

**LEWISTON CITY COUNCIL AGENDA
CITY COUNCIL CHAMBERS
JUNE 18, 2019**

6:00 p.m. Workshop

- A. Update from Museum LA
- B. Garcelon Cemetery – Request for City Maintenance

7:00 p.m. Regular Meeting

Pledge of Allegiance to the Flag

Mayoral Proclamation recognizing Lewiston High School Girls Tennis Team – State Championship
Mayoral Recognition of Volunteers for Flag Placement at Veteran’s Gravesites

Lewiston Youth Advisory Council Update

Acceptance of the minutes of the May 21 and June 4, 2019 meetings.

Public Comment period – Any member of the public may make comments regarding issues pertaining to Lewiston City Government (3 minutes per speaker; maximum time for all comments is 15 minutes)

ALL ROLL CALL VOTES FOR THIS MEETING WILL BEGIN WITH THE COUNCILOR OF WARD 6.

CONSENT AGENDA: All items with an asterisk (*) are considered to be routine and will be enacted by one motion. There will be no separate discussion of these items unless a Council member or a citizen so requests, in which event, the item will be removed from the Consent Agenda and considered in its normal sequence on the Agenda

- *1. Order Authorizing Execution of a Municipal Quitclaim Deed for Real Estate located at 19 Cram Avenue.
- *2. Amendment to the Traffic Schedule to remove one hour parking on a portion of Ash Street.
- *3. Amendment to the Traffic Schedule to create three fifteen (15) minute parking spaces on Park Street.

REGULAR BUSINESS:

- 4. Public Hearing on the renewal application for a Special Amusement Permit for Live Entertainment for the Acme Social Club, Inc., 255 Park Street.
- 5. Public Hearing for approval of Outdoor Entertainment Permit for the Liberty Festival.
- 6. Public Hearing & First Passage for Land Use Code Amendments regarding the creation of the Lewiston Commercial Historic District.
- 7. Public Hearing and First Passage for Land Use Code Amendments regarding Nursery Schools.
- 8. Resolve, Replacing Master Policy 21, Employee Performance Evaluation Policy, with a Revised Policy.
- 9. Resolve, Amending the Traffic Schedule to Designate the West Side of Main Street from Elm Street to Curtis Street “No Parking Anytime” subject to Certain Conditions.
- 10. Order, Approving the Assignment of a Purchase and Sale Agreement for 188 Lincoln Street between the City and LWS Development LLC and Wilbur & Company to 188 Lincoln St, LLC; and to authorize the City Administrator to execute the same.
- 11. Authorizing the City Administrator to Execute and Record a Declaration of Environmental Covenant on the former Site of the Androscoggin Mill #8.

12. Resolve, Authorizing Transfer of \$210,000 from FY18 Capital Project Fund to Fund Three FY20 LCIP Projects.
13. Reports and Updates
14. Any other City Business Councilors or others may have relating to Lewiston City Government.
15. Executive Session pursuant to MRSA Title 1, section 406(6)(A) to discuss a personnel matter.

LEWISTON CITY COUNCIL
WORKSHOP AGENDA
TUESDAY, JUNE 18, 2019
6:00 PM

1. Update from Museum LA – 20 minutes

Rachel Desgrosseilliers has requested the opportunity to brief the City Council on the Museum's recently completed master plan.

2. Garcelon Cemetery – Request for City Maintenance – 30 minutes

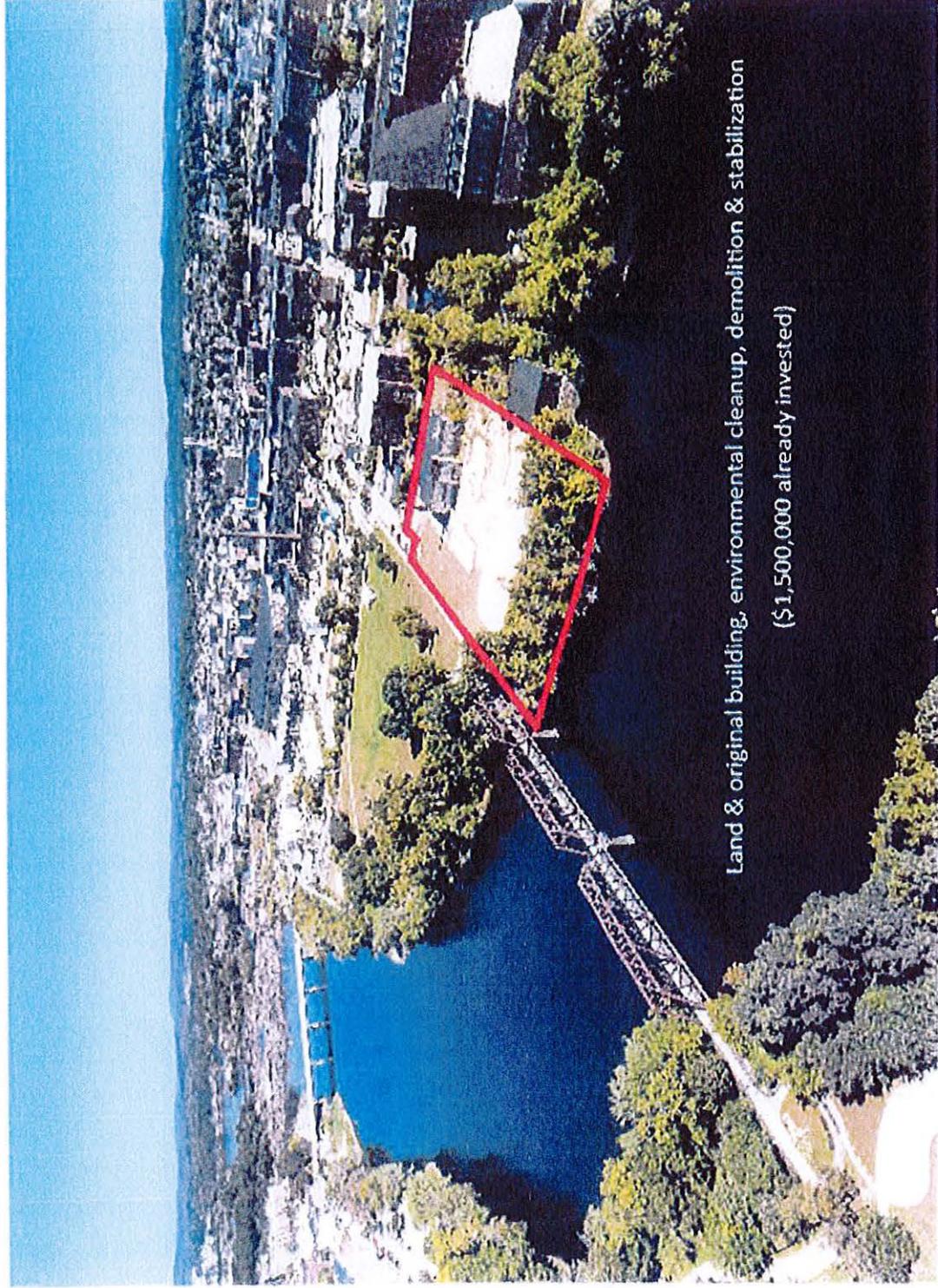
In 2014, David Garcelon, the President of the Garcelon Cemetery Association, requested a donation from the City to assist in offsetting the cost of maintaining the Cemetery since the Association was running low on funds and members willing to volunteer to perform maintenance activities. In addition, he indicated that the City of Lewiston actually owns a portion of the cemetery. At that time, the Council did not provide funding noting that the Association was managing to address basic needs. More recently, he again contacted the City indicating that the Association's membership and funds have declined to the point where it will soon be unable to perform or pay to contract for maintenance and requesting that the City assume maintenance responsibilities. It should be noted that the Cemetery consists of three lots. Lot 1, which we have generally believe to be owned by the Association; Lot 14, which we believe is owned by the heirs of John B. Garcelon; and lot 15, owned by the City by virtue of an 1871 deed. Attached please find Mr. Garcelon's letter; a map of the cemetery showing the three lots involved, the Treasurer's Report on the Finances of the Cemetery Association, a Chronology and History of the Cemetery; the deed transferring lot 15 to the City, and a legal opinion on the City's obligations to maintain the Cemetery. The cemetery is located across from the intersection of Ferry and Cotton roads. Mr. Garcelon has been invited to be present.



The Story of Work and Community
in Lewiston-Auburn

City of Lewiston – June 18, 2019

Aerial View of the New Site



Land & original building, environmental cleanup, demolition & stabilization
(\$1,500,000 already invested)

The Museum's Constituents

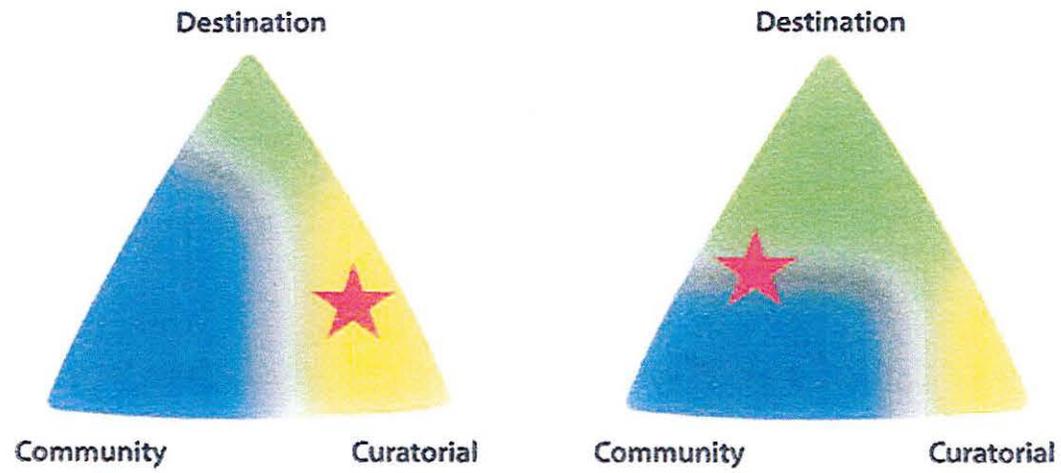
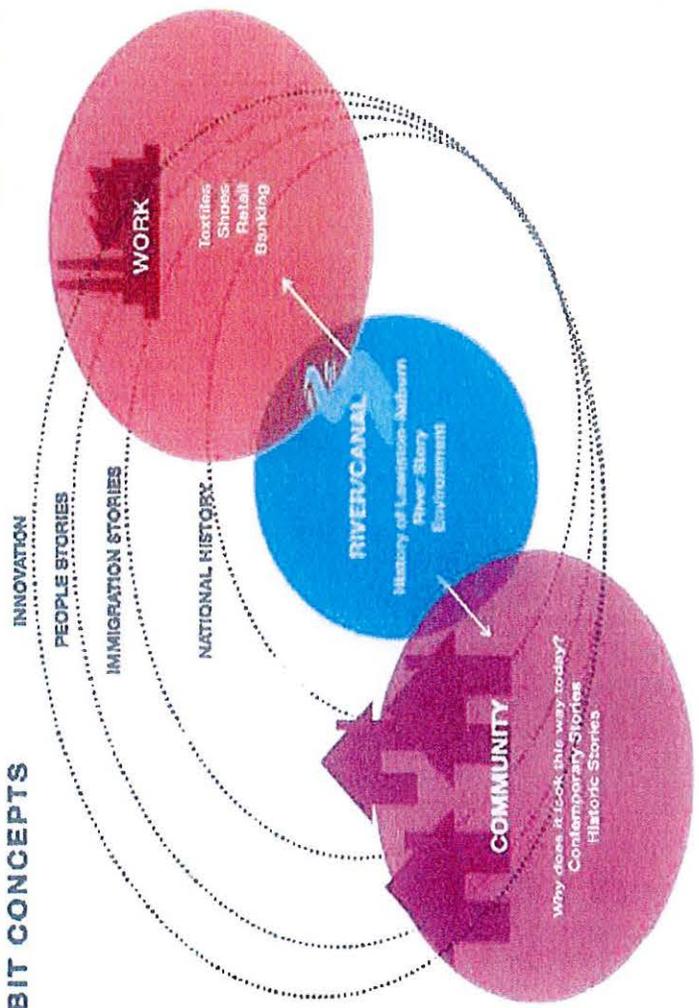


EXHIBIT CONCEPTS



Operating Summary Budget

Operating Summary	2021	2026
Earned Revenue	\$135,000	\$350,000
Unearned Revenue	\$90,000	\$258,000
Endowment Draw	\$80,000	\$200,000
	\$305,000	\$808,000
Salaries, Fringe, and	\$305,500	\$571,910
Exhibits, Programs, and	\$60,000	\$160,000
Other Expenses	\$26,150	\$35,000
	\$391,650	\$766,910
Startup Funds	\$100,000	—
Net Revenue	\$13,350	\$41,090

Phases of the Preliminary Capital Budget

	Phase 1 23,000 SF	Phase 2 10,000 SF	Phases 1+2 33,000 SF
Renovation, New Construction, & Site Work	\$8,000,000	\$2,300,000	\$8,300,000
Core Exhibits	800,000	300,000	900,000
Architecture and Engineering	550,000	250,000	800,000
Furniture, Fixtures, and Equipment	300,000	100,000	400,000
Initial Startup Funds	400,000	200,000	600,000
Cost of Campaign	300,000	200,000	500,000
Contingency	800,000	330,000	1,130,000
Total Building Project Costs	\$9,950,000	\$3,680,000	\$12,830,000
Endowment Funds	\$2,000,000	\$3,000,000	\$5,000,000

David C. Garcelon
President
Garcelon Cemetery Association
P.O. Box 316, Harpswell, ME 04079
207-373-1990 DCGPLS@gmail.com

MAR 29 2019

March 26, 2019

Kathleen M. Montejo, City Clerk
City of Lewiston, Maine
City Hall
27 Pine Street
Lewiston, ME 04240

Re: Veteran's Graves at the Garcelon Cemetery on Ferry Road.

Dear Ms. Montejo,

As the President of the Garcelon Cemetery Association, which has cared for this Cemetery for 114 years, I am now requesting that the City of Lewiston maintain the Cemetery in good condition. This would involve repairing all of the Veteran's graves, headstones, monuments or markers, as well as keeping the grass suitably cut and trimmed on all graves in the Garcelon Cemetery.

I have attached a list of the 32 veterans buried in the cemetery, as well as a small plan with a red dot by each Veteran's grave.

The Garcelon Cemetery was created in 1819. After 86 years of maintenance by the members and relatives of the Garcelon Family, the Garcelon Cemetery Association was formed in 1905. The Association's intent was to care for and maintenance the cemetery. The City of Lewiston had not been caring for the Cemetery.

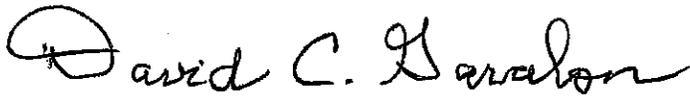
The Garcelon Cemetery Association has cared for the cemetery since 1905 (114 years). In recent years, the City, through Stephen Murch, the City Arborist, has planted, trimmed, and removed trees in the cemetery. The Garcelon Cemetery Association has hired an outside contractor to mow and trim the grass; currently the Association spends approximately \$2000.00 per year for that service. In addition, the Association has also hired outside contractors to replace and repair the fence, clean and repair the gravestones. Every year members of the Association have cleared bush, dug up stumps, and done fall and spring clean-ups, etc.

The last request by the Association to receive financial assistance from the City was rejected by the City.

The membership of the Association has declined to the point that the financial contributions we receive from the members is insufficient. In addition, the age and health of most members prevents them from doing the volunteer work necessary.

The Association's funds are running low, and we will soon be unable to contract with an outside contractor to do the spring and fall cleanups as well the the mowing and trimming of the Cemetery.

Thank you for your attention to this matter. I hope to hear from you before the mowing and trimming season begins.

A handwritten signature in cursive script that reads "David C. Garcelon". The signature is written in black ink and is positioned above the typed name and title.

David C. Garcelon, President
Garcelon Cemetery Association

VETERANS BURIED in the GARCELON CEMETERY

on

FERRY ROAD, LEWISTON, MAINE

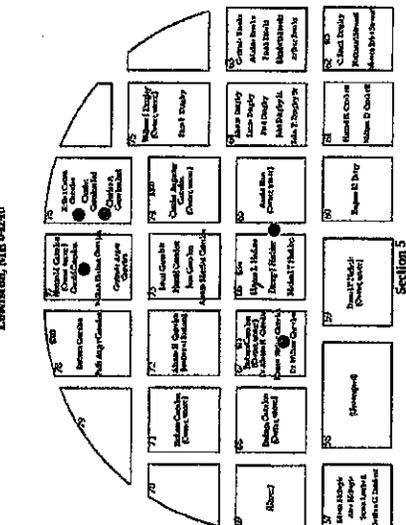
Ames, Winslow (1762-1851)	Captain, Maine Militia
Bosse, Frank E. (1933-1997)	Corporal, U.S Army, Korea
Brainerd, Robert Henry (1936-2007)	U.S. Army
Carvill, Henry (1755-1823)	Revolutionary War Soldier
Carvill, Lewis (1833-1900)	1st Infantry Regiment , Civil War
Carvill, John (1842-1880)	Captain, 5th Light Artillery Battery, Civil War
Coleman, Charles (1836-1862)	10th Infantry Regiment, Civil War
Davis, Henry D. (1833-1865)	Civil War
Davis, William G. (1838-1862)	Private, 2nd Maine Infantry, Civil War
Dingley, John Taber (1830-1892)	Private, Alabama State Artillery
Dyer, Elkanah (1759-1820)	Private, Colonel Mitchell's Regiment, American Revolution
Fuller, David (1777-1850)	Captain in Maine Militia
Garcelon, Charles Augustus (1842-1935)	2nd Lieutenant, 16th Maine Regiment, Captain, U.S, Army, Civil War
Garcelon, Charles Augustus Jr. (1874-1938)	U.S. Navy (Intelligence Service).
Garcelon, Gerald G. (1908-1977)	LCDR, U.S. Navy
Garcelon, Henry H. (1836-1896)	3rd Maine Infantry, Civil War
Garcelon, Hosea (1810-1878)	Civil War Veteran
Garcelon, James (1739-1813)	Revolutionary War era Patriot
Garcelon, Joseph S. (1817-1897)	Captain, Civil War
Garcelon, Samuel D. (1793-1864)	Sergeant, W.R. Blaisdell's Regiment
Garcelon, William (1786-1852)	Colonel in Maine Militia
Garcelon, William Stetson (1927-1965)	U. S. Navy (Medical Service)
Gilpatrick, Nathaniel W. (1823-1862)	Cpl., 16th Maine Regiment, Civil War
Ham, William R. (1829-1864)	Captain, 32nd Maine Infantry, Civil War
Hodgkin, Jonathan (1794-1876)	Captain, Maine Militia
Hodgkin, Thomas (1778-1855)	Maine Militia
O'Neil, Daniel James (1930-2011)	Private, U.S. Army
Osgood, Silas B (1825-1912)	Captain, 1st Maine Infantry, Civil War
Powers, James R. (1917-1984)	174 th Infantry, U.S. Army
Powers, Jean S. (1917-2005)	
Snow, William G. (1846-1911)	Captain, U.S. Navy, Civil War
Wright, Jonathan (1810-1865)	Captain, Civil War

prepared by David C. Garcelon

Figures in italic indicate endowments

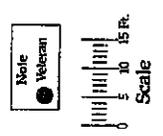
Section 1
(Lots 56-64)

Gardner Cemetery
Ferry Road
Lewistown, ME 04240



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Notice
James & Delia Gardner, Joint Owners of the above lots of all Gardens, being in America, James was born Apr 4, 1793 on the Isle of Jersey in the Channel Islands, he died in 1870. Delia was born in 1790 and died in 1870. Married Delia Gardner at Cape Ann on March 2, 1794. Settled in Lewiston, Maine in 1798. Died Nov 13, 1873. James Gardner was the only son of Ezra Pease Gardner, James and Delia's children were James, William, Peter, David, Maria, Lucy and Sally.



101	102	103	104	105	106	107	108	109	110	111	112	113	114	115	116	117	118	119	120	121	122	123	124	125	126	127	128	129	130	131	132	133	134	135	136	137	138	139	140	141	142	143	144	145	146	147	148	149	150	151	152	153	154	155	156	157	158	159	160	161	162	163	164	165	166	167	168	169	170	171	172	173	174	175	176	177	178	179	180	181	182	183	184	185	186	187	188	189	190	191	192	193	194	195	196	197	198	199	200
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Ferry Road

Section 3

Section 2

Section 1

Section 6



This Map is provided by the City of Lewiston, ME Mapping shown on is for general reference. The City of Lewiston does not warrant the accuracy of the map and shall not be held liable for damages due to discrepancies and makes no warranty of accuracy of map. Field verification is required. This map is not printed scale.



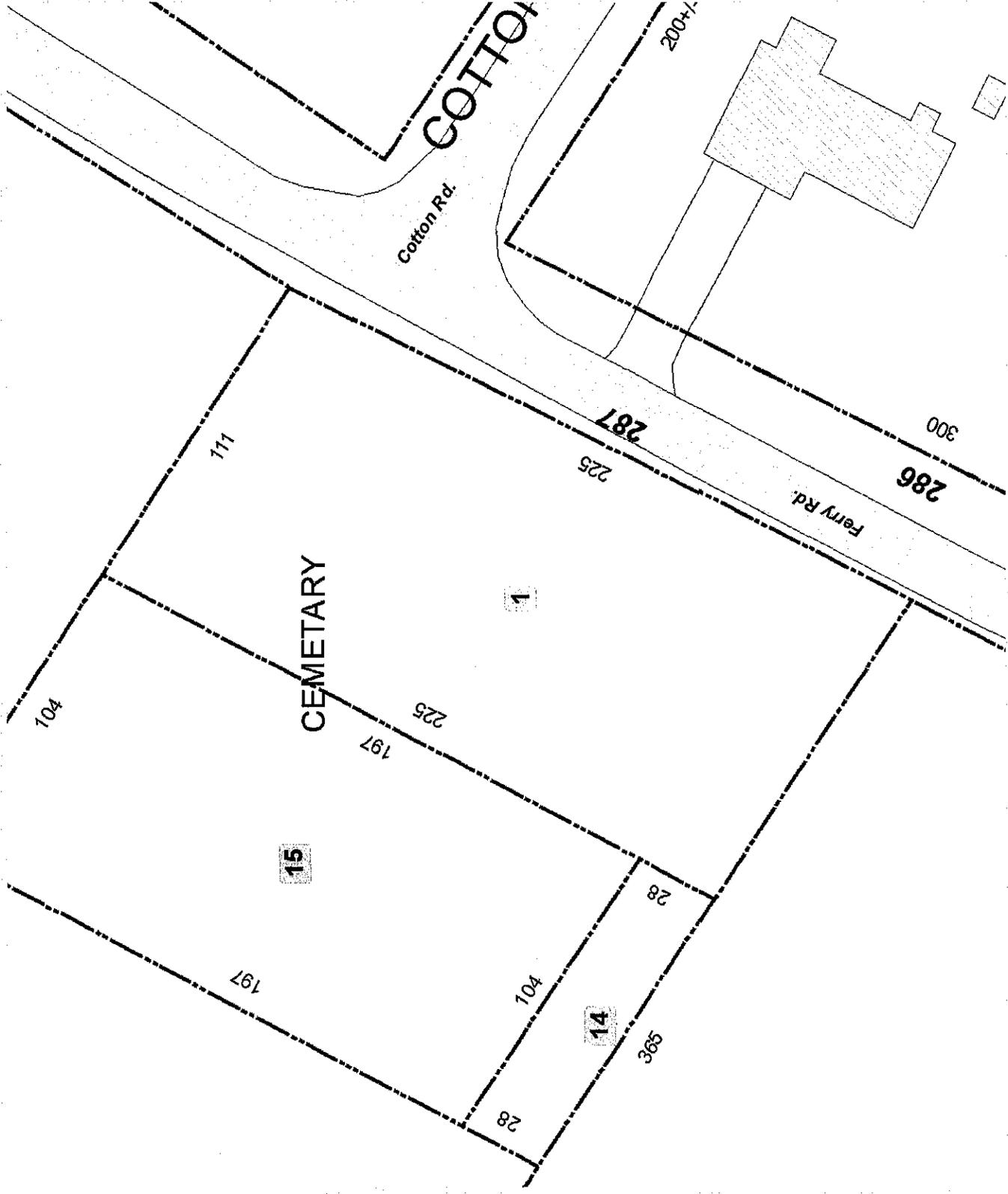
Approximate Map Scale:
1 in = 43 ft

Legend

- Parcel Line
 - Boundary
 - Mobile Home Lot
 - Street Address
 - Subject Map and Lot
 - Lot Dimensions
 - Lot Orientation
 - Utility ROY
- Platimatic Legend:**
- Building, General
 - Mobile Home
 - Foundation
 - Pool
 - Well
 - Fence
 - Driveway
 - Walkway
 - Asphalt Courts, Paths
 - Swimming Pool
 - Lake or Pond, River, Canal
 - Range of Approximate Area
 - Computer Distorted Field
 - Stream, Channel

Computer Mapping
displayed here is for
reference purposes
only, and shall not be
used in place of a
boundary survey.
Do not use for description
delineation, or transfer
of property.

Map-Lot
131-1
287 FERRY RD
Parcel ID
RE00013333
Tax Mapping
Effective 03/31/2019
City of Lewiston
Assessing Dept.
27 Pine Street
Lewiston Maine 04240



GARCELON CEMETERY ASSOCIATION
TREASURER'S REPORT

for the time period from May 11, 2018 to May 10, 2019

NORTHEAST BANK CHECKING ACCOUNT

Balance as of May 11, 2018 \$3364.37

Balance as of May 10, 2019 \$3879.37

RECEIPTS

Interest \$0.00

Dues \$570.00

Donations \$1685.00

Total Receipts \$2255.00

EXPENSES

Cemetery Maintenance \$1740.00

Total Expenses \$1740.00

Burlington Northern Santa Fe LLC Bond - (Purchased \$9000.00 bond at annual interest rate of \$4.15% (\$373.50 per annum) on October 16, 2015 for \$8788.65)

Bond Value as of May 10, 2019 \$9280.26

Interest earned to date \$1317.97

Total Value of Bond Account (as of May 10, 2019) \$10,598.23

TOTAL FUNDS as of May 11, 2018 \$13,223.75

TOTAL FUNDS as of May 10, 2019 \$14,477.60

Increase in Total funds from May 1, 2017 to May 11, 2018 \$1253.85

CHRONOLOGY
&
HISTORY
of the
GARCELON CEMETERY



Copyright by David C. Garcelon, 2019

May 16, 1814

A large portion of the *Intervale Cemetery* which was located on James Garcelon's farm was washed downriver by the flood waters of the Androscoggin River. Among those buried in the Cemetery were James Garcelon (1739-1813), Sally (Garcelon) Moody (1776-1811), and James Ames (1801-1803).

The Cemetery was located on the bank of the Androscoggin River just below the James Garcelon homestead.

May 17, 1819

Hannah (Ames) Garcelon (1771-1819) died. She was the wife of Mark Garcelon (1771-1830). On the same day the Garcelons deeded a 6 rod (99 feet) by 8 rod (132 feet) parcel to the Town of Lewiston for a burying ground and Hannah was buried on that parcel.

September 18, 1871

John Blethen Garcelon (1830-1904) deeded a parcel of land to the City of Lewiston as an addition to the "*old burying ground.*"

The parcel was a rectangle which was 6 rod 8 links (104.28 feet) wide by 12 rods 21 links (225.06 feet long).

Garcelon reserved to himself a "*piece of the above described land twenty eight feet wide, across the old burying ground, and six (6) rods and eight (8) links in length, which shall be reserved to the said grantor for a burying ground, and for nothing else and for no other purpose.*"

It is noteworthy that Garcelon did not add "to my

heirs and assigns.” The reason is quite clear. Garcelon wanted his burial plot to be on the portion of land he had deeded to the City of Lewiston. At the present time (May, 2019) there are at least eight persons buried on this plot and is considered as a plot within the City of Lewiston's “ownership.”

Garcelon's conveyance to the City of Lewiston's abutted the northwesterly boundary of the existing Cemetery which was 225.06 feet wide by 111 feet more or less wide. When added to the existing burying ground it resulted in a plot of ground which is 225.06 feet by 215 feet (more or less) rectangle; its frontage along Ferry Road was 225.06 feet.

May 11, 1876

rod

John B. Garcelon deeded a 25 acre and 65 sq. parcel to Clara B. Skinner. It was the third parcel in Androscoggin County Registry of Deeds Volume 84, Pages 80 though 83 (four pages). The parcel had 93 rods (1534.5 feet) of frontage along Ferry Road. Its boundaries abutted the burying ground on the burying ground's northwest and south west sides.

June 9, 1905

The Garcelon Cemetery Association was formed under the laws of the State of Maine, and its formation was for the express purpose of caring for the cemetery. At the time of the Association's organization it did not, and has not, since the days of its formation, ever claimed any ownership of the land occupied by the burial

plots. It is listed as a Maine non-profit organization (T13, C81) with a charter number of 19050003N.

The Association has always assumed the City of Lewiston owned the Cemetery. This assumption is verified by the fact that thirty four years earlier (1871) John Blethen Garcelon had deeded the final plot of land which resulted in the present boundaries of the Cemetery.

The cemetery had its genesis in 1819. After 86 years it became obvious that the City was not caring for the Cemetery, and that was the sole purpose of the Association's formation. For the past 114 years the Association has cared for the Cemetery but has never made any legal claim to the ownership of it.

April 17, 1912

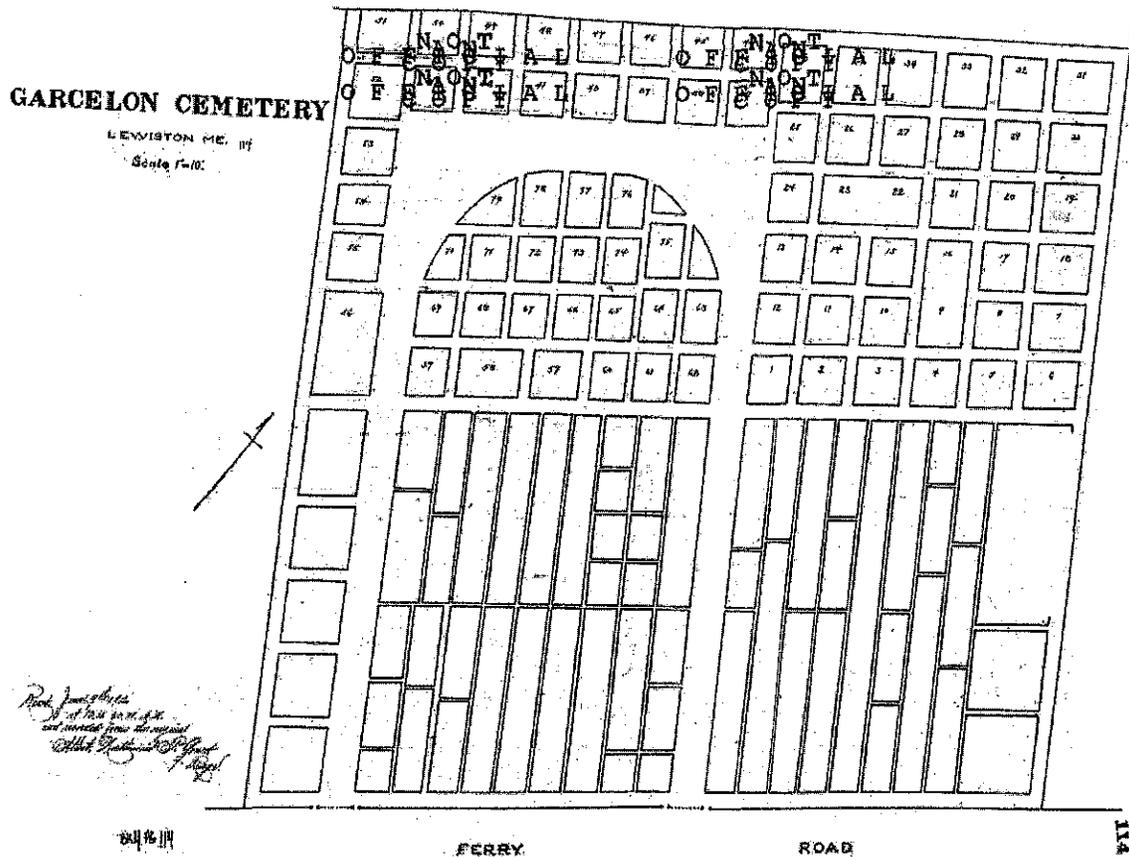
Abram W. Garcelon conveyed to the Garcelon Cemetery Association *“the right to take and use water from a certain spring situated on land now owned by this Grantor, also the right and privilege to enter upon the land now owned by this Grantor, for the purpose of laying and keeping in repair all necessary pipe to convey said water from said spring to the said Garcelon Cemetery.”*

This deed is the only conveyance of any sort to the Garcelon Cemetery Association. Parts of the water line still exist although it has not been used for more than thirty years.

June 9, 1920

A “Garcelon Cemetery” plan was recorded in the

Androscoggin County Registry of Deeds. This plan shows the layout of 79 numbered parcels on the rear "one-half" of the cemetery and 62 un-numbered parcels on the front "one-half" of the cemetery. The total burial plots shown is 141.



Jan, 11, 1947

Eloise Jordan (1907-1989) wrote an article in the *Lewiston Journal Magazine Section* entitled "Garcelon Cemetery on River Road Tells Early History of Lewiston."

March 15, 1957

Letter from Lewiston City Clerk to Bertha Ham regarding "who administers the affairs of the this Cemetery."

March 28, 1957

Letter from Lewiston City Clerk to Bertha Ham
“to establish the City's responsibility, if any.”

May 24, 1971

(Monday)

The *Lewiston Journal*, in an article entitled
“Cemetery off Randall Rd. to Belong to City,”
the ninth paragraph of the article reads, in part:
“The City owns still another cemetery in
Lewiston. Berube says a deed to the Garcelon
Cemetery on the Ferry Road was turned over to
the city in 1971.” (“Berube” was City Clerk
Gerard Berube).

Monday, May 24, 1971
 School grounds and all public window boxes.
 The Garden Club will assemble at the home of Mrs. Donald Chandler, Lower Gloucester, for a meeting and refreshments to be hosted by Mrs. Edward McVinton and Mrs. Joan McDonald.

CEMETERY OFF RANDALL RD. TO BELONG TO CITY

Title to Semmes Cemetery located on Randall Road will be taken over by the City of Lewiston as soon as the land title can be made official by Corporation Counsel J. P. Berube.

The cemetery, covering about

an acre, has been hidden in the woods for years.
 It had a new weeks ago but no one knew of the existence of the cemetery. Complaints were made by Mrs. J. B. Berube, 218 Semmes Road, who said she had been told that the cemetery was hidden in the woods for years.
 According to City Engineer J. P. Berube, there is no known record of ownership or mention of the cemetery in any city records.

The Semmes Road cemetery has a long history and is an important part of the city's heritage. It is a place where many of the city's early residents are buried. The cemetery is located on a small parcel of land in the Semmes Road area. It is a well-kept and peaceful place. The city is pleased to take over the cemetery and to ensure its proper care and maintenance.

Although some of the older monuments are in poor condition, the city will be responsible for their repair and replacement. The city will also be responsible for the maintenance of the cemetery grounds. The city will be taking over the cemetery as soon as the land title can be made official by Corporation Counsel J. P. Berube.

GRAY

GRAY — The town council meeting Thursday evening accepted the resignation of Barn Mains who wished to have more time for personal affairs. The contract of the town manager Norman Mott has been renewed for the coming year at the same salary. The manager met during the past week with the Parks and Recreation Committee to decide upon to take during the coming season.

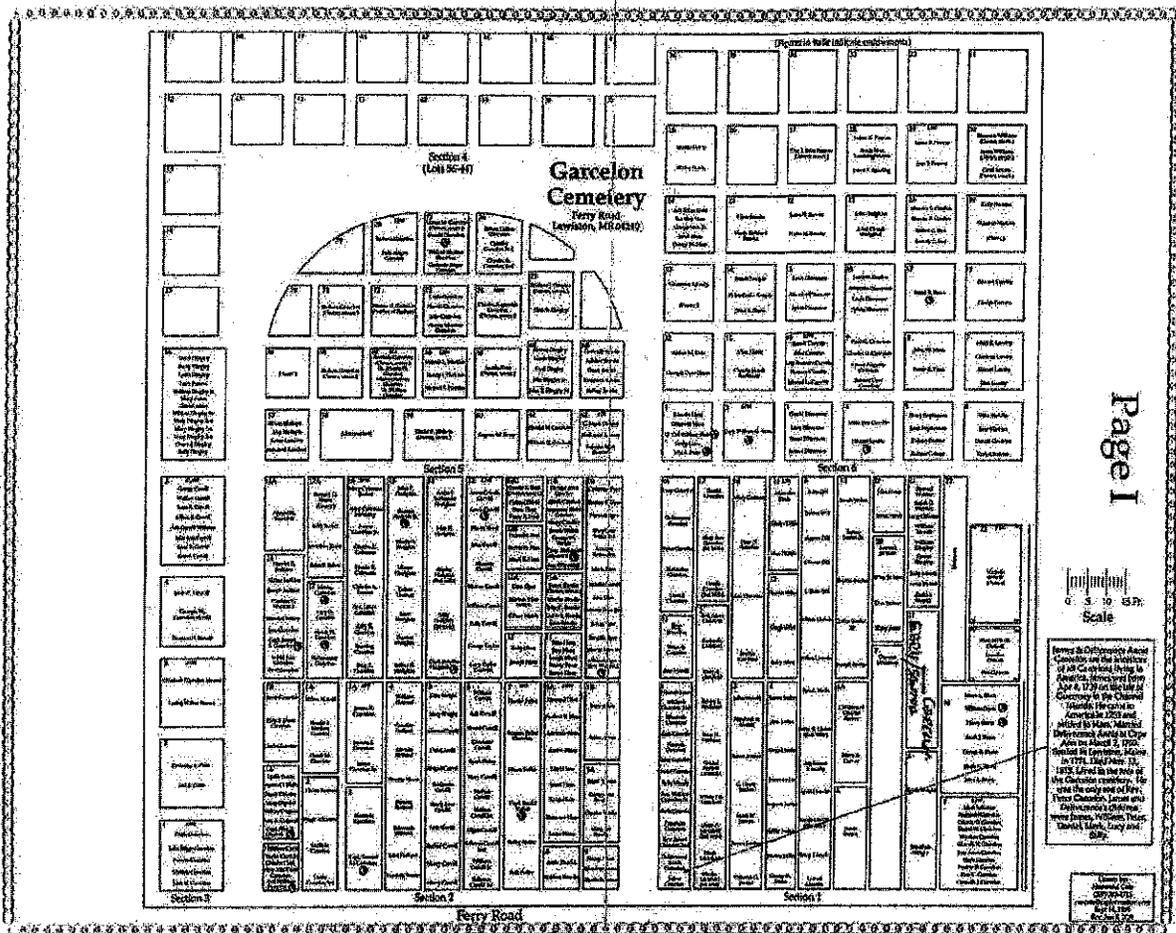
Contract for surveying the sewage conditions in Gray was given to the B. C. Jordan Company of Portland. Responsibility for having vaults closed and dismantled has been given the town manager. Absence notices will be made available for local elections as well as for federal elections. A meeting for local elections was held on the proposed sidewalk from Gray Village to Gray Plaza and the state authorities will be contacted on the proposition. Next meeting will be on June 1, 7:30 p.m. at the Gray Plaza. PS met on Wednesday evening when plans were made for a meeting on June 1, 7:30 p.m. which Berube is committed for the next meeting on June 1. Several persons attended the meeting of Senior Citizens.

NOTICE
Head Start Program
 is Now Registering children for September classes.
 For information or Registration Form CALL:
HEAD START PROGRAM
 City Hall, Augusta, Maine
 TEL. 623-3859

On the same day, another article in the *Lewiston Journal*, entitled "Praises Work of Garcelon Trustees in Cemetery Care," it reads in part: "Berube explained today that the city acquired title to the cemetery via two transactions many years back. The first occurred while Lewiston was still a part of Lincoln County. This would put it sometime prior to 1850, according to City Building sources. The second part of the transaction occurred in 1871. Berube said, despite this, the Board of Trustees continues to take care

June 9, 2003

Normand Cote revised his plan and index of the Garcelon Cemetery.



Nov. 12, 2007

Normand Cote revised his plan and index of the Garcelon Cemetery. This revised plan showed, by symbol, nineteen military veterans buried in the Cemetery. It should be noted that as of May, 2019, 32 military veterans have been verified as buried in the Cemetery.

Cote's plan shows 141 burial plots. Of the 141 plots 114 have burials and are committed, 27 plots are uncommitted.

There are more than 470 persons buried in the

cemetery, including some of the early settlers of Lewiston Fall, such as Ames, Barker, Davis, Dingley, Garcelon, Ham, Hodgkin, et. al.

There are many deeds which refer to the Garcelon Cemetery as being owned by the Town or City of Lewiston. Most of those deeds refer to the City as an abuttor.

Some of the deeds in the Androscoggin County and Lincoln County Registry of Deeds which refer to the abutting or underlying land are as follows:

Vol. 1 Pgs. 25 and 26	March 1, 1854
Vo, 1 Pgs. 23 and 24	April 12, 1854
Vol. 10 Pg. 584	Oct. 7, 1835 **
Vol. 11 Pg. 23	April 12, 1853 *
Vol. 11 Pg 484	Dec. 22, 1853 **
Vol. 11 Pg. 486	Jan. 1, 1857
Vol. 42 Pg. 423	Jan. 6, 1866
Vol. 42 Pg. 459	Jan. 22, 1866 **
Vol. 42 Pg 460	Jan. 30, 1866
Vol. 11 Pgs. 484 – 486	December 3, 1853
Vol. 11 Pgs. 486 and 487	Jan 1, 1857
Vol. 54 Pg. 56	April 8, 1865 **
Vol. 59 Pg, 8 and 9	Dec 16, 1805 **
Vol. 59 Pgs. 9 and 10	Dec. 16, 1805 **
Vol. 65 Pg. 353	September 18, 1871 **
Vol. 70 Pg. 129	October 20, 1808 **
Vol. 82 Pg. 274	Jan. 29, 1876 *
Vol. 84 Pgs. 80 – 83	May 11, 1876 **
Vol. 89 Pg. 287	July 21, 1877 *
Vol. 89 Pg. 581	Dec. 11, 1877 *

Vol. 99 Pg. 203	Jan. 30, 1880 *
Vol. 103 Pg. 426	May 10, 1881 *
Vol. 123 Pg. 413	Aug. 31, 1886
Vol. 161 Pg. 132	April 2, 1895
Vol. 192 Pg. 21	June 24, 1901 *
Vol. 229 Pg. 296	Sept. 18, 1909 *
Vol. 339 Pg. 235	Dec. 14, 1923 *
Vol. 467 Pg. 472	Dec. 29, 1936 *
Vol. 754 Pg. 17	Dec. 12, 1956 *
Vol. 991 Pg. 622	July 25, 1958 *
Vol. 996 Pg. 413	Nov. 8, 1968 *
Plan Book 24-47	Sept. 10, 1973 *
Vol. 1350 Pg. 83	June 30, 1978 *
Plan Book 30-152	Nov. 8, 1983

* Abuts Cemetery

** Underlays present Cemetery

It should be noted that Lewiston was part of Lincoln County until 1854, when it became part of Androscoggin County.

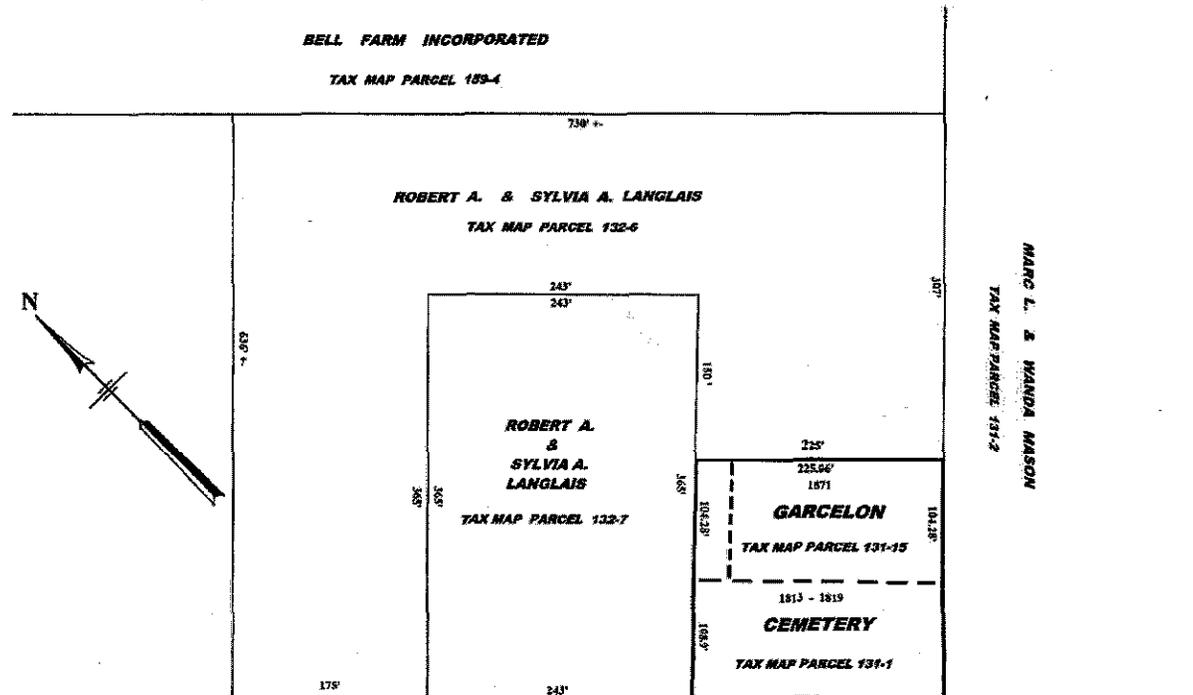
The Town of Lewiston was incorporated in 1795; it became the City of Lewiston in 1863.

The conclusion drawn from all of these deeds is that the Garcelon Cemetery is a plot of ground which is a 225.06 foot by 215 foot (more or less) rectangle; its frontage along Ferry Road is 225.06 feet. It is 1.2 acres in size, and currently has more than 450 persons buried in it, as well as several family burial plots which are currently empty. It also has several uncommitted burial plots.

The Cemetery is owned by the City of Lewiston.

BELL FARM INCORPORATED

TAX MAP PARCEL 189-4



FERRY ROAD

**SKETCH OF THE GARCELON CEMETERY
and
ABUTTING PROPERTIES**

COTTON
ROAD

Plan Drawn By
David C. Garcelon
21 High Head Road
Harpwell, Me 04079

Know all Men by these Presents,

BK65 353

That I, John B. Gascelon, of the County of Androscoggin and State of Maine, in consideration of the sum of Fifty Dollars and seventy-five cents paid by

The City of Lewiston in the County of Androscoggin, the receipt whereof I do hereby acknowledge, give, grant, bargain, sell and convey unto the said City of Lewiston and its

as certain piece or parcel of land situated in Lewiston in said County of Androscoggin, bounded and described as follows: Beginning at the Northwesterly angle of the Pumping Ground, situated on the North-westerly side of the Ferry road, so called; thence by a prolongation North, forty-four (44) degrees, fifty (50) minutes West of the North-westerly side line thereof as now enclosed, six (6) rods and eight (8) links to a stake; thence South, forty-five (45) degrees ten (10) minutes West parallel to the North-westerly bounds of said enclosed, twelve (12) rods, forty-one (41) links to a stake; thence South, forty-four (44) degrees and fifty (50) minutes West, six (6) rods and eight (8) links to a stake placed in the North-east prolongation of the North-westerly bounds aforesaid; thence South-easterly by said prolongation and by said bounds, twelve (12) rods, forty-one (41) links to the place of beginning containing eighty-six (86) square rods. Reserving a piece of the above described land in the South-westerly corner, twenty-eight (28) feet wide, across the old burying ground, and six (6) rods and eight (8) links in length which shall be reserved to the said Lewiston for a burying ground, and for nothing else and for no other purpose.

To Have and to Hold the aforegranted and bargained premises with all the privileges and appurtenances thereof to the said City of Lewiston and its heirs and assigns forever. And I do covenant with the said City of Lewiston and its heirs and assigns, that I am lawfully seized in fee of the premises, that they are free of all incumbrances; that I have good right to sell and convey the same to the said City of Lewiston to hold as aforesaid; and that I and my heirs shall and will WARRANT AND DEFEND the same to the said City of Lewiston and its heirs and assigns forever, against the lawful claims and demands of all persons.

In Witness Whereof, the said John B. Gascelon and Matilda J. Gascelon wife of the said John B. Gascelon in testimony of the relinquishment of her right of dower in the above described premises, have hereunto set their hands and seals this eighteenth day of September in the year of our Lord one thousand eight hundred and sixty-seventy-one.

Signed, Sealed and Delivered in presence of Mr. S. Ludden, Justice of the Peace, and Matilda J. Gascelon.

Androscoggin, ss. September 27th 1871. Personally appeared John B. Gascelon above named and acknowledged the above instrument to be his free act and deed. Before me,

Mendenhall S. Ludden, Justice of the Peace.

Received Dec. 29 1871 at 10 o'clock, 18 M. A. M. and recorded from the original. Attest: D. Sprague, Register.

U. S. Revenue Stamp 50

BRANN & ISAACSON
ATTORNEYS AND COUNSELORS AT LAW

MARTIN I. EISENSTEIN | Managing Partner
meisenstein@brannlaw.com
(207) 786-3566 Ext. 111

April 17, 2019

**Attorney/Client Confidential
& Privileged Communication**

M E M O R A N D U M

TO: Ed Barrett and Kathy Montejo
FROM: Martin Eisenstein and Michael Carey
SUBJECT: The City's Options and Obligations Regarding Garcelon Cemetery

On March 26, 2019, David C. Garcelon wrote Kathy Montejo on behalf of The Garcelon Cemetery Association, a Maine nonprofit established on June 5, 1905, which cares for the Garcelon Cemetery on Ferry Road. Mr. Garcelon attached a list of the 32 veterans buried in the cemetery, as well as a small plan with a red dot by each Veteran's grave. He requested that the City "maintain the Cemetery in good condition. This would involve repairing all of the Veteran's graves, headstones, monuments or markers, as well as keeping the grass suitably cut and trimmed on all graves in the Garcelon Cemetery." You asked whether the City can assume maintenance of the private portion of the cemetery if it does not hold actual ownership.

I wish the answers to the questions were simple, but there are two statutes at play, which have overlapping scopes. As detailed below, under one of the statutes, the City has the authority to care for (i) cemeteries it owns, (ii) private cemeteries established before 1880, and (iii) veterans' graves and fences around cemeteries that contain veterans' graves. The foregoing list of three types of graves and cemeteries **permits**, but does not require, the City to maintain the graves. However, a separate statute **requires** the maintenance of

- cemeteries that it owns;
- veterans' graves, headstones, monuments and markers located on any private burial ground if the burial ground was established before 1880, including keeping the grass, weeds and brush suitably cut and trimmed between May 1st and September 30th;
- veterans' graves, headstones, monuments and markers located on any private burial ground that allows the burial of any person without regard to religious or other affiliation, including keeping the grass, weeds and brush suitably cut and trimmed between May 1st and September 30th.

BRANN & ISAACSON

| Lewiston, ME | Portland, ME
P.O. Box 3070, 184 Main Street | Lewiston, ME 04243-3070 | (207) 786-3566 | www.brannlaw.com

April 17, 2019
Page 2

As this relates to Garcelon Cemetery, the City must consider three separate parcels. The three parcels are associated with 287 Ferry Rd., each of which have a Cemetery use. Lewiston Tax Map 131 (attached); Lewiston GIS system. The Garcelon Cemetery Association owns Lot 1 (parcel ID RE00013333), a 0.58 acre parcel. *Id.* The Heirs of John B Garcelon own Lot 14 (parcel ID RE00013334), a 0.07 acre parcel. *Id.* “Lewiston City Of / Garcelon Cemetery” own Lot 15 (parcel ID RE00013332), a 0.47 acre parcel. *Id.* We assume that this means that the City and The Garcelon Cemetery Association jointly own lot 15. We understand Mr. Garcelon refers to all three lots when he writes that the Garcelon Cemetery Association “has cared for this Cemetery for 114 years”. The following questions must be answered with regard to Lots 1 and 14 (The City is required to maintain Lot 15) :

1. Is Mr. Garcelon’s list complete and accurate?
2. Was either of lots 1 and 14 established as a private burial ground prior to 1880?
 - a. If the answer is yes, then the City is required maintain the veterans’ graves (but not the fences) and may maintain the remainder and the fences, but is not required to do so.
 - b. If the answer is no, go to question 3.
3. Do either of lots 1 and 14 allow for the burial of any person without regard to religious or other affiliation?
 - a. If the answer is yes, then the City is required maintain the veterans’ graves (but not the fences) and may maintain the remainder and the fences, but is not required to do so.
 - b. If the answer is no, then the City may maintain any of the veteran graves located on the two lots and the fences around the cemetery

Use of Tax Dollars at Garcelon Cemetery

“A municipality may raise or appropriate money to . . . [p]rovide for public cemeteries; maintain private cemeteries established before 1880; care for graves of veterans and maintain fences around cemeteries in which veterans are buried.” 30-A M.R.S. § 5723(3). The term “public cemetery” is not defined, but subchapter 3, of title 13, chapter 83, is entitled “Public Cemeteries”, and provides in part that “[e]very cemetery . . . hereafter established shall be owned, maintained or operated by a municipality or other political subdivision of the State, a church, a religious or charitable society, or by a cemetery association . . .” 13 M.R.S. § 1303. In the absence of a clear statutory definition, Lot 15 is a public cemetery because the City owns the underlying lot.

The City may also care for all of Lots 1 and 14 if those lots were established before 1880—that is, if they are ancient burying grounds. *See id.* § 1101-A(1)(“ancient burying ground” means “a private cemetery established before 1880”.) At this point, it is unclear when lots 1 and 14 were established and whether they are ancient burying grounds. While some quick internet research suggests that graves in “Garcelon Cemetery” date to the 1700’s, authoritative records or an onsite review would determine which of lots 1 and 14 contain graves from before 1880.

April 17, 2019
Page 3

We note that the City may maintain at least some portions of Garcelon Cemetery; i.e. the graves of the 32 veterans that are located on lots 1 and 14, assuming that it can sufficiently verify that the list is accurate, and a fence around whichever lot contains veterans' graves. Also, if the City establishes that either lot 1 or 14 is an ancient burial ground, it may maintain that entire lot.

Potential City Maintenance and Repair Obligations at Garcelon Cemetery

The City has an obligation to care for at least some of the gravesites at Garcelon Cemetery. "In any ancient burying ground, as referenced in Title 30-A, section 5723, the municipality . . . , in collaboration with . . . cemetery associations. . . shall keep in good condition all graves, headstones, monuments and markers designating the burial place of Revolutionary soldiers and sailors and veterans of the Armed Forces of the United States. To the best of its ability given the location and accessibility of the ancient burying ground, the municipality, in collaboration with . . . cemetery associations. . . , shall keep the grass, weeds and brush suitably cut and trimmed on those graves from May 1st to September 30th of each year." 13 M.R.S. § 1101(1). A municipality has the same obligations for veterans buried on any public burying ground, which is "a burying ground or cemetery in which any person may be buried without regard to religious or other affiliation and includes a cemetery owned and operated by a municipality. . . or a cemetery association." *Id.*, §§ 1101(2), 1101-A(4). The statute provides minimum maintenance standards for public burying grounds: "[e]nsure that grass is suitably cut and trimmed; [k]eep a flat grave marker free of grass and debris; and [k]eep the burial place free of fallen trees, branches, vines and weeds." *Id.*, § 1101(2).

Acquisition by The City

"Any city. . . may accept any conveyance of land not exceeding 1/2 acre, to be forever held, kept and used for a private or family burying ground for the grantors and such of their heirs and relatives by blood or marriage as the conveyance shall designate." 13 M.R.S. § 1222. Accordingly, Lewiston could accept the conveyance of lot 14 and The Garcelon Cemetery Association's interest in lot 15. On the other hand, at 0.58 acre, lot 1 is too large for the City to accept with a restriction that it be used as a private or family burying ground for the grantors and their heirs and relatives. The City may acquire Lot 1 if it is an "abandoned cemetery", which means "a cemetery in which no burial has been made in the previous 40 years and the lots or grave sites of which have not been maintained within the previous 10 years, except for maintenance rendered by the municipality in which the cemetery is located." 30-A M.R.S. § 3107(A). Kathy writes that Garcelon Cemetery is not currently abandoned, and we agree; Mr. Garcelon's letter suggests that the Cemetery Association has conducted volunteer labor and paid a lawn care contractor in recent years.

LEWISTON CITY COUNCIL
MEETING OF JUNE 18, 2019

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 1

SUBJECT:

Order Authorizing execution of a Municipal Quitclaim Deed for Real Estate located at 19 Cram Avenue.

INFORMATION:

One of the most powerful collection tools in a municipality's arsenal is the ability to lien properties for delinquent taxes (real and special only), water and sewer balances, and most recently stormwater balances. Once a lien is recorded, eighteen months must lapse without payment before the lien matures. Prior to maturity, the City Council may waive the right to foreclose on a maturing lien as you have done in the past. If the lien is permitted to mature, the municipality may elect to foreclose on the property or, if subsequent payment is received, return the property to its owner via a quitclaim deed.

At this time, the Finance Director is asking the Council to approve a municipal quitclaim deed for the property located at 19 Cram Avenue. The quitclaim deed will release any interest the City may have by virtue of undischarged real estate tax liens or utility liens on this property. Payments due for this property have all been received in full. Should the Council approve this Order, the quitclaim will be issued to the owners.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.

EAST/KMM

REQUESTED ACTION:

1	2	3	4	5	6	7	M
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To approve the Order authorizing execution of a municipal quitclaim deed for real estate located at 19 Cram Avenue.



CITY OF LEWISTON, MAINE

June 18, 2019

COUNCIL ORDER

Order, Authorizing Execution of a Municipal Quitclaim Deed – Real Estate Located at 19 Cram Avenue.

WHEREAS, the owners, Susan A. and Ross R. Anctil, failed to pay their bills on timely basis for 19 Cram Avenue (Tax Map 90, Lot 5, Parcel 00-010086); and

WHEREAS, a storm water lien was filed on April 5, 2016 (Book 9337 Page 121) and matured on October 5, 2017 in the amount of \$105.48; and

WHEREAS, a water lien was filed on April 5, 2016 (Book 9337 Page 60) and matured on October 5, 2017 in the amount of \$143.47; and

WHEREAS, a sewer lien was filed on April 5, 2016 (Book 9337 Page 31) and matured on October 5, 2017 in the amount of \$151.63; and

WHEREAS, payment was received in full;

NOW, THEREFORE, BE IT ORDERED by the CITY COUNCIL of the CITY of LEWISTON,

That a quitclaim deed is hereby authorized to release the City's interest in the property located at 19 Cram Avenue to the owner.

LEWISTON CITY COUNCIL
MEETING OF JUNE 18, 2019

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 2

SUBJECT:

Amendment to the Traffic Schedule to remove one hour parking on a portion of Ash Street.

INFORMATION:

This amendment to the Traffic Schedule was prepared by the Police Department to accommodate parking arrangements for businesses and residents in this area. Currently this area is designated as one hour parking but this was a hold over from the former convent in the area that has since closed. Eliminating the one hour designation is requested.

Additional information is outlined in the attached memorandum from the Police Department and passage is recommended.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.

GAB/kmm

REQUESTED ACTION:

1	2	3	4	5	6	7	M
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To adopt the proposed amendments to the Traffic Schedule regarding the elimination of the one hour parking time for a portion of Ash Street between Horton Street and Bartlett Street, as proposed by the Lewiston Police Department.



POLICE DEPARTMENT

Sgt. Derrick St. Laurent
Administration / Accreditation



TO: Traffic Schedule Control Committee
FROM: Sergeant Derrick St. Laurent
SUBJECT: Parking Amendment (Ash St.)
DATE: June 5, 2019

Richard Stone, the owner of Orbit Hairstyling (58 Bartlett St) is requesting the removal of the **1hr Parking 9a-6p** sign located across the street from his business, on Ash St. Stone stated the valuable spots are rarely used due to the time constraint and the need for the parking limit (1hr) is outdated.

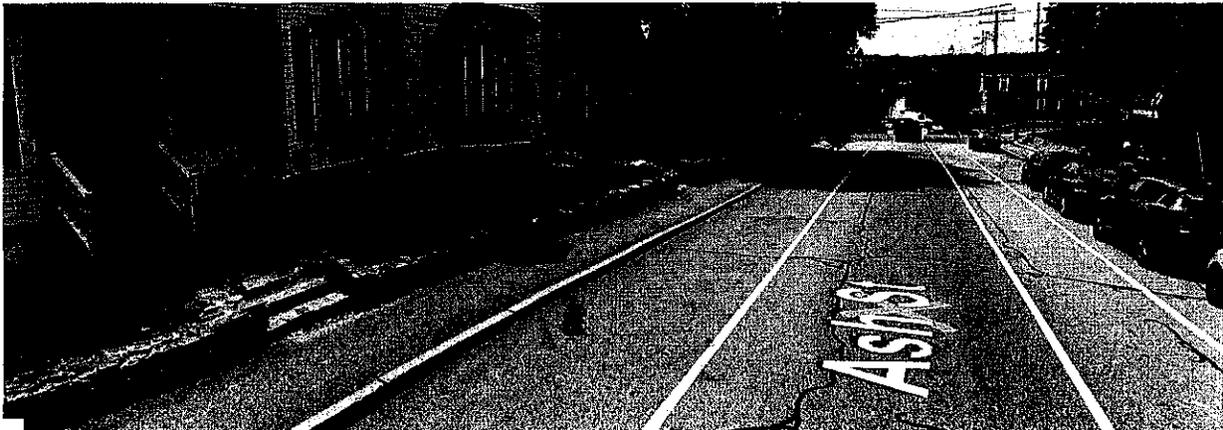
Stone stated, while speaking to longtime neighbors (who are also in support of this amendment), the sign was originally installed to be used by visitors of the convent, which is no longer in use. Stone stated these spots could be used by customers or residents of the neighborhood. *See Below for original Council Vote*

The Lewiston Police Department is in support of the removal of this sign. The additional parking will convenience businesses and residence, and with the slight narrowing of this section of Ash St. it will hopefully reduce speed.

REMOVE

Section 26 Code 70-158
One Hour Parking- 9:00a-6:00p

Odd Number (South) Side of Ash St.
between Horton St-Bartlett St.



Original Vote

Southerly side beginning at a point 25' westerly of the southwesterly corner of Ash St & Horton St and extending westerly on Ash St a distance of 44' ADDED by City Council - 7/21/1987, Vote # 15

If this amendment is approved, this would require Public Works Department to erect sign(s) and/or marking(s) designating the above change.

Respectfully Submitted,

Sgt. Derrick St. Laurent



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LEWISTON CITY COUNCIL

MEETING OF JUNE 18, 2019

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 3

SUBJECT:

Amendment to the Traffic Schedule to create three fifteen (15) minute parking spaces on Park Street.

INFORMATION:

The Sun Journal newspaper is asking for the creation of three fifteen minute parking spaces in front of their new office building on Park Street. This time limit will better accommodate customer turnover and service customers. The Police Department supports this requested action. Please see the attached memorandum from the Police Department for additional information.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.

EAB/cmm

REQUESTED ACTION:

1	2	3	4	5	6	7	M
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To approve amendments to the Traffic Schedule regarding the creation of three fifteen (15) minute parking spaces on Park Street, as proposed on the attached vote sheet.



POLICE DEPARTMENT

Sgt. Derrick St. Laurent
Administration / Accreditation



TO: Traffic Schedule Control Committee
FROM: Sergeant Derrick St. Laurent
SUBJECT: Parking Amendment (Sun Journal-15min Parking Spots)
DATE: June 6, 2019

The Sun Journal is requesting three (3) 15 Minute Parking spots in front of their (new) main entrance located at, 104 Park St. The 15 Minute Parking spots will allow customers to drop off payments or inquire about information.

The three (3) spots located in front of the building are currently metered spots.

The three (3) 15 Minute Parking previously used by the Sun Journal, when the main entrance was at the corner of Park/Pine are currently being utilized by both City Hall and Library patrons.

The Lewiston Police Department is in support of the amendment.

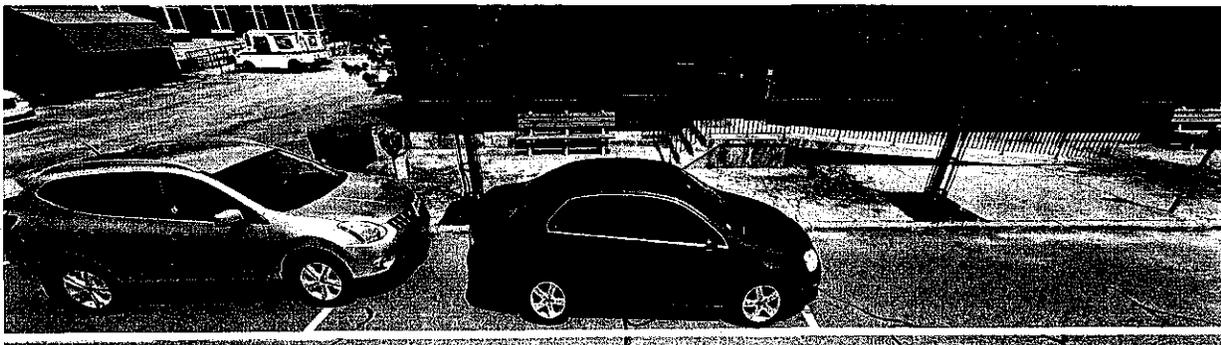
Add

Section 21

Fifteen (15) Minute Parking
8:00 a.m. to 6:00 p.m.

Park St.

Even numbered/west side of street
140' from Park St./ Ash St extending
60' southerly



If this amendment is approved, this would require Public Works Department to erect sign(s) and/or marking(s) designating the above change.

Respectfully Submitted,

Sgt. Derrick St. Laurent



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LEWISTON CITY COUNCIL
MEETING OF JUNE 18, 2019

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 4

SUBJECT:

Public Hearing on the renewal application for a Special Amusement Permit for Live Entertainment for the Acme Social Club, Inc., 255 Park Street.

INFORMATION:

We have received a renewal application for a Special Amusement Permit for Live Entertainment from the Acme Social Club, Inc., 255 Park Street.

The Police Department has reviewed and approved the application.

There was no reference to this business or property address in the Council Constituent Concern log, as maintained by the Administrator's Office.

The business owner has been notified of the public hearing and requested to attend.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.

EAB/kmm

REQUESTED ACTION:

1	2	3	4	5	6	7	M
---	---	---	---	---	---	---	---

To grant a Special Amusement Permit for Live Entertainment to the Acme Social Club, Inc., 255 Park Street.

**CITY OF LEWISTON
APPLICATION FOR SPECIAL AMUSEMENT PERMIT**

Date of Application: 10/11/19

Expiration Date: 07/03/19

- Class A - \$125.00 - restaurants with entertainment, which **does not have dancing**
- Class B - \$125.00 - lounges/bars with entertainment, which **does not have dancing**
- Class C - \$150.00 - either restaurants or lounges/bars with entertainment, including dancing
- Class D - \$150.00 - function halls with entertainment, including dancing
- Class E - \$150.00 - dance hall or nightclub that admits persons under the age of 21
- Class F - \$150.00 - "chem-free" dance hall or nightclub for patrons aged 18 yrs and older, with no liquor

Renewal Applicants: Has any or all ownership changed in the 12 months? Yes No

****PLEASE PRINT****

Business Name: Acme Social Club, inc. **Business Phone:** 207-7829309

Location Address: 255 Park St.

(If new business, what was formerly in this location: _____)

Mailing Address: 255 Park St.

Email address: _____

Contact Person: Marc Mason **Phone:** 207-576-4657

Owner of Business: _____ **Date of Birth:** _____

Address of Owner: _____

Manager of Establishment: amy mason **Date of Birth:** 01/14/81

Owner of Premises (landlord): Marc Mason

Address of Premises Owner: 5 Butler Dr. Lewiston

Does the issuance of this license directly or indirectly benefit any City employee(s)? Yes No

If yes, list the name(s) of employee(s) and department(s): _____

Have any of the applicants, including the corporation if applicable, ever held a business license with the City of Lewiston? Yes No If yes, please list business name(s) and location(s): _____

Have applicant, partners, associates, or corporate officers ever been arrested, indicted, or convicted for any violation of the law? ____ Yes No If yes, please explain: _____

CORPORATION APPLICANTS: Please attach a list of all principal officers, date of birth & town of residence

Corporation Name: _____

Corporation Mailing Address: _____

Contact Person: _____ Phone: _____

Do you permit dancing on premises? Yes ____ No (If yes, you must first obtain a dance hall permit from the State Fire Marshall's Office) If yes, do you permit dancing or entertainment after 1:00 AM? ____ Yes ____ No

What is the distance to the nearest residential dwelling unit both inside and outside the building from where the entertainment will take place? _____

Please describe the type of proposed entertainment:

- dancing
- music by DJ
- live band/singers
- stand up comedian
- karaoke
- magician
- piano player
- other, please list _____
- other, please list _____

If new applicant, what is your opening date?: _____

Applicant, by signature below, agrees to abide by all laws, orders, ordinances, rules and regulations governing the above licensee and further agrees that any misstatement of material fact may result in refusal of license or revocation if one has been granted. Applicant agrees that all taxes and accounts pertaining to the premises will be paid prior to issuance of the license.

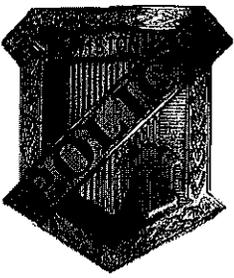
It is understood that this and any application(s) shall become public record and the applicant(s) hereby waive(s) any rights to privacy with respect thereto.

I/We hereby authorize the release of any criminal history record information to the City Clerk's Office or licensing authority. I/We hereby waive any rights to privacy with respect thereto.

Signature: Amy Mason Title: treasurer Date: 06/11/19

Printed Name: Amy Mason

Hearing Date: 6-18-19



POLICE DEPARTMENT

Brian O'Malley
Chief of Police



TO: Kelly Brooks, Deputy City Clerk

FR: Lt. David St.Pierre, Support Services

DT: May 23, 2019

RE: Liquor License/*Special Amusement Permit – **Acme Social Club**

We have reviewed Liquor License/Special Amusement Permit Application and have no objections to the following establishment;

****Note:** As can be seen in reviewing the log for police response to this location; there have been noted disturbances that have occurred requiring police intervention (fights, arguments, drunkenness); particularly on Friday evenings into Saturday mornings. While the calls are not overly excessive, Staff should address customers issues more closely; perhaps monitor behavior closer as well as being more cautious so as NOT to overserve patrons.

We will continue to monitor and should expect decreases in police responses to this business.

Acme Social Club
255 Park St., Lewiston, Maine



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05/15/2019 ACME

APT # YEAR MM DD TIME REASON ACTION CALL # SITE # VICINITY

[REDACTED]

[REDACTED]

[REDACTED]

2019 05 04 0052 POL-FIGHT-DISTURBANCE Restored to Peace 19-42638 707

Verbal altercations, club cleared out

[REDACTED]

[REDACTED]

2019 04 27 0120 POL-FIGHT-DISTURBANCE Gone On Arrival 19-40055 707

No one around

2019 04 27 0101 POL-FIGHT-DISTURBANCE Cleared 19-40051 707 N

Report of fight in street, moved along

[REDACTED]

2019 04 20 0042 POL-FIGHT-DISTURBANCE Restored to Peace 19-37518 707

Verbal argument , parties given DC warnings.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

2019 03 23 0012 POL-FIGHT-DISTURBANCE Restored to Peace 19-27529 707

In the alley way- dc/ct warnings given

File into Sat

File into Sat

File into Sat

File into Sat

[REDACTED]

Fri Night

2019 03 08 2324 POL-DISTURBANCE - DISORDERLY Cleared 19-22893 707

Disorderly male in doorway given a c.t. warning.

[REDACTED]

Sat Night

2019 02 23 2324 POL-DISTURBANCE - DISORDERLY Arrest(s) Made 19-18504 707

Responded for a intox male but came across another disturbance outside and arrested two people

2019 02 23 2309 POL-Criminal Trespass Turned Over to Other Agency 19-18499 707

Intox male outside

2019 02 23 0100 POL-DISTURBANCE - DISORDERLY Cleared 19-18233

Disturbance-under control

[REDACTED]

*Fri
1:30 Sat*

2019 02 16 0050 POL-DISTURBANCE - DISORDERLY Restored to Peace 19-15884 707

CT warning to a female who was hitting the owner.

[REDACTED]

*Fri
1:30 Sat*

2019 01 26 0105 POL - BAR / LIQUOR CHECK Cleared 19-8601 707 N

2019 01 26 0055 POL-FIGHT-DISTURBANCE Cleared 19-8595 707 N

Intox male and female in the lot, male was trying to calm female down

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

2018 11 24 0043 POL-FIGHT-DISTURBANCE Gone On Arrival 18-113942 707

Subjects left before officers arrived

[REDACTED]

2018 11 03 0057 POL-DISTURBANCE - DISORDERLY Cleared 18-107297 707

Officers spoke with intox female, restored peace without incident

[REDACTED]

2018 10 19 2331 POL-DISTURBANCE - DISORDERLY Report Taken 18-102779 707

Intox male who lost his keys trying to break into his vehicle to retrieve items- sent on his way by taxi

2018 10 19 2306 POL-Criminal Trespass Cleared 18-102773 707 N

Male from above complaint was kicked out earlier due to altercation but wanted to go back in to look

For his keys

[REDACTED]

2018 10 10 2153 POL-NOISE-DISTURBANCE Gone On Arrival 18-99719 707

Loud people in alley

[REDACTED]

2018 10 06 0107 POL-DISTURBANCE - DISORDERLY Restored to Peace 18-98132 707

Yelling in the parking lot

2018 10 05 2318 POL-DISTURBANCE - DISORDERLY Restored to Peace 18-98103 707

Male outside refusing to leave property

[REDACTED]

2018 09 07 1823 POL-DISTURBANCE - DISORDERLY Cleared 18-88078 707

Male /female left area

2018 09 01 0105 POL-FIGHT-DISTURBANCE Restored to Peace 18-85324 707

Fight broken up

[REDACTED]

[REDACTED]

[REDACTED] N

2018 08 04 0030 POL-DISTURBANCE - DISORDERLY Cleared 18-74685 707

girls causing a disturbance, moved along

[REDACTED]

[REDACTED]

[REDACTED]

2018 07 27 2244 POL-DISTURBANCE - DISORDERLY Arrest(s) Made 18-72006 707

male who was no longer allowed inside was causing a disturbance and was arrested for possession of drugs

[REDACTED]

[REDACTED]

2018 07 22 0119 POL-DISTURBANCE - DISORDERLY Cleared 18-69867 707

Fight inside restored the peace

[REDACTED]

2018 07 21 0103 POL-DISTURBANCE - DISORDERLY Cleared 18-69511 707

Officers advised situation under control clearing

[REDACTED]

LEWISTON CITY COUNCIL

MEETING OF JUNE 18, 2019

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 5

SUBJECT:

Public Hearing for approval of an Outdoor Entertainment Permit for the Liberty Festival.

INFORMATION:

The Liberty Festival is finalizing plans for their annual Independence Day celebration in the Twin Cities. Typically, the Festival features live music concerts outside in the city parks and this year's plans will be similar. The Council is asked to approve the standard Outdoor Entertainment Permit for the Festival. From July 2 – 6, there will be musical concerts and other activities in Veteran's Memorial Park.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

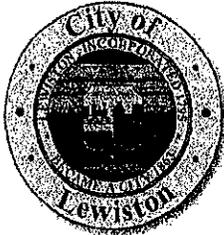
The City Administrator recommends approval of the requested action.

EAB/kmm

REQUESTED ACTION:

1	2	3	4	5	6	7	M
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To conduct a public hearing on an application from the Independence Day Committee for outdoor musical concerts to be held at Veteran's Memorial Park and surrounding areas on July 2, 3, 4, 5 and 6, as part of the Liberty Day Festival, and to authorize a permit for an Outdoor Entertainment Event, as required by the City Code of Ordinances, Chapter 10, Article 1, Section 10-3, to the Independence Day Committee for the outdoor music concerts, contingent upon positive recommendations from the Police Department, Fire Department, Code/Land Use Officer and Code/Health Officer regarding compliance with all regulations, and compliance with all City ordinances.



2019 Event Application-FY20 for events from 7/1/19 to 6/30/20

Application Date: 3/1/2019

Event and Organizer Information

Event Name: Liberty Festival Event Location: Veterans Park & Surrounding
Requested Date(s) 7/2-7/6 Rain Date (if applicable) Recurring Dates &
Actual Hours of Event 4pm to 11pm Set up: 12pm Tear Down: 2am
Type of Event (check all that apply): Park Use Only Gazebo Use Amphitheater Use
First-time Event Repeat Event X Attendance (25+) (1,000+) X (requires CC approval)
Walk/Run Road Race Festival X Concert Live Performance X Parade X
Carnival X Fireworks X Arts Wedding Ceremony Wedding Reception Picnic/BBQ
Open to the Public X Age-Restricted Invitation Only Vigil Demonstration March
Fundraiser Other (please specify):

Name of Organization: Liberty Festival For-Profit Non-Profit X
Organization Address: PO BOX 97 City: Lewiston
Organization Daytime Telephone: 207-212-8227

Applicant Name: Cathy McDonald Title: President
Applicant Telephone: 207-212-8227 Applicant Email: liberty.festival@aol.com
On-site Manager Name (day of event): Cathy McDonald Cell: 207-212-8227

At-A-Glance / Staff Use Only

EVENT NUMBER: Calendar E-Folder DB EM Staff
\$50 Processing Fee 50 CK CC CASH Park Fee(s) Clerk Fee(s) Date
NP Paperwork: on file 501G3 IRS Letter Form 990 CO: Date
Fee Waiver Request Schedule A Fundraiser Maps Submitted
Event Staff-Organizer Meeting Date
Outdoor Entertainment Detour/Road Closure Fire Review
Sound Amplification EMR Group Notification Electrical Access
Outside Alcohol Business Contact Plan Dig-Safe
Vendor/Flea Market Permit Police Assistance Water Access

pd
3/1/19
Processed
3/6/19

* Festival Zone Designation



Event Details & What We Need to Know

Events in Our Parks

Lewiston-based non-profits (LBNP) will receive a 50% discount on park fees.

If utilizing a park, please select one

Park Name	Fee	LBNP	Park Amenities	Fee	NP Rate
Simard Payne Park	\$150	\$75	Amphitheater	\$60 hr.	\$25 hr.
Dufresne Plaza	\$150	\$75			
Kennedy Park	no charge		Gazebo		no charge
Pettingill School Park	no charge		Pergola		no charge
Marcotte Park	no charge				
Potvin Park	no charge		Reservations are required		
Raymond Park	no charge		Number of Days _____		
Sunnyside Park	no charge				Amount \$0
Other <u>Veterans Park</u>					

Please note, there are no bathroom facilities at City parks. Please plan ahead for porta-potties.

City Clerk's Office In conjunction with Sanitarian/Code Enforcement

Please check all that apply

Sound Amplification Needed Yes No Please describe local entertainers

SOUND AMPLIFICATION PERMIT may be required \$17 per day / \$8.50 (LBNP) Amount \$ 17

➤ Live Performance Yes No Please describe local entertainers

OUTDOOR ENTERTAINMENT PERMIT \$50 / \$25 (LBNP) Amount \$ 25

City Council approval is required

Food Yes No Sold Given Away Type fried dough & fries

Food Truck Food Truck Name _____ Licensed Yes No

BBQ is this a catered event? Name of caterer _____ (copy of rules & regs)

FOOD SERVICE LICENSE may be required \$50 up to 3 days / \$25 (LBNP) Amount \$ 25

Sanitarian/Code inspection may apply, Fire inspection may apply

Beverages Yes No Sold Given Away Type soft drinks & water

Outside Alcohol (restrictions apply) Name of Licensed Business not secured

FOOD SERVICE LICENSE may be required \$50 up to 3 days / \$25 (LBNP) Amount \$ 25

OUTDOOR ALCOHOL PERMIT REQUIRED \$25 per event & _____ apply Amount \$ _____

No discounts apply on alcohol permits

LEWISTON CITY COUNCIL

MEETING OF JUNE 21, 2019

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 6

SUBJECT:

Public Hearing & Final Passage for Land Use Code Amendments regarding the creation of the Lewiston Commercial Historic District.

INFORMATION:

On October 4, 2018, The National Park Service, Department of the Interior, entered the Lisbon Street Commercial Historic District in the National Register of Historic Places. This designation expanded the existing portion of the Lisbon Street Commercial Historic District that was created back in 1985. This agenda item deletes this District description from the City's Land Use Code and adds one for the Lewiston Commercial Historic District. The Districts are similar but do have some additional property locations.

Attached is a positive recommendation from the Planning Board recommending approval of this ordinance amendment.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.

EAB/KMM

REQUESTED ACTION:

1	2	3	4	5	6	7	M
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That the proposed amendments to Appendix A, Article XV "Significant Buildings and Districts", Section 6. "Designated Historic Structures and Historic Districts", Subsection b 2 "Lewiston Commercial Historic District", of the City Zoning and Land Use Code, receive final passage by a roll call vote.



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: June 18, 2019

RE: Lewiston Commercial Historic District Zoning Ordinance Text Amendment

Background: In 1985 a small area on Lisbon Street between Cedar and Chestnut Streets became the Lisbon Street Historic Commercial District. In 2017, other Lisbon Street property owners expressed interest in expanding the 1985 historic district, and encouraged the city to apply for a Certified Local Government Historic Preservation grant for a consultant to nominate a new historic district. The grant application was successful and Southerland Conservation and Consulting was selected to prepare the nomination. The nomination was submitted to the Maine Historic Preservation Commission in the spring of 2018. The city was notified in October of 2018 that the new Lewiston Commercial Historic District had been entered into the National Registry Historic Places by the National Parks Service. (Attachment 1)

This spring, the Planning Staff prepared a zoning ordinance text amendment to add the new Lewiston Commercial Historic District to Article XVII, Significant Buildings and Districts after its adoption by the National Park Service. The Planning Staff was not aware that the 1985 Lisbon Street Historic Commercial District had been incorporated by the consultant into the new Lewiston Commercial Historic District nomination until late in the text amendment process, after consideration by the Historic Preservation Review Board (April 4, 2019) and the Planning Board (May 13, 2019) had already occurred. The corrected text amendment deletes the old description of the 1985 Lisbon Street Historic Commercial District and incorporates it into the new Lewiston Historic Commercial District. The Planning Staff apologizes for the confusion this error has caused.



CITY OF LEWISTON

Department of Planning & Code Enforcement

TO: Mayor and City Council

FROM: Douglas Greene, City Planner

DATE: May 21, 2019

RE: Planning Board Recommendation: Text Amendment for Lisbon Street Commercial Historic District to Article XV, Historic Buildings and Districts

The Planning Board took the following action at their meeting held on May 13, 2019:

MOTION: by **Benjamin Martin**, pursuant to the Zoning and Land Use Code, Article VII, Sections (c) and (i) and Article XVII, Section 5, to send a favorable recommendation to the City Council for the text amendment to Article XV, Significant Buildings and Districts to expand the Lisbon Street Commercial Corridor Historic District with a condition that the district be referenced as the Lisbon Street Commercial Historic District. Second by **Lucy Bisson**.

VOTED: 6-0 (Passed)

**AN ORDINANCE PERTAINING TO THE ADDITION OF NEW HISTORIC DISTRICT
TO ARTICLE XV**

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 XV. SIGNIFICANT BUILDINGS AND DISTRICTS**

Sec. 6. Designated historic structures and historic districts.

(b) *Historic districts.* The following described districts are designated as historic districts:

- (2) ~~*Lisbon Street Historic Commercial District (1985).* Start at the intersection of Chestnut and Lisbon Streets; thence in a generally southeasterly direction along Lisbon Street to the intersection of Lisbon and Cedar Streets; thence in a generally southwesterly direction along Cedar Street approximately one hundred thirty-eight (138) feet; thence in a generally northwesterly direction parallel to Lisbon Street to the intersection of Chestnut Street; thence along Chestnut Street to Lisbon Street and the point of beginning, listed on National Register of Historic Places 5/21/85.~~

~~The following are contributing structures within the Lisbon Street Historic Commercial District (1985):~~

- ~~277 Lisbon Street (Institute Jacques Cartier);~~
- ~~291 Lisbon Street (Centennial Block);~~
- ~~311 Lisbon Street (Simard and Sons Building—upper floors destroyed by fire and demolished 1996);~~
- ~~323 Lisbon Street (Condemned 2004—demolished 2006);~~
- ~~331 Lisbon Street;~~
- ~~337 Lisbon Street;~~
- ~~339 Lisbon Street;~~
- ~~343 Lisbon Street (Condemned and demolished in 2004);~~
- ~~347 Lisbon Street;~~
- ~~353 Lisbon Street (Dulae Building);~~
- ~~359 Lisbon Street (Condemned and demolished in 2004).~~

Lewiston Commercial Historic District. (2018) The boundary of the Lewiston Commercial Historic District begins at the southwest corner of 391 Lisbon Street and extends northerly along Canal Street Alley to the south property line of 113

Lisbon Street, where it follows that line westerly to Canal Street and continues northerly along Canal Street to Main Street where it turns easterly and continues along Main Street to Middle Street, where it turns northerly to cross Main Street and extend along Middle Street to the northwest corner of the property that includes 240 Main Street, turning easterly along the property line and following that line back to the south to re-cross Main Street and turning easterly again to the east property line of 249 Main Street where it turns southerly following the line to the southeast corner of the property and then turning westerly, following the property lines of all the Main Street properties to Journal Alley, extending along Journal Alley to a point in line with Park Street Alley and then running southerly along Park Street Alley to Ash Street, turning easterly along Ash Street to Park Street and then southerly along Park Street to the southern property line of 103 Park Street, then westerly to Park Street Alley and again southerly along Park Street Alley to Chestnut Street, turning easterly along Chestnut Street to the east property line of 99 Chestnut Street and southerly along that line to the southeast corner of the property, turning west to the rear property line of 276 Lisbon Street, turning southerly along that line and the rear line of 276 Lisbon Street to the southeast corner of that lot, then westerly to Lisbon Street where it turns southerly to the south line of 391 Lisbon Street, turning westerly to the point of beginning, listed on the National Register of Historic Places on October 4, 2018.

The following are contributing structures within the Lewiston Commercial Historic District:

41 Ash Street, (Second Manufacturer's National Bank Building)
99 Chestnut Street
9-7 Lisbon Street, (The Gateway-Masonic Hall Building)
21-31 Lisbon Street, (Union Block)
43-47 Lisbon Street
46 Lisbon Street, (Lewiston Trust and Safe Deposit Company Building)
49-53 Lisbon Street, (Lyceum Hall)
50 Lisbon Street, (Second Osgood Building)
55 Lisbon Street, (Depositor's Trust Company Building)
69-87 Lisbon Street, (Music Hall/Frye Block)
80-84 Lisbon Street
96-108 Lisbon Street, (Evans Ehrefried Building)
110 Lisbon Street, (Lamey-Wellehan Building)
112-114 Lisbon Street, (Singer Building)
113 Lisbon Street, (Grant's Building)
117-119 Lisbon Street, (Supovitz Brothers Building)
124-130 Lisbon Street, (Sands Building)
127-129 Lisbon Street, (Osgood Building)
130 Lisbon Street, (Call Building)
133 Lisbon Street, (First McGillicuddy Block)
140 Lisbon Street, (People's Savings Bank Building)
145 Lisbon Street, (First Manufacturer's National Bank Building)

152 Lisbon Street
160-166 Lisbon Street, (Second McGillicuddy Building)
168 Lisbon Street
179 Lisbon Street, (Montgomery Ward Building)
180 Lisbon Street, (Ellard Building)
182-188 Lisbon Street, (Odd Fellows Block)
191-193 Lisbon Street
192-194 Lisbon Street, (Garcelon Building)
195 Lisbon Street
196-208 Lisbon Street, (Pilsbury Block)
199 Lisbon Street, (The Scruton Block)
215 Lisbon Street, (The Savings Bank Block)
220-226 Lisbon Street, (Atkinson Building)
223-225 Lisbon Street, (Le Messenger Building)
230-234 Lisbon Street
239 Lisbon Street
240-242 Lisbon Street
243-245 Lisbon Street
244-248 Lisbon Street
249 Lisbon Street
250-274 Lisbon Street, (Lisbon Block/College Block)
255-259 Lisbon Street
263-267 Lisbon Street, (The Martel's Pharmacy Building)
276 Lisbon Street, (First Callahan Block)
277 Lisbon Street, (Institute Jacques Cartier Building)
282 Lisbon Street, (Second Callahan Block)
291-297 Lisbon Street, (The Centennial Block)
311 Lisbon Street (Simard and Sons Building – upper floors destroyed by fire and demolished in 1996)
323 Lisbon Street (Condemned 2004 –demolished 2006)
331-335 Lisbon Street
337 Lisbon Street
339-341 Lisbon Street, (J. Bureau Building)
343 Lisbon Street (Condemned and demolished in 2004) 347 Lisbon Street
351-353 Lisbon Street, (The Dulac Building)
359 Lisbon Street (Condemned and demolished in 2004)
379 Lisbon Street, (The Lord Block)
389 Lisbon Street
383 Lisbon Street, (The V. Palange Building)
391 Lisbon Street
157-163 Main Street and 2-10 Lisbon Street, Central Block/First National Bank Building
181-193 Main Street
195-205 Main Street (and 5 Park Street)
217 Main Street, Clifford Block
238-240 Main Street

249 Main Street, (Bonnalue Block)
90 Middle Street
103 Park Street, (Knights of Columbus Building)

REASONS FOR THE PROPOSED AMENDMENT

On October 4, 2018, the National Park Service, Department of the Interior entered the Lewiston Commercial Historic District in the National Register of Historic Places. This new expanded designation incorporated and includes the Lisbon Street Historic Commercial District that was created back in 1985. Now that the district's adoption process is complete, its description and list of contributing structures needs to be added to Article XV, Significant Buildings and Districts as a text amendment.

CONFORMANCE WITH 2017 COMPREHENSIVE PLAN

This proposed text amendment is in conformance with the 2017 Legacy Lewiston Comprehensive Plan.

Chapter on Celebrate History, Arts and Culture (Page 182)

"Protecting and enhancing Lewiston's historic and cultural resources, and celebrating the community through art and creative expression, rose to the top as key priorities for the City. Citizens united around the idea of protecting neighborhoods, the downtown, landmark buildings, and other historic structures throughout the City (The term "historic" may not necessarily refer to "historically significant" or National Register designated buildings, but instead as long-standing buildings that represent an important part of the City's past or exemplify a historic architectural period). It was widely understood by participants that these assets should be a centerpiece of Lewiston's rebirth and competitive advantage within the region, acknowledging that entrepreneurs looking for an opportunity to participate in a local renaissance, are drawn to the kind of place where they can invest and make a difference."



Attachment 1
MAINE HISTORIC PRESERVATION COMMISSION
55 CAPITOL STREET
65 STATE HOUSE STATION
AUGUSTA, MAINE
04333

PAUL R. LEPAGE
GOVERNOR

KIRK F. MOHNEY
DIRECTOR

16 October 2018

EDWARD BARRETT, ADMINISTRATOR
CITY OF LEWISTON
CITY BUILDING - 27 PINE STREET
LEWISTON ME 04240

Re: Lewiston Commercial Historic District

Administrator Barrett:

The Maine Historic Preservation Commission is pleased to inform you that the **Lewiston Commercial Historic District** was entered in the National Register of Historic Places on October 4, 2018 by the National Park Service, Department of the Interior, Washington, DC. A certificate signifying this recognition will be forwarded to you at your request.

If the Commission may be of further assistance to you in preserving this historic property, please do not hesitate to contact us.

Sincerely,

Kirk F. Mohney
State Historic Preservation Officer



LEWISTON CITY COUNCIL
MEETING OF JUNE 18, 2019

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 7

SUBJECT:

Public Hearing and First Passage for Land Use Code Amendments regarding Nursery Schools.

INFORMATION:

This proposed amendment addresses the issue of Nursery Schools and changing their designation under the City Code from Academic Institutions to Child Care Facilities. The Planning Board voted at their June 10 meeting to send a favorable recommendation to the City Council regarding this amendment. Please see the agenda material for additional background on this request.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.

EAB/kmm

REQUESTED ACTION:

1	2	3	4	5	6	7	M
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That the proposed amendment to Appendix A, Article II, "Definitions" and Article XI, "District Regulations", of the City Zoning and Land Use Code, concerning changes to the definition and classification of Nursery Schools, receive first passage by a roll call vote and to continue the public hearing to the next regularly scheduled City Council meeting for final passage.



CITY OF LEWISTON

Department of Planning & Code Enforcement

TO: Mayor and City Council

FROM: Douglas Greene, City Planner

DATE: June 18, 2019

RE: Planning Board Recommendation: Nursery School Text Amendment

The Planning Board took the following action at their meeting held on June 10, 2019:

MOTION: by **Lucy Bisson**, pursuant to Article VII (Planning Board- Powers and Duties), Section 4 and Article XVII (Amendment and Other Legal Provisions), Section 5 of the Zoning and Land Use Code to send a favorable recommendation to the City Council for a text amendment to Article II, Definitions, to add a definition of Nursery Schools and to Article XI, District Regulations, Section 22, Land Use Table to change the land use designation for Nursery Schools from Academic Institutions and to allow Nursery Schools in zoning districts in which child care facilities are currently permitted with the findings:

- the applicant has submitted a certified petition
- the definition of Nursery Schools will clarify the use and criteria for approval
- the application is consistent with the goals and objectives of the Legacy Lewiston 2017 Comprehensive Plan.

Second by **Kristine Kittridge**.

VOTED: 6-0 (Passed)



CITY OF LEWISTON

Department of Planning & Code Enforcement

TO: Lewiston Planning Board

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

DATE: June 10, 2019

RE: Proposed Nursery School Text Amendment

Pursuant to Article XVII, Section 5 of the Zoning and Land Use Code, Michelle Roberts, has submitted a petition to amend the Zoning Ordinance, by adding a definition for Nursery School in Article II, Definitions and to change the land use designation for Nursery Schools from Academic Institutions to uses similar to Childcare Facilities in Article XI, District Regulations, Section 22, Land Use Table (Small Day Care Facilities, Day Care Centers and Day Care Centers accessory to public schools, religious facilities, multifamily or mixed res. developments and mobile home parks).

The proposed definition of Nursery Schools includes 7 specific criteria, 4 come directly from the State of Maine's definition of Nursery Schools and the 3 additional criteria would be imposed on Nursery Schools in the Neighborhood Conservation "A" (NCA) district. The criteria applied in the NCA district will limit the number of students to no more than 20 students per session, be on property a minimum of 1 acre in size and require the Nursery School to be accessory to a single family residence. The criteria specific to the NCA district will limit the size of the Nursery School and ensure it fits into a neighborhood setting.

As noted in the "Reasons for the Proposed Amendment", The Planning and Code Enforcement Office currently interprets and includes Nursery Schools in the Academic Institution Land Use category. *"Academic institutions, including buildings or structures for classroom, administrative, laboratory, dormitories, art, theater, dining services, library, bookstores, athletic facilities and student recreational uses, together with buildings accessory to the foregoing permitted principal buildings or structures"*. (Article XI, Section 22 Land Use Requirements)

The Staff is supportive of the text amendment for Nursery Schools, as per the proposed definition, which is more similar in nature to Child Care Facilities than academic institutions and would therefore be an appropriate use in zoning districts as is currently allowed for Child Care Facilities. The Staff looked at the zoning ordinance Land Use Chart and compared what districts were listed as permitted, conditional or prohibited uses for Child Care Facilities and applied

those standards to Nursery Schools. Based on that evaluation, the text amendment is proposing the following Land Uses for Nursery Schools. (See attached Land Use Chart)

Permitted Use: Riverfront (RF), Office Residential (OR), Downtown Residential (DR), Institutional Office (IO), Community Business (CB), Highway Business (HB), Centreville (CV), Office Service (OS), Industrial (I), Urban Enterprise (UE) and Mill (Mill).

Conditional Use: Rural Agriculture (RA), Low Density Residential (LD), Suburban Residential (SR), Medium Density Residential (MR), Neighborhood Conservation "B" (NCB) and Neighborhood Conservation "A" (NCA).

Prohibited Use: Resource Conservation (RC)

In addition, the definition for Nursery Schools adds the following criteria for Nursery Schools in the Neighborhood Conservation "A" district:

- limiting the number of children to no more than 20 per session
- requiring the property to be a minimum of 1 acre in size and
- the Nursery School be accessory to a single family residence

The Staff analyzed how many single family NCA lots over 1 acre there are in Lewiston. Out of a total 6,047 NCA parcels, 157 are 1 acre or greater.

Planning Board Action:

Make a motion pursuant to Article VII (Planning Board- Powers and Duties), Section 4 and Article XVII (Amendment and Other Legal Provisions), Section 5 of the Zoning and Land Use Code to send a favorable recommendation to the City Council for a text amendment to Article II, Definitions, to add a definition of Nursery Schools and to Article XI, District Regulations, Section 22, Land Use Table to change the land use designation for Nursery Schools from Academic Institutions to uses similar to Childcare Facilities with the findings:

- the applicant has submitted a certified petition
- the definition of Nursery Schools will clarify the use and criteria for approval
- the application is consistent with the goals and objectives of the Legacy Lewiston 2017 Comprehensive Plan

May 28, 2019

Douglas M. Greene
Deputy Director/City Planner
Lewiston City Hall
27 Pine Street
Lewiston, Maine 04240

Dear Mr. Greene:

Please accept this communication regarding my desired intention to amend the zoning ordinance to allow nursery schools in the Neighborhood Conservation 'A' district as a conditional use. My goal is to have up to 20 children per session.

I have a long term history in providing nurturing and loving care for children. For over 11 years, I have worked to create a solid foundation for young children. Here are a few facts to consider:

1. Children that attend a licensed nursery school are better prepared to enter Kindergarten as they have already achieved a higher level of learning.
2. Children that attend nursery school develop a higher emotional skill set that is exhibited when in social situations.
3. Children that attend nursery school have a greater level of academic achievement in high school as well as a higher success rate of graduating.

My plan would be to offer a nursery school setting in order to provide an alternative to the public and their children. There is current only one other private nursery school in the City of Lewiston. In addition, public nursery schools require the child to be, at minimum, four years of age. My nursery school program will allow children to attend starting at age three to capture those children that are ready to start their learning process.

The 2017 Lewiston Comprehensive Plan talks about how Lewiston is changing and wanting to challenge each citizen to participate and take on a role no matter how large or small. It also talks about the cities limited financial resources to implement the concepts in the Comprehensive Plan and how you need the people of Lewiston to will this change into existence with their time, sweat, passion and perseverance. We are not coming to you asking for money, we are using our own resources to add something positive to the city of Lewiston and to the education for the

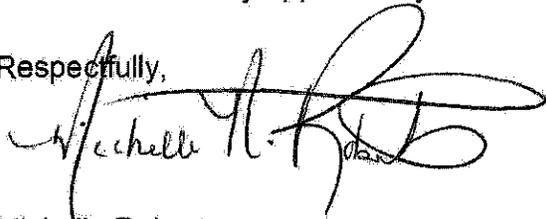
youth of the city, the next generation. In addition, the Comprehensive Plan also mentions small businesses on page 168.

"Promote Grassroots Initiatives

Smaller, incremental, and uniquely Lewiston initiatives are just as important to economic growth as large-scale investments. Lewiston has a significant population of young adults, an age group has untapped potential and will likely be a driving force behind future grassroots planning and business initiatives."

In closing, I would like to thank you for the opportunity to submit my preliminary letter of interest. I sincerely appreciate your consideration of this request.

Respectfully,

A handwritten signature in black ink, appearing to read "Michelle H. Roberts". The signature is fluid and cursive, with a large loop at the end.

Michelle Roberts
Itty Bitty Childcare

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

Pursuant to Appendix A, Article XVII, Section 5, Amendments, 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 to amend the following sections of the Zoning Ordinance:

1. Article II, Definitions, add the following:

Nursery School means a house or other place in which a person or combination of persons maintains or otherwise carries out for consideration during the day a regular program which provides care for three (3) or more children, who are between the ages of thirty-three (33) months and under eight (8) years of age, provided that:

1. No session conducted for the children is longer than three and one half (3 ½) hours in length;
2. No more than two (2) sessions are conducted per day;
3. Each child in attendance at the nursery school attends only one session per day; and
4. No hot meal is served to the children.
5. Nursery schools in the Neighborhood Conservation "A" (NCA) are limited to no more than 20 children per session.
6. Nursery schools in the Neighborhood Conservation "A" (NCA) area limited to properties containing a minimum of one (1) acre in size.
7. Nursery schools in the Neighborhood Conservation "A" (NCA) shall be accessory to a single family dwelling.

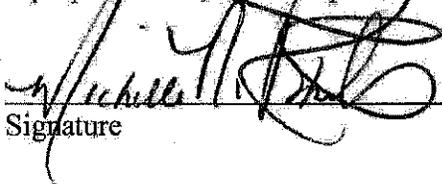
2. Article XI, Section 22 Land Use Requirements, Land Use Table, create a separate land use category "Nursery Schools" as a Permitted use in the Riverfront (RF), Office Residential (OR), Downtown Residential (DR), Institutional Office (IO), Community Business (CB), Highway Business (HB), Centreville (CV), Office Service (OS), Industrial (I), Urban Enterprise (UE) and Mill (M) Districts and as a Conditional Use in the Rural Agriculture (RA), Low Density Residential (LDR), Suburban Residential (SR), Medium Density Residential (MDR), Neighborhood Conservation "B" (NCB) and Neighborhood Conservation "A" (NCA) zoning district.

	SIGNATURE	PRINTED NAME	PHYSICAL STREET ADDRESS (No PO Boxes)	DATE
1		Lynnette Morency	12 Bellegarde Ave Lewiston	5/18/19
2		coleman morency	12 Bellegarde Ave Lewiston	5-13-19
3		Karen Bate	11638 MAIN ST Lewiston	5-17-19
4		Linda Giroux	20 TAIL PONES DR. Lewiston	5-18-19
5		Anna Child	15 Tarr Ave	5-18-19
6		Kara Child	65 Cream Ave	5-18-19
7		Anna Martin	56 Mark St.	5-18-19
8		Stefan Martin	56 Mark St.	5-18-19

9	Cynthia K. Martin	CYNTHIA MARTIN	56 MARK ST.	5-18-19
10	Christine Beaucage	CHRISTINE BEAUCAGE	79 Gayton Rd.	5-19-19
11	Anita Marcoux	ANITA MARCOUX	8 Donnelly St	5/20/19
12	Brandon Marcoux	BRANDON MARCOUX	8 Donnelly St	5-20-19
13	Felicia Marcoux	FELICIA MARCOUX	8 Donnelly St	5-20-19
14	Anita Schenk	ANITA SCHENK	211 RANDALL RD.	5-22-19
15	Lisa-Mare Sassoville	LISA-MARE SASSOVILLE	6 Donnelly St.	5-22-19
16	Randall Schenk	RANDALL SCHENK	12 GINA ST.	5-22-19
17	Brenda Gauvin	BRENDA GAUVIN	211 RANDALL RD	5-22-19
18	Chelsey Dugal	CHELSEY DUGAL	12 Richard Terrace	5-22-19
19	Courtney Vincent	COURTNEY VINCENT	33 Grove St	5-23-19
20	Justin Vincent	JUSTIN VINCENT	33 Grove St	5-23-19

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.


Signature

Michelle N. Roberts
Printed Name of Circulator

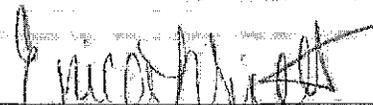
5-23-19
Date

REGISTRAR=S CERTIFICATION

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

Total Valid: 18

Total Invalid: 2


Signature of Registrar/Deputy Registrar

Date: 5/24/19

AN ORDINANCE PERTAINING TO NURSERY SCHOOLS

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 II. DEFINITIONS**

Sec. 2 Definitions

Nursery School means a house or other place in which a person or combination of persons maintains or otherwise carries out for consideration during the day a regular program which provides care for three (3) or more children, who are between the ages of thirty-three (33) months and under eight (8) years of age, provided that:

1. No session conducted for the children is longer than three and one half (3 ½) hours in length;
2. No more than two (2) sessions are conducted per day;
3. Each child in attendance at the nursery school attends only one session per day;
4. No hot meal is served to the children.
5. Nursery schools in the Neighborhood Conservation "A" (NCA) District shall be limited to no more than 20 children per session.
6. Nursery schools in the Neighborhood Conservation "A" (NCA) Districts shall be limited to properties containing a minimum of one (1) acre in size.
7. Nursery schools in the Neighborhood Conservation "A" (NCA) District shall be accessory to a single family residence.

ARTICLE XI. DISTRICT REGULATIONS

Sec. 22. Land Use Requirements, (c) Land Use Table (See attached Land Use Chart)

REASONS FOR THE PROPOSED AMENDMENT

The purpose of the proposed amendment is to define Nursery Schools and make them easier to establish but not be detrimental to surrounding properties. Nursery Schools are not specifically mentioned in Article XI, Section 22 Land Use Requirements and Land Use Chart. The Planning and Code Enforcement Office currently interprets and places Nursery Schools in the Academic Institution Land Use category. "*Academic institutions, including buildings or structures for classroom, administrative, laboratory, dormitories, art, theater, dining services, library, bookstores, athletic facilities and student recreational uses, together with buildings accessory to the foregoing permitted principal buildings or structures*". (Article XI, Section 22 Land Use Requirements) In addition to the Land Use designation, Nursery Schools are not defined in the zoning ordinance. The text amendment proposed a new definition.

A petition for a text amendment with 10 certified signatures has been submitted, which seeks to define Nursery Schools and move Nursery Schools out of the Academic Land Use Category to allow Nursery Schools in zoning districts in which child care facilities are currently permitted as per Article XI, District Regulations, Section 22, Land Use Table (Small Day Care Facilities, Day Care Centers and Day Care Centers accessory to public schools, religious facilities, multifamily or mixed res. developments and mobile home parks).

CONFORMANCE WITH 2017 COMPREHENSIVE PLAN

The 2017 Legacy Lewiston Comprehensive Plan is somewhat silent with regards to child care facilities and early childhood education. The applicant's cover letter mentions how Lewiston is changing and challenges each citizen to participate and take on a role no matter how large or small. She also describes how the city's limited financial resources delays the implementation of the Comprehensive Plan's goals. The people of Lewiston can help to the implementation process with their time, sweat, passion and perseverance. We are not coming to you asking for money, we are using our own resources to add something positive to the city of Lewiston and to the education for the youth of the city, the next generation. In addition, the Comprehensive Plan also mentions small businesses on page 168.

"Promote Grassroots Initiatives

Smaller, incremental, and uniquely Lewiston initiatives are just as important to economic growth as large-scale investments. Lewiston has a significant population of young adults, an age group has untapped potential and will likely be a driving force behind future grassroots planning and business initiatives."

Proposed Text Amendment to Add Nursery School in Land Use Chart

Land Use Table: All Zoning Districts	Rural Agriculture (RA)	Low Density Residential (LDR)	Suburban Residential (SR)	Medium Density Residential (MDR)	Recreation (R)	Neighborhood Conventional (NCA)	Neighborhood Conventional on "B" (NCB)	Office Residential (OR)	Downtown Residential (DR)	Neighborhood Office (NO)	Community Business (CB)	Highway Business (HB)	Center/Civic (C/CV)	Office Services (OS)	Industrial (I)	Urban Offices (UE)	Mill (M)	Resource Conservation (RC)	Groundwater Overlay (GO)	No Name Conventional on Overlay (NNO)	Mobile Home Park (MHP)
Accessory use of structure	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Veterinary facilities, including kennels and humane societies	C																				
Veterinary facilities including kennels and humane societies	C																				
Nursery School	C	C(22)	C(22)	C(22)	C(22)	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
Day care centers	C	C(22)	C(22)	C(22)	C(22)	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
Day care centers necessary to public schools, religious facilities, multi-family or mixed use developments, and mobile home parks	C	C(22)	C(22)	C(22)	C(22)	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
Business and professional offices including research, experimental testing laboratories, engineering, research, management and related services																					
Restaurants																					
Drinking fountains																					
Adult business establishments																					
Adult day care centers																					
Mobile homes, other than those in a mobile home park																					
Places of public assembly, entertainment or culture																					
Art and craft studios																					
Personal services																					
Small shops																					
Small professional offices																					
Lumber and building materials dealer																					
Gasoline service stations																					
Gasoline service stations which are a part of and subordinate to a retail use																					
New and used car dealers																					
Recreational vehicles, mobile home dealers																					
Equipment dealers and equipment repair																					
Automotive repair																					
Registered primary caregivers engaged in the cultivation of medicinal marijuana for two to five registered patients																					
Medical marijuana for two to five registered patients																					
Tobacco, e-cigarettes																					
Light industrial uses																					
Building and construction contractors																					
Use of trailers and related facilities																					
Use of trailers for manufacturing and distribution facilities and sub-storage facilities																					
Self storage facilities																					
Warehouses, distribution facilities																					
Manufacturing and processing facilities																					
Private industrial/commercial development (2)																					
Alcohol or tobacco																					
Connected parking facilities																					
Tram and ground transportation facilities																					
Transportation facilities																					
Pumping stations, stormwater or other water supply uses (including facilities located on or above the ground surface and lowers for municipal use)																					
Power transmission lines, substations, telephone exchanges, microwave towers or other public utility or communications use																					
Municipal buildings and facilities																					
Preservation of historic areas, emergency and fire protection services, bridges and public roadways																					
Utensils																					

LEWISTON CITY COUNCIL

MEETING OF JUNE 18, 2019

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 8

SUBJECT: Resolve, Replacing Master Policy 21, Employee Performance Evaluation Policy, with a Revised Policy.

INFORMATION:

Following the recent revisions to the City's Personnel Policies, a number of related policies are also being reviewed and updated. These include our policy outlining personnel procedures and safety. Among them is our current Performance Evaluation Policy. The current policy, attached, includes detailed language more appropriate for training sessions than for inclusion in a master policy. In addition, the proposed new policy makes a number of changes and improvements including:

- Clearly defining evaluation cycles
- Outlining the key elements needed in the appraisal form
- Specifying the roles and responsibilities of department heads and supervisors
- Introducing the use of a corrective action work plan

We recommend your approval of this replacement policy.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.

EAB/CMW

REQUESTED ACTION:

1	2	3	4	5	6	7	M
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To approve the Resolve, Replacing Master Policy 21, Employee Performance Evaluation Policy, with a Revised Policy.



Finance Department

Heather Hunter
Director of Finance/Treasurer
hhunter@lewistonmaine.gov



TO: Mayor Kristen S. Cloutier And Members of the City Council
FROM: Heather Hunter, Finance Director
SUBJECT: **Amended Employee Performance Evaluation Policy**
DATE: June 11, 2019

Prior to the consolidation of human resource services with the school department, there was an initiative to revamp and update several of the outdated personnel-related policies. Unfortunately, the project was delayed until recently. Last fall, the City Council approved the complete overhaul of the citywide Personnel Policy. I'm bringing forward an amended Employee Performance Evaluation Policy now, and anticipate in the fall amending the Personnel Procedures Policy. The City's Safety Coordinator will also be reviewing the Safety Policy with administration to determine what amendments are needed, if any.

Given the reformatting and overhaul approach, I am recommending the City Council remove and replace the Employee Performance Evaluation Policy with the version enclosed. The latest version removes much of the detailed "training" language a supervisor would expect to receive from a seminar session. In addition, the following adjustments have been made in the new policy:

- Clearly defines evaluation cycles
- Outlines the key elements needed in the appraisal form
- Specified the roles and responsibilities of department heads and supervisors
- Introduces the use of a Work Plan

Please feel free to contact me if you should have any questions or concerns regarding the policy amendment.



CITY OF LEWISTON, MAINE

DATE

COUNCIL RESOLVE

Resolve, Replacing Master Policy 21, Employee Performance Evaluation Policy, with a Revised Policy.

Whereas, the City Council has recently adopted revised Personnel Rules and Regulations; and

Whereas, as a follow-up to that effort, staff is reviewing certain other related City Master Policies; and

Whereas, among these is the City's current Employee Performance Evaluation Policy; and

Whereas, a revised policy has been developed that simplifies the current language and makes certain changes and adjustments to reflect current best practices.

Now, therefore, be it resolved by the City Council of the City of Lewiston that

Master Policy 21, Employee Performance Evaluation Policy, is hereby replaced in full by the new Policy Dated 6/18/19 attached hereto.

EMPLOYEE PERFORMANCE EVALUATION POLICY

City of Lewiston Policy #21 – amended 6/18/19

INTRODUCTION

Completing performance evaluations is a best practice that affords both supervisors and employees time to review job performance, share successes, establish goals, discuss professional development, and open lines of communication. Employees typically both want and need feedback on their performance in order to feel successful at their job.

PERFORMANCE EVALUATION FORM

Given the variety of tasks performed throughout the City, departments have the freedom to adopt and utilize their own evaluation forms once approved by the City Administrator or designee. Appraisal forms should clearly provide performance ratings on categories involving essential job duties and general work ethic such as punctuality; attendance; customer service; communication; and efficiency and accuracy. A standard evaluation form is also available through Human Resources.

EVALUATION CYCLE

Probationary Employees – the immediate supervisor, after establishing probationary goals & objectives, should provide the probationary employee with a written evaluation every 90 days during the probationary period, with the final evaluation occurring two weeks PRIOR to the conclusion of the probationary period and to include a recommendation as to whether the employee should be converted to permanent status

Permanent Employees – employees shall be evaluated annually with new goals & objectives mutually agreed upon with the immediate supervisor.

Department heads are in-charge of the overall employee performance evaluation program within their departments. It is the department head's responsibility to ensure all employees are evaluating within the prescribed cycles and that performance ratings issued by the immediate supervisor reflect the employee's actual performance.

Department heads may charge immediate supervisors with the task of completing timely performance evaluations on those employees to whom they provide at least 50% oversight and who fall within their supervisory purview in their current job description.

Department heads, with the City Administrator's approval, may withhold the immediate supervisor's pay adjustment until the annual evaluations are completed.

EVALUATING PERFORMANCE

Performance evaluation results should not be a surprise to the employee as open communication with clear expectation between employees and supervisors should occur throughout the year. The selected performance scores by category should be fair and reflect the year-long effort made by the employee in the area measured by the scoring criteria. Examples should be provided to affirm the ranking selected,

and supervisors should outline specific areas where the employee can improve as appropriate. Supervisors may, at their discretion, request employees to complete a self-evaluation and/or develop a series of professional goals.

Employees will have a clearer understanding of expectations if reasonable goals and objectives are agreed upon annually with the immediate supervisor. This step establishes the framework of future evaluations targeting areas where changes are needed to improve performance.

The City encourages all supervisors seek initial and refresher training on completing evaluations, coaching/mentoring employees, and improving communication skills. Additionally, supervisors should avoid the following rating pitfalls:

- The "Halo Effect": Employees that are liked are seen as excellent in every area; if disliked, deficient in every area.
- Overweighing of Recent Occurrences: This includes either favorable or unfavorable ones.
- "Central Tendency": Supervisor, reluctant to rate an employee either high or low, rates the employee average to avoid the need for justification.
- The "Sunflower Effect": All employees are rated high in order to look good to the supervisor's boss.

EVALUATION MEETING

In advance of the evaluation meeting, the supervisor and employee should select a meeting time and place when a relaxing, uninterrupted, private discussion can take place. Supervisors should use discretion to avoid outlining areas needing improvement in an overly empathic manner and should attempt, when possible, to offer strong or positive examples to provide a balanced review. Additionally, employees should feel comfortable providing the supervisor feedback and/or discussing potential inaccuracies in the performance evaluation. Employees should be granted the latitude to provide a timely written response if desired, and such response is to be attached to the evaluation form.

An employee's signature on the evaluation form documents that the evaluation was completed and reviewed with them; it does not necessarily indicate agreement.

If there are items that are left open for whatever reason, the Supervisor should make every effort to follow-up and close the item in a reasonable time period.

WORK PLANS

When behavior and/or performance fall below the satisfactory rank, supervisors may implement a specific work plan for the employee. Work plans focus on current behavior, why it's unacceptable, and what the desired result should be within a clearly established timeframe. Work plans should be both objective and measurable. The plan may specify the consequences for not meeting stated objectives within the prescribed timeframe.

Communication between the supervisor and the employee should be more frequent in order to provide direct feedback during the duration of the work plan.

FILING

Once completed and executed, employee performance evaluations and work plans are to be sent to Human Resources and incorporated in the employee's personnel file.

EXISTING POLICY BEING REPLACED

EMPLOYEE PERFORMANCE EVALUATION PROGRAM

INTRODUCTORY STATEMENT

Employee Performance Evaluation or Performance Rating is defined as an orderly and systematic approach to appraising an employee's performance on the job.

A. OBJECTIVES OF PERFORMANCE RATING

The most obvious objective of an employee performance evaluation program is the establishment of communication, on a regular basis, between supervisors and employees regarding performance. Additional objectives include:

1. Maintain up-to-date job descriptions.
2. Assist the department head and City Administrator in making decisions regarding training, reclassifications, promotions or retention of an employee.
3. Improve the hiring process.
4. Provide those employees whose work have not been fully satisfactory the opportunity to learn how to improve their work.
5. Improve employee morale.

B. RATING PROCESS

The employee performance evaluation form that will be utilized in this process is attached.

Department heads are responsible for the overall employee performance evaluation program within their department. However, the employee's immediate supervisor shall be responsible for evaluating all employees under their control, providing the supervisor supervises the employee at least 50 of the time.

All employees shall be evaluated at least annually, no later than the employee's anniversary date, except probationary employees (including promoted employees) who shall be evaluated quarterly.

Forms, stating the employee's name, last review date and due date shall be sent from the Human Resources Department to all departments at least one (1) month before it is due.

C. EVALUATING PERFORMANCE

Regardless of the method or form used in performance rating, the evaluation of the employee's performance will always contain some element of subjectivity. However, subjectivity can be reduced by recognizing the following typical sources of rater bias:

- The "Halo Effect": Employees that are liked are seen as excellent in every area; if

EMPLOYEE PERFORMANCE EVALUATION PROGRAM

INTRODUCTORY STATEMENT

2

- disliked, deficient in every area.
- Overweighing of Recent Occurrences: This includes either favorable or unfavorable.
- "Central Tendency": Supervisors, reluctant to rate an employee either high or low, rates the employee average to avoid justification.
- The "Sunflower Effect": All employees are rated high in order to look good to the supervisor's boss.

Employee performance can be accurately rated only if both, the supervisor and the employee, have the same expectations for their accomplishments. That's why one of the most important questions the supervisor must keep in mind when evaluating is, "Does the employee know what I expect"?

It is imperative that the supervisor be fair and accurate in rating performance and must be very specific about the events or behaviors that are used to substantiate the appraisal. The supervisor should not compare one employee with another. Employees should be assessed according to their behavior in terms of the performance standards or criteria that have been established for that employee and attached to the evaluation.

D. PREPARING FOR THE EVALUATION INTERVIEW

Whenever the supervisor has completed the evaluation form, and at least one (1) week prior to the employee interview, employees should be given a copy of the last evaluation performed in an effort to refresh their memory as to any weaknesses they may have had, depicting those areas needing improvement.

A specific time and place should be set at the same time employees are given their last evaluation. The location should be one that is comfortable, private and free, as much as possible, of any interruptions.

In preparing for the evaluation interview, supervisors are urged to keep the following factors in mind:

1. Decide in advance what you would like the results to be.
2. Consider the effect on the morale of the employee.
3. Have clearly in mind the strong and weak points of the employee.
4. From your discussion, what do you want the employee to specifically change.
5. Have specific plans as to how performance can be improved.

EMPLOYEE PERFORMANCE EVALUATION PROGRAM

INTRODUCTORY STATEMENT

E. CONDUCTING THE INTERVIEW

A well conducted evaluation interview should have two (2) distinct features—performance feedback and goal setting.

Performance feedback involves supervisors sharing with the employee their perception of how well the employee has reached the agreed upon goals and standards previously established. Goal setting allows the supervisor (and the employee) to identify those areas requiring changes in an effort to increase the employee's proficiency. The goal statement then becomes the basis for future performance ratings and goal setting.

The following are general comments and should be used as a guide for supervisors in these interviews:

1. Employees should be made to feel at ease providing an informal attitude and atmosphere—supervisors are urged to come out from behind the desk and truly communicate with the employee.
2. Supervisors should explain to the employees the purpose of the evaluation and relate the various factors being used to rate them.
3. Supervisors are urged to explain in their own words the performance rating and not read it to the employee.
4. The interview should begin on a positive tone with those items that are praiseworthy.
5. Employees should not feel that they are being preached, rather, after stating the facts, ask the employee if there is a reason—get their side of the story and then develop a solution to the problem.
6. The solution to a problem should come from the employee with some guidance from the supervisor. In this way, employees are much more likely to do something about the problem.
7. The supervisor should finish the meeting. Don't leave the employee hanging in mid-air—put a conclusion to the meeting with a statement of confidence in the employee.
8. Provide at least 15-minutes for each interview—really get to know the employee.

F. FOLLOW-UP

Follow-up on the evaluation is a very important step. The supervisor should write down important points covered during the interview, especially those which will require some follow-up activity by either the supervisor or the employee. Supervisors should be prepared to live up to any action to which they committed themselves or the City. If, for any reason, supervisors cannot deliver on a commitment, they should explain immediately

EMPLOYEE PERFORMANCE EVALUATION PROGRAM

INTRODUCTORY STATEMENT

to the employee. Periodically, preferably after a 3-month period, supervisors should follow-up with an employee in any performance area which has been below standard. Performance feedback should not come only during the formal performance evaluation process. It should be an on-going event that examines both the supervisor's expectations and the employee's accomplishments.

LEWISTON CITY COUNCIL

MEETING OF JUNE 18, 2019

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 9

SUBJECT: Resolve, Amending the Traffic Schedule to Designate the West Side of Main Street from Elm Street to Curtis Street "No Parking Anytime" Subject to Certain Conditions.

INFORMATION: The property at 420 Main Street is under consideration for development of a Dunkin Donuts. Based on the developer's initial plans, this would require lane assignment and parking changes on Main Street to allow for access into and out of the site through extending the current three lane system to Curtis Street and eliminating on-street parking on the west side of Main Street between Elm and Curtis. This change may also mitigate the high crash intersection of Whipple and Main.

This proposal has been discussed at two separate Council workshops, and the most recent plan abandoned the initial plan's proposal to eliminate parking on both sides of Main Street. At both workshops, property owners and representatives of area businesses appeared and opposed the elimination of on-street parking. Their concerns included: inconvenience for tenants and clients having to walk further to a parking space, pedestrian safety to and from the site, increased congestion related to left-hand turns, tenants and commercial tenants relocating due to lack of parking, conflicts with the historic character of the area, simply relocating an existing business rather than developing something new, and potential negative impacts to property values.

The developer is seeking the City's approval of the parking and lane assignment changes before proceeding with the development of detailed plans and studies.

At the workshop, a number of possible conditions that could be attached to the requested changes were also discussed and are included in the attached Council Resolve.

Please note that should this resolve be approved, the project will still require site plan approval by the Planning Board and the development and presentation of a full traffic study on the impacts of the project.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

We are seeking the Council's policy guidance on this request. While the staff review is generally supportive of the requested changes on the basis of traffic safety considerations, we also recognize the parking concerns raised by adjacent property owners.

EAB/KMM

REQUESTED ACTION:

1	2	3	4	5	6	7	M
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To approve the **Resolve**, Amending the Traffic Schedule to Designate the West Side of Main Street from Elm Street to Curtis Street "No Parking Anytime" Subject to Certain Conditions.



CITY OF LEWISTON, MAINE

June 18, 2019

COUNCIL RESOLVE

Resolve, Amending the Traffic Schedule to Designate the West Side of Main Street from Elm Street to Curtis Street "No Parking Anytime" Subject to Certain Conditions.

Whereas, the City has been approached by a potential developer of the vacant property located at 420 Main Street; and

Whereas, based upon that developers initial plans and studies, the proposed development will require traffic lane realignments and parking changes on Main Street in the area of the development; and

Whereas, the concept plan calls for a three lane section on Main Street between Elm and Curtis Streets to accommodate traffic movements into and out of the site; and

Whereas, to do this, parking on the west side of Main Street between Elm and Curtis must be eliminated; and

Whereas, the intersection of Whipple and Main, which is included in this section, has been identified by the Main Department of Transportation as a high crash location; and

Whereas, elimination of parking adjacent to the intersection and installation of a center turn lane is expected to have a positive impact on this intersection; and

Whereas, in order to proceed with planning and permitting, the developer has asked that the City indicate its willingness to authorize these parking and traffic pattern changes;

Now, therefore, be it resolved by the City Council of the City of Lewiston that

The Traffic Schedule is hereby amended to designate the west side of Main Street from Elm Street to Curtis Street "No Parking Anytime," as shown on the attached memorandum from Sergeant St. Laurent, subject to the following conditions:

1. Site Plan Approval by the Planning Board for the proposed development at 420 Main Street;
2. Creation of a minimum of one handicap parking space on the Shapiro property at 410 Main Street at the corner of Main and Elm if this addition can meet the requirements of the City's land development code;
3. Approval for the installation of a three lane section on Main Street between Elm and Curtis, including a center two-way turn lane and required adjustments to the three lane section between Holland and Elm, through the Maine Department of Transportation Traffic Movement Permit Process under the delegated authority to the City of Lewiston;
4. Widening Whipple Street adjacent to the development site to better accommodate parking on the North Side of the street, the cost of such work to be borne by the developer including all costs associated with widening the existing City right-of-way;
5. Installation by the developer of 420 Main Street of the necessary street markings to establish the proposed three lane section between Elm and Curtis along with "No Parking" signs on the west side of this section of Main Street at locations approved by the Director of Public Works or his designee.



POLICE DEPARTMENT

Sgt. Derrick St. Laurent
Administration / Accreditation



TO: Traffic Schedule Review
FROM: Sgt. Derrick St. Laurent
DATE: May 30, 2019
SUBJECT: Traffic Schedule Amendment –Main St. “No Parking Anytime”

With anticipated development proposed for 420 Main St. it has been recommended that the center turning lane be extended on Main St. Currently, a center turn lane is present between Union St. and Elm St. The new extension would run from (Elm St. to Curtis St.

This would require eliminating on street parking on the west side (even numbered side) of Main St. between Elm St. and Curtis St. to provide enough road space to create the center turning lane.

This amendment will eliminate 8 parking spots on Main St. These spots are primarily used by residents living on or adjacent to Main St. and visitors to businesses in the area. The developer has also proposed widening the north side of Whipple Street adjacent to 420 Main to allow for two way traffic and parking on both sides of that street.

The Lewiston Police Department is in support of this amendment, as eliminating parking adjacent to the Whipple/Main intersection and adding the center turn lane will increase traffic safety on this stretch of Main St.

Add:
Section 50
NO PARKING
ANYTIME

Even side of Main St. (West side) between the intersections of
ELM-CURTIS



If this amendment is approved, the developer would be responsible for installing the required no parking signs and street markings required to extend the center turn land.

Respectfully Submitted,

Sgt. Derrick St. Laurent



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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

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 15th 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.”
- Fire- “No issues.”
- Planning and Code Enforcement- “Based upon the report provided, the addition of a center turn lane should result in fewer accidents at the high crash location of Main and Whipple Street. This will also accommodate development of 420 Main Street.”

- 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:

- Police- “I feel the proposal will improve the area with proper parking on Whipple St. and the Main St. turning lane.”
- Fire- “No issues.”
- Planning and Code Enforcement- “As noted in the applicant’s report, parking is currently allowed on both sides of Whipple Street. The 11 spaces being added technically exist today. However, given the narrowness of the travel lanes, parking on both sides would essentially limit access to one lane. Providing additional lane width, improved on-street parking, with a new sidewalk is a welcomed improvement and should result is more available and safer parking and travel conditions.”
- 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 14th. 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)



Attachment 1
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 11th, 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 17th.

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 19th, 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

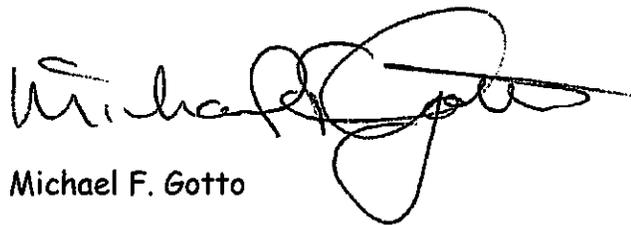
this project and our offer to help. If this proposal is approved by the City Council, we will work with them during the Site Plan review process to improve parking on their property for their buildings and tenants.

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 large, stylized flourish at the end.

Michael F. Gotto

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

Attachment 2



Traffic Solutions
William J. Bray, P.E.
17 Mountview Drive
Gorham, ME 04038
(207) 400-6890
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	=	44 trips
Total Trips	=	294 trips

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

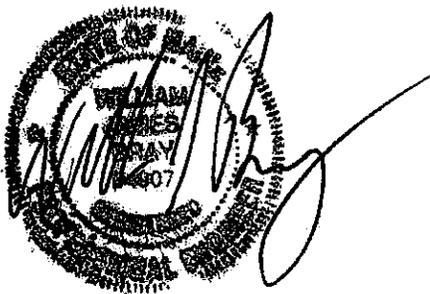
Main Street between Elm Street and Frye Street, is constructed with a pavement width of 45-feet and parallel parking allowed on both sides of the street. A single-lane of traffic is striped in each direction of travel through the entire street segment. Based upon field measurements, a total of 11 legal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

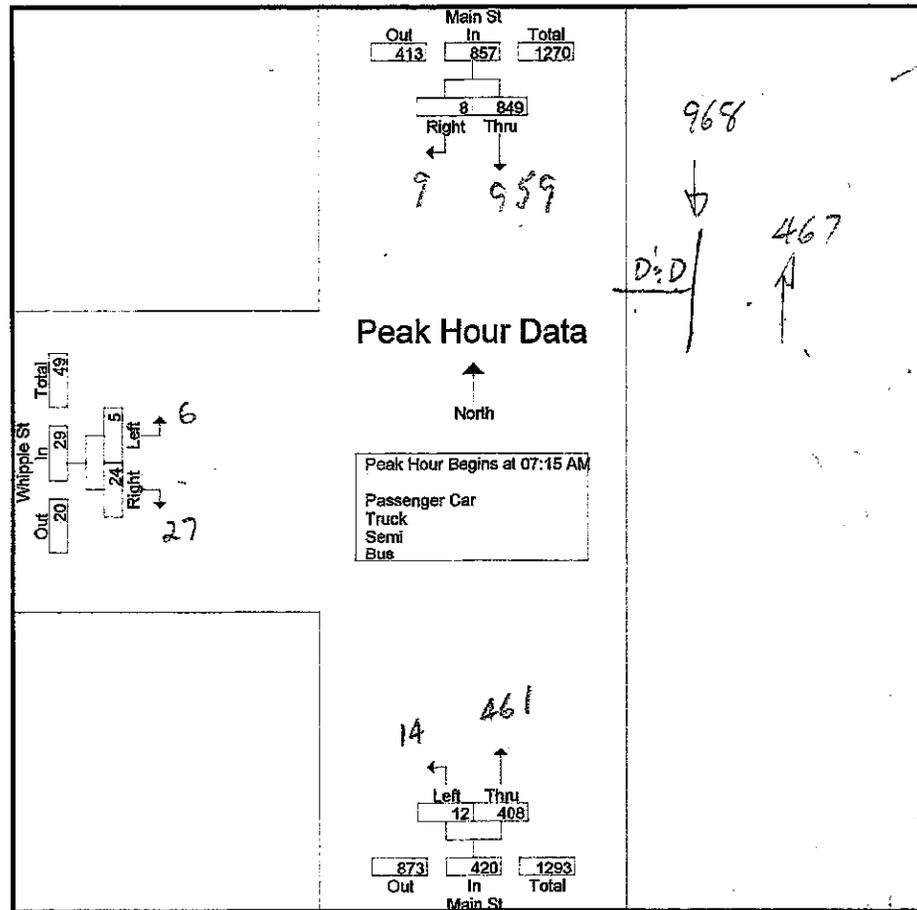


Traffic Solutions

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



VEHICLE VOLUME COUNT GRAPHIC SUMMARY SHEET

Intersection of PROPOSED DUNKIN DONUTS MAIN ST. SITE Date _____

Weather _____ Road Surface Condition _____ Time _____ to _____

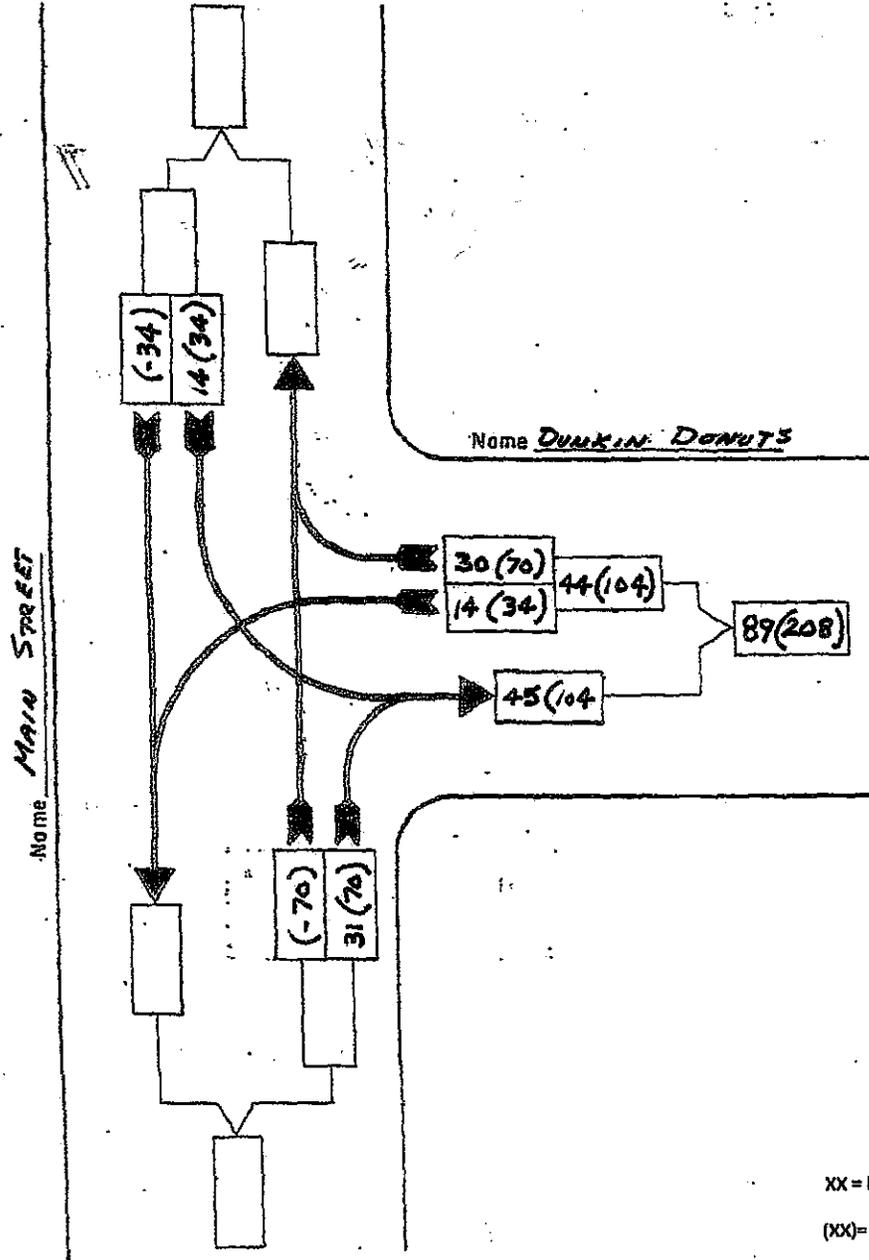
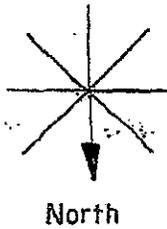


FIGURE 1: Site Trip Assignment – AM Peak Hour

VEHICLE VOLUME COUNT GRAPHIC SUMMARY SHEET

Intersection of DUNKIN DONUTS @ MAIN STREET

Date _____

Weather _____

Road Surface Condition _____

Time _____

to _____

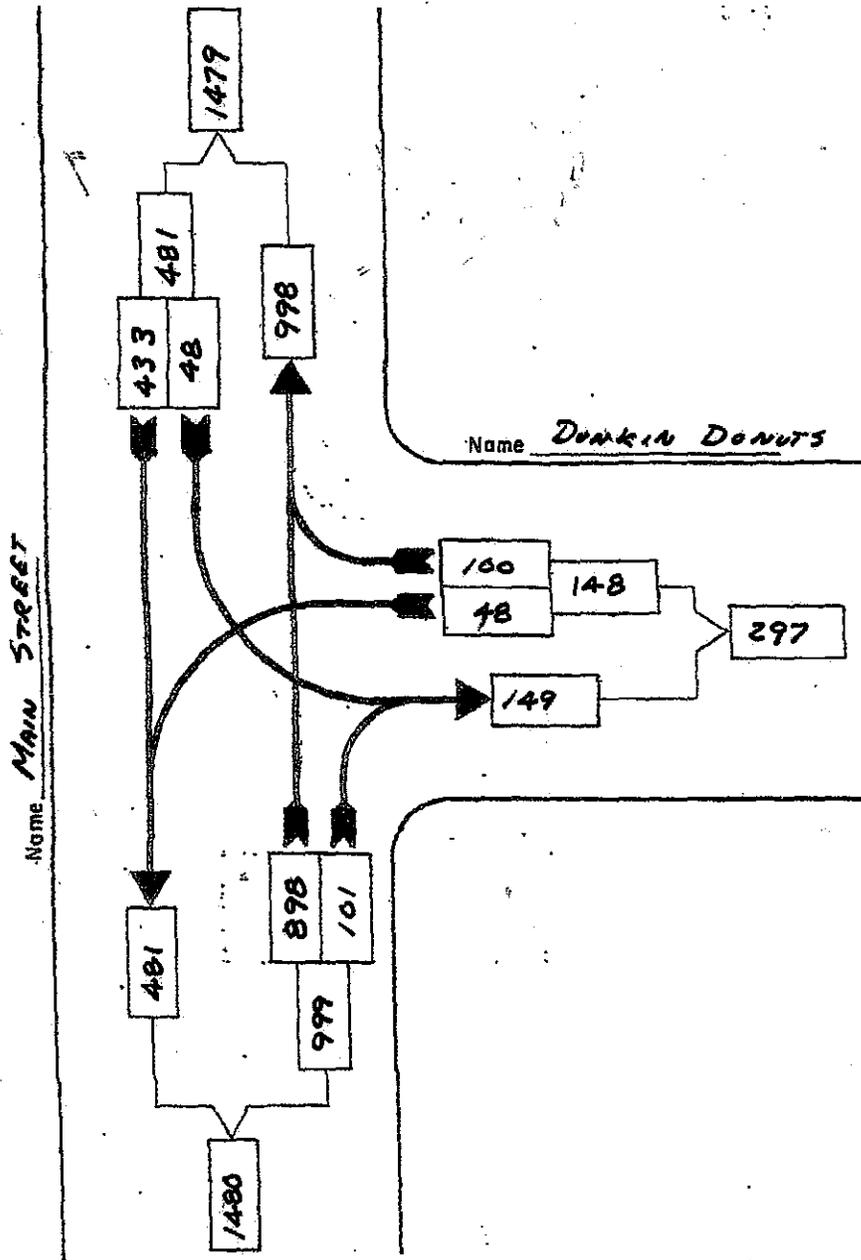
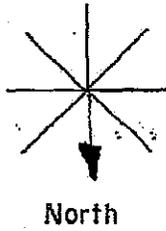


FIGURE 2: 2019 Post-Development Traffic Volumes – AM Peak Hour

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

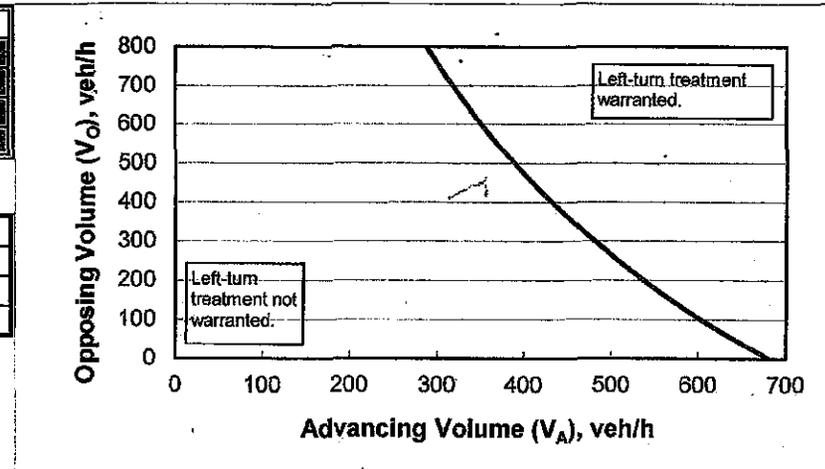
2-lane roadway (English)

INPUT

Variable.	Value
85 th 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
Guidance for determining the need for a major-road left-turn bay:	
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



REVISED JANUARY 2, 1969 - CHANGES TO PLAN SHEET 0187000
 REVISED JANUARY 2, 1969 - CHANGES TO NOTATION, EDD PROJECT DESIGN
 REVISED JANUARY 2, 1969 - CHANGES TO NOTATION, EDD PROJECT DESIGN

203 AERIAL GRAPHIC - OPTION #2
MAIN STREET STRIPING
 LEWISTON, MAINE
 ANDROSCOGGIN COUNTY

PREPARED FOR
NORM BOULAY
 31 WATERS EDGE DRIVE - LEWISTON, MAINE 04240

Stonebrook Consultants, Inc.
 P.O. Box 499 - Turner, Maine 04281 - (207) 224-4432

DATE: JANUARY 2, 1969
 DRAWN BY: J. BOULAY
 CHECKED BY: J. BOULAY
 SCALE: AS SHOWN

- NOTES**
- 1) THE BOUNDARY MAPS AND THE AERIAL PHOTOGRAPH ARE FOR INFORMATION ONLY AND ARE NOT TO BE USED FOR CONSTRUCTION PURPOSES. THE BOUNDARY MAPS AND THE AERIAL PHOTOGRAPH ARE SUBJECT TO THE CITY OF LEWISTON, MAINE, AND TO ANY CHANGES MADE BY THE CITY OF LEWISTON, MAINE, AND TO ANY CHANGES MADE BY THE CITY OF LEWISTON, MAINE, AND TO ANY CHANGES MADE BY THE CITY OF LEWISTON, MAINE.
 - 2) BOUNDARY MAPS AND AERIAL PHOTOGRAPH ARE FROM THE CITY OF LEWISTON, MAINE.
 - 3) THE BOUNDARY MAPS AND AERIAL PHOTOGRAPH ARE FROM THE CITY OF LEWISTON, MAINE.



Attachment 3



Traffic Solutions
William J. Bray, P.E.
17 Mountview Drive
Gorham, ME 04038
(207) 400-6890
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
2. Main Street @ Whipple Street	10	1.47
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:

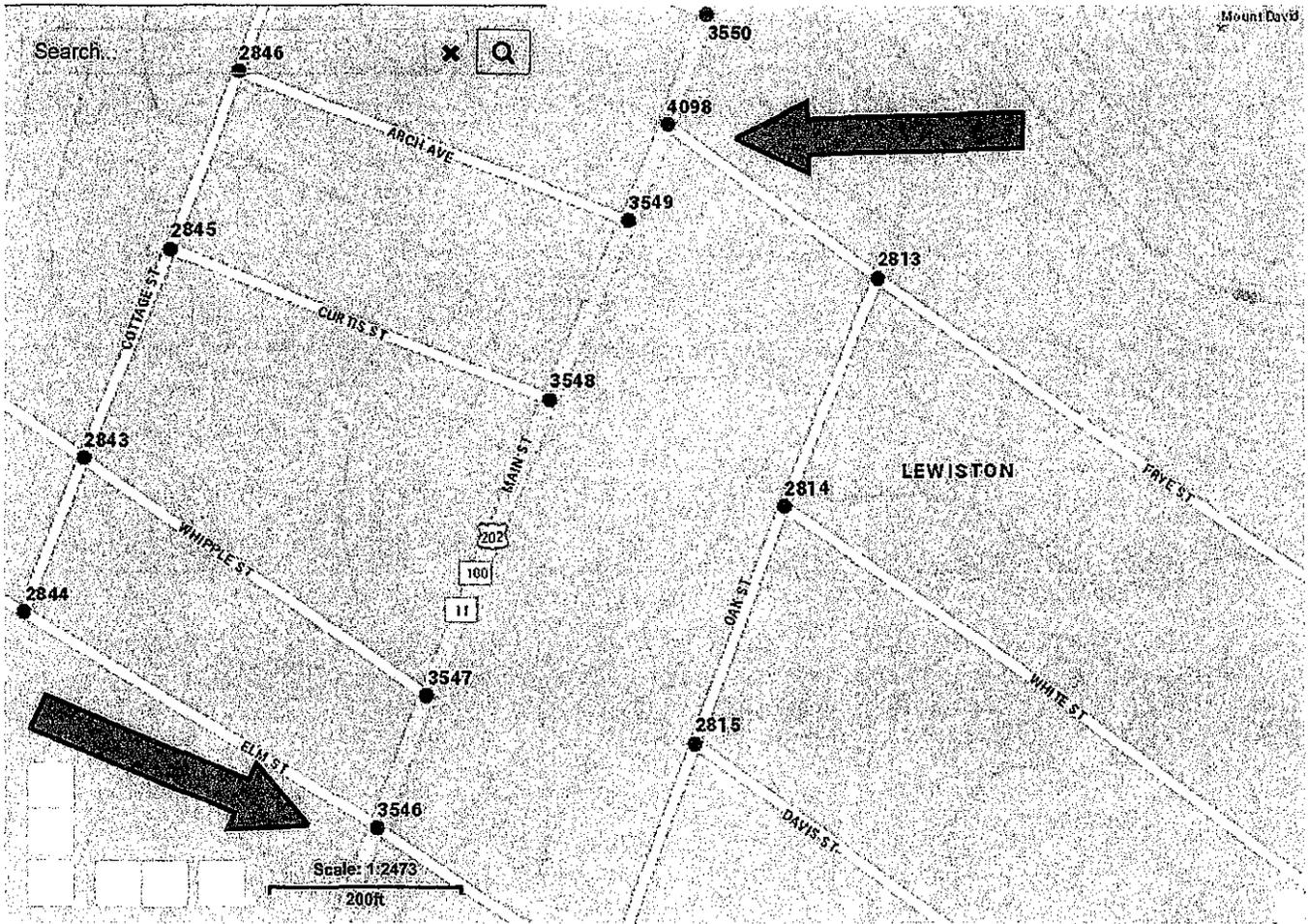
1. Remove on-street parking on the northwest side of Main Street between Whipple and Elm Streets.
2. Re-stripe Main Street to provide either a designated left-turn lane or a center two-way left-turn lane to provide a refuge area for motorists turning left into Whipple Street.
3. Remove parking on both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



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

Nodes														
Node	Route - MP	Node Description	U/R	Total Crashes	Injury Crashes				Percent Annual M	Crash Rate	Critical Rate	CRF		
					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	
Study Years: 3.00			NODE TOTALS:											
				22	1	0	3	3	15	31.8	27.096	0.27	0.27	1.01

Maine Department Of Transportation - Traffic Engineering, Crash Records Section

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									
Study Years:		3.00		Section Totals:		0.15	9	0	0	0	2	4	22.2	0.00890	336.99	432.61	0.78
				Grand Totals:		0.15	31	1	0	3	5	19	29.0	0.00890	1160.74	593.23	1.96

Rte. 202/100/
W/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 9-1-17 12:17P D/C Unknown
30674 10-29-16 12:52P W/R Fail To Yield
6017 2-10-16 3:08P S/L/C Fail To Keep In Lane
22543 7-24-17 1:52P D/CL Fail To Yield
5195 12-1-15 8:22P W/CL Bike Error/Wrong Side

Rte. 202/100/
W/Main St.

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.

STOP





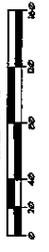
REVISED: APRIL 20, 1988 - CHANGE TO 15' PARKING SPACES
 REVISED: JANUARY 7, 2009 - CHANGES TO MAIN STREET STRIPING
 REVISED: SEPTEMBER 8, 2009 - ADDITIONAL PARKING SPACES ON MAIN STREET
 AND TO MAIN STREET PARKING SPACES TO IMPROVE VISIBILITY AND TRAFFIC

2018 AERIAL GRAPHIC - OPTION #2
MAIN STREET STRIPING
 LEWISTON, MAINE
 ANDROSCOGGAN COUNTY
 PREPARED FOR
NORM BOULAY
 32 WATERS EDGE DRIVE - LEWISTON, MAINE 04249

Stoneybrook Consultants, Inc.
 P.O. Box 1199 - Turner, Maine 04222 - (207) 224-0272

DATE: AUGUST 2009
 DRAWN BY: BMD
 CHECKED BY: PMS
 SCALE: 1" = 40'
 CAD: B-2018-AGR
 SHEET

- NOTES**
- 1) THE PURPOSE OF THIS PLAN IS TO SHOW CHANGES TO ON-STREET PARKING SPACES ON MAIN STREET AND TO SHOW CHANGES TO MAIN STREET STRIPING. THE CHANGES TO MAIN STREET STRIPING WILL BE MADE ON JULY 1, 2018. THE CHANGES TO MAIN STREET PARKING SPACES WILL BE MADE ON JULY 1, 2018. THE CHANGES TO MAIN STREET PARKING SPACES WILL BE MADE ON JULY 1, 2018. THE CHANGES TO MAIN STREET PARKING SPACES WILL BE MADE ON JULY 1, 2018.
 - 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 1988.



LEWISTON CITY COUNCIL

MEETING OF JUNE 18, 2019

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 10

SUBJECT: Order, Approving the Assignment of a Purchase and Sale Agreement for 188 Lincoln Street between the City and LWS Development LLC and Wilbur & Company to 188 Lincoln St, LLC; and to authorize the City Administrator to execute the same

INFORMATION:

In October of 2017 the City Council approved the sale of 188 Lincoln Street to LWS Development LLC and Wilbur & Company. The developers planned to redevelop the building with a sit down restaurant at street level with two market rate apartments on the second floor.

The developers have secured Portland Pie as a tenant for the restaurant space, have had the property listed on the National Register of Historic Properties and secured buyers for the federal and state historic tax credits, and have met the other conditions of the Purchase and Sale Agreement. The developers have formed a new limited liability company, 188 Lincoln St, LLC, to which they wish to assign the purchase agreement prior to closing, which is scheduled for June 21st.

The City Council is asked to approve the Assignment of the Purchase and Sale Agreement from LWS Development LLC and Wilbur & Company to 188 Lincoln St, LLC; and to authorize the City Administrator to execute the same as well as execute other documents associated with the closing as specified in the October 17, 2017 purchase and sale agreement.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.

EAB/kmm

REQUESTED ACTION:

1	2	3	4	5	6	7	M
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To approve the Order, Approving the Assignment of a Purchase and Sale Agreement for 188 Lincoln Street between the City and LWS Development LLC and Wilbur & Company to 188 Lincoln St, LLC; and to authorize the City Administrator to execute the same



CITY OF LEWISTON, MAINE

June 18, 2019

COUNCIL ORDER

Order, Approving the Assignment of a Purchase and Sale Agreement for 188 Lincoln Street between the City and LWS Development LLC and Wilbur & Company to 188 Lincoln St, LLC; and to authorize the City Administrator to execute the assignment and other documents associated with the sale as specified in the October 17, 2017 Purchase and Sale Agreement between the parties

Whereas, in October 2017 the City entered into a Purchase and Sale Agreement to convey 188 Lincoln Street, Lewiston, ME to LWS Development LLC and Wilbur & Company; and

Whereas, the Agreement has been extended six times; and

Whereas, the developer has met all of the requirements specified in the Purchase and Sale Agreement, including completing construction drawings, securing a creditworthy restaurant tenant for the street level space and securing financing to complete the project; and

Whereas, the buyers have formed a new Limited Liability Company, 188 Lincoln St, LLC, to which they desire to assign their rights to acquire 188 Lincoln Street and have requested that the City Council approve the assignment;

Now, therefore, be it ordered by the City Council of the City of Lewiston

To approve the assignment to 188 Lincoln St, LLC of the Purchase and Sale Agreement between the City and LWS Development LLC and Wilbur & Company, dated October 17, 2017 for the conveyance of 188 Lincoln Street, Lewiston, Maine, and to authorize the City Administrator to sign all documents and take all actions necessary to complete the sale of 188 Lincoln Street as described in the Purchase and Sale Agreement.

AGREEMENT FOR THE PURCHASE AND SALE OF REAL ESTATE

_____ AGREEMENT made and entered into this 17 day of October, 2017, by and between City of Lewiston, Maine 04240 ("Seller") and LWS Development LLC of P.O. Box 7589, Portland, Maine 04102 and its assigns and Wilbur & Company of 89 West Street, Portland, ME 04102 ("Buyer").

WITNESSETH AS FOLLOWS:

1. PURCHASE AND SALE. Seller agrees to sell and Buyer agrees to buy, on the terms and conditions hereinafter set forth certain real estate with buildings thereon located at **188 Lincoln Street, Lewiston, Maine**, all as more particularly described in the attached Exhibit A (hereinafter the "Premises").

2. PURCHASE PRICE. Subject to any adjustments and prorations hereinafter described, Buyer agrees to pay for the Premises the sum of **One Dollar (\$1.00)**. The purchase price shall be paid to Seller at closing in immediately available funds by certified check or checks or by wire transfer in accordance with wiring instructions provided by Seller.

3. TITLE. Seller shall convey the Premises at the closing to Buyer by Warranty Deed, free and clear of all title defects, liens and encumbrances. Seller shall convey all leases, rentals and related income by proper assignment thereof. Buyer shall have ninety (90) days from the date of this Agreement in which to give Seller written notice of any alleged title defects in the Premises and any unacceptable liens, easements or encumbrances affecting the Premises. Seller shall, in good faith, undertake to clear any alleged title defects, unacceptable liens, easements and encumbrances identified by Buyer. In the event that Seller is unable to cure any such title defects within thirty (30) days after written notice from Buyer, then this contract may be terminated by Buyer by giving Seller written notice within ten (10) days of the expiration of the thirty (30) day cure period referenced above and neither party shall have any further obligation hereunder.

4. CLOSING. The closing shall take place at a mutually convenient place and time thirty (30) days following the expiration of the original or extended Due Diligence Period or, if the Buyer provides 30 days notice to Seller, an earlier closing shall take place. At the closing, Seller shall execute and deliver to Buyer, against payment of the purchase price, a Warranty Deed to the Premises in accordance with the Short Form Deeds Act, 33 M.R.S.A. §§ 761 et seq., (the "Deed") together with assignments of all leases, deposits, and rentals.

Seller further agrees to execute and deliver to Buyer at the closing the following documents: (i) a Certificate of Non-Foreign Status (as required by Internal Revenue Service regulations); (ii) a title insurance "Seller's Affidavit" regarding mechanics liens and persons in possession; (iii) an affidavit regarding underground storage tanks (as required by Maine Law).

5. RISK OF LOSS, DAMAGE AND INSURANCE.

(a) All risk of loss to the Premises prior to the closing shall be borne by Seller, except and unless the loss was caused by Buyer. Seller shall keep the Premises insured against fire and other extended coverage risks until the closing. Seller shall secure the premises, including boarding up of any broken windows or doors.

(b) In the event that, prior to the closing, the improvements which are part of the Premises are destroyed or substantially damaged, Buyer may either (i) terminate this Agreement (ii) accept the insurance proceeds payable by reason of such damage or destruction if any and close this transaction notwithstanding the same.

6. INSPECTION/DELIVERY OF INFORMATION. Buyer may enter on to the Premises at reasonable times prior to the closing in order to inspect the Premises, conduct surveys, engineering studies and test borings and to do such things as are reasonably necessary with respect to its due diligence and acquisition of the Premises. Buyer agrees to provide copies of all surveys, studies, and inspections to Seller and not to disclose the results thereof to any third party except to prospective lenders and except as may be required by applicable law. Buyer agrees to and does hereby indemnify and hold harmless Seller against any loss, cost, damage, claims, or expense which may arise from its or its agents', employees' or contractors' activities at the Premises.

The Seller shall take reasonable efforts within fourteen (14) days of the effective date of this Agreement to deliver to Buyer any and all information it has concerning the Premises, including but not limited to surveys, environmental reports, proposed development plans, title reports and policies, historic photographs and any historic district survey information, tax bills, notices and letters received within the last five (5) years from every city, state, or federal department or agency and any abutter or neighbor.

7. POSSESSION OF THE PREMISES. The Premises shall be delivered to the Buyer at the time of the closing free and clear of all tenancies or occupancies by any person or entity and free and clear of all debris, items, or other personal property that is not a part of the structure of the building.

8. REPRESENTATIONS OF SELLER. Seller represents to Buyer the following:

(a) Seller has not received any notices of any violation at the Premises of any applicable laws, ordinances, or environmental regulations.

(b) All outstanding bills and/or accounts payable concerning the Premises are either paid or will be paid prior to or at the time of closing.

(c) Buyer acknowledges that except as specifically set forth in this paragraph, Seller makes and has made no covenant, representation, or warranty as to the suitability of the Premises for any purpose whatsoever or as to the physical condition of the Premises. Seller is not aware of any environmental contamination of the Premises other than mold resulting from the leaky roof, and the possibility of asbestos in floor tiles, roofing materials or other construction materials .

9. DEFAULT AND REMEDIES. In the event that Buyer fails to close hereunder for a reason other than the default of Seller, Seller's sole remedy shall be its right to terminate this Agreement. In the event that Seller fails to close hereunder for a reason other than the default of Buyer, Buyer shall have the right to specifically enforce the provisions of this Agreement

10. CONDITIONS PRECEDENT TO CLOSING.

(a) The obligation of Buyer to close is subject to the satisfaction of all of the following conditions. Buyer shall be deemed to have waived these conditions if it fails to provide notice that one or more condition is not satisfied within the due diligence period described below: (i) Buyer shall obtain confirmation satisfactory to Buyer that the Premises will accommodate physically and financially its proposed development and that there are no environmental concerns. Title to the Premises is free and clear of all title defects, liens, and encumbrances.

(b) The obligation of Seller to close is subject to the satisfaction at or before the closing of the following conditions: (i) Buyer shall provide construction drawings containing a sufficient level of detail to permit the Seller to form a judgment as to the feasibility of the project; (ii) Buyer shall provide written commitments from a creditworthy restaurant tenant or other tenant acceptable to the Seller with respect to the commercial space contained within the project ; (iii) Buyer will provide written evidence of project financing reasonably acceptable to the Seller;

11. SELLER AGREEMENTS.

(a) Seller agrees to sign a 5 year lease with Buyer at the closing allowing Buyer and its tenants the right to lease up to 5 parking spaces in the Cedar & Lincoln Street Lot owned and or controlled by the City adjacent to the Premises for twenty dollars (\$20.00) per month per space with said lease having 3 five year options to renew at then current open air market rates. Seller shall also designate 25 spaces in the adjacent Cedar & Lincoln Street Lot as hourly metered parking which will provide parking for the general public, including patrons of the premises. Should the existing Cedar & Lincoln Street Lot be replaced by a parking garage, Seller shall provide up to 5 spaces in the parking garage to the Premises at then current market rates. To the extent feasible considering the development needs surrounding the construction of any such parking garage, the City shall provide hourly parking spaces open to the general public among the spaces contained in any such garage. Seller agrees to sign at closing an easement and access agreement in recordable form allowing Buyer and its tenants access through the Cedar & Lincoln Street Lot to access the rear of the 188 Lincoln Street lot for the purpose of commercial loading / unloading at the rear of the building and to access any onsite parking spaces provided on the 188 Lincoln Street site.

(b) Seller agrees to sign at closing a temporary construction easement concerning the Cedar & Lincoln Street Lot allowing Buyer to use space for lay down storage, staging, and construction trailers.

(c) Seller agrees to work with Buyer to provide facade grant funds to assist with the rehabilitation of the 188 Lincoln Street building.

(d) Seller agrees to conduct its building code review using the International Existing Building Code, to ensure that life safety concerns are addressed while enabling a flexible approach to building re-use.

12. DUE DILIGENCE PERIOD. Buyer shall have ninety (90) days (the "Due Diligence Period") from the effective date of this Agreement to satisfy Condition 10(a) above. In the event that any condition is not satisfied by such date, then Buyer may notify Seller in writing and this contract may be terminated by Buyer, in which event neither party shall have any further obligations hereunder. In the event that Buyer does not so notify Seller within said time period or extend the Due Diligence Period in accordance with this section, then Buyer shall be deemed to have waived its right to terminate this Agreement.

Buyer shall have the right to extend the Due Diligence Period by three (3) additional thirty (30) day periods provided Buyer gives notice to Seller evidencing its progress with its due diligence work (Buyer to provide to seller progress report on environmental, geotechnical, construction plans and cost costs and tenant interest) and of its intent to extend prior to the expiration of the original or extended Due Diligence Period.

13. BROKERAGE. Seller and Buyer represent and warrant to each other that neither party has engaged the services of any real estate broker with respect to this transaction.

14. ADJUSTMENTS, PRORATIONS AND CLOSING COSTS.

(a) Real estate taxes, assessments, rentals, common area maintenance charges, and utilities shall be prorated as of the closing.

(a) Buyer shall be responsible for its share of the Maine real estate transfer tax. Seller is exempt from the obligation to pay such tax.

(c) The recording fee for the deed of conveyance will be paid by Buyer.

(d) A portion of the purchase price shall be withheld at the closing by Buyer if required by 36 M.R.S.A. § 5250-A.

15. GENERAL PROVISIONS. This instrument may be executed in multiple originals and is to be construed under the laws of Maine. Other than to an entity formed by the Buyers this Agreement may only be assigned with the prior written consent of the other party. The use of the masculine gender shall include the feminine and neuter where appropriate. If two or more persons are named herein as Buyer, their obligations hereunder shall be joint and several. Time is of the essence of this Agreement. This Agreement is binding upon and inures to the benefit of the parties hereto, their respective heirs, successors and assigns, and may be canceled, modified, or amended only by a writing executed by the parties hereto or their legal representatives. All notices, demands and other communications hereunder shall be in writing and shall be deemed to have been duly given on the date of service if served personally on the party to whom notice is to be given or on the date of mailing if mailed by first class mail. If mailed, all notices are to be sent by first class mail, postage prepaid, certified, return receipt requested, addressed as follows:

TO SELLER: Ed Barrett,
 City of Lewiston
 27 Pine Street
 Lewiston, ME 04240

TO BUYER: LWS Development LLC
 Paul Peck
 P.O. Box 7589
 Portland, ME 04112

 Wilbur & Company
 Kara Wilbur
 89 West Street
 Portland, ME 04102

Either party may change its address for purposes of this paragraph by giving the other party notice of the new address in the manner described herein. If any provision of this Agreement is determined to be invalid or unenforceable, it shall not affect the validity and enforcement of the remaining provisions hereof. This Agreement sets forth the entire agreement between the parties and there are no other representations, agreements or understandings with respect to the subject matter of this Agreement.

16. EFFECTIVE DATE OF AGREEMENT. The Effective Date of this Agreement shall be the date last signed below by the Buyer or Seller. Buyer's offer to purchase the Premises under the terms as set forth in this Agreement shall be deemed withdrawn unless both Seller executes the Agreement within three (3) days of the date signed by Buyer.

under the terms as set forth in this Agreement shall be deemed withdrawn unless both Seller executes the Agreement within three (3) days of the date signed by Buyer.

IN WITNESS WHEREOF, Seller and Buyer have executed this Agreement as of the date first above written.

WITNESS:

Jessica Jeffers

SELLER

Edward A. Barrett Date: 10-4-17
By: Edward A. Barrett
Its: City Administrator

[Signature]

BUYER

[Signature] Date: 10/17/17
By: *Paula Muesel*
Its: *Law Development*

[Signature]

BUYER

[Signature] Date: 10/17/17
By: *Kara Wilbur*
Its: *owner*

ESCROW AGENT

SCHEDULE OF EXHIBITS

Exhibit A – Legal Description

LEWISTON CITY COUNCIL

MEETING OF JUNE 18, 2019

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 11

SUBJECT: **Order**, Authorizing the City Administrator to Execute and Record a *Declaration of Environmental Covenant* on the former Site of the Androscoggin Mill #8.

INFORMATION: The City took ownership of Androscoggin Mill #8 over 20 years ago for non-payment of taxes. Since then, various environmental assessments were conducted on the property and, in 2008, the City received and EPA Brownfield grant to demolish the building. Demolition was completed in 2011, with the site graded, loamed, and seeded. The Maine Department of Environmental Protection issued a *No Action Assurance* letter under its Voluntary Response Action Program (VRAP). The VRAP letter describes the issues with the site, actions taken to remediate it, and conditions going forward. One of the conditions of the VRAP letter was that a *Declaration of Environmental Covenant* regarding the property, outlining its past history, remediation, and restrictions going forward, be recorded at the Androscoggin County Registry of Deeds. Apparently, that covenant was never recorded.

The attached order will authorized the City Administrator to execute the document, after which it will be recorded at the County Registry.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.

EAB/kmm

REQUESTED ACTION:

1	2	3	4	5	6	7	M
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To approve the **Order**, Authorizing the City Administrator to Execute and Record a *Declaration of Environmental Covenant* on the former Site of the Androscoggin Mill #8.



COUNCIL ORDER

Order, Authorizing the City Administrator to Execute and Record a *Declaration of Environmental Covenant* on the former Site of the Androscoggin Mill #8.

Whereas, based on matured tax liens, the City took ownership of the former boiler house known as Androscoggin Mill #8, more explicitly identified as Lot 45, Unit F on Lewiston Tax Map 197, and described as Unit F in a declaration of the Androscoggin County Industrial Condominium, Inc. recorded in Book 1390, Page 153 in the Androscoggin County Registry of Deeds; and

Whereas, the building and associated parcel on which it stood were determined to be a Brownfield site through multiple Phase I and Phase II environmental assessments; and

Whereas, in 2008, the City received a \$200,000 Brownfield Clean Up Grant from the Environmental Protection Agency which was used to demolish the building and to take appropriate mitigation measures to protect public health; and

Whereas, as a result of those efforts, the Maine Department of Environmental Protection (MDEP) issued a No Action Assurance letter on the property as part of its Voluntary Response Action Program (VRAP); and

Whereas, a requirement of the VRAP Program is that a *Declaration of Environmental Covenants* regarding 15 Canal Street and approved by the MDEP be recorded;

Now, therefore, be it ordered by the City Council of the City of Lewiston that

The City Administrator is hereby authorized to execute a *Declaration of Environmental Covenant*, in a form substantially as attached hereto, and to record the same at the Androscoggin County Registry of Deeds.

Economic and Community Development

Lincoln Jeffers

Director



To: Honorable Mayor and Members of the City Council
From: Lincoln Jeffers
RE: Environmental Covenant and Deed Restriction for Androscoggin Mill #8
Date: May 29, 2019

More than 20 years ago, the City took ownership of Androscoggin Mill #8 for non-payment of taxes. The building and smokestack had formerly served as the boiler plant for the mill. The building was no longer in service and in disrepair; daylight could be seen in portions of the chimney where mortar should have been, and a sizable tree grew from inside the building where a roof had once been.

Beginning in 2003, multiple Phase I and Phase II environmental assessments were conducted on the property. In 2008, the City received a \$200,000 EPA Brownfield Grant to demolish the building. Despite its lack of a roof and structural conditions that made it unsafe to enter, the building was historic and required a Section 106 Review and historic recordation in order to gain approval for its demolition.

The demolition was completed in 2011, with the site graded, loamed, and seeded. The site is located on the southwest side of the Androscoggin Mill abutting Gully Brook. It is fenced to limit access. The Maine Department of Environmental Protection issued a *No Action* Assurance letter under its Voluntary Response Action Program (VRAP). The VRAP letter describes the issues with the site, actions taken to remediate it, and conditions going forward. One of the conditions of the VRAP letter was that a *Declaration of Environmental Covenant* regarding the property, outlining its past history, remediation, and restrictions going forward, be recorded at the Androscoggin County Registry of Deeds.

A recent state audit of its VRAP program found that the Declaration of Environmental Covenant for Androscoggin Mill #8 had not been recorded. The state requested that the covenant be recorded. Brann and Isaacson has worked with MEDEP to finalize the language in the *Declaration of Environmental Covenant*. It is attached. The City Council is asked to authorize the City Administrator to execute the document, after which it will be recorded at the Androscoggin County Registry of Deeds.

DECLARATION OF ENVIRONMENTAL COVENANT

This DECLARATION OF ENVIRONMENTAL COVENANT (“Environmental Covenant”) is hereby declared and granted as of this ____ day of _____, 2019, by the **CITY OF LEWISTON**, a body corporate and politic established under the laws of the State of Maine with an office at 27 Pine Street in Lewiston, Maine 04240 (“Grantor”), to the **MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION** (“DEP” or “Holder”) on property located in the City of Lewiston, Androscoggin County, Maine, as more fully described below.

WHEREAS, Grantor is the owner in fee simple of a certain property of approximately 0.92 acres in size located in the **City of Lewiston, Androscoggin County, Maine**, further designated as Lot 45 Unit F on Lewiston Tax Map 197 and described as Unit F in a declaration of the Androscoggin County Industrial Condominium, Inc. recorded in the Androscoggin County Registry of Deeds in **Book 1390, Page 153** (“Property”);

WHEREAS, Grantor applied for liability protection under the Voluntary Response Action Program, 38 M.R.S. § 343-E;

WHEREAS, DEP’s Bureau of Remediation and Waste Management has issued to Grantor a Voluntary Response Action Program (“VRAP”) Commissioner’s Certification of Completion, which requires that Grantor prepare and record a Declaration of Environmental Covenant consistent with the VRAP Commissioner’s Certification of Completion and the Maine Uniform Environmental Covenants Act (“UECA”), 38 M.R.S. § 3001, et seq.;

WHEREAS, the environmental response project related to this Environmental Covenant is the voluntary response action plan approved by DEP and the response actions performed under the law governing the Voluntary Response Action Program, 38 M.R.S. § 343-E;

WHEREAS, Grantor has agreed to activity and use restrictions on the Property; and

WHEREAS, Grantor intends to create and grant an Environmental Covenant pursuant to the UECA;

NOW, THEREFORE, Grantor CITY OF LEWISTON for and in consideration of the facts above recited and the covenants herein contained, and intending to create and be legally bound by a perpetual covenant running with the land, subject to the terms hereof, hereby declares, covenants, and agrees as follows:

1. Declaration of Environmental Covenant. This instrument is an Environmental Covenant executed pursuant to the UECA.
2. Property. This Environmental Covenant concerns the Property as described herein.
3. Activity and Use Limitations. The following covenants, conditions, and restrictions shall run with the land, and shall be binding in perpetuity on the Property and on Grantor, its successors and assigns, during their respective periods of ownership:
 - (a) Future use of the Property will be of a recreational park or green space in nature and not residential without written permission of the Department;
 - (b) Any excavation into the area of encapsulated soil or dirt access road (as indicated in Figure 2 of the Project Summary Report, Demolition and Soil Remediation, Androscoggin Mill #8 dated October 10, 2011, on file at the DEP) is prohibited without prior approval of the Department; and
 - (c) No groundwater extraction wells will be installed on the Property without written permission of the Department.
4. Agency and Holder. DEP is an environmental agency with enforcement authority pursuant to the UECA and is the only Holder of this Environmental Covenant.
5. Perpetuity of Covenant. This Environmental Covenant and each and every covenant herein shall be a covenant running with the land in perpetuity and shall be binding on Grantor and any future owner of any portion of, or interest in, the Property during their respective periods of ownership until amended or terminated in accordance with the UECA.
6. Representation of Ownership and Encumbrances. By its execution hereof, Grantor hereby represents that it is the sole owner of the Property, and that there are no mortgages, easements, or other encumbrances on the Property that would materially adversely affect the effectiveness or enforceability of this Environmental Covenant.
7. Access. In addition to any rights already possessed by DEP, this Environmental Covenant grants to DEP, including its authorized employees, agents, representatives, and independent contractors and subcontractors, a right of access to the Property, without cost and upon presentation of credentials, for the purposes of monitoring and enforcing this Environmental Covenant.
8. Notice to Tenants and Others. Grantor and all subsequent owners of the Property, during the period of their respective ownership of the Property, shall provide notice

of this Environmental Covenant to any tenants or lessees thereof and to any other person conducting any activity on the Property that is restricted by this Environmental Covenant, which notice shall be provided prior to such occupancy or activity.

9. Notice upon Conveyance. Each instrument hereafter conveying any interest in the Property or any portion thereof, including but not limited to deeds, leases, and mortgages, shall contain a notice that is in substantially the following form:

NOTICE: THE INTEREST CONVEYED HEREBY IS SUBJECT TO A DECLARATION OF ENVIRONMENTAL COVENANT, RECORDED IN THE ANDROSCOGGIN COUNTY REGISTRY OF DEEDS ON _____, 2019, IN BOOK _____, PAGE _____, IN FAVOR OF AND ENFORCEABLE BY THE STATE OF MAINE.

10. Notice of Noncompliance. Grantor and all subsequent owners of the Property, during the period of their respective ownership of the Property, shall provide written notice to DEP within ten (10) working days of discovery of any noncompliance with this Environmental Covenant.
11. Notice Pursuant to Covenant. Any notice or other communication required pursuant to this instrument shall be in writing and shall be sent by certified mail, return receipt requested, or by any commercial carrier that provides proof of delivery, addressed as follows, or to such other address as each entity may designate from time to time by written notice to the other entities:

To Grantor:

Community Development Director
City of Lewiston
27 Pine Street
Lewiston, Maine 04240

To DEP:

Voluntary Response Action Program Manager
Department of Environmental Protection
Bureau of Remediation and Waste Management
17 State House Station
Augusta, Maine 04333-0017

12. Inspection and Reporting. The Grantor and any subsequent owners of the Property, during the period of their respective ownership of the Property, shall complete an annual inspection of the property to document issues with the soil cover, utilizing

the check list found in Appendix G of the Project Summary Report, Demolition and Soil Remediation, Androscoggin Mill #8 dated October 10, 2011, on file at the DEP. An inspection summary letter with the completed checklist will be submitted to the VRAP within 30 days of the completion of the inspection. Required maintenance activities, if any, identified on the Inspection Checklist will be completed within 60 days of the inspection.

13. Enforcement. This Environmental Covenant shall be enforceable as authorized by the UECA. Any forbearance as to enforcement of any of the terms hereof shall not be deemed a waiver of the right to seek and obtain enforcement at any time thereafter as to the same violation or as to any other violations.
14. Amendment or Termination. The terms and conditions herein may not be amended or terminated except in accordance with the UECA.
15. Petition to Amend. Grantor or current owner of the Property may petition DEP to amend (including, without limitation to, remove) some or all of the covenants, restrictions, agreements, and obligations herein. The burden is upon the party seeking DEP approval of the amendment or removal of a restriction to show that the restriction is no longer necessary to protect the public health and safety and the environment. DEP may agree to remove or amend restrictions that, in the exercise of its sole discretion, DEP determines to be no longer necessary to protect the public health and safety and the environment. Any such amendment or termination of this Environmental Covenant must comply with the UECA and the provisions of this Environmental Covenant.
16. Administrative Record. The administrative record for the environmental response project related to this Environmental Covenant is located at the main office of DEP, whose mailing address is 17 State House Station, Augusta, ME 04333-0017, with a street address of Ray Building, 28 Tyson Drive, Augusta, Maine. The administrative record may be found under the name **Androscoggin Mill #8 VRAP – City of Lewiston.**
17. Governing Law. This Environmental Covenant shall be governed and interpreted in accordance with the laws of the State of Maine.
18. Liberal Construction. It is intended that this Environmental Covenant be construed liberally to protect the health and welfare of the public and the quality of the environment from the risk of adverse effects of exposure to contaminants.
19. Effect of Failure to Provide Notice. The validity of this Environmental Covenant is not affected by any failure of Grantor or subsequent owners to provide notice as required in this Environmental Covenant.

20. Invalidity. If any part of this Environmental Covenant shall be decreed to be invalid by any court of competent jurisdiction, all of the other provisions hereof shall not be affected thereby and shall remain in full force and effect.
21. Recording. Grantor shall cause this Environmental Covenant to be duly recorded in the Androscoggin County Registry of Deeds within thirty (30) days after the date of the last required signature.
22. Notice of Environmental Covenant. Grantor shall, within thirty (30) days of recording, provide DEP with a copy of such recorded Environmental Covenant, duly certified by the Register of Deeds. Within ninety (90) days of recording the Grantor shall also provide a copy of this Environmental Covenant to each person who signed the covenant, each person holding a recorded interest in the Property, each person in possession of the Property, and each municipality or other unit of local government in which the Property is located.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, Grantor has caused this instrument to be executed by its duly authorized representative as of the day and year first above written.

CITY OF LEWISTON

By: _____
Edward A. Barrett, City Administrator

STATE OF MAINE
ANDROSCOGGIN COUNTY, ss.

The above-named Edward A. Barrett personally appeared before me this ____ day of _____, 2019, in his capacity as City Administrator of the City of Lewiston and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of the City of Lewiston.

Before me,

Notary Public/Maine Attorney at Law
Print Name:
My commission expires:

[DEP SIGNATURE PAGE FOLLOWS]

ACKNOWLEDGED AND AGREED TO BY:

MAINE DEPARTMENT OF
ENVIRONMENTAL PROTECTION

By: _____
Name: _____
Title: _____
Dated: _____

STATE OF MAINE
KENNEBEC COUNTY, ss.

The above-named _____ personally appeared before me this _____ day of _____, 2019, in her/his capacity as _____ and acknowledged the foregoing instrument to be her/his free act and deed in her/his said capacity and the free act and deed of the Maine Department of Environmental Protection.

Before me,

Notary Public/Maine Attorney at Law
Print Name:
My commission expires:

LEWISTON CITY COUNCIL

MEETING OF JUNE 18, 2019

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 12

SUBJECT: RESOLVE, Authorizing Transfer of \$210,000 from FY18 Capital Project Fund to Fund Three FY20 LCIP Projects.

INFORMATION:

During the recently completed operating and capital budget processes, the City Council approved funding three capital projects from the available balance of the FY 18 Capital Project Fund. Those balances represent accumulated interest and bond premium after issuance costs as of June 30, 2018 and total \$216,295. The three projects designated for funding from these sources were: canal ownership improvements, the police building study, and phase 2 of a traffic signal upgrade project primarily involving the traffic signals on East Avenue. These projects have a total estimated cost of \$210,000. In order to implement the Council's funding direction, a resolve transferring these funds to the respective projects is needed.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.

EAB/kmm

REQUESTED ACTION:

1	2	3	4	5	6	7	M
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To approve the **RESOLVE**, Authorizing Transfer of \$210,000 from FY18 Capital Project Fund to Fund Three FY20 LCIP Projects.



COUNCIL RESOLVE

RESOLVE, Authorizing Transfer of \$210,000 from FY18 Capital Project Fund to Fund Three FY20 LCIP Projects.

WHEREAS, the City Council reviewed and approved the FY20 fund balance appropriations and FY20 LCIP Program whereby three projects were identified and proposed to be funded through capital project surpluses; and

WHEREAS, the three projects identified for funding were \$100,000 for canal ownership improvements, \$50,000 for an infrastructure study to evaluate the condition of the police building and the department's space needs, and \$60,000 for the local share of Phase 2 Signal Upgrades at the following intersections: East Ave. at Malo, Pleasant, and Lisbon Streets, Shaw's Plaza, and Lisbon St. at Essex St.; and

WHEREAS, the FY18 capital project fund had a net \$216,295 in combined accumulated interest and bond premium after issuance costs as of June 30, 2018; and

WHEREAS, the City has an immediate need to spend outstanding bond proceeds and earnings derived from bonded projects in order to avoid potential arbitrage rebates to the Internal Revenue Service;

NOW, THEREFORE, BE IT RESOLVED by the CITY COUNCIL of the CITY of LEWISTON

That the amount of \$210,000 is hereby transferred from the following surplus fund balances: 2018 capital projects - \$210,000 with \$100,000 to FY20 Canal Improvements, \$60,000 to Signal Upgrades, and \$50,000 to the Police Station Study project.

LEWISTON CITY COUNCIL
MEETING OF JUNE 18, 2019

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 15

SUBJECT:

Executive Session pursuant to MRSA Title 1, section 405(6)(A) to discuss a personnel matter.

INFORMATION:

The Maine State Statutes, Title 1, section 405, define the permissible grounds and subject matters of executive sessions for public meetings.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

Entering into executive session is permitted and defined under Maine State Statutes.

EAB/Kmm

REQUESTED ACTION:

1	2	3	4	5	6	7	M
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To enter into an Executive Session pursuant to MRSA Title 1, section 405(6)(A) to discuss a personnel matter.