

**CITY OF LEWISTON  
PLANNING BOARD MEETING  
MINUTES for September 9, 1999 - Page 1 of 10**

**I. ROLL CALL:**

This meeting was called to order at 6:15 p.m. and chaired by Tom Peters.

**Members in Attendance:** John Cole, Rob Robbins, Tom Peters, Mark Paradis, and Dennis Mason.

**Staff Present:** James Lysen, Planning Director, Gil Arsenault, Deputy Development Director, David Hediger, Land Use Inspector, and Doreen Asselin, Administrative Assistant.

**Members Absent:** Harry Milliken and Lewis Zidle.

**Others Present:** Jonathan Van Fleet.

**II. CORRESPONDENCE:** The following correspondence were distributed at this Planning Board Meeting: Correspondence from the State of Maine Department of Transportation (MDOT) dated September 1, 1999 in reference to granting review authority on issuing Traffic Movement Permits and a number of items relating to the projects (comments from Police, Fire, and Public Works Departments), including a revised plan on the Muriel Bowie project (Drawing No. One, First Revision Plan of Lots Owned by Lionel Baril dated 9/9/99).

**MOTION:** by **Tom Peters**, seconded by **Dennis Mason** to accept the above correspondence items, as submitted, and place them on record to be read at the appropriate time.

**VOTED:** 4-0.

**III. FINAL HEARINGS:**

- A. ***Muriel Bowie (136 and 140 Hogan Road)*** - A proposal by A.R.C.C. Land Surveyors, Inc. for the proposed amendments to the **Lionel Baril Subdivision** in order to create frontage for property at 136 Hogan Road by combining it with Lot 4 of the subdivision on Nell Street; and to create the necessary 40,000 SF of lot area for property at 140 Hogan Road by combining it with Lot 3 of the subdivision on Nell Street. (***Tabled at the 8/31/99 Planning Board Meeting.***)

This item was previously tabled from the August 10, 1999 Planning Board Meeting. **Jim Lysen** presented an overview of the project from the last Planning Board Meeting. Again, the purpose of the amendments are to allow Mrs. Bowie to subdivide her property by creating the necessary frontage for her property at 136 Hogan Road by combining it with Lot 4 of the subdivision on Nell Street; and creating the necessary 40,000 square feet of lot area for the property at 140 Hogan Road by combining it with Lot 3 of the subdivision on Nell Street. The Planning Board's main concern reflected on the 2' x 25' strip of land along Nell Street. This 2' x 25' strip of land would give Mrs. Bowie her necessary frontage of 125 feet, if

it was created to meet the code. This item was tabled at the August 31, 1999 meeting at the request of **Arthur Montana**, who was representing the applicant, who further agreed to submit a revised plan. Dennis Mason asked, "Does the Planning Board normally approve angled property lines?" Jim Lysen responded that typically we do have angled property lines in a cul-de-sac. This item was opened to the public for any comments. Since there were no comments from the public, this item was then re-opened to the Planning Board Members for the following two (2) motions.

**MOTION:** by **Dennis Mason**, seconded by **Mark Paradis** to accept the modification/waiver form, as submitted, and to determine the application for **Garth and Muriel Bowie** of 140 Hogan Road to be complete.

**VOTED:** 4-0.

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**MOTION:** by **Dennis Mason**, seconded by **Mark Paradis** that the Planning Board grants final approval to the modified plan dated 9/9/99, as presented at this Planning Board Meeting.

**VOTED:** 4-0.

*John Cole arrived at this meeting at 6:25 p.m.*

- B. *Lewiston Raceways, Inc. (50 Mollison Way)* - A proposal by A.R.C.C. Land Surveyors, Inc. for a proposed 10,000 square foot building in Spare-Time Recreation, Inc. to be used as a day care center.

**Jim Lysen** read his memorandum dated September 3, 1999. This proposal was submitted to construct a 10,000 square foot building on a 2.21 acre site located in the Community District (CD) on Lots 19 and 20 in the Spare-Time Recreation Subdivision at 50 Mollison Way. The anticipated use is for a day care center and includes 35 parking spaces. **Jim Lysen** went over the modification/waiver form.

Copies of the plans were submitted to the Police, Fire, and Public Works Departments. The only issue that the Police Department had was if there will be an enclosed and secure outdoor play area for the children. This will be a fully enclosed day care center. There will be a fenced in area, which is shown on the plans submitted. The only item the Fire Department had was to verify the F.D. connection location and to make sure that the connection is that of a four inch (4") storz kind. **Jim Lysen** said that this issue was resolved in a telephone conversation with **Dan Roy** of the Fire Department on 9/8/99. The only concern that the Public Works Department had was that the back of Lot No. 18 should be graded so that runoff does

not go onto Lot No. 17 and level lip spreaders should be employed to ensure sheet flow from the back of the site. The Public Works Department will require a conditional approval. It was requested that **Jim Lysen** will need to obtain a memorandum from the Public Works Department concerning conditional approval.

This item was turned to the public for comments. Since there were no comments from the public, this item was then turned back to the Planning Board for the following two (2) motions.

**MOTION:** by **Dennis Mason**, seconded by **Rob Robbins** to accept the modification/waiver request form, as submitted, and to determine the application of Lewiston Raceways, Inc. for the proposed Day Care Center at 50 Mollison Way to be complete.

**VOTED:** 5-0.

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**MOTION:** by **Dennis Mason**, seconded by **Rob Robbins** that the Planning Board grants final approval to this project, subject to the conditions being addressed in a memorandum from **Eric Dudley** from the Public Works Department dated 9/8/99.

**VOTED:** 5-0.

**IV. PRE-APPLICATION AND DETERMINATION OF COMPLETENESS HEARING:**

- A. ***Butler Brothers (2001 Lisbon Road)*** - A proposal by The Sheridan Corporation for a Major Project to review plans for a 48,000 square foot warehouse with attached 5,000 square foot office, related parking, drives, and truck yard.

**Jim Lysen** read his memorandum dated September 3, 1999. A proposal has been submitted by The Sheridan Corporation on behalf of the applicant who is Butler Brothers. This proposal is to construct a 53,900 square foot office and warehouse building (Phase I) and a warehouse building with a 21,000 square foot addition (Phase II) on a 26.7 acre site located in the Highway Business (HB) District near the intersection of Lisbon and Dyer Roads. Currently, this business is located off of Sabattus Street. The proposed office and warehouse includes 56 parking spaces and three (3) loading dock areas, and a future loading dock for the warehouse expansion. The above number of parking spaces meets the requirements for both Phase I and Phase II. The total impervious area is 125,200 square feet and does not require a Site Location permit. There is an existing easement between the present property owner, the Cronin's, and the neighbors, which creates a 100 foot conservation easement along Dyer Road, running approximately 800 feet from the centerline of Lisbon Road. The applicant is currently attempting to amend this agreement and reduce it to 75 feet in order to accomplish the construction of the future Phase II warehouse.

There are two (2) areas for access by the Fire Department. Those two (2) areas are off of Lisbon Road and Dyer Road. State permits need to be granted and stormwater quality measurements will need to be taken.

Copies of the plans for this application were submitted to the Police, Fire, and Public Works Departments. The Police Department had no concerns with this project. Presented and distributed at this meeting were the following concerns from the Fire and Public Works Departments. The only concerns the Fire Department had were the following: a. That the access road to Dyer Road is required to be no less than a 20 foot wide fire lane and b. That if a gate is to be installed, the Fire Department would require a breakable lock or to install a Knox box at the gate area. The only concern that the Public Works Department commented on was that the intersection of South Lisbon Road and Lisbon Street has a high number of accidents. Their only concern is that there may be a possibility that the increase in truck traffic so close to the intersection may increase the accident rate to "Hal" limits.

**Jim Lysen** complimented **Ken Lamoreaux** of The Sheridan Corporation on their high-quality application that they prepared for the Butler Brothers project.

There was a brief presentation from **Pat Butler** of Butler Brothers as to what this business performs. This is a family-run business. They are currently located at 1069 Sabattus Street and occupy a 14,000 square foot building. There are three (3) divisions: 1. Footwear. 2. Rubber products. 3. Industrial supply equipment. This is a low-intense business. This business deals in dry goods only and are open from 6:00 a.m. to 5:00 p.m. The goods come in, are stored, and go out. They have 22 employees. It is a wholesale business. In the proposed building, pertaining to truck access, some trucks will be parked overnight from Lisbon Street.

**Ken Lamoreaux**, from The Sheridan Corporation, who is the applicant's representative on this project said that it is a very efficient operation and has a very low impact on personnel. Their personnel is mostly administrative. This type of business does not require a lot of personnel. **Ken Lamoreaux** said that as to stormwater, all the impervious areas are to go to one (1) area with a Vortex, 11,000 unit. The water will drain to a large wetland area (as shown on the map presented at this meeting). There is an 80 tsi requirement. A study will be done by a traffic engineer. The site distance on Dyer Road will need to be cleared back. The back end of the building will be buried ten feet (10'). **Jim Lysen** said that the petitioner has exceeded the requirements as to the list of abutters. This project was then opened to the public. There were several neighbors concerned with this project, which are as follows.

**Jack Simmons** (a resident of Dyer Road). He said that the recorded agreement is inconsistent with the plan as to encroachment.

*At this point in this meeting, John Cole stepped down from the Planning Board stating this to be a conflict with his law firm of Skelton, Taintor & Abbott, P.A.*

**Jack Simmons** went on to say that there is a direct encroachment on the right-of-way concerning Phase II. He wanted to know when Phase II was supposed to be done. He was told within the next five (5) to ten (10) years. He is asking that Phase II is not complete, is not configured on land, and not intended to be built in the future. He is opposed to the trees being cut on Dyer Road. He said that they do not have access to his trees. **Jack Simmons** also said that this is in violation of the recorded documents. He feels that a 20 foot wide strip is sufficient and he does not want to allow vehicle access (he then made reference to Paragraph 282, Page 4 of the recorded agreement). He agrees that this should be used for emergency access only and that there is no need to pave the emergency road. He is, therefore, asking that the Planning Board not consider Phase II at all.

**David Fisher** (19 Dyer Road) - He feels the same way as to all the issues that **Jack Simmons** raised. He is also concerned with vehicles running all night long. He does not feel that the parking lot needs to be as large as it is proposed to be. He would like to see the structure further from Dyer Road (moved east) an additional 25 feet.

**Susan Shriver** (a resident of Dyer Road) - She said she is concerned with the noise of vehicles. She feels this project is a disruption to the immediate area.

**Jennifer Cushman** (75 Dyer Road) - She said her major concern is with traffic on Dyer Road. She said that there are other possibilities for this piece of land. This is an accident waiting to happen.

**Edward Bower** (48 Dyer Road) - He said that the easement to the property is not to be built out.

**Tom Peters** asked what is the schedule for Phase II. The response was that it would be two (2) years to start the project. A construction schedule will need to be submitted. **Jim Lysen** said that the cutting of trees are in the right-of-way of the City for the site entrances. **Jack Simmons** said that a visual buffer could be agreed upon. In Phase II, they do not have the land.

**Susan Oram** (attorney for Butler Brothers) - She said that these are just current plans for the project. This project has been brought to the Planning Board to be determined to be complete. She said the Planning Board should not enforce the agreement.

**Ken Lamoreaux** said that parking is also for emergency use and that most of the wall of Phase II does encroach. **Jim Lysen** added that a minimum of 20 feet is required by the Fire Department.

**Jeff Schott** (a concerned Lewiston resident) - He stated that a single access lane could be used for emergency access.

**Dennis Mason** asked, "Is it a requirement for the emergency access to be paved?" **Jim Lysen** responded, "Yes, in this type of an environment."

**Pat Butler** commented that everything has been done to minimize impact and that he is willing to work with the neighbors.

**Margaret Simmons** (Dyer Road) - She said she is concerned only with the cutting of the trees.

**Tom Peters** then stated that the Planning Board would not be dealing with Phase II at this time.

**Pete Whitmore** (of The Sheridan Corporation) - He said that this building could cut down noise. They have tried to minimize lighting. They have tried to please the neighbors even to the extent of changing the color of the building to blend into that type of neighborhood. He said he has worked very closely with **Pat Butler**. It is really an aesthetically-appealing building.

*At this time in the meeting (7:50 -8:05), it was requested by Pat Butler to take a fifteen (15) minute recess.*

**Susan Oram** said to deal with the specifics only. The applicant came to the Planning Board to request whether their application was complete. She would like to have the Planning Board determine this and if so, schedule a Final Hearing to be heard at the Planning Board Meeting, which is scheduled for Thursday, September 30, 1999.

**Ken Lamoreaux** said that he would like to have Phase II taken off the table at this meeting. He will bring back a modified plan having the additional five (5) parking spaces removed and wants Phase I brought back to the September 30, 1999 Planning Board Meeting as a Final Hearing. The revised packages would need to be received by September 24, 1999 with the modified plan for the Planning Board members and the concerned neighbors to review before the 9/30/99 meeting.

**Dave Fisher** would like a clarification as to the determination of completeness of Phase I with no encroachment. This meeting was then closed to the public and turned back to the Planning Board for the following motions.

**MOTION:** by **Dennis Mason**, seconded by **Rob Robbins** that the Planning Board accepts the modification/waiver request form, as submitted, and to note that the notification to abutters was exceeded by the petitioner.

**VOTED:** 4-0.

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**MOTION:** by **Rob Robbins**, seconded by **Mark Paradis** that the Planning Board moves that the application for Butler Brothers is determined to be complete in regards to Phase I; removal of the additional five (5) parking spaces upon receipt of the modified plan for the 9/30/99 meeting; and to schedule a Final Hearing for September 30, 1999.

**VOTED:** 4-0.

For clarification, the issue with this project is with the use of the road, not the cutting of the trees.

*John Cole rejoined the Planning Board.*

**V. PUBLIC HEARINGS:**

- A. *Review and Recommendation on the Proposed Amendments to the Urban Enterprise (UE) District Concerning Additional Standards.*

**Jim Lysen** read his memorandum dated September 3, 1999. The following are proposed amendments to the Urban Enterprise (UE) District concerning additional standards for existing buildings and structures. He went on to say that similar provisions should be drafted in the future for other areas of the downtown since space and bulk standards could similarly prevent the adaptive reuse of other complexes and buildings, besides the Bates Mill Complex. He said that this is being brought to the Planning Board to recommend a first and second reading for the City Council for their September 21, 1999 meeting. The UE District needs to be looked at in order to subdivide the Bates Mill Complex.

*At this point in the meeting Jim Lysen then introduced the new Planning Coordinator, Jim Fortune.*

**Jim Lysen** then continued with this presentation. He showed the UE District on two (2) corresponding maps of the downtown portion area. There were four (4) parcels that **Jim Lysen** referred to on the maps. This conversation was centered more with Parcel No. 3. Parcel Nos. 1, 2, and 4 have other issues, i.e. Parcel No. 4 is almost all vacant. Parcel No. 1 is in conjunction with Strawberry Avenue, Parcel No. 2 is up

near Hall & Knight, Parcel No. 3 is the Mill District to Island Avenue, and Parcel No. 4 includes Pleasant Street and the Maine Turnpike (U.F. Strainrite, Industrial Roofing Corporation, etc.).

It was determined to concentrate more on Parcel No. 3 as the downtown portion area and to reserve and look at the other spots downtown and to not deal with Parcel Nos. 1, 2, and 4 at this time. **Tom Peters** would like to see this left on the agenda to be heard at a later time.

**Alan Hahnel**, of Hahnel Brothers Company, said that there are different zoning applications to the other three (3) areas. He asked if they are to remain as is for now. The response was that the other three (3) areas (Parcel Nos. 1, 2, and 4) will not be changed at this time.

It was also suggested to include Bleachery Street in Parcel No. 3. This item is being driven for the mill. Parcel No. 3, as outlined on the map, will include Bleachery Street. Parcel Nos. 1, 2, and 4 are not being changed, but are to be included on the agenda and brought back at a later date. This could come back as a presentation in November 1999. The following motion was made.

**MOTION:** by **Tom Peters**, seconded by **Mark Paradis** to include Bleachery Street in Parcel No. 3; to include on the agenda Parcel Nos. 1, 2, and 4 at a later date to be brought back as a presentation in November 1999; and to recommend a first and second reading to be heard at the City Council's next meeting on 9/21/99.

**VOTED:** 4-0-1 (Cole Abstained)

**Tom Peters** said that a date should be incorporated in the code amendment concerning existing buildings, i.e. as of September 1, 1999.

It was agreed that on Line No. 3 of the code amendment to remove the word, "*existing*", eliminate space and bulk standards, and add the language as to Parcel No. 3 to the code amendment. The following motion was made.

**MOTION:** by **John Cole**, seconded by **Dennis Mason** that the Planning Board moves to table the hearing until the next Planning Board Meeting, which is now scheduled for Thursday, September 16, 1999 and bring back with the specific language in the code amendment.

**VOTED:** 5-0.



Item No. B. Review and Recommendation on the Proposed Amendments to Shoreland Zoning Standards, was then skipped by the Planning Board and since Item No. 1 under New Business pertained to the above public hearing as to UE Districts, it was heard out of sequence.

*John Cole stepped down from the Planning Board on this item.*

**V. OTHER BUSINESS:**

A. New Business:

1. *Discussion Concerning Potential Re-Zoning/Code Amendments to Permit a Veterinary Hospital on Strawberry Avenue.*

**Jim Lysen** read his memorandum dated September 3, 1999. Veterinary Doctor **Charles Scheib** has a desire to locate an emergency veterinary hospital on Strawberry Avenue on land owned by Hahnel Brothers Company. This proposed project is west of the Maine Central Railroad as Strawberry Avenue makes a 90 degree turn to the north. The present zoning in this area is the UE District. **Dr. Scheib** has also indicated that the Lewiston and Auburn SPCA was interested in an adjacent site for their new facility. In discussions with **Dr. Scheib** there are three (3) possible amendments to accomplish the goal to allow such uses in this area which are: a) add veterinary hospitals as a permitted use in the UE District; b) re-zone the area to the Office Residential (OR) District, extending it from the other side of the railroad tracks to the subject property; and c) conditionally re-zone the property to permit the hospital.

The fee has been waived and **Dr. Scheib** is willing to wait until November 5, 1999. Dr. Scheib would like to go as fast as possible. He is proposing to put in a modular unit and would expect it to be done within a month and a half. A petition will be needed. **Dr. Scheib** is willing to get started on this as soon as possible. **Tom Peters** said that the Planning Board would accommodate him so that he can get going. It was agreed that this item would be brought back to the next Planning Board Meeting to be held on Thursday, September 16, 1999, to review as a permitted use within the UE District as a New Business Item on the agenda and to schedule this item for a Public Hearing at the Thursday, September 30, 1999, Planning Board Meeting.

*John Cole then stepped back up to the Planning Board.*

**W. PUBLIC HEARINGS (continued)**

- B. *Review and Recommendation on the Proposed Amendments to Shoreland Zoning Standards.*

Item No. B was heard out of sequence. **David Hediger**, the City of Lewiston's Land Use Officer presented this topic. He said that **Rich Baker**, who works with the Shoreland Zoning Ordinance for the State of Maine, said that the City of Lewiston's Shoreland Zoning Ordinance is consistent with the State's guidelines. Great ponds need to be regulated at 250 feet, streamlines at 75 feet, and at 25 feet the state mandates nothing. The City of Lewiston is more stringent than the state's guidelines. A colored map was included in the Planning Board packets. The yellow-colored area means that it does not need to be shoreland zoned. Tributaries are important. Any area greater than ten (10) acres is considered a great pond.

This item was brought to the Planning Board for discussion and to recommend it to the City Council for adoption. The following motion was made.

**MOTION:** by **John Cole**, seconded by **Mark Paradis** to recommend adoption of the Shoreland Zoning Ordinance to the City Council at their September 21, 1999 Meeting.

**VOTED:** 4-1-0 (Mason Opposed)

**VI. READING OF THE MINUTES:**

A. *Draft Minutes of Planning Board Meetings Held on 7/20/99 (tabled at 8/10/99 and 8/31/99 Planning Board Meeting) and 8/10/99 (tabled at 8/31/99 Planning Board Meeting).* Planning Board Minutes of 7/20/99 - Page 8, Item IV. Pre-Application Hearing: A. Paul Nadeau a/k/a Louis Paul Nadeau Subdivision (527 East Avenue), second paragraph, first line, after the word revised and before the word eliminate, add the word, "to". Planning Board Minutes of 8/10/99 - Page 2 in the motion, second sentence after 527 East Avenue, add the word, "is" and change the word grant to, "granted".

**MOTION:** by **Tom Peters**, seconded by **Dennis Mason** that the Planning Board moves to accept the Planning Board Minutes for 7/20/99 and 8/10/99, as amended, and place them on file.

**VOTED:** 5-0.

**VII. ADJOURNMENT:**

**MOTION:** by **Mark Paradis**, seconded by **Tom Peters** to adjourn this meeting at 9:40 p.m.

**VOTED:** 5-0.

*After this meeting adjourned, Dennis Mason mentioned that he would not be in attendance at the Planning Board Meeting scheduled for October 12, 1999.*

Respectfully submitted,

Dennis Mason, Secretary

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