

# LEWISTON CITY COUNCIL WORKSHOP AGENDA

Tuesday, May 28, 2019

City Council Chambers, City Hall

**6:00p.m. Workshop**

Pledge of Allegiance to the Flag

## WORKSHOP

1. Amending Master Policy 52 Solid Waste Fee Policy
2. 420 Main Street – Request for Proposed Changes to Main Street Traffic Pattern and Parking
3. Medical and Adult Use Marijuana

LEWISTON CITY COUNCIL  
WORKSHOP AGENDA  
TUESDAY, MAY 28, 2019  
6:00 PM

1. Amending Master Policy 52 Solid Waste Fee Policy

The current Solid Waste Fee Policy establishes fines for violating the City's Solid Waste Ordinance. In addition to fines, it also authorizes billing the responsible party for the cost of removing inappropriately discarded waste under certain circumstances. We would like to amend the policy to clarify the staff who are authorized to determine when such waste should be removed and clarify the charges for doing so. The proposed revised language is as follows:

***Penalties - Chapter 62 Solid Waste***

The first violation minimum fine is \$100. A second violation minimum fine for a violation occurring within six months of a first violation is \$210.00. A third or any subsequent violation occurring within six months of a first violation is \$420.00. In addition, where, in the opinion of the Director of Planning and Code, the Public Works Director, or their designees, ~~superintendent~~ the nature or volume of waste material is considered excessive, and/or if the waste material is other than solid waste, and/or if the responsible party does not timely remove it, the minimum fine shall also include all costs incurred by the City to ~~of collection, transportation, and disposal of this material.~~ of this material. Note: This penalty is outlined in the City Code of Ordinances Chapter 62, Article I In General.

2. 420 Main Street – Request for Proposed Changes to Main Street Traffic Pattern and Parking

A number of months ago, the Council held a workshop on the proposal to modify traffic patterns and parking on Main Street in conjunction with the proposed development of a Dunkin Donuts at 420 Main Street. The developer has continued to work on this proposal and is requesting that the Council consider a modified version of the initial plan. Individuals who were at the initial workshop and who provided contact information have been notified of this meeting. Please see the attached information.

3. Medical and Adult Use Marijuana

We would like to continue our discussion of local regulation of medical and adult use marijuana. Planning Staff has previously presented an outline of the approach they are considering proposing. Since the last discussion, staff has met with caregivers licensed in Lewiston to review the recommendations provided to Council and to hear their suggestions. Staff is now prepared to present specific amendments for the Council's consideration in preparation for presenting specific ordinance language at a public hearing. See attached information.



## CITY OF LEWISTON

### Department of Planning & Code Enforcement

**TO:** Mayor Cloutier and Lewiston City Council

**FROM:** Douglas Greene, AICP, RLA; Deputy Director/City Planner

**DATE:** May 28, 2019

**RE:** Proposed Changes to Main Street for Project at 420 Main Street

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A developer is proposing to construct a new Dunkin Donuts on a vacant property located at 420 Main Street. In order to promote traffic flow and safety into and out of the development, the developer has proposed changes to Main Street and Whipple Street that would add a new center turning lane and widen a stretch of Whipple Street. By making these changes, some on-street parking along the west side of Main Street would be removed. Any changes to on-street parking and street configuration within a public right of way will require City Council approval.

The developer, Mr. Norman Boulay, presented his request at a neighborhood meeting on September 5, 2018, at a Planning Board meeting on September 10, 2018, and at a City Council workshop on September 18, 2019. Nearby property owners and business owners attended these meetings and were opposed to the proposed changes. Their reasons for opposition included: loss of existing street parking, the inconvenience of tenants and clients having to walk further to a parking space, pedestrian safety to-and-from the site, increased congestion of left-turns, concerns that commercial and residential tenants will relocate due to lack of parking, while 420 Main Street is not in a historic district, there was concern on impacts to the historic character of the neighborhood by the proposed development, potential for traffic backing from the site into Main Street, not wanting to see the property developed with a Dunkin Donuts, and potential negative impact to property values.

Since that time, the developer's traffic engineer submitted a traffic assessment on February 12, 2019, which was reviewed at a preliminary scoping meeting held on March 14, 2019. Based on feedback received from that meeting, a Main Street Traffic Safety Assessment was submitted on April 15, 2019. The developer is now proposing three mitigation measures to Main Street and Whipple Street to improve safety conditions and traffic movement. The developer's traffic engineer has determined the intersection at Main and Whipple Street is a High Crash Location, which warrants these improvements.

The developer has requested city departments and other participants in the March 14 Preliminary Scoping meeting to provide comments regarding the three recommendations from the April 15<sup>th</sup> Traffic Safety Assessment. The three recommendations are reflected in plan labeled "option 2" which is attached with this memo.

#### Proposed Mitigation Measures and Comments

1. Elimination of eight parking spaces along the west side of Main Street between Elm Street and Curtis Street and the addition of a handicapped space on Elm Street.

##### Comments:

- Police- "No comments."
- Fire- "No issues."
- Planning and Code Enforcement- "Based upon the report provided by the applicant's traffic engineer, the elimination of some on-street parking on the west side of the Main Street should improve the sight-distance for vehicles pulling out of Whipple Street. This may improve conditions for what has been determined to be a high crash location and therefore, a positive outcome." and

"The applicant has suggested eight on-street spaces will be eliminated. It appears conservative measurements were used in establishing the actual number of spaces on both sides of Main Street. With this in mind, it is likely more than eight spaces will be lost on the west side of Main Street. However, there are likely more spaces available on the east side of Main Street than shown that are not being impacted.

- MDOT- Tim Soucie- "In combination with the addition of two way left turn lane this may help address the High Crash Location (HCL) at the Whipple Street location."
  - HTNB-Bruce Munger- "The elimination of these parking spaces may provide better sight distance for motorist turning to and from Whipple Street. From the examination of the crash reports, improving sight distance may be a solution to the intersection being a high crash location."
2. Installation of a 12' wide center turn lane on Main Street from Holland Street to Curtis Street.

##### Comments:

- Police- "The Main St. turning lane could be a good guide for a possible extension of a Main St. turning lane. I also feel that this proposal will alleviate a lot of bottle necking on lower Main St. where the current Dunkin Donuts is located. The design appears to accommodate more customers in a safer manner without causing traffic to linger on Main St."
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- MDOT- Tim Soucie- “I’m in favor of the addition of a two way left turn lane for this section of Main Street.”
  - HTNB- Bruce Munger- “Extending the center two-way left turn lane would be the only viable option to provide needed auxiliary turn lane for the development, without the turn lane the development should not go forward.”
3. The addition of 8’ of pavement to Whipple Street and relocating the sidewalk starting 50’ west of the intersection of Main Street; adding 11 parking spaces while maintaining 24’ of pavement width for Whipple Street in that area, and adding a sign “No Parking- Here to Corner”.

Comments:

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- Fire- “No issues.”
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- MDOT- Tim Soucie- “No comment.”
- HTNB- Bruce Munger- “The parking restriction in combination with the added parking spaces will provide better access to and from Whipple Street and may help to mitigate the high crash location at Whipple and Main. With the addition of the sidewalk, the addition of a crosswalk across Main Street should be evaluated.”

Conclusion: Based on the data and analysis provided in the developer’s Traffic Study and Main Street Traffic Safety Assessment, the proposed mitigation measures are supported by City Staff and the participants in the preliminary scoping meeting of February 14<sup>th</sup>. The removal of some parking on the west side of Main Street would improve sight distance, the installation of a center turn lane on a stretch of Main Street would facilitate traffic flow and safety for the redevelopment of 420 Main Street and the widening of Whipple Street and adding parking spaces will help to improve access in an out of Whipple Street and should improve safety at a High Crash Location. The proposed mitigation measures do not address issues that might arise with the redevelopment of 420 Main Street, but those issues will be addressed as part of the formal Traffic Movement Permit process.

Attachments:

1. Cover Letter from Mike Gotto (4/24/19)
2. Preliminary Traffic Assessment (2/12/19)
3. Traffic Safety Assessment (4/15/19)
4. Proposes Option 2 Map (4/22/19)



## CITY OF LEWISTON

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**FROM: Douglas Greene, AICP, RLA; Deputy Director/City Planner**

**DATE: May 28, 2019**

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# Stoneybrook Consultants, Inc.

P.O. Box 459  
456 Buckfield Road  
Turner, Maine 04282  
(207) 224-0252

April 24, 2019

Edward A. Barrett, City Administrator  
City of Lewiston  
27 Pine Street  
Lewiston, ME 04240-7201

Re: Dunkin Donuts  
420 Main Street  
Off Site Traffic Improvements

Dear Mr. Barrett:

On behalf of Norm Boulay, Jr., I have prepared this letter and attachments to seek City Council approvals for changes to the City parking code to support his proposed Dunkin Donuts shop at 420 Main Street. The property is shown on Tax Map 194 as Lots 60 and 61. These parcels contain about 37,300 square feet and are located in the Community Business District. A restaurant with a drive-thru is a permitted use in this zoning district.

You will recall that we first met with the City Council to discuss this project last Fall. Since the City Council controls all on-street parking areas within the City, we were seeking their support to make the required changes to the City parking code to allow this project to create a center turn lane in Main Street at this location. While there were concerns expressed at the meeting, we felt the Council feedback was positive enough that we have continued our technical studies to support these requested traffic changes.

In February, we submitted a Preliminary Traffic Assessment to City Staff. On March 11<sup>th</sup>, we met with City Staff, the City traffic peer-review consultant, the Regional Traffic Engineer from MDOT and the Traffic Engineer

from ATRC to review the assessment. While there were no real concerns expressed at that meeting, we were asked to complete a Traffic Safety Assessment for Main Street in this area. That assessment was submitted to City Staff on April 17<sup>th</sup>.

Using MDOT accident records, our Traffic Engineer identified one intersection as a high crash location. The intersection of Main Street with Whipple Street has a Critical Rate Factor of 1.47. Any intersection with a critical rate factor greater than 1.0 with 8 or more accidents in three years is considered a high crash location. Our Traffic Engineer completed in-field observations at this intersection on March 19<sup>th</sup>, between the hours of 3:15 and 4:30 PM. He identified several issues that could contribute to this high crash location and recommended three possible mitigation measures that could improve overall safety at this intersection in his assessment report. A copy of this report and the Preliminary Traffic Assessment are attached for your information.

I have also attached a copy of our Option #2 - Main Street Striping graphic revised through April 22, 2019. On this plan, we have shown the elimination of 8 parking spaces along the west side of Main Street between Elm Street and Curtis Street. The first parking space on the south side of Elm Street would also be identified as a handicap parking space to replace the handicap space currently located in front of 410 Main Street.

The proposed 12' wide center turn lane on Main Street will provide a 16' wide inbound lane at Holland Street and will be reduced to a 12' wide inbound lane at Elm Street. This 12' wide inbound lane width will continue through the Whipple Street intersection to the north end of the proposed entrance drive to the proposed Dunkin Donut site. From this location, the inbound lane will grow wider until it matches the existing centerline striping on Main Street at the south side of the Curtis Street intersection. This lane alignment allows us to keep all of the existing parking spaces along the east side of Main Street and preserves those spaces on the west side of Main Street between Curtis Street and Arch Avenue. Again, only 8 parking spaces on the west side of Main Street will be eliminated and 3 of those spaces are located along the street frontage we are proposing to develop.

Whipple Street is currently 24' wide with curbing and sidewalks on both sides of the street. Under your current parking code, parking is allowed on both sides of Whipple Street. Since parked cars take about 8' of pavement width, cars parked on both sides of the street would leave a travel lane width of only 8' wide. To allow two-way traffic flow, the minimum width would typically be 18' - 20' wide. Therefore, under current conditions with cars allowed to park on both sides of the street, cars travelling in opposite directions must weave in and out, between parked vehicles, to allow opposing traffic to pass.

Under our plan, we are proposing to add 8' of pavement width to the north side of Whipple Street and relocate the existing sidewalk onto our property to create more room for effective parking spaces. With the increased pavement width, we propose to start the parking spaces 50' west of the Main Street intersection and add 11 legal parking spaces, while still maintaining the 24' wide pavement width along Whipple Street. We are also proposing to add a "No Parking - Here to Corner" sign on this side of the street at the first parking space. We have also shown a similar sign on the south side of Whipple Street, but that sign has been located 100' from the Main Street intersection, as recommended in the Traffic Safety Assessment.

In September, at a public informational meeting, we heard from several area businesses that parking is their number one concern. Our suggestions and offers to help those who attended the meeting were rejected. Since we started this project, our position has been that there are opportunities to address the neighborhood parking issues, while at the same time allowing improvements to Main Street that will be safer for the entire community as they travel along this area of Main Street. Since we now know there is a high crash location in this area, our plans are now focused on solutions at that intersection.

We are working with Mike and Jamie of Shapiro Management to help them create parking on their property located at 410 Main Street. On-street parking in front of their properties is a concern at the high crash intersection. They did not attend the public meetings, but did reach out to City Staff. Staff provided their contact information and I have met with them twice to discuss

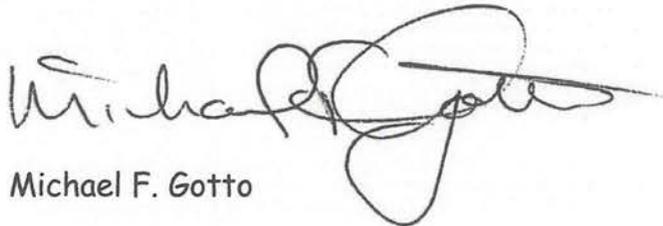
this project and our offer to help. If this proposal is approved by the City Council, we will work with them during the Site Plan review process to improve parking on their property for their buildings and tenants.

Based upon the technical studies we have completed and meetings with City Staff, the City traffic peer-review consultant and other traffic officials, we believe our request for changes to the City parking code and creation of a center turn lane in Main Street is fully justified. Travel along Main Street and through the Whipple Street intersection will be improved by these proposed changes. We hope that City Staff will provide documentation supportive of this request. We are now asking for City Council approval of these changes to your parking code, subject to final approvals of our project by the City Planning Board. If this project is not approved by the Planning Board, then the proposed changes would not take effect.

Should you have any questions or need additional information, please let me know. We will also plan to attend any Staff or City Council meetings to address any questions or concerns.

Respectfully Yours,

STONEBROOK CONSULTANTS, INC.

A handwritten signature in black ink, appearing to read "Michael F. Gotto", with a long horizontal stroke extending to the right.

Michael F. Gotto

cc: Norm Boulay, Jr.  
David Hediger, Director  
Bill Bray



**Traffic Solutions**  
*William J. Bray, P.E.*  
17 Mountview Drive  
Gorham, ME 04038  
(207) 400-6890  
[trafficsolutions@maine.rr.com](mailto:trafficsolutions@maine.rr.com)

February 12, 2019

Preliminary Traffic Assessment

For Proposed

## **Dunkin' Donuts Store**

**420 Main Street  
Lewiston, Maine**

### **INTRODUCTION**

Norm Boulay is proposing a Dunkin' Donuts store with a drive-through on a parcel of property located at 420 Main Street in the City of Lewiston. The proposed site, a corner lot, is located on the westside of Main Street at the Whipple Street intersection. Access will be provided with construction of a one-way "loop" driveway connecting directly with Main Street.

This document provides a summary of 2018 traffic volumes for the section of Main Street adjacent to the project site; an estimate of peak hour trip generation for the proposed Dunkin' Donuts store project and, evaluates the need for a separate left-turn treatment on Main Street to accommodate left-turn movements to the proposed-site driveway from Main Street.

### **EXISTING TRAFFIC**

A manual turning movement count was conducted at the intersection of Main Street and Whipple Street on Thursday, December 11, 2018 to determine existing "peak" roadway traffic volumes on Main Street at the proposed site driveway intersection. All vehicular traffic entering the intersection was recorded in 15-minute intervals between the hours of 7:00 to 9:00 AM. From a summary of the data, it was determined that the morning peak hour occurs between 7:15 and 8:15 AM, when a total two-way of 1,306 vehicles entered the intersection.

Traffic data collected during the month of December requires an adjustment to reflect "peak" travel conditions during the summer months. MaineDOT provides factors for adjusting traffic data collected during other periods of time. MaineDOT utilizes highway classifications of I, II, or III for all State and Local roadways. Group I roadways are defined as urban roadways or those roads that typically see commuter traffic and experience little fluctuation from week to week throughout the year. Group II roadways or arterial roads are those that see a

combination of commuter and recreational traffic and, therefore, experience moderate fluctuations during the year. Group III roads or recreational roadways are typically used for recreational purposes and experience significant seasonal fluctuations. MaineDOT also utilizes combinations of roadway group classifications to account for specialized seasonal traffic variations, most notably, along recreational highways. MaineDOT has designated the noted section of Main Street a Group I road, which requires the traffic data collected to be adjusted by a factor of approximately 1.13. Accordingly, the design hour traffic volume on Main Street for the morning peak hour at the proposed site entrance is 1,435 vehicles per hour.

### SITE TRAFFIC

**Site Trip Generation:** Trip generation for the proposed full-service Dunkin' Donuts restaurant was estimated based upon procedures developed in 2007 by Gorrill-Palmer, Inc. for the regional office of Dunkin' Donuts. MaineDOT conducted a thorough review of the report and have approved and adopted the following equation as an accepted procedure for calculating trip generation for a Dunkin' Donuts site:

$$Y = 0.1061x + 144.49$$

[*Y = number of trips generated during the AM peak hour and x represents the Average Peak Hour Traffic Volume passing by the site*]

The estimated 2018 design hour traffic volume for Main Street at the proposed Dunkin' Donuts site is estimated at 1,435 vehicles. Entry of the value of x (1,435) in the presented trip generation formula, results in an estimated volume of 297 vehicles generated by the proposed Dunkin' Donuts site during the AM peak hour.

**Site Trip Composition:** The 2007 Gorrill-Palmer, Inc. study established that, on average, approximately 15% of the total trips generated by a Dunkin' Donuts site are "primary" or new trips to the area; 70% are "pass-by" trips, vehicle trips already on the roadway system and; 15% are "diverted-link" trips, existing trips on adjacent roadways that shift travel patterns.

The following site trip composition values are determined for the proposed Dunkin' Donuts store:

Primary Trips	= 44 trips
Pass-By Trips	= 206 trips
Diverted Link Trips	= <u>44 trips</u>
<b>Total Trips</b>	<b>= 294 trips</b>

**Site Trip Distribution:** Vehicle trips generated during the morning peak hour were assigned to/from the proposed site based upon a 50%/50% directional split.

**Site Trip Assignment:** Trips generated by the proposed Dunkin' Donuts site were directionally assigned to the Main Street corridor based upon existing vehicle splits measured at the Main Street/Whipple Street intersection. Approximately, 67% of the site trips will approach the site from the north on Main Street and egress the site turning right to travel south on Main Street. The remaining site trips will enter from the south on Main Street and exit north. Figure 1 is a "stick-diagram" that presents the projected travel patterns of the proposed site generated traffic.

### AUXILIARY LANE WARRANT ANALYSIS

The National Cooperative Highway Research Program (NCHRP) developed a process to determine if projected traffic conditions at an intersection/driveway warrant consideration of "a left-turn treatment" from the major street to the proposed lower volume roadway or driveway. NCHRP's report 457, in table 2-5, provides guidelines for determining that requirement. 2019 Post-development traffic volumes forecast for the Site Driveway/Main Street intersection, as presented on Figure 2, were applied in completing the analysis. Based upon the results of the

analysis, a left-turn treatment should be considered to accommodate left-turn movements to the site from Main Street. A summary copy of the analysis is attached as an appendix to the report.

### **PROPOSED IMPROVEMENT PLAN**

Main Street between Elm Street and Frye Street, is constructed with a pavement width of 45-feet and parallel parking allowed on both sides of the street. A single-lane of traffic is striped in each direction of travel through the entire street segment. Based upon field measurements, a total of 11 legal size (22-feet in length and 8-feet in width) parking spaces exist on the westside of Main Street and 18 spaces on the eastside.

Considerable time and effort have been expended in searching for a traffic option that appropriately provides for safe left-turn movement to the proposed Dunkin' Donuts site from Main Street while minimizing the loss of on-street parking. Multiple options, including numerous variations of each option, have been considered and fully vetted and based upon that effort; we are proposing an "off-set" two-way center left-turn lane design that incorporates the following striping improvements to Main Street:

- 12-foot wide travel lane southbound
- 12-foot wide center two-way left-turn lane
- 12-foot wide travel lane northbound
- 9-foot parking lane on eastside of Main Street.

The proposed striping improvements would transition back to the center of Main Street at Curtis Street and connect to a recently approved center left-turn lane at Elm Street to the south. The proposed improvement plan requires removal of a total of eight parking spaces on the westside of Main Street between Elm Street and Curtis Street, which includes three existing parking spaces located in front of the proposed site. The attached "2013 Aerial Graphic – Option #1" plan provides a visual presentation of the proposed improvement plan.

In summary, the proposed "off-set" center two-way left-turn lane concept minimizes the removal of existing on-street parking (a total of 5 actual parking spaces are lost with the proposed design) through the section of Main Street between Elm and Curtis Streets while providing for safe left-turn movements to all abutting properties including the proposed Dunkin' Donuts store. The Applicant remains committed to developing additional off-site parking in the neighborhood working with property owners.

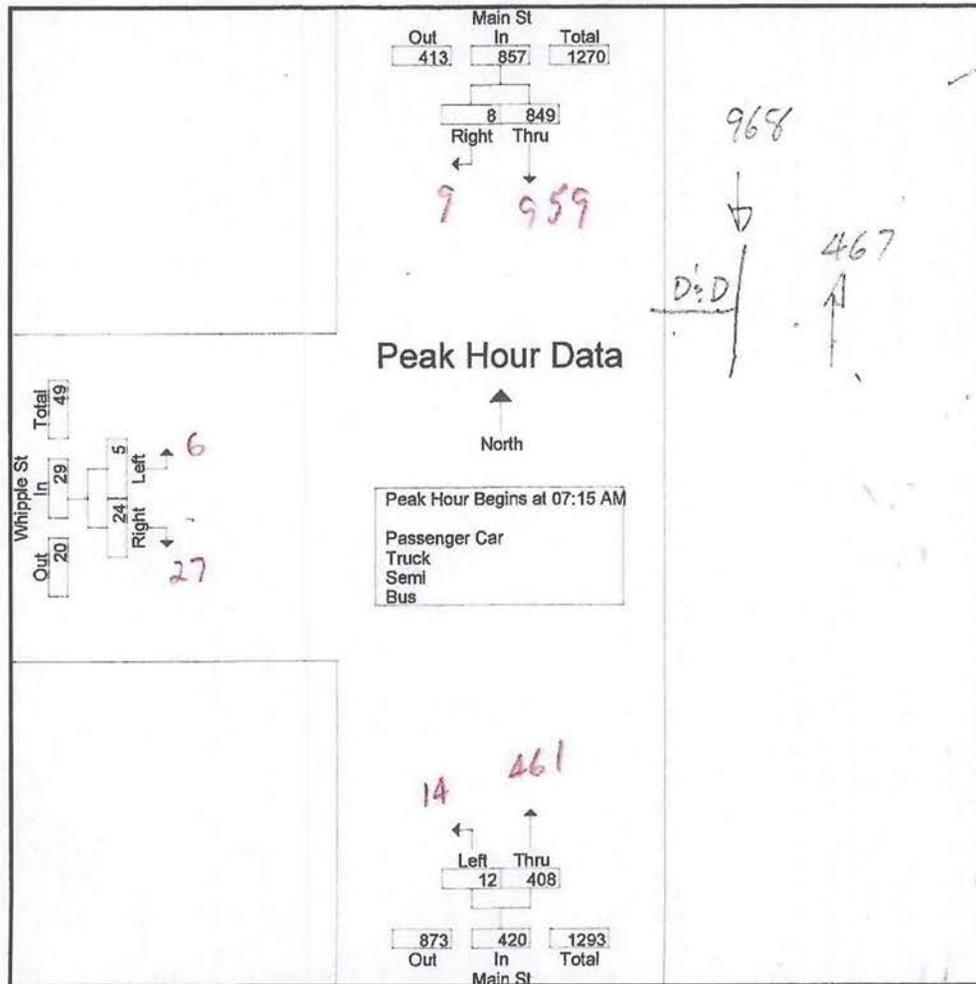


# Traffic Solutions

17 Mountview Drive  
Gorham, ME 04038

Lewiston Main Street & Whipple Street  
December 11, 2018 AM  
Sunny  
Count by Jen Gilbert

File Name : Lewiston Main Street & Whipple Street 12-11-18 AM  
Site Code : 01211181  
Start Date : 12/11/2018  
Page No : 6

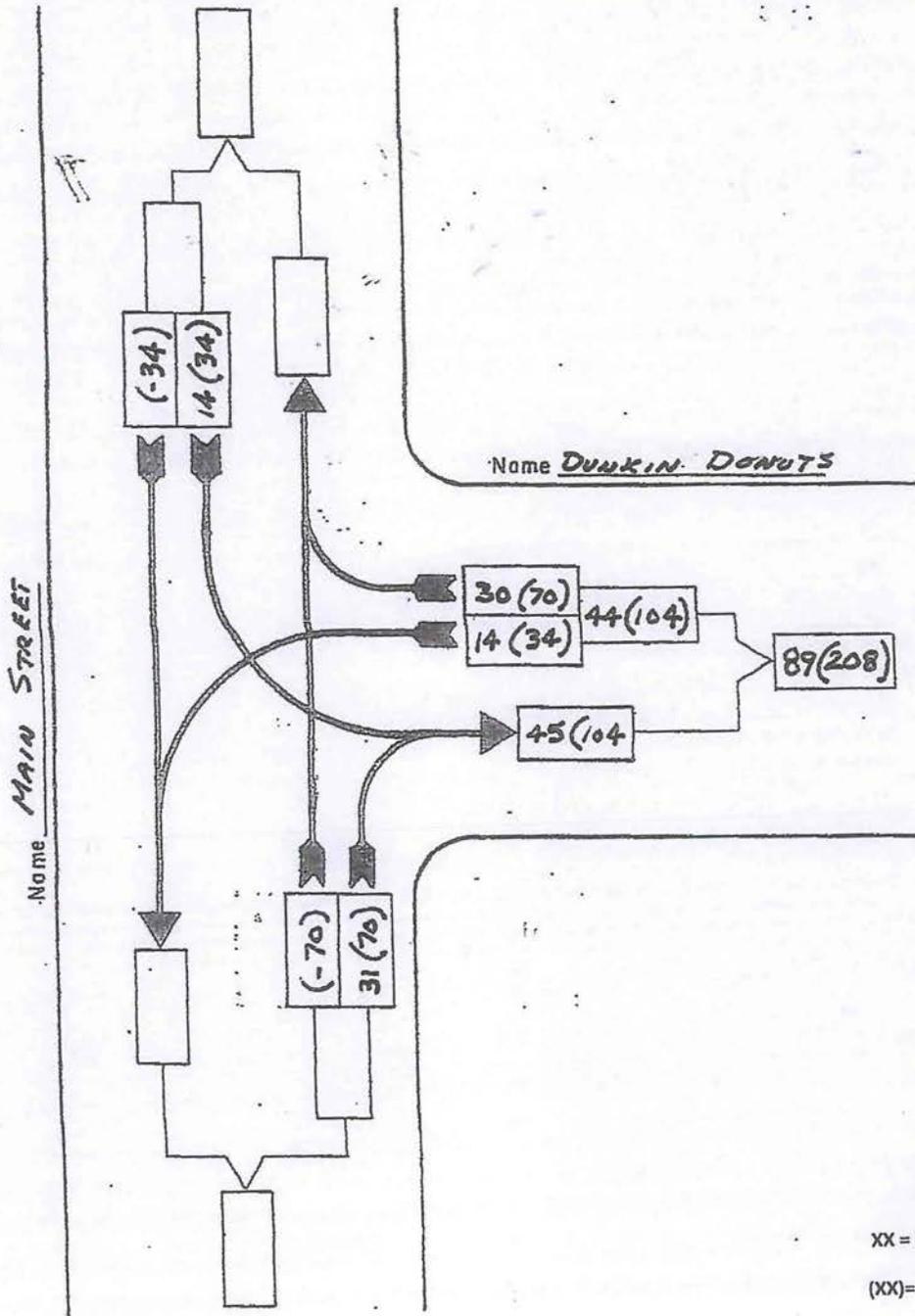
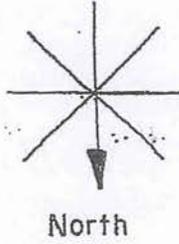


Seasonal Conversion Factor = 1.13

# VEHICLE VOLUME COUNT GRAPHIC SUMMARY SHEET

Intersection of PROPOSED DUNKIN DONUTS MAIN ST. SITE Date \_\_\_\_\_

Weather \_\_\_\_\_ Road Surface Condition \_\_\_\_\_ Time \_\_\_\_\_ to \_\_\_\_\_



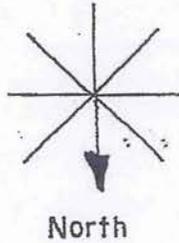
**FIGURE 1: Site Trip Assignment – AM Peak Hour**

# VEHICLE VOLUME COUNT GRAPHIC SUMMARY SHEET

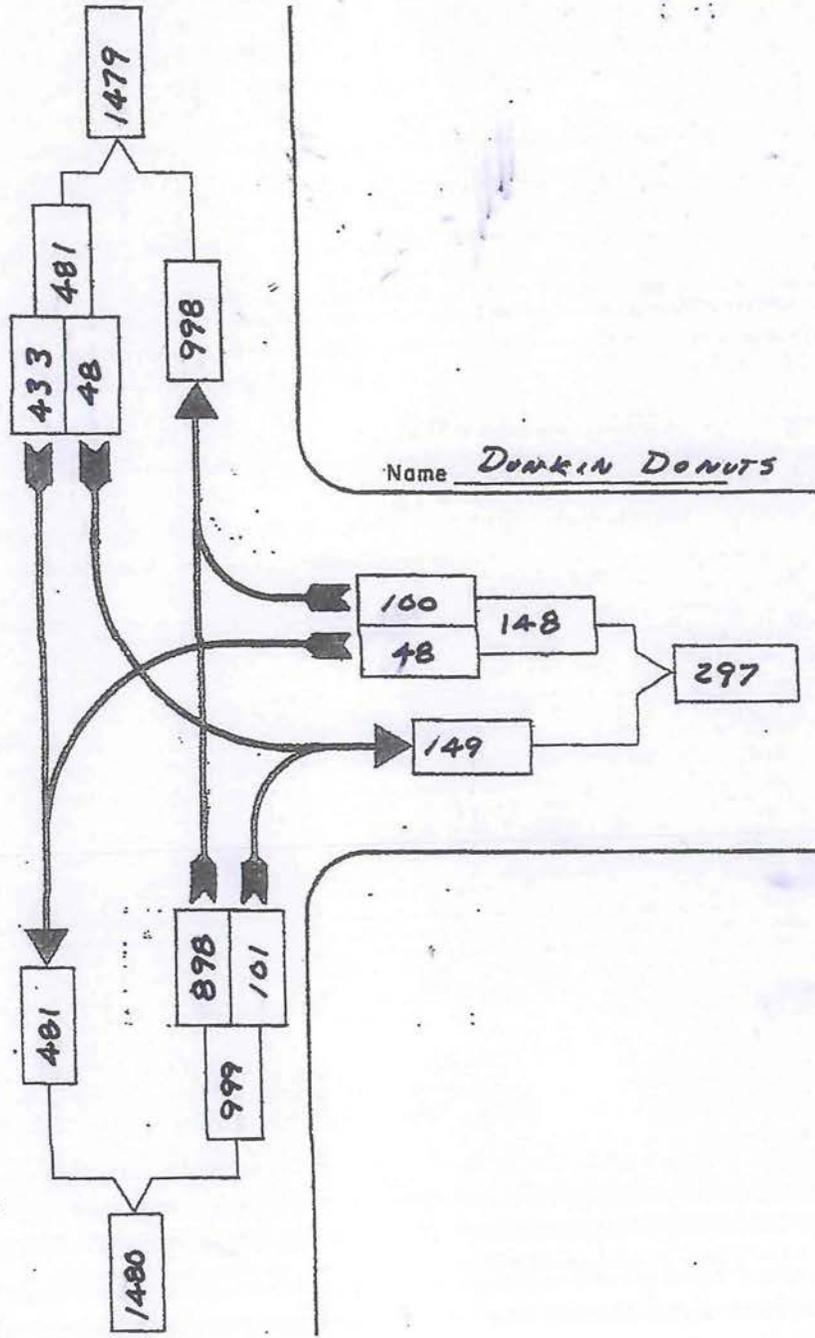
Intersection of DUNKIN DONUTS @ MAIN STREET

Date \_\_\_\_\_

Weather \_\_\_\_\_ Road Surface Condition \_\_\_\_\_ Time \_\_\_\_\_ to \_\_\_\_\_



Name MAIN STREET



**FIGURE 2: 2019 Post-Development Traffic Volumes – AM Peak Hour**

Figure 2 - 5. Guideline for determining the need for a major-road left-turn bay at a two-way stop-controlled intersection.

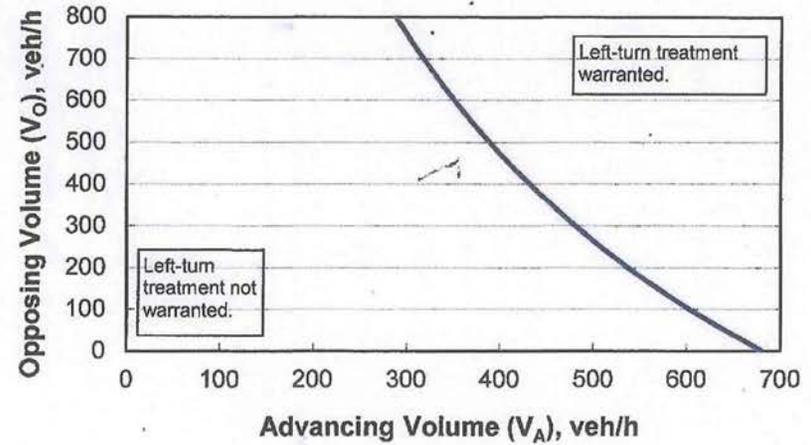
2-lane roadway (English)

INPUT

Variable	Value
85 <sup>th</sup> percentile speed, mph:	25
Percent of left-turns in advancing volume ( $V_A$ ), %:	10%
Advancing volume ( $V_A$ ), veh/h:	481
Opposing volume ( $V_O$ ), veh/h:	999

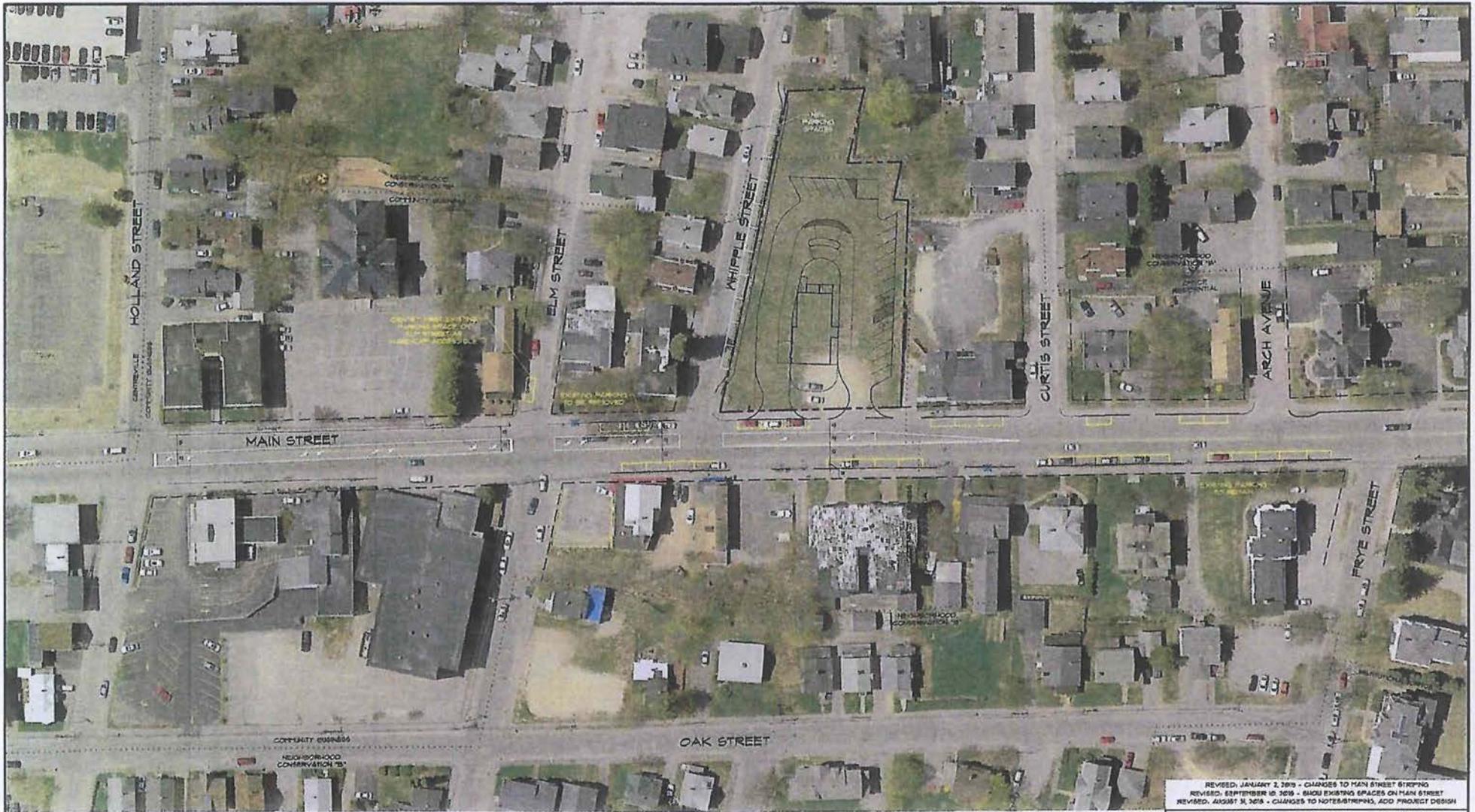
OUTPUT

Variable	Value
Limiting advancing volume ( $V_A$ ), veh/h:	237
<b>Guidance for determining the need for a major-road left-turn bay:</b>	
Left-turn treatment warranted.	



CALIBRATION CONSTANTS

Variable	Value
Average time for making left-turn, s:	3.0
Critical headway, s:	5.0
Average time for left-turn vehicle to clear the advancing lane, s:	1.9



**NOTES**

- 1) THE PURPOSE OF THIS PLAN IS TO SHOW CHANGES TO ON-STREET PARKING ON MAIN STREET. 9 PARKING SPACES ARE SHOWN ON WHIPPLE STREET AND 21 PARKING SPACES ARE SHOWN ON MAIN STREET. 3 PARKING SPACES WILL BE ADDED UNDER THIS OPTION.
- 2) BOUNDARY INFORMATION WAS TAKEN FROM THE CITY OF LEWISTON TAX MAPS.
- 3) THE AERIAL PHOTO BACKGROUND WAS TAKEN FROM THE MAINE OFFICE OF GIS AND IS DATED 2013.

REVISED: JANUARY 2, 2016 - CHANGES TO MAIN STREET STRIPING  
 REVISED: SEPTEMBER 10, 2016 - SHOW EXISTING SPACES ON MAIN STREET  
 REVISED: AUGUST 31, 2016 - CHANGES TO NOTES/STRIPING, ADD PROJECT DESIGN

**2013 AERIAL GRAPHIC - OPTION #2  
 MAIN STREET STRIPING**

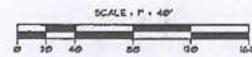
LEWISTON, MAINE  
 ANDROSCOGGIN COUNTY

PREPARED FOR  
**NORM BOULAY**

37 WATERS EDGE DRIVE - LEWISTON, MAINE 04240

**Stoneybrook Consultants, Inc.**  
 P.O. Box 459 - Turner, Maine 04282 - (207) 224-0252

DATE: AUGUST 2016	DRAWN BY: DRU	SCALE: P = 40'	SHEET
JOB NUMBER: 16-009	CHECKED BY: PPO	CADD: 16-009.AER	1





**Traffic Solutions**  
*William J. Bray, P.E.*  
17 Mountview Drive  
Gorham, ME 04038  
(207) 400-6890  
[trafficsolutions@maine.rr.com](mailto:trafficsolutions@maine.rr.com)

April 15, 2019

Mike Gotto, President  
Stoneybrook Consultants, Inc.  
P.O. Box 459  
Turner, Maine 04282

RE: Lewiston 420 Main Street Dunkin' Donuts Store – Main Street Traffic Safety Assessment

Dear Mike:

This letter provides written response to the City and their Consultants request for a detailed review of traffic safety conditions found along the section of Main Street fronting the proposed Dunkin' Donuts site. Specifically, they requested road safety conditions in the section of Main Street between Frye Street and Elm Street be reviewed based upon the most current three-year safety report information. MaineDOT's Crash Records Section provided the most current safety data for the years 2015 through 2017 (Copy of report attached). MaineDOT's report is summarized as follows:

**2015 - 2017 Accident Summary  
Main Street (Elm Street to Frye Street)**

<u>Location</u>	<u>Number of Accidents</u>	<u>Critical Rate Factor</u>
1. Main Street @ Elm Street	7	1.03
<b>2. Main Street @ Whipple Street</b>	<b>10</b>	<b>1.47</b>
3. Main Street @ Curtis Street	1	0.29
4. Main Street @ Frye Street	4	0.59
5. Main Street btw. Elm Street and Whipple Street	1	0.29
6. Main Street btw. Whipple Street and Curtis Street	5	0.87
7. Main Street btw. Curtis Street and Arch Avenue	1	0.23
8. Main Street btw. Arch Avenue and Frye Street	2	0.78

The MDOT considers any roadway intersection or segment a high crash location if both of the following criteria are met:

- *8 or more accidents and,*
- *A Critical Rate Factor greater than 1.00*

As the data presented in the chart shows, the intersection of Main Street @ Whipple Street meets MaineDOT's criteria as a High Crash Location (HCL) with a total of 10 reported vehicle crashes during the three-year study period and resultant critical rate factor of 1.47. MaineDOT's Safety office prepared detailed vehicle collision diagrams for the intersection, which are illustrated on the attached drawing. A brief summary of MaineDOT's detailed review of the intersection is summarized as follows:

Location #2: Main Street @ Whipple Street [Highlighted in Red]: Seven of the 10 total vehicle crashes occurring within the intersection were "angle" crashes, with four of the seven crashes involving a vehicle turning left or right from Whipple Street to Main Street being stuck by a vehicle traveling on Main Street. The remaining three "angle" accidents involved a vehicle turning from either direction of Main Street turning into Whipple Street.

Traffic Solutions completed in-field observations at the Whipple Street/Main Street intersection on Tuesday, March 19 between the hours of 3:15 and 4:30 PM to further understand motorist operating patterns, potential vehicle conflict points, intersection geometry, etc. that contribute to the higher than expected crash history at the intersection. The "key" findings of the field survey are summarized as follows:

- Vehicle sightlines for motorists turning left from the Whipple Street approach onto Main Street are significantly impinged by vehicles parked on the corner of Main Street. Motorists were routinely observed "inching" into the intersection to extend their sightline a sufficient distance to complete the left-turn movement onto Main Street.
- Whipple Street is a very narrow street and with the existing provision of on-street parking allowed on both sides of the street motorists turning to/from Whipple Street and Main Street are severely restricted in completing their desired turning movement.
- "Peak" traffic volumes on Main Street are excessively heavy providing few gaps for traffic turning left into Whipple Street from Main Street.
- Motorists turning left from Main Street to Whipple Street create lengthy delay problems for thru traffic traveling northeasterly on Main Street.

The safety data presented in the MaineDOT report and detailed collision diagrams, coupled with the findings and observations of the in-field study, suggests a number of possible mitigation measures for improving overall safety within the intersection. These recommendations are listed as follows:

1. Remove on-street parking on the northwest side of Main Street between Whipple and Elm Streets.
2. Re-stripe Main Street to provide either a designated left-turn lane or a center two-way left-turn lane to provide a refuge area for motorists turning left into Whipple Street.
3. Remove parking on both sides of Whipple Street within 100-feet of Main Street or widen the existing street to improve circulation from Main Street into Whipple Street.

In summary, existing safety problems at the Whipple Street/Main Street intersection are somewhat easily addressed by completing a combination of road striping improvements and on-street parking changes on Main Street in the general area of the intersection. The proposed striping and parking changes are very low cost and easily reversible improvements that, in the opinion of the writer, would greatly improve road safety conditions at the intersection. The remaining intersections and roadway sections within the defined portion of Main Street experience a very low number of vehicle crashes during the most current three-year study period.

The proposed Dunkin' Donuts project, if developed as presently designed, will provide further safety benefits to the intersection with the proposed widening of the section of Whipple Street along the full frontage of the proposed property. The widened street section improves the existing "pinch-point" occurring between both moving and parked vehicles on the street.

Very truly yours,  
William J. Bray, P.E.  
Professional Engineer

A circular professional engineer seal for William J. Bray, P.E. The seal features a central emblem with a scale of justice and a quill pen. The text "WILLIAM J. BRAY, P.E." is prominently displayed in the center. The outer ring of the seal contains the words "PROFESSIONAL ENGINEER" and "STATE OF TEXAS". The seal is partially obscured by a handwritten signature that extends to the right.



# Crash Summary Report

## Report Selections and Input Parameters

### REPORT SELECTIONS

Crash Summary I       Section Detail       Crash Summary II       1320 Public       1320 Private       1320 Summary

### REPORT DESCRIPTION

Lewiston - Main St from Elm St to Frye St

### REPORT PARAMETERS

Year 2015, Start Month 1 through Year 2017 End Month: 12

Route: **0202X**

Start Node: **3546**

Start Offset: **0**

Exclude First Node

End Node: **4098**

End Offset: **0**

Exclude Last Node

Maine Department Of Transportation - Traffic Engineering, Crash Records Section

### Crash Summary I

Node	Route - MP	Node Description	Nodes										CRF			
			U/R	Total Crashes	Injury Crashes				Percent Annual M	Crash Rate	Critical Rate					
					K	A	B	C	PD	Injury	Ent-Veh					
3546	0202X - 73.90	Int of ELM ST, MAIN ST	2	7	0	0	1	1	5	28.6	6.062	0.38	0.37	1.03		
												Statewide Crash Rate:	0.16			
3547	0202X - 73.93	Int of MAIN ST WHIPPLE ST	2	10	0	0	2	2	6	40.0	6.039	0.55	0.37	1.47		
												Statewide Crash Rate:	0.16			
3548	0202X - 73.99	Int of CURTIS ST MAIN ST	2	1	0	0	0	0	1	0.0	5.973	0.06	0.38	0.00		
												Statewide Crash Rate:	0.16			
3549	0202X - 74.03	Int of ARCH AV MAIN ST	2	0	0	0	0	0	0	0.0	2.997	0.00	0.45	0.00		
												Statewide Crash Rate:	0.16			
4098	0202X - 74.05	Int of FRYE ST MAIN ST	2	4	1	0	0	0	3	25.0	6.025	0.22	0.37	0.00		
												Statewide Crash Rate:	0.16			
<b>Study Years: 3.00</b>			<b>NODE TOTALS:</b>			22	1	0	3	3	15	31.8	27.096	0.27	0.27	1.01

# Crash Summary I

Sections																		
Start Node	End Node	Element	Offset Begin - End	Route - MP	Section U/R Length	Total Crashes	K	Injury Crashes				Percent Injury	Annual HMVM	Crash Rate	Critical Rate	CRF		
								A	B	C	PD							
3546	3547	3103929	0 - 0.03	0202X - 73.90 US 202	0.03	2	1	0	0	0	0	0	0.0	0.00178	187.49	645.90	0.00	
Int of ELM ST, MAIN ST					Statewide Crash Rate: 218.39													
3547	3548	3103930	0 - 0.06	0202X - 73.93 US 202	0.06	2	5	0	0	0	1	2	33.3	0.00356	468.16	539.93	0.00	
Int of MAIN ST WHIPPLE ST					Statewide Crash Rate: 218.39													
3548	3549	3120493	0 - 0.04	0202X - 73.99 US 202	0.04	2	1	0	0	0	0	1	0.0	0.00238	140.27	599.12	0.00	
Int of CURTIS ST MAIN ST					Statewide Crash Rate: 218.39													
3549	4098	3097850	0 - 0.02	0202X - 74.03 US 202	0.02	2	2	0	0	0	1	1	50.0	0.00119	561.10	715.74	0.00	
Int of ARCH AV MAIN ST					Statewide Crash Rate: 218.39													
<b>Study Years: 3.00</b>					<b>Section Totals:</b>		0.15	9	0	0	0	2	4	22.2	0.00890	336.99	432.61	0.78
					<b>Grand Totals:</b>		0.15	31	1	0	3	5	19	29.0	0.00890	1160.74	593.23	1.96

Rte. 202/100/  
II/Main St.

24863 8-15-17 6:47A D/C Improper Turn

28905 10-8-16 3:48P D/C Fail To Yield

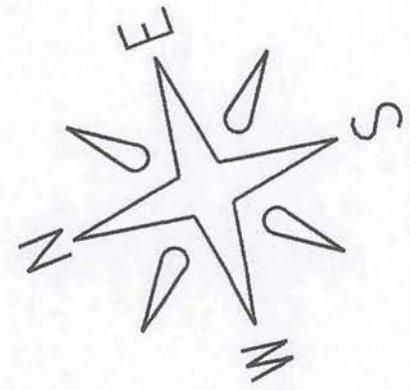
20483 7-15-15 12:43P D/CL Follow Too Close  
13931 5-6-17 5:27P W/CL Fail To Yield

1852 1-14-16 7:59A D/C Follow Too Close

27093 9-8-17 12:17P D/C Unknown  
30674 10-29-16 12:52P W/R Fail To Yield  
6017 2-10-15 3:08P S/C Fail To Keep in Lane  
22543 7-24-17 1:52P D/CL Fail To Yield  
5195 12-11-15 8:22P W/CL Bike Error/Wrong Side

Rte. 202/100/  
II/Main St.

STOP

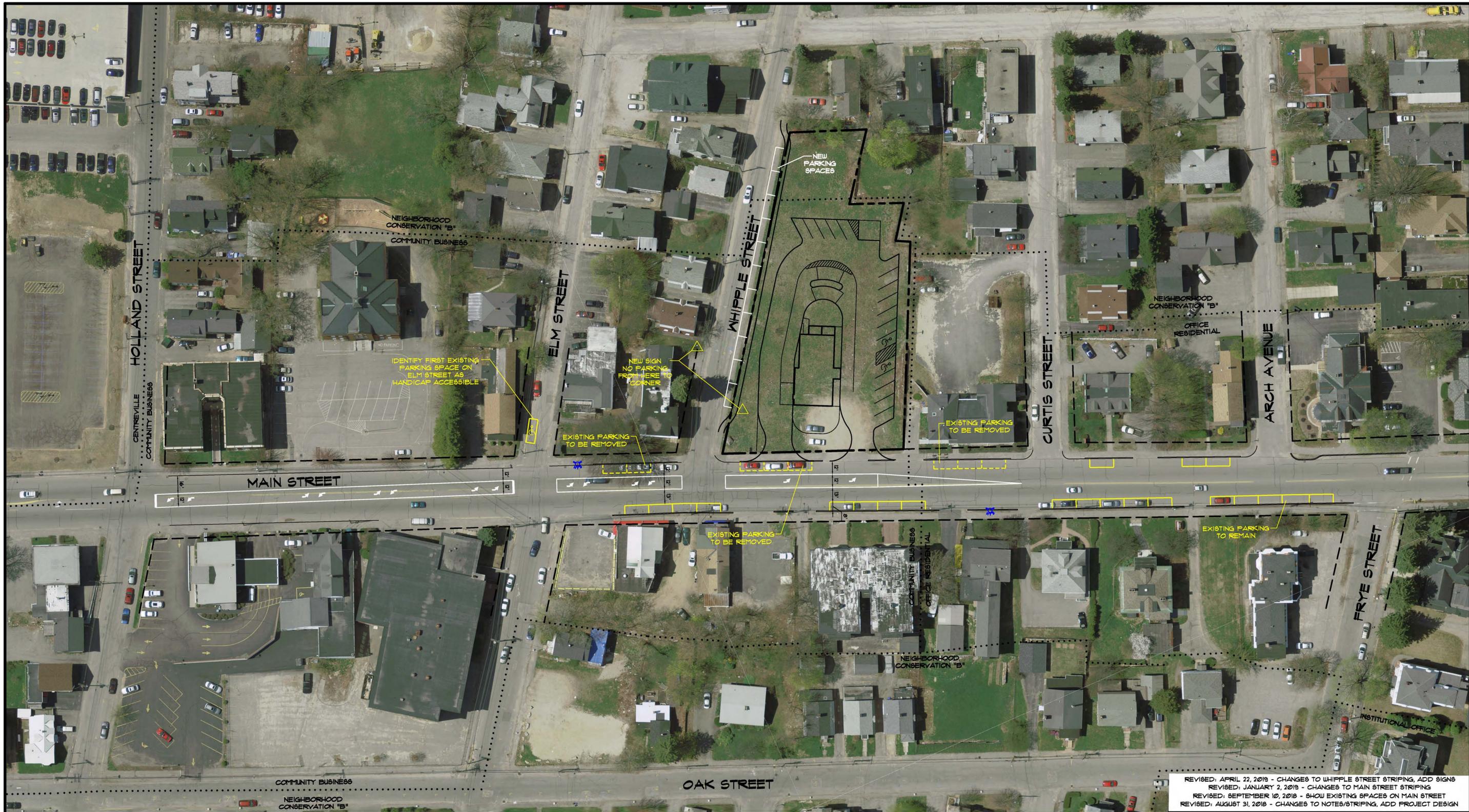


Lewiston  
Node: 3547

Study Period: 2015-2017  
# of Crashes: 10 / CRF: 1.47

Prepared by M&O Traffic Engineering (MP 6/6/18)

Whipple St.



REVISED: APRIL 22, 2019 - CHANGES TO WHIPPLE STREET STRIPING, ADD SIGNS  
 REVISED: JANUARY 2, 2019 - CHANGES TO MAIN STREET STRIPING  
 REVISED: SEPTEMBER 10, 2018 - SHOW EXISTING SPACES ON MAIN STREET  
 REVISED: AUGUST 31, 2018 - CHANGES TO NOTES/STRIPING, ADD PROJECT DESIGN

**NOTES**

- 1) THE PURPOSE OF THIS PLAN IS TO SHOW CHANGES TO ON-STREET PARKING ON MAIN STREET. 8 PARKING SPACES WILL BE ELIMINATED ON MAIN STREET AND 21 PARKING SPACES WILL REMAIN. ONE SPACE ON ELM STREET WILL BE IDENTIFIED FOR HANDICAP ACCESSIBLE PARKING. THE EXISTING PAVEMENT ON WHIPPLE STREET WILL BE EXPANDED TO ALLOW FOR 11 PARKING SPACES WHILE MAINTAINING THE 24' TRAVEL WAY.
- 2) BOUNDARY INFORMATION WAS TAKEN FROM THE CITY OF LEWISTON TAX MAPS.
- 3) THE AERIAL PHOTO BACKGROUND WAS TAKEN FROM THE MAINE OFFICE OF GIS AND IS DATED 2013.

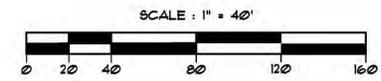
**2018 AERIAL GRAPHIC - OPTION #2  
 MAIN STREET STRIPING**

LEWISTON, MAINE  
 ANDROSCOGGIN COUNTY

PREPARED FOR  
**NORM BOULAY**

32 WATERS EDGE DRIVE - LEWISTON, MAINE 04240

**Stoneybrook Consultants, Inc.**  
 P.O. Box 459 - Turner, Maine 04282 - (207) 224-0252



DATE: AUGUST 2018	DRAWN BY: BRJ	SCALE: 1" = 40'	SHEET
JOB NUMBER: 18-020	CHECKED BY: MFG	CADD: 18-020 AER	1



## CITY OF LEWISTON

### Department of Planning & Code Enforcement

TO: Mayor and City Council  
FROM: David Hediger, Director of Planning and Code Enforcement  
DATE: May 23, 2019  
RE: Discussion regarding medical and adult use marijuana uses

On December 4, 2018, the Council adopted language amending the Code of Ordinances, Article XV, Medical Marijuana – Distribution and Cultivation, to remove references to registered dispensaries and clarify that the city has not opted in under state law to authorize registered caregiver retail stores, registered dispensaries, marijuana testing facilities, or marijuana manufacturing facilities. That action resulted in only registered caregiver grow operations (up to 30 mature plants) being allowed as a permitted use in four zoning districts: Highway Business, Office Service, Industrial, and Urban Enterprise. Any registered caregiver retail stores currently existing are now legally nonconforming.

At the December meeting, Councilors made clear their desire to continue the discussion of where and what type of marijuana operations should be allowed in Lewiston. At the Council workshop on February 12, 2019 staff recommended regulating medical marijuana and adult use marijuana similarly. Adult use marijuana and medical marijuana are governed by two separate statutes, the Adult Use Marijuana Act (28-B M.R.S. §§ 101-1504) and the Maine Medical Use of Marijuana Act (22 M.R.S. §§ 2421-2430-B). While each statute contains distinct language on local authority to regulate marijuana use and distribution for each particular purpose, staff proposed the two uses be regulated similarly from a local zoning, licensing, and performance standards perspective. On March 12, 2019 staff presented recommendations related to definitions, zoning, performance standards, and licensing requirements. On April 17, 2019 caregivers licensed in Lewiston were invited to a meeting with Planning and Code Enforcement and Lewiston Police to review the recommendations that were provided to the Council. Overall, caregivers seemed to be supportive of the regulations, while providing suggestions for staff's consideration. Staff is now presenting specific amendments for the Council's consideration in preparation of scheduling a public hearing.

#### **What may municipalities regulate?**

Municipalities may regulate adult use marijuana establishments locally. They may limit the type, number, and location of establishments, impose performance standards, and require licensing fees. This includes cultivation facilities, products manufacturing facilities, testing facilities, and stores. Cultivation facilities are further divided into four tiers based on the square footage of plant canopy. There is also a fifth category of cultivation facility called a "nursery cultivation facility." Nurseries may only cultivate up

to 1,000 square feet of plant canopy, but they are authorized to sell immature plants, seedlings, and seeds directly to consumers without a separate store license. Municipalities may regulate home cultivation, but may not generally prohibit, zone, or license the activity.

Municipalities may regulate medical marijuana establishments locally. This includes registered caregiver retail stores, registered dispensaries, marijuana testing facilities, or marijuana manufacturing facilities. Municipalities cannot prohibit or limit number of caregivers.

Municipalities may not allow a marijuana store licensee that is also a registered caregiver or a registered dispensary to sell or offer for sale to consumers adult use marijuana and adult use marijuana products within the same facility or building in which the licensee also sells or offers for sale to qualifying patients marijuana and marijuana products for medical use pursuant to the Maine Medical Use of Marijuana Act, pursuant to 28-B M.R.S. §504.5

**Recommendations for the Council’s consideration**

**Definition Recommendations**

Adult use and medical marijuana should be regulated similarly. Staff is recommending medical marijuana and adult use marijuana establishment be subject to the same local licensing, zoning, and performance standards. At this time, we do not believe there needs to be a distinction between the two uses, other than drafting definitions that reference the specific state statute definitions contained in the Adult Use Marijuana Act (28-B M.R.S. §§ 101-1504) and the Maine Medical Use of Marijuana Act (22 M.R.S. §§ 2421-2430-B). The following table summarizes the existing use groups of adult use and medical marijuana as regulated by the state and Lewiston’s proposed use group.

<b>Adult Use Marijuana Act Use Groups</b>	<b>Medical Use of Marijuana Act Use Groups</b>	<b>Proposed Lewiston Ordinance Use Groups</b>
Cultivation facilities	Not defined	Marijuana cultivation facility
Manufacturing facilities	Marijuana manufacturing facilities	Marijuana manufacturing facility
Testing facilities	Marijuana testing facilities	Marijuana testing facility
Stores	Caregiver stores	Marijuana store
Nursery cultivation facilities	(blank, not defined)	Marijuana nursery
(blank: not defined)	Dispensaries	Marijuana dispensary

**Zoning District Recommendations**

Zoning districts must be reviewed for suitability of marijuana uses. Staff has identified the following zoning districts contained in Article XI, Section 22 of the Zoning and Land Use Code as appropriate for the proposed marijuana use groups noted above:

- Districts in which the city currently permits industrial and light industrial uses are to be considered for cultivation, manufacturing, testing, nurseries, and dispensaries: Industrial, Urban Enterprise, Mill, Highway Business and Office Service.
- Marijuana stores are to be considered in those districts that currently permit retail uses: Riverfront, Community Business, Highway Business, Centreville, Urban Enterprise and Mill. Staff does not recommend including the Downtown Residential or Neighborhood Conservation “B” districts, which currently allow retail uses, since the majority of uses in these districts are residential.

### **Performance Standards Recommendations**

Establishing performance standards is really where the City may establish requirements to ensure marijuana business activity is conducted in a safe and fair manner for the health, safety, and welfare of the community. The following are standards are being recommended as specific licensing requirement to be included in an amended section of Section 22, Business, Article XV of the Code of Ordinances:

- Odor: demonstrate and ensure all uses are adequately equipped with the air handling and treatment equipment necessary to ensure that odor from marijuana plants or other marijuana products will remain confined within the premises and not be detectable off-site of the premises that are under the custody or control of the establishment or create odor that is a public nuisance at common law.
  - Some caregivers expressed concerns with this provision, noting it is a more rigorous requirement than other use groups. However, one of the few complaints we receive about marijuana businesses is odors from grow operations. Staff feels this is a reasonable requirement to ensure operators do not become an annoyance to abutting properties.
- Require that all use groups must be located within fully enclosed permanent structures.
  - The primary reason for this provision is to assist with controlling odors. A greenhouse maybe be considered a fully enclosed permanent structure.
- Locational requirements for all marijuana businesses:
  - Require 1000’ setbacks from schools and public parks, playgrounds or recreational facilities owned by the city. Setbacks shall be measured as the most direct, level, shortest, without regard to the intervening structures or objects, straight-line distance between the school etc. property line and the outer wall of the space occupied by the business. If the marijuana business is located within a commercial subdivision (i.e. business park, shopping plaza, etc.), the required setback shall be measured from the front door of each of the marijuana businesses. Notwithstanding the foregoing, more than one marijuana businesses may be located on the same parcel, provided all state and local requirements are met. Cultivation, manufacturing, testing, nurseries, and dispensaries operating within the industrial zoning district are exempt from this setback requirement. For the purposes of this paragraph, "school" includes a public school, as defined in Title 20-A, section 1, subsection 24, a private school, as defined in Title 20-A, section 1, subsection 22, a public preschool program, as defined in Title 20-A, section 1, subsection 23-A or any other educational facility that serves children from

prekindergarten to grade 12. "Public parks, playgrounds or recreational facilities" includes those areas as defined in Section 54-8 of the Lewiston's Code of Ordinances.

- This setback is consistent with areas the city has identified having significant concentrations of children existing under city ordinance 54-8 "Public drinking of alcoholic beverages prohibited" and 54-9 "Designation of Drug-Free "Safe Zones". Caregivers have expressed concern with the 1000' distance as state statute allows municipalities to reduce setbacks to 500'. They suggested a possible setback of 750'. They also expressed concerns with setbacks for city owned parks and open space located in more urban/commercial areas. Parks included in Section 54-8 are: Child's Park; Couture Park; Farwell School grounds; Franklin Pasture Athletic Complex; Gaslight Park; Geiger School grounds; Holy Family athletic field; Judge Armand A. Dufresne, Jr. Plaza; Kennedy Park; Knox Street Park; Leeds Park; Lewiston Athletic Park; Lewiston Memorial Armory; Lincoln Street Boat Launch and Park; Lionel Potvin Park; Longley School grounds; Marcotte Park; Mark W. Paradis Park; Martel School grounds; Mayer Park; McMahan School grounds; Montello School grounds; Pettingill School Park; Randall Road Softball Complex; Raymond Park; Ricker Park; Riverside Greenway; Simard-Payne Police Memorial Park; Smiley Park; St. Mary's playground (Oxford Street); Sunnyside Park; Veterans Memorial Park.
- Staff is not recommending setbacks from daycares, nurseries, or religious facilities. Staff agrees with caregiver concerns that imposing buffers from these use groups drastically limits the ability of any marijuana business from operating in the community.
- Staff questions whether the previously suggested 300' setback from any legally existing nonconforming or conforming residential uses and/or from any residential zoning districts, either in existence prior to the establishment of the business or which could be legally established thereafter is excessive. This provision and setback is similar that that required of adult business establishments and drinking places (i.e. bars). Adopting this provision for marijuana businesses will significantly limit uses from operating along Lewiston's commercially zoned corridors (i.e. Main, Sabattus, and Lisbon Streets) due to the limited depth of the commercial zoning abutting residential districts and uses. The caregivers share this concern, particularly with retail establishments (i.e. odors are not present at retail establishments). The Council needs to consider whether marijuana businesses pose similar impacts to that of currently allowed uses in proximity to residential uses and districts in comparison with possible impacts from adult business establishments and drinking places.
- The minimum distance between a marijuana store, nursery, and/or dispensary and any two other marijuana stores, nurseries, and/or dispensaries in the same or adjoining zoning district shall be 500 feet. Setbacks shall be measured as the most direct, level, shortest, without regard to the intervening structures or objects, straight-line distance between the outer wall of the space currently occupied by the business. If the marijuana business is located within a commercial subdivision (i.e. business park, shopping plaza, etc.), the required setback shall be measured from the front door of each of the marijuana businesses. Notwithstanding the foregoing, more than one marijuana

businesses may be located on the same parcel, provided all state and local requirements are met

- This provision is similar to existing language for drinking establishments. Some caregivers believe they should not be regulated like drinking establishments as product is not being consumed on site and recommend marijuana businesses should be allowed like any other retail or industrial/light industrial use.
- More than one marijuana business (Store and/or Cultivation Facility and/or Manufacturing Facility and/or Testing Facility) may be co-located and operated within the same building, structure, or portion thereof, as long as all local ordinance and state requirements are met.
- Drive-through and home delivery:
  - Marijuana stores and marijuana dispensaries are prohibited from having drive-through pick-up facilities. Marijuana retail stores are prohibited from providing home delivery services; provided, however, that medical marijuana registered caregivers (and not medical marijuana assistants unless they are also medical marijuana registered caregivers) may provide home delivery services. Adult use marijuana customers may only purchase and obtain adult use marijuana products from within a marijuana store.
    - Caregivers would like deliveries to be allowed for adult use retail establishments, feeling this would provide customers the ability to purchase from known source without having to travel. This may be worth revisiting pending the state's adoption of adult use rules.
- Security: Ensure sufficient and appropriate security measures are in place and operating at all times to include, at a minimum, the following:
  - a. Security surveillance cameras installed and operating twenty-four (24) hours a day, seven (7) days a week, with thirty (30) day video storage, to monitor all entrances, along with the interior and exterior of the premises, to discourage and facilitate the reporting of criminal acts and nuisance activities occurring at the premises; and
  - b. Door and window combination video and motion detector intrusion system with audible alarm and smart phone monitoring, maintained in good working condition; and
  - c. A locking safe permanently affixed to the premises that is suitable for storage of all marijuana, marijuana products, and cash stored overnight on the licensed premises; and
  - d. Exterior lighting that illuminates the exterior walls of the licensed premises from dusk to dawn that is either constantly on or activated by motion detectors and designed and shielded to avoid undue adverse impact on neighboring properties and rights-of-way.
  - e. Deadbolt locks on all exterior doors and any other exterior access points, excepting windows which shall have locks and bars; and
  - f. Methods to ensure that no person under the age of twenty-one (21) shall have access to marijuana and marijuana products.

- Signs: All signs used by and all marketing and advertising conducted by or on behalf of the marijuana business may not involve advertising or marketing that has a high likelihood of reaching persons under 21 years of age or that is specifically designed to appeal particularly to persons under 21 years of age. The signs, marketing, or advertising are prohibited from making any health or physical benefit claims. All signage shall meet the City's sign ordinance requirements and may use an image or images of the marijuana plant or plants, or parts thereof, as long as they do not exceed 20% of the sign face, but there shall be no pictorial representations of other marijuana products, by-products, or paraphernalia associated with the use or distribution of retail marijuana. The exterior of all marijuana businesses shall display a 1' x 1' image of any universally recognized symbol for Medical Marijuana or a symbol adopted by the State's Department of Administration and Financial Services.
- Non-conformance:
  - Marijuana businesses operating with City approval prior to December 13, 2018 are grandfathered in their current location and shall be treated as legally non-conforming uses in accordance with Article VI of the Zoning and Land Use Code if their location or use is not in conformance with this ordinance or applicable zoning ordinances, provided, however, that said marijuana businesses apply for and obtain a license.
    - Currently, the city has issued 31 local caregiver license to grow, grow and sell, or sell medical marijuana. Allowing for any of these locations to continue to operate if not in conformance with city ordinance requirements is consistent with how other non-conforming uses are handled. A nonconforming use may continue to operate at that location unless the use is deemed abandoned within a 12 to 24 month period. The exception to this is nonconforming adult business and drinking establishments, which may be deemed abandoned if not operating for at least 150 days in the prior 12-month period.
- Adopt criteria that will automatically disqualify an applicant from obtaining a local license, including:
  - Felony conviction within the past 10 years;
  - Misdemeanor convictions (or equivalent local ordinance violations) involving a controlled substance, dishonesty, theft, or fraud within the past 5 years;
  - Knowingly submitting an application that contains false information;
  - Failure to demonstrate the ability to maintain adequate premises liability and casualty insurance;
  - Failure to meet other criteria established by the State;
  - Tax delinquency issues at the local, state, or federal level.
- Require specific information from the applicant(s) who wish to operate as a single individual, a partnership, corporation, or limited liability corporation, including legal name and any aliases, names of all partners, whether the partnership is general or limited, copies of the partnership agreements, evidence that the corporation is in good standing under State law, the names and capacity of all officers, etc.

## Fee structure recommendations

The current license application fee in Lewiston is \$550 annually. Given the unforeseen number of existing establishments and the potential for more, as well as the amount of time and resources involved by various departments in processing and inspecting establishments (i.e. clerks, police, fire, planning/code enforcement), there is a justifiable need to increase the fee. Some caregivers expressed concerns with the proposed increases. A quick review communities suggests these are reasonable and consistent. Recommended fee's include:

- Marijuana Store: Annual Operation Permit/License Fee: \$1,500
- Marijuana Manufacturing Facility: Annual Operation Permit/License Fee: \$1,000
- Marijuana Testing Facility: Annual Operation Permit/License Fee: \$500
- Marijuana Cultivation:
  - Tier 1: 250 to 500 SF of plant canopy: Annual Permit/Licensing Fee: \$1,000.
  - Tier 2: 501-2,000 SF of mature plant canopy: Annual Permit/License Fee: \$1,500.
  - Tier 3: 2,001-7,000 SF of mature plant canopy: Annual Permit/License Fee: \$2,500.
  - Tier 4: 7,001-20,000 SF of mature plant canopy: Annual Permit/License Fee: \$5,000.
  - Nursery Cultivation: Cultivation of not more than 1,000 SF of plant canopy in compliance with 28-B M.R.S. §501.3: Annual Permit/License Fee: \$1,500 (Plant canopies of individual Nursery Cultivations are permanently capped at 1,000 SF.)
- Dispensary: Annual Operation Permit/License Fee: \$1,500

## Exemptions

- Each person of 21 years of age or older who is domiciled at that parcel or tract of land is not subject to the above referenced provisions, whether growing as a primary caregiver for themselves and or for their personal adult use as allowed per state law, as long as cultivation is located within fully enclosed structures and any odor from marijuana plants or other marijuana products remain confined within the premises and not be detectable off-site of premises that are not under the custody or control of the establishment or create a public nuisance at common law.
- Registered caregivers manufacturing out of their residence shall apply for and obtain a permit for a home occupation in accordance with Articles II and V of the Zoning and Land Use Code and shall comply with all applicable standards set forth in this ordinance. Registered Caregivers who manufacture medical marijuana only for themselves and/or members of their household are exempt from this requirement and are not required to obtain a permit or license as it applies to this section of ordinance. Adult use manufacturing out of a residence is prohibited.
  - Registered caregivers manufacturing requirements apply to operators producing edible marijuana products out of their home. This is consistent with how the City currently regulates home food processors. Operators are required to obtain a home occupation permit, which limits employees to those residing on the premises and prohibits stock-in-trade on the property. They are also required to obtain a local special food handler's license and a food processing license from the Maine Department of Agriculture. The City may want to revisit adult use manufacturing operating in a residence once the state adopts rules.

**Conclusion**

Upon direction from the Council, amendments will be drafted and scheduled for public hearing before the Council and Planning Board. Additional provisions remain to be considered with respect to license application requirements, definitions, appeal provisions, etc. This includes rescinding nearly all of the existing medical marijuana provisions contained in Chapter 22, Article XV. However, staff believes we are at a point where a formal request and hearing may be scheduled.

## Maine Marijuana Statutes Cheat Sheet

Prepared by MMA Legal Services. For more information on marijuana and municipalities, please contact our office at 623-8428, or visit our Member Center website at [www.memun.org](http://www.memun.org).

### Marijuana Legalization Act (or Adult Use Marijuana Law) – 28-B M.R.S. §§ 101-1504

- Legalizes the use and commercial sale of marijuana for recreational (adult use) purposes
- Personal use and cultivation allowed state-wide – can grow up to 3 mature plants, 12 immature plants and unlimited seedlings
- Establishes state licensing process for 4 types of adult use marijuana establishments: cultivation facilities (including nurseries), retail stores, products manufacturing facilities, and testing facilities – **NO** social clubs
- **Default is prohibition** – municipality must vote to “opt in” to operation of adult use marijuana establishments within the municipality (if it wants to allow them)
- State licensing through DAFS, conditioned on municipal approval - will not begin until at least fall 2019
- Municipalities may regulate adult use marijuana establishments locally
- Municipalities may regulate home cultivation, but may not generally prohibit, zone, or license the activity
- State collects sales tax on retail sales and excise tax on wholesale marijuana and marijuana products (20% effective tax rate)– no state-municipal revenue sharing or local option taxation

### Maine Medical Use of Marijuana Act – 22 M.R.S. §§ 2421-2430-H

- Legalizes the use and distribution of marijuana for medical purposes by qualifying patients, caregivers, dispensaries, manufacturing facilities, and testing facilities
- Establishes registration requirements through DAFS for medical marijuana caregivers, dispensaries, manufacturing facilities, and testing facilities
- Authorizes registered caregivers to operate medical marijuana retail stores (retail store is undefined)
- Allows six additional registered dispensaries, and unlimited dispensaries after 2021
- Local code enforcement officers can obtain caregiver registration information from State
- Municipalities may regulate registered caregivers, registered caregiver retail stores, registered dispensaries, testing facilities, and manufacturing facilities, except municipalities cannot prohibit or limit number of caregivers
- **Default is prohibition** – municipality must vote to “opt in” to operation of registered caregiver retail stores, registered dispensaries, testing facilities, and manufacturing facilities (if it wants to allow them)
- Medical marijuana establishments already in operation with “municipal approval” as of December 13, 2018 are grandfathered
- Most medical marijuana products sold by registered caregivers and dispensaries subject to 5.5% sales tax. Edible marijuana products subject to 8% sales tax – no state-municipal revenue sharing or local option taxation

### Hemp – 7 M.R.S. § 2231

- Allows cultivation, harvest, possession and processing of hemp by individuals who obtain a state license
- Statute does not address municipal regulation of hemp – Maine Agriculture Protection Act (7 M.R.S. Ch.6) may apply
- **New emergency legislation**, enacted March 27, 2019 (LD 630), redefines “hemp” to **include all derivatives**, namely cannabidiol (CBD), and is intended to allow production and sale of hemp **and hemp-derived products** in intrastate commerce with a state hemp license
- **Impact of LD 630 on regulation of CBD under medical and adult use statutes remains unclear.** Definitions of marijuana and marijuana concentrate in medical and adult use laws still include strains of cannabis qualifying as hemp
- Questions about regulation of CBD production and sale should be directed to Maine Department of Agriculture, Conservation and Forestry (207) 287-3841