

**CITY OF LEWISTON
PLANNING BOARD MEETING
Minutes of February 11, 1997**

ROLL CALL

The meeting was called to order at 7:05 P.M.

Members Present: H. Milliken, H. Skelton, L. Zidle, T. Peters, D. Jacques

Staff Present: J. Lysen, G. Dycio, D. Ouellette, E. Friedman, G. Arsenault

READING OF THE MINUTES OF JANUARY 14, 1997 and JANUARY 28, 1997

MOTION: by H. Skelton, seconded by D. Jacques to accept the minutes of the January 14, 1997 and January 28, 1997.

VOTE: Passed 5-0.

CORRESPONDENCE

MOTION: by H. Skelton, seconded by D. Jacques to accept the following correspondence and place on file:

1. Memo to Planning Board Chairman from Community Development Director regarding FY98 Community Development Block Grant scheduling of public hearings for review of proposed lending requests by local agencies and city departments.
2. Proposed ordinance change regarding awnings and canopies in Institutional-Office (IO) District.

VOTE: Passed 6-0.

REVIEW OF DEVELOPMENT PROPOSALS FINAL HEARING

Lewiston Church of the Nazarene - Minor Amendment

Richard Bastow, on behalf of Pastor Greg Gates, has submitted plans for a proposal to amend an approved site plan where the as-built conditions of the project are reflected, including minor revisions to on-site storm drainage systems and buffering/screening of abutting residential uses. The project was originally approved by the Planning Board on June 26, 1995.

Pursuant to Article XII, Section 3(h)(5) of the Zoning and Land Use Code, the applicant is requesting a number of non-applicable status requests to the application requirements listed

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under Section 3(h)(1-4). Upon review of the requests, Staff finds that, in our opinion, the requests are justified and recommends that the Board grant them.

The Planning Staff has reviewed and revised plans and have no concerns. Copies of the revised plans have been forwarded to the Police, Fire, and Public Works Departments for their review and comments. The Planning Staff does not anticipate any major concerns from these departments due to the minor nature of the revisions.

The Planning Staff has reviewed and revised plans against the Approval Criteria listed under Article XIII, Section 4(a-u) of the Zoning and Land Use Code and finds that the plans meet all of the applicable criteria. Staff recommends that the Planning Board review the plans against the Approval Criteria, receive input from Staff and the general public during the final hearing, review any concerns raised by the Police, Fire, and Public Works Departments, and vote on the requested amendment accordingly.

George stated that the only concern he did receive was from the Fire Department that they wanted to see a 20 foot turn-around area maintained and have indicated so on a revised plan.

J. Lysen informed the Board regarding the additional materials submitted to them this evening regarding this issue: (1) A two-page memo from Jeff Hutchinson, Land Use Inspection Officer regarding his inspection of the facility on September 9, 1996; (2) Temporary Certificate of Occupancy issued on March 8, 1996 (3) A one-page letter from Jeff Hutchinson to Reverend Greg Gates of the Church of the Nazarene dated December 9, 1996 listing various issues that the Church is not in compliance with; (4) Letter of agreement from Rev. Gates to Gary Campbell, City Code Enforcer, dated March 14, 1996; (5) Pages 8-9 of the Minutes from the Planning Board Meeting (6/27/96); (6) a one-page Statement of Financial Capacity for completing the Lewiston Church of the Nazarene Proposed Development dated June 19, 1995; (7) a one-page Construction Schedule for completing the Lewiston Church of the Nazarene Proposed Development dated June 19, 1995; (8) A one-page memo from Jefferson Longfellow, project engineer dated June 26, 1996 to George Dycio along with a one page letter from Richard F. Bastow, Engineer/Surveyor addressed to Christopher Branch regarding over-flows and culverts; (9) a one-page letter from Rev Gates to Chris Branch dated June 20, 1995 saying the church does not hold the city liable for cleaning the basin and culverts under their driveway; (10) One-page letter from Guy and Connie Boucher to the Lewiston Planning Board agreeing to the Canadian Hemlocks in the landscape plan.

Mr. Lysen said that the issue seems to be that the Canadian Hemlocks that were to be used in the landscape buffer strip have not been planted and that the Church was proposing to instead plant

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white pines. The Bouchers are adamant about keeping the plantings as Hemlocks and do not want pines.

Gil Arsenault said that a temporary Certificate of Occupancy is valid for six months only. The church was issued theirs in March, 1996. J. Hutchinson inspected the property in September and found that the building and parking lot were not in the same place as the original plan. Rev. Gates was spoken to about this by Jeff and told to submit an amended plan before the Board.

Councilor Scott Lynch said that he would like to get Mrs. Boucher and Rev. Gates together in a meeting to see if they could come to some sort of agreement and suggested that the Board table this matter until the parties could meet. Mrs. Boucher said she was open to this idea and is very concerned about that there is no buffer. She stated that the site was an "eyesore."

H. Milliken said it was his understanding that the Bouchers had a written agreement with the church regarding the buffer. Mrs. Boucher said she does not want pines because they are messy and insisted on sticking with the original agreement of Canadian Hemlocks. H. Skelton suggested that the two parties could meet to avoid further controversy; Mr. Milliken agreed with this suggestion.

Mr. Nutting who is a neighbor of Mrs. Boucher said it was "a cop-out to table this." He stated that the parties had made an agreement and there should be no changes and couldn't understand why it couldn't be discussed this evening. He asked why a temporary occupancy permit was given; why the building had been moved; why there was no fine imposed or asked to take it down. He said he was upset that a building could be put up without anyone checking for set-backs. He also noted that the project should have been finished in August when in fact it still is not complete and asked why this wasn't enforced.

Mr. Milliken said he received a set of plans with the minor amendments this evening and wanted to see the old plan to see where they differed.

G. Arsenault answered Mr. Nutting that the city could have initiated a law suit in September but didn't think it would be in anyone's best interest since there was no life-safety issues. He stated that things took longer they he had hoped, and although he didn't think it would achieve anything, would initiate a law suit if he had to.

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MOTION: by H. Skelton to table the issues regarding the Church of the Nazarene until the next Planning Board Meeting scheduled for February 25, 1997.

No Second.

J. Lysen said that the buffer plan still had the same number of trees as in the original plan, the difference was the type of trees. He said there were no set-back issues, parking lot is gravel and it is allowed to be gravel; landscaping and erosion control are in compliance. He said that the changes were truly minor, that the first building approved was actually larger than the one built and the structure was not in violation of any set-back or life safety issues.

T. Peters noted that the church could not plant at this time of the year and stated that he was concerned with receiving additional information right before the Planning Board meeting which did not give him time to review; he asked if the abutter had gotten a chance to look at all the new changes. Mr. Peters suggested that by tabling this issue until February 25th that neither party had anything to lose and in the meantime, could meet and perhaps reach an agreement. By that time, the Planning Board members would have had time to look over all the changes and make an informed ruling.

MOTION: To table issue on the Lewiston Church of the Nazarene until the next planning board meeting scheduled for February 25, 1997 was **seconded** by T. Peters at this time.

Rev. Gates said that the church had hired Harriman Associates. He also said that he wanted to increase the value of the Boucher home. He also said that the Bouchers' can only see the ridge of the roof from their property and that the parking lot was moved to the other side of the building, away from their vision. He said that when the changes to the building and site were made, he was under the assumption that the engineer was keeping the city informed. H. Milliken said that no changes were brought before the Board and/or Planning Department. Rev. Gates said that it wasn't his intent not to keep the city informed. He said that the placement of the building conformed better to the contour of the land. He also said that he knew that white pines were allowed in the code and that the trees were going to be planted on the church's property.

T. Peters said that he thought not keeping the city informed was an unintentional error and that the neighbors should look at the new plans. He said that the church was out of compliance right now.

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VOTE: 5-0.

Mr. Nutting was upset that no one got the information to the Planning Board since the hearing notice was published in the newspaper. He said Mrs. Boucher had been calling the City since August. Mr. Peters suggested again that the Reverend and Mrs. Boucher meet with Mr. Lynch so that this matter may be resolved at the February 25th meeting.

B & G Cheese Factory - Conditional Rezoning

George Dycio reported that there was a proposal to amend the "Official Zoning Map, City of Lewiston" where the front portion of property located at 1046 Main Street would be conditionally rezoned from Neighborhood Conservation "A" (NCA) District to Highway Business (HB) District in order to establish a light industrial use for the manufacturing of cheese

Mr. Peters said that at the last meeting he recalled that this particular piece of property came before the Board of Appeals when he was on that board and asked for information concerning what restrictions applied to that land be looked up and provided to the Board. He stated that he would like to see them before making a decision on this property. Leo LaRochelle, engineer, said that this was a re-use of an existing building and proposed a zoning line to be approximately twenty feet to the back of the building and just accommodate zoning set-backs for the existing building. There will be a paved parking area, eliminate one of the curb cuts that is already there, and create nine parking stalls and add loam and seed to the site. He said that there would be no grading except for a small area to allow three new parking spaces. Mr. Skelton asked about the four foot holes at the entrance. Mr. LaRochelle said that the cars would be parallel to the holes. Mr. Skelton had a concern for safety when cars came in off the street; Mr. LaRochelle said that they were fairly well defined and did not think that these would be a problem.

J. Lysen said that all suggestions were taken and incorporated into a new draft by the applicant and that the building would not be used as a commercial property, but rather only to manufacture cheese. Mr. Peters said that he agreed with this project and thought it was worthwhile, however, he said he wanted the buffering issue and the major drainage issue looked into to make sure it is in compliance before the Planning Board approves the project. George Dycio was looking for the information for Mr. Peters. Mr. Lysen said that the applicant wanted a re-zoning only for conditional use. Mr. Peters said he was willing to go ahead with this project and asked that Gil report to the Planning Board whether or not the land is in compliance.

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MOTION: by T. Peters, seconded by H. Skelton for a favorable recommendation to the City Council concerning the proposal to conditionally rezone the front portion of the property at 1046 Main Street from Neighborhood Conservation "A" (NCA) District to Highway Business (HB) District.

VOTE: Passed 5-0.

Lewiston Comprehensive Plan

J. Lysen said that this draft would be updated to remove "widows" and "orphans," but that the draft before the Board basically had all the wording and was the final draft without the table of contents and a couple of exhibits. He further explained that page 37 regarding municipal finances would have the correct figures from Dick Metivier, but that they didn't make this printing. Mr. Lysen explained a few minor changes and the Board had no objections to any of them. Mr. Milliken asked that staff put the presentation of the Comp Plan on the agenda for the next City Council meeting.

MOTION: by H. Skelton, seconded by D. Jacques to send a favorable recommendation to the City Council to accept the update of the Lewiston Comprehensive Plan, as amended.

VOTE: Passed 5-0.

OTHER BUSINESS

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

The Planning Board, at their January 28th meeting, requested that staff draft a proposed code amendment to allow for the establishment of used car dealerships in the Urban Enterprise (UE) Zone as a conditional use.

Currently, used car dealerships may be deemed to be accessory uses to gasoline service stations, auto repair garages and automotive services, except repair uses, if certain criteria are met. This proposal to amend the Zoning and Land Use Code would allow for the establishment of independent used car dealerships that are not accessory to a permitted use.

The Planning Staff asks that the Board consider the proposed amendment, determine if the Board would like to initiate the amendment on behalf of Dave Gendron or not at all, and if the amendment is found to be in proper form, staff asks that the Board consider scheduling a public hearing for the next available Planning Board meeting.

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The proposed amendment was presented to the Board. After some discussions, it was decided that if any zoning changes were to be made that the petitioner himself should come before the Board and ask for a specific rezoning of a specific site.

MOTION: by T. Peters, seconded by H. Skelton that the Board would entertain conditional rezoning if applicant brought it forward.

VOTE: Passed 5-0.

B. St. Mary's Hospital - Golder Street Entrance Modification.

St. Mary's Hospital would like a Code amendment to allow awnings or canopies at its Golder Street entrance where the drop-off area is to be covered and the walkway to the lobby entrance fully enclosed.

George Dycio felt that an amendment to the code made sense and submitted a proposed revised code to Appendix A, Article XI Section 8 (f)(2). Mr. Milliken said that the Board had to go before the public and wanted this matter scheduled for a public hearing.

MOTION: by H. Skelton, seconded by L. Zidle to schedule the minor amendment to Appendix A, Article XI Section 8(f)(2) for public hearing.

VOTE: Passed 5-0.

Tom Peters asked staff to check with the Board of Appeals regarding St. Mary's request. He would like a copy of the minutes regarding this issue. H. Skelton asked for the hospital to submit a clearer map, and H. Milliken asked for public works' comments especially regarding clearing sidewalks.

C. Proposed Acquisition of Property Located at 279 Bates Street.

The Planning Department has received a letter from Roger and Cecile Castonguay of 29 Jeffrey Street, Lewiston, Maine, offering to sell their property; a 50' x 50' lot located at the corner of Bates and Birch Streets (279 Bates Streets), to the City. The City of Lewiston's Policy Manual requires that input be received from all departments and forwarded to the Board for their review and consideration prior to forwarding a recommendation to the Land Committee. As such, the Planning Staff has sent a memo to all departments requesting that they review the request and forward comments to the Planning Board for consideration at the February 11th Planning Board meeting.

The Fire Chief, Police Chief, and Public Works Director all have no problems with the property. The Assessor's office reported that the taxes were current with \$88.77 balance due on 3/15/97. Arthur

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Chamberlain asked the Board why the City wanted this property. Mr. Dycio said that it would give the City a larger parcel with the abutting parcel it currently owns. H. Skelton said he would like to see what the City owns around this property. Mr. Dycio gave the Board a rough sketch of the property surrounding 279 Bates Street.

MOTION: by H. Skelton, seconded by D. Jacques to send a favorable recommendation to the Land Committee and City Council concerning the acquisition of the property located at 279 Bates Street.

VOTE: Passed 5-0.

D. Local Highway Law Title 23 Regarding Proposed (paper) Streets.

George sent a copy of the Local Highway Law Title 23, regarding proposed (paper) streets, and a copy of an article regarding this relatively new law from the Portland Sunday Telegram dated September 8, 1996 to the Planning Board before the meeting for their review. The Planning Staff requested discussions with the Planning Board regarding this law, how it may impact certain proposed (paper) streets in the City of Lewiston, and how staff, the Planning Board and the City should proceed from this point in time.

The Planning Staff has received an increasing number of phone calls from citizens and out-of-town residents who own property in Lewiston, that have frontage on proposed streets, questioning how this law may affect them and the property they own. In most instances, Staff has briefly discussed the potential impacts of the law with these individuals and referred them to their attorney for any legal interpretations or advice they may seek.

The Planning staff asked that the Board review the information provided and discuss this issue in greater detail with staff. Due to the limited time frame, the City will have to act quickly prior to the law's impact on these proposed (paper) streets.

George Dycio stated that it was his opinion that the public rights had dissolved but that private rights had not. There are over 100 streets which are still vacant - some are developable and that those abutters would have to be notified. H. Milliken asked staff to compile a list of all paper streets and maps and forward to the City Attorney for his interpretation.

Mr. Chamberlain said he owned several lots that will be affected by the decisions regarding the paper streets. Mr. Skelton said that this was a state law that could not be changed by the city and that we should get the city attorney's opinion. H. Milliken suggested a workshop with the city attorney and public with maps from staff.

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Leo Beaucage of Charles Street said he bought his property because it was on a dead end and that he would like to see the city vacate the paper streets on his street. Mr. Milliken said that the purpose of this law was to eliminate older streets and in order for the City to open any paper streets, they would have to be brought up to existing code. G. Dycio said that the law also allowed cities to save the ones that they wanted and to vacate the others. J. Lysen said that the ones that the City was planning to save should be addressed. Mr. Chamberlain had questions about access to his back lots. J. Lysen said that the law dissolved public rights, but not private rights.

H. Skelton proposed the first meeting be scheduled in April for a workshop with the City attorney and to also invite the City Council to this workshop.

MOTION: by H. Skelton, seconded by T. Peters to invite the City attorney and City Council to a workshop scheduled in April regarding proposed (paper) streets.

VOTE: Passed 5-0.

FY98 Community Development Block Grant Scheduling of Public Hearings.

MOTION: by H. Skelton, seconded by D. Jacques to accept the proposed CDBG schedule as set out in a memo from James Andrews, Community Development Director.

VOTE: Passed 5-0.

ADJOURNMENT

MOTION: by H. Skelton, seconded by D. Jacques to adjourn.

VOTE: Passed 5-0.

Meeting adjourned at 9:00 PM

Respectfully submitted,

Denis Theriault
Planning Board Secretary

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