

**CITY OF LEWISTON
PLANNING BOARD MEETING
Monday, April 25, 2016 – 5:30 P.M.
City Council Chambers – First Floor
Lewiston City Building
27 Pine Street, Lewiston, ME**

AGENDA

I. ROLL CALL

II. ADJUSTMENTS TO THE AGENDA

III. CORRESPONDENCE

IV. PUBLIC HEARINGS:

A petition to amend Article V of the Zoning and Land Use Code and Chapter 14 of the Code of Ordinances to allow for the keeping of six chickens on lots developed with a single family detached dwelling on individual lots.

V. OTHER BUSINESS:

- a) King Avenue Zoning Discussion
- b) Any other business Planning Board Members may have relating to the duties of the Lewiston Planning Board.

VI. READING OF THE MINUTES: Motion to adopt the April 11, 2016 draft minutes

VII. ADJOURNMENT



CITY OF LEWISTON

Department of Planning & Code Enforcement

TO: Planning Board
FROM: David Hediger, City Planner
DATE: April 21, 2016
RE: April 25, 2016 Planning Board Agenda Item IV

A petition to amend Article V of the Zoning and Land Use Code and Chapter 14 of the Code of Ordinances to allow for the keeping of six chickens on lots developed with a single family detached dwelling on individual lots.

In the City of Lewiston, the keeping of chickens is limited to properties located in the Rural Agricultural (RA) district on lots of at least three acres. Since at least 2009, there appears to be a growing interest by citizens to keep chickens in zoning districts other than the RA. On June 16, 2009 the City Council voted for the Planning Board to prepare an amendment to allow the keeping of chickens in residential areas. On August 24, 2009 the Board voted 7-0 not to adopt an amendment to allow chickens. The Council agreed and chose not to adopt an amendment. In 2013, staff was asked to revisit the matter with the Planning Board given the number of requests being made to Administration and Planning and Code Enforcement. On November 25, 2013 the Board voted to take no action at that time with respect to adopting an ordinance.

This time, a resident has submitted a petition to amend the ordinance to allow chickens. Unlike the previous discussions, this proposed amendment is being initiated by a property owner pursuant to Article XVII, Section 5 of the Zoning and Land Use Code. The petitioner, Shelly Suzuki of 16 Champlain Avenue, currently has six chickens on a single family house lot. Upon being notified that this was violation of the Zoning and Land Use Code, staff agreed not to take enforcement action if she pursued an amendment to the code. Pending a final decision from the City Council, the outcome of the proposed amendment will direct staff as to what actions will be taken.

Staff provided the petitioner guidance in drafting the ordinance, referencing past attempts and language that was considered by the Board. Staff shared past concerns including public health issues, the burden on code enforcement, the animal control officer, Lewiston Police Department, lot size requirements, and, at that time, the uncertainties to enforcement of the ordinance.

The language being proposed this time is much simpler. The proposed amendment to Article V, Section 3(aa) of the Zoning and Land Use Code allows for the keeping of up to six chickens in residential zoning districts on lots of no less than 20,000 square feet developed with single family detached dwellings including mobile homes on individual lots. Staff suggested the 20,000 square lot size to the petitioner as that was a lot size last considered by the Board in 2013. The lot size provision would be administered by Planning and Code Enforcement, being part of the Zoning and Land Use Code.

The amendment also includes performance standards contained in Chapter 14 Animals, Article VII. Keeping of Non-Domestic Animals, Division 4. Keeping of Chickens on Lots Developed with Single Family Detached Dwellings Including Mobile Homes on Individual Lots. Said provisions are

located in the Code of Ordinances are technically outside the purview of the Planning Board's. Should Article V, Section 3(aa) be adopted by the Council, the provisions contained in Chapter 14, Article VII, Division 4 would be considered for adoption by the City Council. Said performance standard provisions would be administered by the Animal Control Officer.

While the Board's authority is limited to the proposed amendment language of Article V, Section 3(aa) of the Zoning and Land Use Code, staff recommends the Board consider reviewing and providing a recommendation on the proposed language found Chapter 14, Article VII, Division 4 of the Code of Ordinances for the City Council's consideration.

It's worth noting, many of the provisions in Chapter 14 have been modified from other communities, and in large part, the City of Auburn. In speaking with Auburn's Planning and Code Enforcement Department, their current language has been relatively easy to administer with few issues. Most issues have been related to the keeping of a rooster, which is not allowed. Staff also spoke with Animal Control Officer Wendell Strout, who works for Lewiston and used to also support Auburn. He expressed no concerns with the proposed ordinance and noted when assisting Auburn, complaints tended to be related to roosters.

The Board should also note correspondence received by staff from residents both in support and opposition to the proposed amendment.

ACTIONS NECESSARY:

Zoning and Land Use Amendment

Make a motion pursuant to Article VII, Section 4 and Article XVII, Section 5 of the Zoning and Land Use Code to send a favorable recommendation for the City Council's consideration a proposed amendment to Article V, Section 3(aa) of the Zoning and Land Use Code allowing for the keeping of up to six chickens in residential zoning districts on lots of no less than 20,000 square feet developed with single family detached dwellings including mobile homes on individual lots.

Code of Ordinances Amendment

Make a motion pursuant to send a favorable recommendation for the City Council's consideration an amendment to the Code of Ordinances Chapter 14 Animals, Article VII. Keeping of Non-Domestic Animals, Division 4. Keeping of Chickens on Lots Developed with Single Family Detached Dwellings Including Mobile Homes on Individual Lots.

4/5/16

**AN ORDINANCE PERTAINING TO THE ZONING AND LAND USE CODE
THE CITY OF LEWISTON HEREBY ORDAINS:**

Appendix A of the Code of Ordinances of the City of Lewiston, Maine is hereby amended as follows:

**APPENDIX A
ZONING AND LAND USE CODE
ARTICLE V. ADMINISTRATION AND ENFORCEMENT**

Sec. 3. General provisions.

(aa) Notwithstanding the provisions under Article XI, Section 23 of this Code, the keeping of up to six chickens is permitted in residential zoning districts on lots of no less than 20,000 square feet developed with single family detached dwellings including mobile homes on individual lots pursuant to the provisions contained in Chapter 14, Article XIII, Sec 14-45 thru 14-53.

REASONS FOR THE PROPOSED AMENDMENT

In the City of Lewiston, the keeping of chicken is limited to properties located in the Rural Agricultural (RA) district on lots of at least three acres. There has been an interest by citizens to keep domesticated chickens in zoning districts other than the RA.

The proposed amendment to Article V, Section 3(aa) of the Zoning and Land Use Code allows for the keeping of up to six chickens permitted in all zoning districts on lots developed with single family detached dwellings including mobile homes on individual lots pursuant to the provisions contained below in Chapter 14, Article XIII, Sec 14-45 thru 14-52.

**AN ORDINANCE PERTAINING TO THE KEEPING OF CHICKENS IN THE
CITY OF LEWISTON HEREBY ORDAINS:**

**Chapter 14 Animals
Article VII. Keeping of Non-Domestic Animals
Division 3. Other Animals**

Sec. 14-31. Keeping of fowl, rabbits and guinea pigs.

Fowl, rabbits and guinea pigs must be kept indoors, or if outdoors, in a secure pen or enclosure. Litter and droppings from these animals must be collected and disposed of in accordance with the provisions of section 14-41, disposal of excrement in general, shall specifically apply to the disposal of excrement of fowl, rabbits, and guinea pigs. Provided, however, that the provisions of this section and section 14-41 shall not apply to ducks or other waterfowl inhabiting natural or manmade water courses or bodies of water.

Division 4. Keeping of Chickens on Lots Developed with Single Family Detached Dwellings Including Mobile Homes on Individual Lots.

Sec. 14-45. Purpose

The purpose of this article is to provide standards for the keeping of domesticated chickens. It is intended to enable residents to keep a small number of female chickens on a non-commercial basis while creating standards and requirements that ensure that domesticated chickens do not adversely impact the neighborhood surrounding the property on which the chickens are kept. The provisions of this section are not to preclude other sections of Chapter 14 as applicable.

Sec. 14-47. Number and type of chickens allowed.

- (a) The maximum number of chickens allowed is six (6) per lot developed with a single family dwelling.
- (b) Only female chickens are allowed. There is no restriction on chicken species.
- (c) Chickens must be purchased from an approved source such as the National Poultry Improvement Plan (i.e. hatcheries that participate in the National Poultry Improvement Plan).
- (d) This provision shall not apply to allowed agricultural uses.

Sec. 14-48. Non-commercial use only.

Chickens shall be kept as pets and for personal use only; no person shall sell eggs or engage in chicken breeding or fertilizer production for commercial purposes. The slaughtering of chickens is prohibited.

Sec. 14-49. Enclosures.

- (a) Chickens must be kept in a fenced area or enclosure at all times. Enclosures must be clean, dry, and odor-free, kept in a neat and sanitary condition, in a manner that will not disturb the use of neighboring lots due to noise, odor or other adverse impact. The free ranging of chickens is not allowed.
- (b) Chickens shall be secured within a henhouse during non-daylight hours.
 - (1) Henhouses are not allowed to be attached or located in any part of a dwelling unit. The henhouse shall be enclosed on all sides and shall have a roof and doors. The henhouse must be well-maintained.
- (c) Chickens shall be kept only in the rear or side yard behind the principle structure of the lot developed and must be kept on the property of the owner. Chicken henhouses, fenced areas, and enclosures shall not be closer than ten (10) feet to any property line.

Sec. 14-50. Odor and noise impacts.

The keeping of chickens authorized under this section shall not create a nuisance and shall be conducted in a manner that does not disturb the use of adjacent properties. Odors from chickens, chicken manure, or other chicken-related substances shall not be perceptible at the property boundaries. Perceptible noise from chickens shall not be loud enough at the property boundaries to disturb persons of reasonable sensitivity.

Sec. 14-51. Predators, rodents, insects, and parasites.

The property owner and/or chicken owner shall take all necessary action to reduce the attraction of predators and rodents and the potential infestation of insects and parasites.

Chickens found to be infested with insects and parasites that may result in unhealthy conditions to human habitation may be removed by the City, through the animal control officer, or any other designee, and the cost of the same shall be borne by the property owner and/or chicken owner.

Sec. 14-52. Separability.

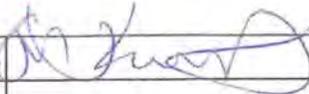
In the event that any section, subsection or portion of this article shall be declared by any competent court to be invalid for any reason, such decision shall not be deemed to affect the validity of any other section, subsection or portion of this article.

1

PETITION TO AMEND THE CITY OF LEWISTON
ZONING AND LAND USE CODE

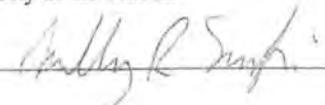
Pursuant to Appendix A, Article XVII, Section 5 AAmendments@ of the City of Lewiston Zoning and Land Use Code, we the undersigned residents of the City of Lewiston, being eighteen (18) year of age or older, do hereby petition the City of Lewiston **PERTAINING TO THE KEEPING OF CHICKENS IN THE CITY OF LEWISTON** described in the exhibits attached hereto:

	SIGNATURE	PRINTED NAME	PHYSICAL STREET ADDRESS (No PO Boxes)	DATE
1	<i>Shelly Suzuki</i>	Shelly R Suzuki	16 Champlain Ave	3/29/16
2	<i>Jan P. Zeman</i>	Jan P. Zeman	24 Champlain Ave	3/29/16
3	<i>Susan D. Sparks</i>	SUSAN D. SPARKS	25 Fair St	3/29/16
4	<i>Shawn W. Stepp</i>	Shawn W. Stepp	87 Baird Ave	3/29/16
5	<i>Jenna Stepp</i>	Jenna Stepp	87 Baird Ave	3/29/16
6	<i>Susan Church</i>	Susan Church	7 Judy St	3/29/16
7	<i>John Tancredi</i>	John Tancredi	11 Lease Ave	3/29/16
8	<i>Smayna Powell</i>	Smayna Powell	28 Eaton St.	3/29/16
9	<i>Richard Chas Powell</i>	Richard Chas Powell	28 Eaton St.	3/29/16
10	<i>Sharyn Balintas</i>	Sharyn Balintas	628 main St	3/30/16
11	<i>Mark Daniels</i>	MARK DANIELS	20 Champlain Ave	3-30-16
12	<i>Julie Daniels</i>	Julie DANIELS	20 Champlain Ave	3-30-16
13	<i>Jane M. Footer-Cole</i>	Jane M. Footer-Cole	14 Katie Ave.	4-2-16
14	<i>Lutte F.P. Morin</i>	Lutte F.P. MORIN	315 East St Ave.	4-2-16
15	<i>Linda Ustach</i>	Linda Ustach	45 Hogan Rd	4-2-16
16	<i>Heidi Casavant</i>	Heidi Casavant	25 Orchard ^{Cir}	4/3/16
17	<i>Robert A. Casavant</i>	Robert A. Casavant	25 Orchard Cir	4/3/16

18		Michael Berreault	19 Dill St.	4/3/16
19				
20				

CIRCULATOR=S VERIFICATION

I hereby verify that I am the Circulator of this petition that all the signatures to this petition were made in my presence, and to the best of my knowledge and belief, each signature is that of the person it purports to be, and each person is a resident of the City of Lewiston.



4/3/16

Signature of Circulator

Printed Name of Circulator

Date

REGISTRAR=S CERTIFICATION

I hereby certify and verify that the names of all of the petitioners listed as valid appear on the voting list as registered voters in the City of Lewiston.

Total Valid: 18

Total Invalid: 0

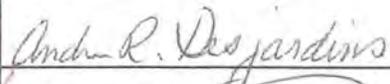
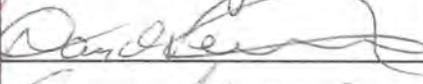
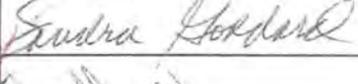
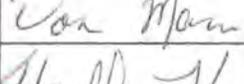
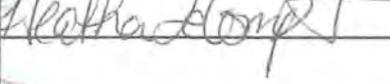


4-5-16 Date:

Signature of Registrar/Deputy Registrar

PETITION TO AMEND THE CITY OF LEWISTON
ZONING AND LAND USE CODE

Pursuant to Appendix A, Article XVII, Section 5 AAmendments@ of the City of Lewiston Zoning and Land Use Code, we the undersigned residents of the City of Lewiston, being eighteen (18) year of age or older, do hereby petition the City of Lewiston **PERTAINING TO THE KEEPING OF CHICKENS IN THE CITY OF LEWISTON** described in the exhibits attached hereto:

	SIGNATURE	PRINTED NAME	PHYSICAL STREET ADDRESS (No PO Boxes)	DATE
1		Peter Ferrante	21 BRUIT ST LEWISTON ME 04240	3/30/16
2		ANDREW R. DESJARDINS	39 MANNING AVE LEWISTON, MAINE	3/30/16
3		DAVID VEILLEUX	10 FRECHETTE ST. LEWISTON, ME	4/5/16
4		SANDRA Goddard	525 College St. Lewiston, ME	4/5/16
5		KATHLEEN MORRIS	23 Michaud Ave Lewiston ME 04240	4/5/16
6		Don MORRIS	23 Michaud Ave Lewiston ME 04240	4/5/16
7		Heather LeCompte	20 Sheffield Ave Lewiston ME 04240	4/5/16
8				
9				
10				
11				
12				
13				
14				
15				
16				
17				

18			
19			
20			

CIRCULATOR=S VERIFICATION

I hereby verify that I am the Circulator of this petition that all the signatures to this petition were made in my presence, and to the best of my knowledge and belief, each signature is that of the person it purports to be, and each person is a resident of the City of Lewiston.

Andrew R. Desjardins

ANDREW R. DESTARDINS

Signature of Circulator

Printed Name of Circulator

Date 4/5/16

REGISTRAR=S CERTIFICATION

I hereby certify and verify that the names of all of the petitioners listed as valid appear on the voting list as registered voters in the City of Lewiston.

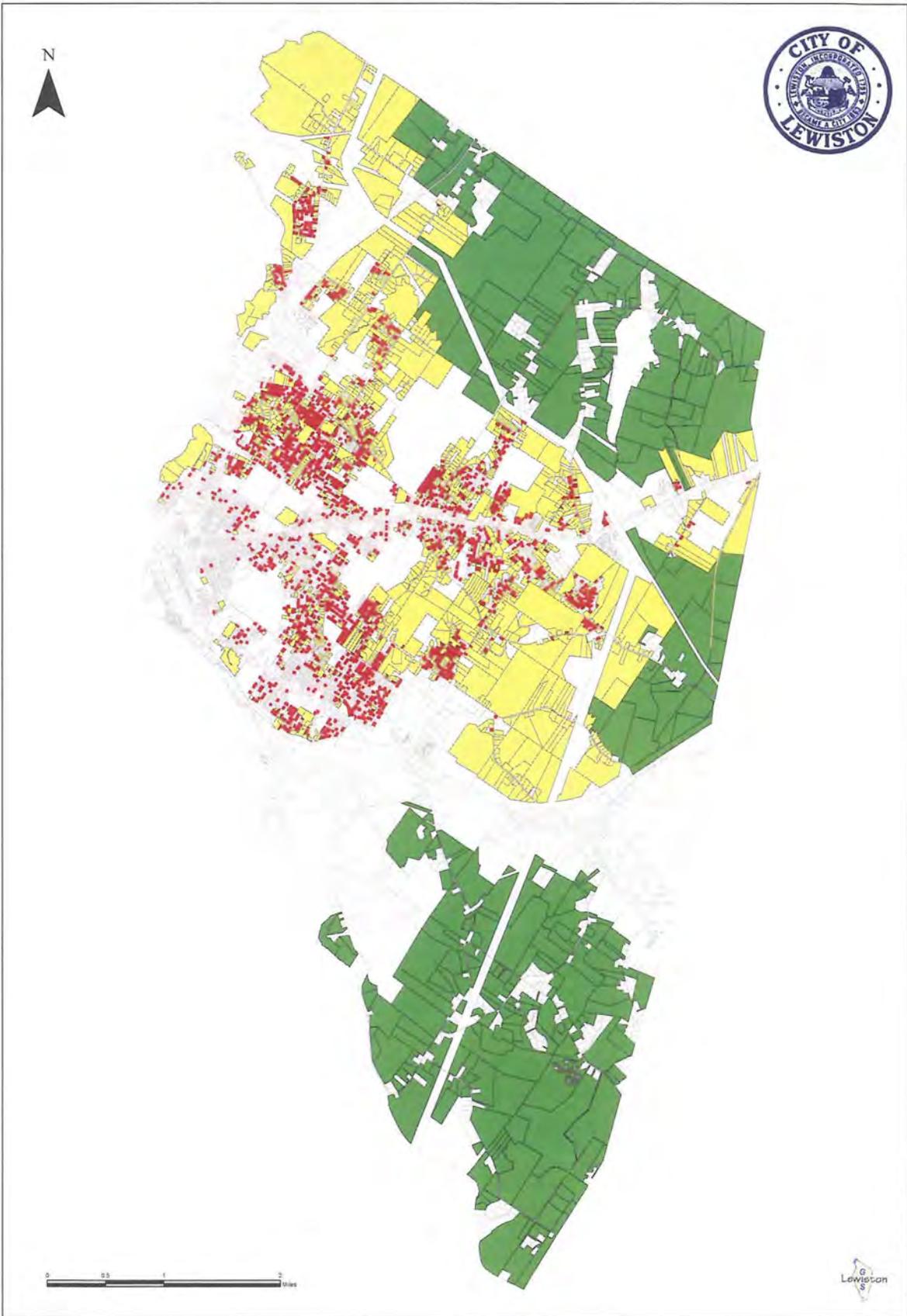
Total Valid: 7

Total Invalid: 0

Erica Sciatt

4-5-16 Date:

Signature of Registrar/Deputy Registrar



Legend

- Lots 10,000 to 19,999 sf - Vacant or Single Fam
- Lots 20,000 sf or greater - Vacant or Single Fam
- Lots in RA 3 acres or Greater

This study excluded parcels in the following districts:
RF, CB, HB, CV, OS, I, UE, M, and RC Zoning.

**Parcel Zoning, Size Relationship
Ordinance Consideration
for Domestic Chickens**

Date: 11/18/2013



**CITY OF LEWISTON
PLANNING & CODE ENFORCEMENT**

Gildace J. Arsenaault

Director

MEMORANDUM

TO: City Clerk's Office
City Council Members
FROM: David Hediger, City Planner
SUBJECT: Planning Board Action of August 24, 2009
DATE: August 26, 2009

The Planning Board took the following action at the Public Hearing held on August 24, 2009, regarding an amendment to Article V, Section 3 of the Zoning and Land Use Code, and Chapter 14, Article XIII, Section 14-45 thru 14-57 of the Code of Ordinances to allow the keeping of chickens on lots developed with single family detached dwellings including mobile homes on individual lots.

MOTION: *by David Vincent that the Planning Board, send a recommendation to the City Council for their consideration to not amend Article V, Section 3 of the Zoning and Land Use Code and Chapter 14, Article XIII, and Section 14-45 thru 14-57 of the Code of Ordinances to allow the keeping of chickens on lots developed with single family detached dwellings including mobile homes on individual lots for the following reasons, but not limited to: public health issues, the burden on code enforcement, the animal control officer, and Lewiston Police Department, and the ambiguities to enforcement of the ordinance. Second by Paul Robinson.*

VOTED: 7-0 (Passed).

pc: Phil Nadeau, Acting City Administrator
Lincoln Jeffers, Assistant to the City Administrator
Planning Board Members

JCB:jcb\C:\My Documents\chickenDeleReview.doc

The City of Lewiston is an EOE. For more information, please visit our website at www.ci.lewiston.me.us and click on the Non-Discrimination Policy.



City of Lewiston
Planning & Code Enforcement
Gil Arsenault, Director



MEMORANDUM

To: City Clerk's Office
City Council Members

From: David Hediger

Date: December 2, 2013

Subject: Planning Board Action

The Planning Board took the following action at their public meeting held on November 25, 2013 regarding the need to draft and adopt an ordinance regulating the keeping of chickens:

The following motion was made:

MOTION: by **Walter Hill** to take no action at this time with respect to drafting and adopting an ordinance regulating the keeping of chickens.
Second by **Paul Robinson**.

VOTED: **5-2 (Passed)**
Eric Potvin and Kevin Morissette Opposed

c: Ed Barrett, City Administrator
Planning Board Members

From: [Kevin Roux](#)
To: [Timothy Lajoie](#)
Cc: [Gildace Arsenault](#); [David Herigier](#)
Subject: Chickens in Lewiston
Date: Thursday, April 21, 2016 5:43:46 PM

Dear Councilor Lajoie and members of the Council,

My name is Kevin Roux. I reside, and own, a 2 unit building located at 62 Lemont Ave., Lewiston. It is my understanding that Monday April 25 the council will be discussing the issue of chicken ownership in the city. Unfortunately, my employment will not allow me to attend so I've decided to make my feelings on this known with a letter.

I currently have and maintain 5 hens at my home. It was not until very recently that I learned city code does not allow for this and I am prepared to abide by the ordinance, first I would like to raise a few points in their defense first.

I have cared for and maintained the chickens as well as any responsible pet owner would. They are pets to me and offer a variety of benefits including insect control, fresh eggs, and tranquil therapy for the stressed mind when returning home from a tough day. Prior to their arrival I and a neighbor had problems with carpenter ants, ticks, and Japanese beetles. In two years time I have not seen hide or hair of either insect. Coincidence? I believe it was directly related to the hens. They spend their day patrolling the lawn and a small patch of woods continuously eating bugs. I dispose of waste by mulching with grass clippings and pine chips and use it as fertilizer. I have not had any issues with odor or flies. Not to mention neighbors and their children often visit to see and feed the chickens. People driving by stop and take pictures of them. I have never had one complaint. My chickens are docile and friendly and have not "mauled" anyone to date. Often times I have extra eggs and hand them out to neighbors, who agree they taste much better than store bought.

That being said, I would like to ask the council to consider chicken ownership in Lewiston. Possibly for single and 2 family owner occupied properties. As with any pet, responsible ownership should be emphasized. I feel roosters should NOT be allowed due to their loud and sometimes obnoxious cackling. Owners should be held to the same standards as with any pet, if it is a nuisance then warnings, fines or other punishment should be administered.

I would also entertain the council to consider lot size. I personally have two tenths of an acre. Maybe the number of chickens for smaller lots could be downsized to a couple or three chickens?

Lastly I want to thank you for your attention to this matter and if given a chance I strongly feel most chicken owners would be responsible owners. I know I would.

Sincerely,
Kevin Roux
62 Lemont Ave.

From: [mhinrichs](#)
To: [PlanningCode](#)
Subject: Concerns at 16 Champlain Avenue
Date: Saturday, April 16, 2016 9:36:32 PM

My name is Megan Hinrichs and my husband and I reside at 14 Champlain Avenue in Lewiston. We have concerns about what we believe is the illegal keeping of chickens at 16 Champlain Ave, residence of Shelly Suzuki. In September 2015, a chicken coop was constructed on the property. Since then, residents in the neighborhood have been kept up at night by Ms. Suzuki's chickens. In a neighborhood that is comprised of mostly retired individuals and young families with children, it is very concerning to my husband and I that nothing has been done regarding removing the chickens from this property. The chicken coop is the backyard of the property against a fence and is visible from Surry Lane.

Thank You

Megan Hinrichs
207 344-3117

From: CoachTiner@aol.com
To: [David Hediger](#)
Subject: Proposal on Chickens.
Date: Saturday, April 16, 2016 11:28:42 AM

Hello David,

I am a resident of Lewiston and live on Champlain Ave. I am currently vacationing in Florida. I have heard recently of a push in favor of letting people have chickens in their back yards. I don't feel that Champlain Ave. is a place to allow such a thing. I believe allowing chickens would lower our property value in the future. My wife and I can't be convinced that a family looking for a new home would say "Wow, let's buy a house in this neighborhood, we could have chickens in our back yard." So let it be known, we are not in favor of this proposal or any other proposal involving the expansion of chickens territories.

Sincerely,
Mike and Sue Tiner
22 Champlain Ave.
Lewiston, Me. 04240



CITY OF LEWISTON

Department of Planning & Code Enforcement

TO: Planning Board
FROM: David Hediger, City Planner
DATE: April 21, 2016
RE: April 25, 2016 Planning Board Agenda Item V(a)

King Avenue Rezoning

Staff has recently been approached by the owner of 18 King Avenue to convert an abandoned three-dwelling unit structure into a single family dwelling. This property is located in the Community Business (CB) district in which multifamily dwellings are a permitted use, but single family dwellings are not. The options currently available to the owner of this property are to either reestablish the use of the property as a three-dwelling unit structure or to pursue some other allowed use of the CB district.

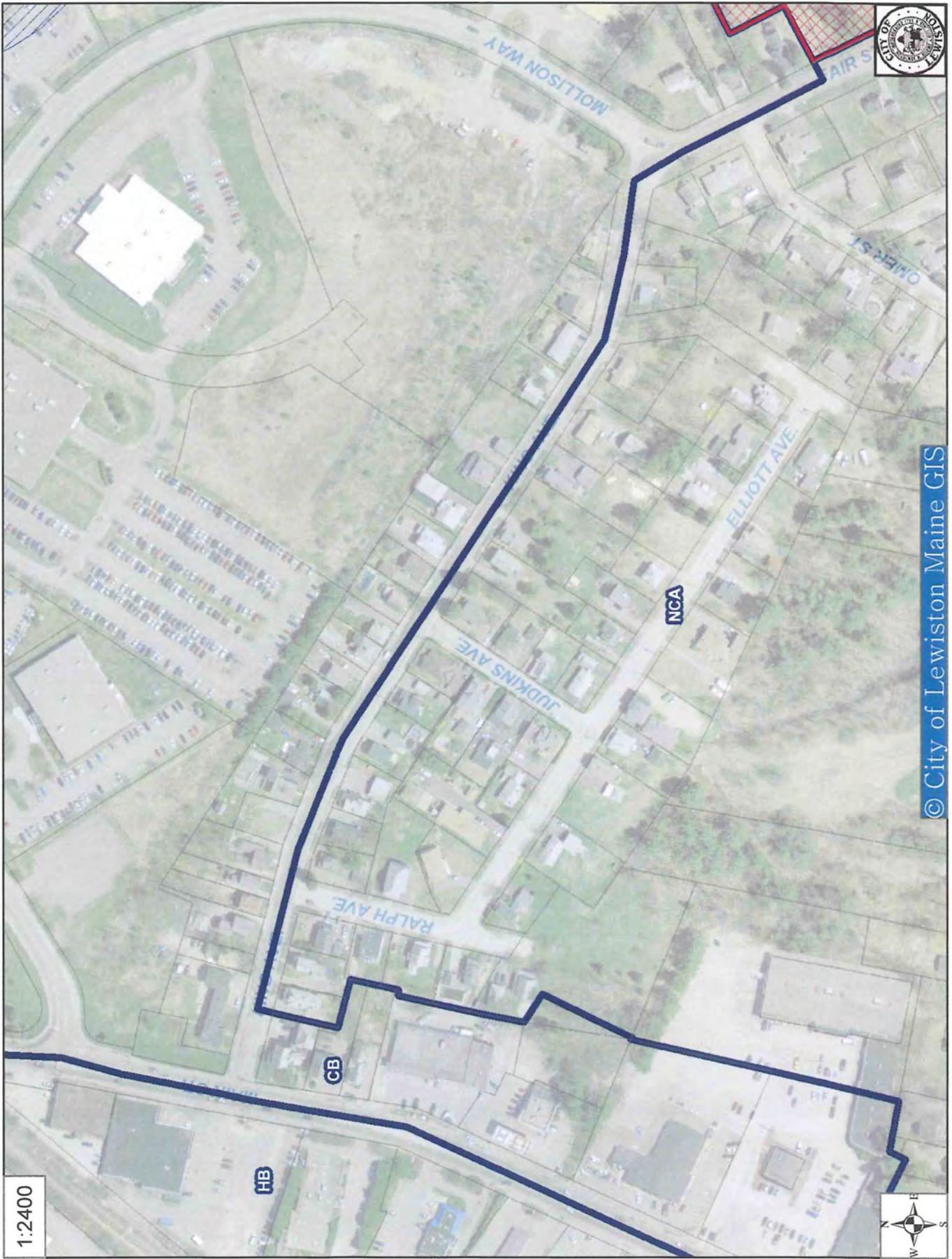
The property owner has since inquired about rezoning the property to Neighborhood Conservation "A" (NCA) district which permits single family dwellings. The NCA district is located directly across the street. The property owner certainly has the option of petitioning the Board for a zoning map amendment. However, staff believes there may be reason to consider rezoning many other properties on the northerly side King Avenue from CB to NCA. In 1953, all of the properties on the north side were zoned Residential to the rear property line abutting the Fairgrounds, today known as Sparetime Business Park. That changed in 1958 with properties on the northerly side of King Ave rezoned to Commercial. It has remained a nonresidential district ever since. Nearly all of 22 impacted properties on the northerly side are residential: two-three unit structures; four-two unit structures; 15 single family structures; and, one vacant lot. With the exception of two-three unit structures, all the uses on this side of the road are legally nonconforming. The likelihood of these small sized lots to be combined and utilized for commercial purposes is slim; nothing has occurred in 58 years. Staff also observed the Planning Board's concerns with a recent petition to rezone a single property while abutting properties were not considered (i.e. 200 College Street).

At this time, the staff is looking for guidance from the Board as to whether an amendment should be initiated by the Board to rezone the northerly side of King Avenue from CB to NCA or to direct the property owner of 18 King to pursue a specific rezoning for that lot. No formal decisions on the merit of either proposal is needed or warranted by the Board at this time. However, a motion from the Board is needed if there is a desire for staff to prepare an amendment to rezone King Avenue.

Staff will be prepared to discuss in more detail at the meeting

ACTION NECESSARY (if desired by the Planning Board)

Direct staff pursuant to Article XVII, Section 5 of the Zoning and Land Use Code to prepare an amendment for the Planning Board's recommendation to the City Council to rezone the northerly side of King Avenue from Main Street to Mollison Way.



© City of Lewiston Maine GIS