

**CITY OF LEWISTON  
PLANNING BOARD MEETING  
Minutes of January 27, 1998**

**6:00 PM      Annual Organizational Meeting**

**I      ROLL CALL**

Meeting called to order at 6:05 PM

**Members present:** Denis Theriault, Harold Skelton, Tom Peters, Mark Paradis, Daniel E. Knowlton, Harry Milliken, Lewis Zidle

**Staff Present:** Elliot Friedman, James J. Lysen, George Dycio, Diane Ouellette

**II      ELECTION OF OFFICERS**

H. Milliken, elected chair.

H. Skelton, elected vice-chair.

D. Theriault elected as secretary.

**III      EXECUTIVE SESSION-**

**A. Review of Planning Board Rules and Procedures**

**B. Discussion of Role of Student Members**

**MOTION:**      by D. Theriault, seconded by M. Paradis to move into executive session.

**VOTE:**            7-0.

*Executive session at 6:06 PM.*

**Regularly Scheduled Meeting started at 7:10 PM**

**I      READING OF THE MINUTES**

Minutes of December 16, 1997

**MOTION:**      by D. Theriault, seconded by M. Paradis to accept the minutes as written and placed on record.

**VOTE:**            5-0-2 (H. Skelton and L. Zidle abstained).

**II      CORRESPONDENCE**

Letter dated January 15, 1998 from Mark Gray of JAMM, Civil and Structural Engineering, regarding Penmore Lithographers request to withdraw their project.

**MOTION:**      by D. Theriault, seconded by L. Zidle to accept the correspondence, place it on file and read at the appropriate time.

**VOTE:**            7-0.

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**MOTION:** by H. Skelton, seconded by D. Theriault to table the Penmore item on this evening's agenda.

**VOTE:** 7-0.

H. Milliken asked that the Junior Planning Board Members sit at the front with the regular board members and asked J. Lysen and D. Ouellette to sit at the side bar along with G. Dycio.

H. Milliken said that the Board would like the meeting of February 10<sup>th</sup> to either be canceled or moved to another time because there is a meeting with the City Council and LMRC Board members that evening.

**MOTION:** by D. Theriault seconded H. Skelton to cancel the Planning Board meeting of February 10th.

**VOTE:** 7-0.

**III PUBLIC HEARINGS**

**A. Proposed Amendment to the Zoning and Land Use Code**

The Planning Board was presented with a proposed amendment to the Zoning and Land Use Code where The Dairy Joy properties, located at 109 Campus Avenue and 53 Sylvan Avenue, would be conditionally rezoned from both an Office-Residential (OR) District and a Neighborhood Conservation "A" (NCA) District respectively to a Highway Business (HB) District where "drive-in restaurants" are allowed as a permitted use. The petition to amend the code was tabled by the Planning Board at the November 25th meeting and the applicants were directed by the Board to resubmit their proposal as a conditional rezoning request.

The Planning Staff has reviewed the proposed conditional rezoning agreement and site plan and had no concerns with the proposal. After review of the information, the Fire and Public Works Departments had no concerns. However, Chief Kelly of the Lewiston Police Department comments asked the Board to, "ensure that whatever modifications that are made do not allow it to interfere with the existing traffic flow pattern to and from."

Attorney Edward Rabasco represented Ron Nadeau. Attorney Rabasco said the Dairy Joy has been in operation long before the zoning was changed in that location. Mr. Nadeau acquired property next to the Dairy Joy, tore down the building and will use the space for additional parking. They want a minor expansion for an addition which would allow for more storage. J. Lysen said the plan should be recorded in the Registry. H. Milliken asked about the planter in the corner. Mr. Nadeau said he still wanted it in, but it had been omitted in the plan. Art Montana said changes to the plan cannot be made and recorded without the permission of the surveyor. J. Lysen said the surveyor should be notified so that the proper changes to the plan could be made. (There is a notation on the plan that said the plan could not be recorded).

Mr. Ron Janelle said he was not satisfied with the proposed plan. He noted that the proposal extended the zone several feet into the residential neighborhood. Mr. Janelle said he did not like

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spot zoning and found this to be a classic example of spot zoning. He urged the Board to consider finding another way to get around the redesignation of zones in the spot-zoning method; perhaps variances.

D. Theriault asked if other than the change in the structure and adding parking spaces, if this would have been allowed even if the zoning wasn't changed. J. Lysen said this was a non-conforming structure, Mr. Nadeau is expanding and this is why he needed the rezoning. Parking would be an expansion of use so he would need rezoning on this issue also. The use has historically been there, and rezoning would give the City and neighbors the most protection.

D. Theriault said it cleans up the parking spaces, gives better entrance and access, creates a wider buffer than what was existing before. Regarding noise, he said it has been addressed because there is a thirty foot buffer. He does not see a negative impact on the neighborhood and said he strongly supported this.

D. Theriault said Chief Kelly wanted the Board to make sure that the traffic flow would not change. D. Theriault said he could not see any change in the traffic flow. H. Milliken said the City created a hardship when it rezoned this area back in 1987 because it created a non-conforming lot. J. Lysen said that this would be HB only for this property and if it closed or was changed to anything else, the zoning would revert back to OR and NCA. J. Lysen said the zoning change would allow the sale of ice cream and other associated goods. Mr. Nadeau said if the Board allowed the rezoning, then he would stick to selling ice cream only and certainly not have a drive-through window. H. Skelton said it should be limited to exclude grilling. Attorney Rabasco said this was a small project and there are three lots that are zoned for business next to the Dairy Joy. H. Skelton said he wanted to make it clear that it was not going to have a restaurant. Mr. Nadeau said he doesn't have room for a grill. H. Milliken said there was an inconsistency between paragraph 2 and 3a. Attorney Rabasco said he would add "associated goods" in paragraph two. J. Lysen suggested to add "ice cream and related products."

**MOTION:** by D. Theriault, seconded by M. Paradis to send favorable recommendation to the City Council to amend Article IV, Establishment of Districts, Section 1, Zoning Map of Appendix A - Zoning & Land Use Code in order to conditionally rezone 109 Campus Avenue from Office-Residential (OR) District and 53 Sylvan Avenue from Neighborhood Conservation "A" (NCA) District to Highway Business (HB) District subject to the conditional zoning agreement as amended. In addition, Exhibit "A" needs to be revised to show a planter box at the corner of Campus Avenue and Sylvan Avenue, and the surveyor must amend the notes on the plan so that the plan may be recorded as Exhibit "A" in the Androscoggin County Registry of Deeds.

**VOTE:** 7-0.

**B. FY99 Lewiston Capital Improvement Program**

J. Lysen said that this was expected at the City Council on the 3<sup>rd</sup>. D. Theriault said that some of the project amounts in the "future amounts" were not included so that some of the projects did not reflect the total amount of the project. J. Lysen said they were looking at this as a five year

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plan. D. Theriault said that was fine, but when PW submits a project description, the full amount should be stated so that the City Council will know how much this will cost in all.

He also noted an error on page II-120 where C. Branch requested \$130,000 in 1999, there was another \$130,000 listed under Phase III in the year 2000. He said his notes from the committee meeting show that the project was only \$130,000, not \$260,000. J. Lysen said there may be an error and would check on this figure.

D. Theriault said he would have liked to have seen the department's original requests in the LCIP so that the City Council could see that there were cuts already made by the City Administrator. He said the original request should not change, and in the past they had not changed with the City Administrator's cuts reflected in the spreadsheet. J. Lysen said R. Metivier and Norm Beauparlant instructed him to make the project forms consistent with the summary sheet to make it more "user friendly." G. Dycio said that for the past two years, the City Administrator's changes were made only on the summary sheet and the project request from the departments had not changed. D. Theriault said that the total amount for the project, beyond five years if need be, should be shown on the project summary sheet. He also suggested that "estimated total cost" should probably be changed to read "estimated cost for five years." That way, the City Council would at least know that these figures were for five years, and not necessarily for the whole project. J. Lysen said that there was a section in the LCIP that listed the future costs on projects. D. Theriault, said that was fine, but if someone were to look at the "estimated total cost," they could be misled to think that this was the total cost for the project when there very well could be future costs involved.

H. Milliken agreed that the City Council should know how much the whole project will cost, and not just for the next five years. J. Lysen said that would show up in the "future" category. H. Skelton asked if a rider could be attached to the LCIP. H. Milliken agreed that the estimated total cost in some cases did not reflect the total cost of the project. J. Lysen said this document is really the city administrator's recommendation to the City Council. The document is a working document as a whole. H. Milliken asked D. Theriault if he was in agreement with everything that was in the LCIP since he attended the committee meetings. D. Theriault said he not necessarily in agreement with everything that was in the LCIP, but can see some of the sound judgments behind the decisions in the plan. He expressed a concern with putting more money in Bates Mill. He would like to know how many more years this item would be in the LCIP. H. Skelton asked if he endorsed the document. D. Theriault again said that his biggest concern was the Bates Mill project. T. Peters said the Board could approve this, but that it could add that it was waiting for the financial figures before wholly endorsing the \$1,200,000 on the Mill.

H. Milliken said that the Planning Board is supposed to send a recommendation in the order of priority. D. Theriault liked the idea of a sub-committee like the CDBG to review things, then that sub-committee could prioritize. Getting this document ahead of time would have been helpful. H. Skelton said the Board had no way of prioritizing these projects because no one is that familiar with all of the department's projects. D. Theriault said that the Board would tend to support what the City Administrator recommended.

**MOTION:** by T. Peters, seconded H. Skelton that the Planning Board send a favorable

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recommendation to the City Council to adopt the proposed FY99 LCIP with the following caveats:

- 1) The Planning Board, as has the City Council, reserves judgment concerning expenditures of money for the Bates Mill Project pending receipt of additional fiscal information; and
- 2) The City Council understands that the costs associated with each project as listed in the LCIP may not accurately reflect the full costs of each project.

**VOTE:** 7-0.

C. Proposed Amendment to the Zoning and Land Use Code

The Planning Board was presented a proposal to amend Article IV, Section 1 (Official Map, City of Lewiston), and Article XI, District Regulations, Section 5 (Neighborhood Conservation "A" District) and Section 10 (Highway Business District) of the Zoning and Land Use Code. The two options were as follows:

**(Option 1)** Proposed amendment to the Highway Business (HB) District where existing non-conforming single-family dwellings in lawful existence at the effective date of this amendment may be converted to a two-family dwelling as long as the conversion is done within the existing building envelope.

**(Option 2)** Proposal to rezone property located at 1136 Sabattus Street from a Highway Business (HB) District to a Neighborhood Conservation "A" (NCA) District to allow for the conversion of a single-family residence to a two-family residence, as shown on the attached rezoning map. In addition, an existing single-family dwelling, located within the Neighborhood Conservation "A" (NCA) District, may be converted to a two-family dwelling only if both of the following criteria are met:

- a. the property has a minimum of 10,000 square feet of lot area; and
- b. the property has a minimum of 100 feet of frontage.

J. Lysen said Mr. Chicoine was present. This proposal was initiated by the City Council. One option was to amend the standards in the highway business district that does not allow two-family dwellings. The other option is the rezoning of Mr. Chicoine's property to NCA and to also change the standards - suggested a minimum lot area of 10,000 square feet and 100 feet of frontage and make it a permitted use as long as those standards are met. He pointed out that the Comprehensive Plan talks about providing conversion of two-family housing and that he has not seen any creation of two-family in the NCA. Mr. Chicoine would like to add a second unit in his home and does realize that it may go business in the future. This would not take away his future rights. J. Lysen pointed out that the amendment to the NCA is consistent with the Comp Plan. J. Lysen also pointed out that this was a conversion to a two-family, not a creation. He suggested the Board may want to make restriction within the footprint of the building. H. Skelton asked

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what the downside was of allowing this development. J. Lysen said there may be some existing uses that would not be compatible. H. Skelton said he thought there usually are lots of people attending if they had understood that there would be multi-family units in the NCA zoning, or so it has been in the past. J. Lysen said they were not talking multi-family, only two-family. H. Milliken said he did not like two-families in NCA zoning. H. Milliken said he thought the public would not want this in an NCA District because homeowners who bought into a single-family area and want it kept that way. H. Skelton said if the Board added in that the conversion had to be in the building envelope and that it would not affect the outside of the building. T. Peters said he favored option 2 of the agenda, which turned out to be option 1 presented to the Board. J. Lysen asked the Board to clarify "envelope." H. Skelton and H. Milliken said the building had to stay the way it was. H. Skelton said the footprint is the foundation, so that a homeowner could add to the height, but with the "envelope," he could not put in a dormer. T. Peters said they could make the changes while it was a single-family home and then convert it into a two-family if they wanted to get around the "envelope." H. Skelton said all residences in the HB are already non-conforming. J. Lysen said that the property on this road was only one deep.

**MOTION:** by T. Peters, seconded by M. Paradis to amend the Highway Business (HB) District where existing non-conforming single-family dwellings in lawful existence as of January 9, 1988 may be converted to a two-family dwelling as long as the conversion is done within the existing building envelope.

**Discussion:** Rita Gagnier said back in November, 1996, she had requested an addition to her in-laws' house that would convert it to a two-family (2<sup>nd</sup> floor). She said a lot of people were putting in-law apartments on their properties. She asked what the difference was between having in-laws at 740 sq feet or having in-laws for the whole second floor. She explained that she can put an addition on her home, but can't put in a kitchen. She said the house would still look like a house, not like an apartment, and have an entrance from the inside to go to the second floor. Neighbors do not object, whereas multi-family scares the public. H Skelton said it should be put at a separate agenda issue so that the public could come in and have an input. She said she brought this back up in November and it was tabled. She said she also asked the City Council, and got nowhere. J. Lysen said that NCA always had criteria that allowed two-family, but that it was too stringent. H. Milliken said if he brought this up as a comprehensive plan issue, then the public could be informed.

**VOTE:** 6-1 (H. Skelton).

**V REVIEW OF DEVELOPMENT PROPOSALS - FINAL HEARING**

**A. Bilodeau Fill Project - Alfred A. Plourde Parkway**

Mike Gotto, of Technical Services, Inc., on behalf of Richard Bilodeau, submitted plans for a proposal to place fill material in excess of five thousand (5,000) cubic yards on 2.5 acres of land adjacent to the Alfred A. Plourde Parkway (near the newly constructed connector road). The Zoning and Land Use Code defines fill projects in excess of five thousand (5,000) cubic yards as a major project, and therefore this proposal will require Planning Board approval. The project

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had its Pre-Application conference at the December 16, 1997 Planning Board meeting where the Board reviewed the projects application, determined it to be complete, and scheduled the project for a Final Hearing.

It was noted that the filling operation was complete at this time and the request before the Board is for an "after-the-fact" approval of the fill project. No additional fill material was being proposed for this location as part of this application, and the site has been loamed and seeded as part of the reclamation plan.

The Planning Staff reviewed the site plans against the Approval Criteria outlined under Article XIII, Section 4 (a-u) and found that the plans met all of the applicable criteria. Therefore, Staff recommended that the Planning Board grant final approval to the project.

**MOTION:** by D. Theriault, seconded by M. Paradis that the Board finds the application of Bilodeau met all of the approval criteria under Article XIII, Section 4 and Section 5, and further that the Board grant final approval to the project.

**VOTE:** 7-0.

**B. Penmore Lithographers Building Expansion - 8 Lexington Street**

Joseph M. Fillion's plans for a proposal to amend an approved plan where the proposed building addition, which was approved at the September 23, 1997 Planning Board meeting, will be shifted fifty (50) feet to the southeast.

**TABLED** per Penmore's request.

**C. Fireslate Place Subdivision - Second Revision - Fireslate Place**

*H. Skelton excused himself from the Board because his firm represents D. Boyd.*

Arthur W. Montana, on behalf of the City of Lewiston, submitted plans for a proposal to amend a previously approved subdivision where lots # 1, 1-A, 2 and 2-A will be combined into one lot, which will be identified as lot #1. Due to the size of the subdivision, the proposed amendment will be reviewed under Lewiston's Expanded Review Authority and forwarded to the DEP for their review and approval.

Pursuant to Article XIII, Section 3 (h)(5), the applicant requested a modification and a number of non applicable status requests to the application requirements listed under Section 3 (h)(1 4). Upon review of the requests Staff found that the requests are justified and recommended that the Board grant them.

Police, Fire and Public Works Departments had no concerns. Planning Staff has reviewed the plans against the Approval Criteria outlined under Article XIII, Section 4 (a-u) and the Coordination with State Subdivision Law standards outlined under Section 5 (1-14) and found that the plans met all of the applicable criteria. Therefore, the Planning Staff recommended that

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the Planning Board review the applicable criteria, make findings that the plans meet all of the applicable criteria, and grant final approval to the project with the condition that any concerns raised by the DEP be adequately addressed prior to signing and recording of the plans at the registry of deeds.

D. Theriault asked about City Attorney Robert Hark's concerns regarding the contaminated property. G. Dycio said that any potential buyer down the road may want to pay taxes on buildings, and not on cells that could not be built on. It is in the best interest of the City to sell this property in its entirety so that if that owner did not pay taxes, the whole parcel would revert back the City. No portion of this property can be sub-divided without coming before the Planning Board. George said that cells are noted on the plan. Art Montana said there was no way to expand and the cells are noted on the plans and what was in it. The minutes also reflect that the cells are in the plans and that they hold asbestos.

**MOTION:** by D. Theriault, seconded by L. Zidle that the Board finds the application of Fireslate Place Subdivision - Second Revision met all of the approval criteria under Article XIII, Section 4 and Section 5 and further that the board grant final approval to the project as long as any concerns raised by DEP are addressed.

**Discussion:** The Board agreed that City Attorney Hark's memo should be added to the minutes as a permanent record of the minutes.

**VOTE:** 6-0-1.

*Recessed for five minutes.*

**V OTHER BUSINESS**

A. New Business

1. Proposed process to keep Planning Board informed on State & Local road improvements affecting development.

J. Lysen will be requesting information on road improvements on a quarterly basis from Public Works and LACTS. He said he should get a report in April. H. Skelton said to do tickler item for March 1<sup>st</sup> to receive this report.

2. Downtown Revitalization Forum Follow-Up Meeting

There is a meeting scheduled for Thursday, January 29, 1998.

B. Old Business

1. Update on the proposed MDOT improvements on Sabattus Street between Campus Avenue and the Maine Family Credit Union.

T. Peters said he recalled that his motion included some restrictions before the project started.

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He said the concern he had was that the project went forward and that no traffic study was ever done and accidents have happened. He said that this should have been checked before any money was spent. Mr. Peters asked that the minutes reflect that the Planning Board made a motion that a traffic study had to occur prior to the project beginning. He said he thought he remember saying it at the following meeting; that he reiterated it when it came to the Rite-aid, that the whole corridor had to be looked at and again asked what was happening to the street. He said he recalled even the light at the top of the hill was discussed. Mr. Peters said he understood that Androscoggin Savings wants to do something on the land it purchased. He said the whole area was a mess; that exits at Rite-aid are still a concern, and that nothing has been done with the islands on Russell Street. He said people are outraged. He said he first wanted to amend what the minutes reflect what was done. He asked how the light went through before the Board received the traffic study. D. Theriault said this was an intensification of that area.

H. Milliken said he wanted a letter drafted so that City Council could be made aware of the error, that this was a condition of the Board's favorable recommendation and should be made in writing so that they have it. T. Peters asked Diane to draft a letter and have H. Milliken review it.

**MOTION:** by T. Peters, seconded by D. Theriault to have the Planning Board Chairman write a letter to the City Council explaining the condition to their approval of the traffic light on Sabattus Street near the Maine Family Federal Credit Union.

**VOTE:** 7-0.

**Discussion:** T. Peters said that if there was a traffic study done, he would like to know who did it because it was a mess. George explained the gridlock situation. T. Peters said it's not just one light, it's the whole area. T. Peters said that this whole stretch has to be examined by experts.

T. Peters said the Board is supposed to have the MDOT in front of them at some time. J. Lysen said a traffic study was done and what they were trying to do was to improve access to the site. It was a Public Works initiative at City Council's request. T. Peters said one of the lights was changed at East Avenue and that has helped a little. However, he still wants a study done and presented to the Board that includes from Campus Avenue to the top of the hill. H. Milliken asked if Jim could present this to LACTS. H. Milliken said that since City Council was asking for a study, that this be continued until they receive the report and that the Planning Board also get a copy. J. Lysen said he would make it an immediate request to receive a status of improvements, and existing traffic studies in that area of what could improve safety.

2. Discussion on forming an *Ad Hoc* committee to review and study current Downtown Issues.

H. Milliken asked to have this removed from the agenda since the Downtown Revitalization Committee was working on this.

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3. Discussion of rezoning requests and/or code amendments concerning properties along Sabattus Street (15 Riley Street - Donald Christianson).

This will be as part of the Sabattus Street, long term solution.

4. Update on the status of property located at 18 Fireslate Place (tires).

D. Theriault said he still wants to know when the tires are removed from that property.

5. Proposed (Paper) Streets:

Update: G. Dycio reported that the City of Auburn's Planning Board did not take any action on this issue. He also said he drafted letters to the abutters and would have letters go out shortly with a form and will start tracking these in March. By March 24th the Board should be able to schedule a public hearing in April. Staff will notify abutters and the applicant. G. Dycio said the City Council will end up making the decision whether to vacate or not and asked if they should be the ones holding the public hearing. H. Milliken said he would like the Planning Board to hold public hearings and notify abutters. The Board agreed. T. Peters reminded staff to start planning now for the next public hearing so that something comes before the Board at least every six months, or when there are ten applicants.

6. Planning Board/Board of Appeals - Development of standards/proposed amendments to the Zoning and Land Use Code with respect to conditional use permits and setback modifications.

G. Dycio said staff met recently, made changes, and has to meet one more time before bringing it to the Board. Board of Appeals and two Planning Board members need to meet with staff one more time. Public hearing probably will be on the first meeting in March or the second meeting.

7. Comprehensive Plan Update:

a) Development of a Work Plan for the implementation of the Comprehensive Plan.

b) Review and discussion of amendments to the Comprehensive Plan to respond to the review comments from the State.

J. Lysen said he hopes to bring forward NCA/SR package on the second meeting in February. He noted that the board also has to respond to the state's request for changes.

D. Theriault said he hadn't heard from the school department regarding the Comp Plan. J. Lysen said he spoke to the chair about that and he would remind them. H. Milliken asked Diane to draft letter to school board requesting an update on their commitment to do an education component to the comprehensive plan within eighteen months.

H. Milliken also asked Diane for an updated member list of names and phone numbers. H. Milliken asked George for a new matrix of different zoning and what is allowed.

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8. Report and discussion on the Urban Enterprise District and allowed uses within the downtown area.

Not reached.

**VII ADJOURNMENT**

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

**VOTE:** 7-0.

Meeting adjourned at 10:00 PM.

Respectfully submitted

Denis Theriault  
Secretary

dlo