated that South Park has buildings such as People's Heritage and the USDA Building are really office uses. He stated that he was here on behalf of LDC. Mr. Faunce stated that he wanted to see how developable South Park was and stated that of 48 acres of land only 28 are reasonable developable areas.

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Mr. Faunce continued his discussion on South Park's developable land and stated that discouraging traditional business offices does not make sense because the land is suitable for office space. Mr. Faunce also stated that the same type of study was done for Turnpike Industrial Park and the finding were that out of 59 acres of land only 24 acres is developable. Mr. Faunce presented a handout to the board different kinds of development impacts you can get from certain types of zones. Continued discussion of business offices and where they are allowed.

Mr. Peters asked Mr. Faunce for his opinion as to why offices were not allowed in the beginning. Mr. Faunce stated that is may have been because Industrial Parks did not seem attractive for business offices. Discussion continued about developable land in Lewiston.

VIII. ADJOURNMENT

MOTION: By Mr. Milliken, seconded by Mr. Peters to adjourn at 9:55 PM.

VOTE: 7-0

Respectfully Submitted,

Marc Goulet
Secretary