

**CITY OF LEWISTON
PLANNING BOARD MEETING
Minutes for April 14, 1998**

6:00PM - SITE VISIT- WEST VIEW BLUFF

Planning Board Members Present: H. Milliken, H. Skelton, D. Theriault, T. Peters, D. Knowlton, L. Zidle, Student Members S. Masood and R. Sawyer.

Also Present: G. Arsenault, Code Enforcement Director; J. Lysen, Planning Director; Steve Johnson, PW Engineering; Kevin Clark of Survey Works; Theresa Mercier an owner in West View Bluffs.

Planning Board and Staff met on site and visited the area to observe road design issues, drainage, location of lights, soil and erosion control and to discuss possible remedies. They also discussed the mechanisms to ensure the long-term maintenance of the private road.

7:00PM - REGULARLY SCHEDULED MEETING

I ROLL CALL Meeting called to order at 7:10 PM.

Members Present: H. Milliken, H. Skelton, M. Paradis, D. Theriault, T. Peters, D. Knowlton, L. Zidle. Student Members Robinson Sawyer, Shaad Masood.

Staff Present: J. Lysen, G. Arsenault, D. Ouellette.

II READING OF THE MINUTES

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Discussion: H. Milliken said he didn't recall making comments to apply for intervene status and then agreeing with the board. He asked Diane to check the tape and correct the minutes according.

MOTION: by T. Peters seconded by M. Paradis to accept the minutes as written with the amendment to page ten.

VOTE: 6-0-1 (D. Knowlton abstained).

Discussion: T. Peters wanted to thank the Community Development staff for a job well done with the CDBG process this year. D. Theriault also thanked staff and asked for time at the end of the meeting to discuss the newspaper article regarding CDBG day written by Jonathan VanFleet. H. Milliken said the City has been in contact with the newspaper and that an article came out Sunday with corrections. The paper has also published an ad in the paper showing public service groups that CDBG supports.

III CORRESPONDENCE

- 3/23/98 letter from J. Lysen to City Attorney Hark regarding Water's Edge Subdivision.
- 3/25/98 letter to J. Lysen from City Attorney Hark regarding Water's Edge Subdivision (mailed to Board on 4/2/98)
- 4/6/98 letter from J. Lysen to Jeremy Evans, LACTS

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- 4/7/98 Memo from Diane Ouellette regarding binders and calendars.
- 4/14/09 letter from Engineer Mark Gray of JAMM regarding Penmor.

MOTION: by D. Theriault, seconded M. Paradis to accept the above correspondence and be read at the appropriate time.

VOTE: 7-0.

IV PUBLIC HEARINGS

Proposed Amendment to the Zoning and Land Use Code

Re: Article IV, Section 1 (Official Map, City of Lewiston) of the Zoning and Land Use Code to rezone properties located in the Montello Street and Hogan road area from Suburban Residential (SR) District to a Neighborhood Conservation "A" (NCA) District.

Postponed until after 8 o'clock because of a meeting in Meeting Room A that also started at 7 PM regarding truck traffic on Montello Street. There were citizens who wanted to participate in both meetings.

Started at 8:05 PM

J. Lysen submitted a copy of the proposed amendment in proper form to rezone properties located in the Montello Street and Hogan Road area from Suburban Residential (SR) District to a Neighborhood Conservation "A" (NCA) District. Also presented to the Board was a copy of the proposed re-zoning map and an April 3, 1998 memo from Peter Parker, Planning Assistant, containing research data on the rezoning and a chart showing a comparison of the space and bulk standards between SR and NCA.

Mr. Lysen stated that the revised Comprehensive Plan, specifically Land Use Issue No. 13, page 124 recommends that the City "Study existing SR Districts for appropriateness and make recommendations to more appropriate zoning."

He noted in Mr. Parker's memo that 104 out of 180 lots are currently non-conforming in the SR District with respect to frontage; 98 of them would be made conforming with the rezoning. 106 are non-conforming with respect to lot area; 100 of them would be made conforming with this rezoning.

He further explained that the major use difference between SR and NCA is that two-family dwellings and multi-family dwellings may be permitted in the NCA if certain locational criteria are met. However, he noted that staff's research indicated that no parcel may be developed or converted into a two-family or multi-family dwelling under the existing district regulations.

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He went on to explain that one of the major issues that has raised a need for exploring this rezoning concerns the utilization of lots within the study area. Because the SR District envisioned large lots in suburban locations, the space and bulk standards are consistently greater than those found in the NCA. This has caused property owners difficulties in constructing additions to their homes, garages, and other accessory buildings.

Mr. Lysen also said that one thing the NCA zone would do to this area was to create the possibility of creating new lots . He said 45 could be created, but it would be unlikely there would be that many created. H. Milliken noted that the NCA allows in-law apartments, whereas SR does not. Single family detached are allowed in both. Single family attached are not allowed in SR district, but are allowed in NCA. Two families not allowed in SR, are in NCA if meet certain criteria. H. Milliken asked J. Lysen to explain criteria. Mr. Lysen explained that the NCA can have two-families if more than 50% of adjoining properties contain two-families -- anything within 500 feet. He said existing single-families may be converted; the rules are 40 percent rather than 50 percent. Research shows that none of these properties could be converted to two-families under this criteria. The criteria for multi-families is the same, and research shows that none could meet the criteria. Gentleman in audience said he has a concern with condos across the street from him. A woman in the audience asked what the zoning was on Central Avenue and Montello. H. Milliken said it was NCA. She said she was concerned with the area behind Mrs. Fales would be opened for development. J. Lysen said it is currently zoned suburban residential and would not be changed under this proposal. Another gentleman who accompanied his mother asked when suburban residential came into play. H. Milliken said in '87-88. He asked why was it changed in the first place. H. Skelton said that some areas seemed to have been clearly mis-zoned in that area. Another woman said there was no more property there for sale. She stated that the deeds had protective covenants that essentially created a neighborhood that didn't allow for multi-family units. J. Lysen said NCA is to promote neighborhood stability to conform to the type and density of existing housing in the neighborhood. A woman in the audience said her deed says she can only build a single family house. Another man in the audience said two pages of his deed contain restrictive covenants. He has a lot in that area that can be buildable even in the SR; however he said he didn't like having the frontage to only 75 feet. H. Milliken said if the house burns, an owner wouldn't be able to rebuild in the SR area if he doesn't meet set backs. City Code Director Gil Arsenault said if the loss on the house is 80 percent, then the owner would have to meet the zoning requirements. Rubin Smith, Montello Street, asked if in-law apartment could have a kitchen. Larry Beaudoin, 9 Myrtle Street asked how conducive would the NCA make it to businesses. He asked how this would promote businesses out of your garage, beauty parlors, etc. He wanted to know if the NCA would allow storage for off-site businesses. Mr. Milliken informed Mr. Beaudoin that home businesses are permitted in both zones.

H. Milliken went through the list of what SR and NCA allows for the audience. He said the only difference between the two would be the in-law apartment and the two-family. A

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gentleman in audience said that a single family cluster in the SR is 10 acres and the requirement in the NCA is 5 acres. Another gentlemen said that this neighborhood was established to preserve elbow room. It was meant to be a residential neighborhood that is quiet.

City Councilor Frank Kelly asked what the comp plan recommendation was. J. Lysen said that the comp plan said to take a look at the SR zones. He said that this was the second look at zoning – explore and have a meeting like we’re having this evening. Steve Peters said that people were moving out of Lewiston because people want elbow room. H. Milliken said these were existing lots and these were rezoned to SR back in 1988 which made the majority of lots non-conforming. It was part of the feeling of the comp plan committee to take a look at this and have public input. He agreed that there should be some SR area to keep elbow space. D. Theriault said that if a home owner did have a total loss on his property he would not be able to replace the structure. A gentleman in the audience said that if the foundation remained that he could build on the same foundation. Gil Arsenault again explained that if the home is damaged greater than 80% then he can only build it to the current set-back requirements. The owner could petition the City to get a modification or a variance. Dick Pelletier, 245 Montello, said most people here tonight want it left SR. He said they all took time off to come here and voice their opinions. He asked where the people who had problems with the way the zoning currently is were this evening. G. Arsenault said prior to 1987 this area was essentially an NCA zone. J. Lysen does not anticipate a major change with this zone changing that would cause people to build up the area. T. Peters said right now there are 104 non-conforming lots out of 180. He noted that the Board of Appeals grant very few variances. He said that it is not easy to get a variance; 104 lots are at risk that if they were to burn at 80% or more, the only way to rebuild them is to get a variance and it would be extremely difficult. He said he personally thinks that in-law apartments are a good thing. These are allowed in the NCA, but not in the SR. He informed the audience that if they decided to keep it SR, then he cautioned the neighbors that in-laws apartments could not be added. The Dr. Timothy Poutre of 41 Delcliffe Lane pointed out that he expects a turnover in that neighborhood in next 15 years since many residence are older. He said he felt there will be pressure to develop those lots later. Another gentleman said most of the residents in attendance tonight were not concerned with set backs as much as with lot sized. H. Milliken asked if the members of the audience would mind taking a vote to see how many people would be interesting in developing a new definition half-way between the two. H. Milliken asked about financing non-conforming lots. Gil said it was a non-issue.

At this time, Mr. Milliken took a vote of the audience. Seven people wanted a compromise zoning between SR and NCA. Mr. Milliken took a second vote and eleven people didn’t want a compromise zone or the zoning changed and voted to keep it SR. Mr. Milliken closed the meeting to the public.

D. Theriault said he hasn’t seen any or enough evidence to change the zone to SR. He said

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the people seemed to be very happy with the way things are. He also wondered where the people were who wanted the zoning changed to NCA. None of them were at tonight's meeting. The audience was aware that an owner could possibly be in the position of not being able to rebuild in the SR zone if their home burned and was declared an 80% or more loss.

MOTION: by D. Theriault, seconded by D. Knowlton to send a negative recommendation to the City Council.

Discussion: H. Milliken said staff should look at developing an in-between zone. H. Milliken asked if this recommendation would have to go to City Council, or does it just die here since it was initiated by the Planning Board. T. Peters asked if the Board could simply withdraw their petition.

MOTION: by D. Theriault, seconded by H. Skelton to withdraw his motion.

VOTE: 7-0.

MOTION: by T. Peters, seconded by D. Theriault to withdraw the Planning Board's petition to change the zoning of the properties currently zoned SR along Montello Street and Hogan Road.

VOTE: 7-0.

The audience applauded the Board.

Five minute recess

V REVIEW OF DEVELOPMENT PROPOSALS - FINAL HEARING

A. Penmor Lithographers Building Expansion - 4 Lexington Street

JAMM, Civil and Structural Engineering, has submitted plans for a proposal to amend an approved plan where the proposed 20,000 +/- sq. ft. building addition, which was approved at the September 23, 1997 Planning Board Meeting, will be shifted and changed in shape to allow for more flexibility in the future use of the remaining land on the site.

Pursuant to Article XIII, Section 3(h)(5), the applicant requested one waiver 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 finds the request to be justified due to the minor nature of the amendment and recommended that the Board grant them.

The Planning Staff also reviewed the site plans and had no concerns. Police and Public

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Works also had no concerns after reviewing the site plans. However, the Fire Department had some minor concerns. Mr. Gray assured staff that these concerns will be addressed prior to the Final Hearing. The Planning Staff reviewed the final plans against the approval criteria outlined under Article XIII, Section 4(a-u) and found that they meet all of the applicable criteria. Therefore, Staff recommended that the board grant final approval to the project.

D. Theriault said he noticed on the waivers check list that the traffic analysis was checked off as a waiver, yet there is a plan included. He asked if the Board was simply taking that traffic study from the first presentation and incorporating it into the new plan. He said he thought there shouldn't be a waiver if a traffic study exists. J. Lysen said that the traffic study from the first presentation is included in this plan.

Mr. Joe Fillion from PenMor was present. He said the building is being moved forward so they can use land more efficiently in the future. H. Milliken asked if there was a second story. Mr. Fillion said there was a mezzanine, and just a section of it. It is about 25 feet. The expansion height is 17 feet and the vent areas will be 25. J. Lysen said restriction in that zone is 70 feet. H. Milliken noted there was no dumpsters. Mr. Fillion said he would bring a truck into the building and have the paper hauled away as it is filled; there will be no dumpster.

Open to public: Lorraine Comeau of 673 Webster Street said she is a direct abutter and has no problem with the project. She said she knows Penmor will maintain and respect that 50 foot buffer zone. No further comments, closed to public.

J. Lysen checked the maximum height in industrial zone and found it to be 100 feet.

MOTION: by D. Theriault, seconded by M. Paradis that the requested waivers of submission requirements except for the traffic report by PenMor, Lithographers 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. The traffic report submitted for the similar project approved on September 23, 1997 is deemed to be still sufficient and adequate for this project and therefore is included in this submittal and no waiver is necessary.

VOTE: 7-0.

MOTION: by D. Theriault seconded by M. Paradis that the Board finds the application of Penmor Lithographer meets all of the approval criteria under Article XIII, Section 4 and Article XIII, Section 5 and further that the Board grants final approval to the project.

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VOTE: 7-0.

B. West View Bluffs - Revision V - West View Drive

Chuck Starbird has submitted plans for a proposal to amend an approved subdivision where the designated picnic area within the open space will be eliminated, two catch basins and one culvert will be eliminated, storm water drainage routes will be altered, and two proposed street lights will be eliminated. This item was tabled from the March 24, 1998 Planning Board meeting to allow for a site visit by Planning Board and staff.

J. Lysen said the Board should discuss the site visit and some of the recommendation that the Planning Board would like to see on that plan. The Board will probably need to table the project until it is presented another plan with the revisions. H. Milliken said Mr. Starbird wanted to eliminate two street lights and two culverts. Public Works recommended that street lights should not be removed and Mr. Starbird has agreed with that. H. Milliken said the existing culvert before the cul-de-sac needed to be corrected.

Fire Turn Lane Discussion: H. Milliken said the plan shows a culvert near the fire lane. G. Arsenault said that one is not functionally necessary. G. Arsenault said they needed to follow up with the Fire Department to see if the intent was to have that turn around 40 feet. H. Milliken said they had the letter from the Fire Department and Mr. Starbird needs to clear up where the 40 foot measurement starts. D. Theriault said the radius should be the proper size. Gil said it was correct, but the Fire Department wanted a T-section to allow for an easier turn. D. Theriault said the Board's concern is simply that the Fire Department can get a truck in there and turn around. H. Milliken said the culvert adjacent to lot 3 could be eliminated with the proper grading of the road and the proper ditches. H. Milliken asked if there was a second one that Mr. Starbird wanted eliminated. Mr. Clark said no just one, there were two catch basins. H. Milliken said he would prefer that there could be a note on the plan regarding the culverts.

H. Milliken said there are some Grove Street improvement coming this year and because of the catch basin there, he wanted to know what the City's plans were. D. Theriault said he didn't feel that the catch basin in front of the garage was sufficient; there should be two other catch basins in that area and the one in front of the garage should be the third one. Gil said there were three in the original plans. Mr. Arsenault said Public Works suggested to put in two catch basins. Gil said the left hand side would be difficult to direct any real volume of water to that area. D. Theriault suggested the water direction could be accomplished on the left side by placing a hot top "speed bump" type of curb along the left side of the road to deflect the water.

T. Peters asked if there was an association formed H. Milliken asked staff to research the records and have the document for the Board at the next meeting to see when it was suppose to kick in. D. Theriault requested the tape and minutes regarding that meeting. T. Peters said the road association needs to be looked at to see where things stand, what the format for this

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road association was, when it should have started, and also to take a look at the condo association. H. Milliken said he wanted to see the construction completion schedule. T. Peters wants it put back on the agenda so that these problems are fixed before the next winter. H. Milliken asked if Kevin Clark could get this done. Mr. Clark said he could for the 12th of May. H. Milliken wants to see what the Board agreed on the original plans and have this for the next meeting. D. Theriault said the road association should mesh with the new one.

Open to public: Phillip Mercier of West View Drive owns the first house on the left as you come up the hill -- Lot 16. When it comes to drainage, he said he doesn't know what is going on at the top of the hill. He said it was easy to see what was happening at the bottom. The edges are eroding from water draining from above. He noted that the more lots Mr. Starbird opens up on top of the hill, the more water problems there will be at the bottom. Mr. Mercier also expressed concern regarding Mr. Starbird's request to have the picnic area removed. He wanted the picnic area. He said it was on his plan when he purchased the property, but not on his deed. Kevin Clark, Mr. Starbird's surveyor said one of the reasons to eliminate this picnic area was the opinion of the previous land use inspector that the area should probably not be cut and because of further soil erosion. H. Milliken asked for a set of the original plans. H. Milliken asked Mr. Mercier if he had any documentation that showed the picnic area. Mr. Clark said it was adjacent to lot 6. H. Milliken asked J. Lysen to look into this picnic area. Terry Mercier, owner of a condo in West View Bluff. One of her concerns was the soil erosion around the fire hydrant. She also had concerns regarding the water that drains directly into her garage and into the interior of building as well. Gil said the area around the fire hydrant needed to be loamed and seeded to stabilize it. Mrs. Mercier said Mr. Starbird was supposed to bring the road up to standard before the road association comes into place. Mr. Mercier said the developer was supposed to be responsible for all road maintenance until five units were sold. Terry Mercier and her husband have taken care of the completely. The rest of the owners have only recently gotten together and helped pay for sanding and plowing the road this past winter. G. Arsenault said if the association has not kicked in, it was not the City's responsibility to get into this. He suggested the owners seek independent legal action. Code cannot be there to enforce covenants and deed restrictions. T. Peters if it becomes a life safety issue, then the City has to come in, but generally it is a private road it is a private issue. Mr. Mercier also said there are two homes with expired occupancy permits because Mr. Starbird has not finished these. He also said that they were told that Mr. Starbird wouldn't be allowed to build until he finished the road and tree lines, yet he received a permit and built another house up there. D. Theriault said Mr. Starbird was not going forward until he has fulfilled all the requirements from public works, code enforcement and planning board. Mr. Mercier said Mr. Starbird has not fulfilled his promises and he cannot afford to take him to court. T. Peters asked Mr. Arsenault about the occupancy permit. Mr. Arsenault said these occupancy permits do expire, but if the City take these people to court, it would be punishing the people and not Mr. Starbird.

Closed to public.

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MOTION: by D. Theriault, seconded by H. Skelton to table this matter until May 12th.

VOTE: 7-0.

VI OTHER BUSINESS

A. New Business:

1. Review and discussion of proposed amendments to the Zoning and Land Use Code regarding the standards for granting appeals (modifications), and scheduling of a Public Hearing.

MOTION: by D. Theriault, seconded by L. Zidle to schedule a public hearing on April 28.

VOTE: 7-0.

B. Old Business:

1. Review and discussion of the applicability of the Bates Mill Complex/Municipal Buildings & Facilities for Development Review.

H. Milliken said he and T. Peters spoke with the City Administrator regarding this issue. The City Council would have reviewed this at their meeting on April 21st, however, it will be postponed until May because of the Council's full agenda with the budget. Mr. Milliken suggested the Board and City Council have a joint workshop to discuss this situation and the Planning Board's question regarding review authority of public buildings. He said he would try to set that up.

2. Maritimes & Northeast Pipeline proposal with the applicant - scheduled for April 28, 1998 Planning Board meeting.
3. Update on the status of property located at 18 Fireslate Place.

J. Lysen said Purchasing Agent Norm Beauparlant has not received the sign-off letter from DEP yet.

4. 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

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review comments from the State.

H. Milliken asked if we should start developing new zone between SR and NCA. No action taken at this time.

5. Discussion concerning required changes to Zoning and Land Use Code to keep DEP Site Location Delegated Review authority.

Enclosed recent statutory changes - meeting with Nancy Beardsley regarding traffic control and specific storm water rules that deal with ponds and lakes that are at risk within the state. New laws require the City to review No Name Pond – City ordinances are more stringent than what DEP requires, but there is a need to update some things. Some projects would fall under DEP review and would require state permits, these are the 20,000 sq. ft. projects. Lewiston can review larger ones, but ironically, people with smaller projects need to go before the state. J. Lysen will work on languages in the code and ordinances to become consistent with DEP regulations of storm water and traffic. J.

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Lysen said we have until January of 1999 on the storm water and July of 1998 on the traffic. He said he will be forwarding literature to Board regarding this.

6. Proposed process to keep Planning Board informed on State & Local road improvements affecting development.
7. Update on the proposed MDOT improvements on Sabattus Street between Campus Avenue and the Maine Family Credit Union.

H. Milliken said he had a conversation with Chris Branch and Public Works will keep us up to date once a year.

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

J. Lysen had a handout for the Board for the proposed Downtown Redevelopment District (DRD). He stated that this was an opportunity to say what Lewiston wants in the downtown. Bates Mill, riverfront and Lisbon Street are included in the downtown. He suggested that the Board could create use categories. H. Milliken said he would like to sit with City Council to discuss these items also.

Discussion: H. Milliken said he received a Site Plan Review Handbook that was mailed to his home from the State. He said it may be worth looking into purchasing, it was only \$5.00. T. Peters still wants paper streets on the agenda under "Old Business." J. Lysen said the reason it was off the Old Business is that it was put on the agenda as New Business and then taken off because there would have been too much on tonight's agenda. It was inadvertently left off "Old Business" after being taken off the regular agenda. D. Theriault asked about the heliport at CMMC. J. Lysen said he has not received an application from the hospital. D. Theriault asked if they are coming in and asked J. Lysen to call the hospital and find out.

The Board members said the Planning Board calendar will be helpful and will amend as needed.

D. Theriault said he wanted to discuss the newspaper article of April 9th. He said he thought the article was inappropriate and was upset about the word "blackball." He said he took offense to that terminology and voiced that it was frustrating and totally out of line. He said the press is welcomed at any time and no one from the newspaper was even present at the CDBG meeting. He was also upset about the sentence that said kids were not important to this community. He noted that there was \$116,000 earmarked for agencies that deal with kids and that the Board places children high on the priority list. Federal guidelines dictate how much can be given to public agencies. T. Peters agreed with Denis, and noted there is a limited amount of resources and because the City can't fund something, it doesn't mean it is not considered a worthwhile project. H. Milliken said city staff has addressed this issue with the press. H. Milliken also noted there was only \$200,000 available to put into public service. He said he felt the article was misrepresenting.

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VII ADJOURNMENT

MOTION: by H. Skelton, second D. Knowlton to adjourn the meeting.

VOTE: 7-0.

Meeting adjourned at 10 PM.

Respectfully submitted,

Denis Theriault
Secretary

dlo