

**CITY OF LEWISTON
PLANNING BOARD MEETING MINUTES
for August 25, 2008 – Page 1 of 7**

I. ROLL CALL: This meeting was held in the City Council Chambers on the First Floor of City Hall, was called to order at 5:36 p.m., and was chaired by Chairman Stephen Morgan.

- **Members in Attendance:** Stephen Morgan, Jim Horn, Roger Philippon, Jonathan Earle, Lucy Bisson, Denis Fortier, and David Vincent. **Absent:** None.

- **Associate Members Present:** Bruce Damon and Trinh Burpee. **Absent:** None.

- **Staff Present:** Gil Arsenault, Director of Planning and Code Enforcement; David Hediger, City Planner; and Doreen Christ, Administrative Secretary of Planning & Code Enforcement.

Both Bruce Damon and Trinh Burpee were alternates, not voting members for the entire meeting.

II. ADJUSTMENTS TO THE AGENDA: The following motion was made.

MOTION: *by Lucy Bisson, that Item V. Other Business, Sub-Item A. A proposed “de minimus” change request by Paul Beaudette to the Sheridan Terrace Subdivision at 473 College Street to be heard first out of order of the agenda listing. Second by Denis Fortier.*

VOTED: *7-0 (Passed).*

III. CORRESPONDENCE: Distributed at this meeting were the following items of correspondence: 1. A letter from Florence LeClair dated August 23, 2008 regarding opposition to the ATV park at 50 Old Farm Road and 2. An e-mail from Kenneth H. Freye regarding the all-terrain vehicle park dated August 25, 2008.

The following item was heard out of sequence to the agenda listing.

V. OTHER BUSINESS:

A. *A proposed “de minimus” change request by Paul Beaudette to the Sheridan Terrace Subdivision at 473 College Street.* David Hediger read his Staff Memorandum dated August 21, 2008 for which Paul Beaudette has provided a revised Subdivision Plan for the Sheridan Terrace Subdivision. A correction was made as to the location of Paul Beaudette’s property, which is located at 473 College Street, not 673 College Street, as listed on the agenda and stated in the Staff Memorandum. This property consists of 19,998.66 square feet of area and contains a single-family dwelling. Paul is proposing to acquire approximately 3,043 square feet of land from the abutting property owner (Rene Cote), which is a portion of Lot 4 in the Sheridan Terrace Subdivision. Both these properties are located in the Neighborhood Conservation “A” (NCA) zoning district. The only change being made is the sale of land to an abutter.

Present at this meeting was **Paul Beaudette**, who stated that this is a change of ownership only.

There was no public present, therefore, the following motion was made.

MOTION: *by Lucy Bisson that the Planning Board determine the change of ownership to the Sheridan Terrace Subdivision (Lot 4) to be a “de minimus” change, pursuant to Article XIII, Section 3(k) of the Zoning and Land Use Code. Second by Denis Fortier.*

VOTED: *7-0 (Passed).*

The remainder of the agenda items were heard in the order of the agenda listing.

IV. HEARINGS:

A. *A public hearing for a proposal submitted by Fielding’s Oil Company to develop an oil and fuel distribution facility at 7 Gendron Drive (Lot 6A) in the Gendron Business Park.* David Hediger read his Staff Memorandum dated August 21, 2008. This application has been submitted by Fielding’s Oil Company to develop an oil and fuel distribution facility at 7 Gendron Drive (Lot 6A) of the Gendron Business Park. This parcel is located in the Industrial (I) zoning district. Previously, approval was granted on September 12, 2005 for Phase 1 (single access from Gendron Drive with a single, 25,000

gallon oil tank and large gravel turning area and Phase 2 (for the creation of a second access to Gendron Drive, a 4,000 SF office/garage, a second, 25,000 gallon oil tank, and a 25,000 gallon propane tank). Phase 1 has been completed. However, the improvements for Phase 2 have not taken place and the previous 24-month approval has expired. Therefore, the original application has been resubmitted, since there have been no changes made to the original plans.

Present at this meeting were both **Bill Fielding** and **David Fielding** of Fielding's Oil Company, who answered the following questions. Bruce Damon asked if the lighting will be shielded? Bill Fielding responded with, "Yes". Bruce Damon then asked if the Fire Department has reviewed the underground propane tank? Again, Bill Fielding responded with, "Yes".

This item was then opened to the public for those in favor and those in opposition to this project. There being none, this item was brought back to the Planning Board.

The following motion was made.

MOTION: *by Lucy Bisson, that the Planning Board determines the application submitted by Fielding's Oil Company to develop an oil and fuel distribution facility at 7 Gendron Drive (Lot 6A) of the Gendron Business Park to be complete; grants approval of the modification/waiver checklist; that this application meets all of the necessary approval criteria contained under Article XIII, Section 4 of the Zoning and Land Use Code; and grants approval to Fielding's Oil Company for Phase 2 of the development, subject to the following conditions:*

1. *That the erosion control details seen on the topographic site plan labeled, "Lewiston Office" are included on the site plan labeled, "Phase 1-Lewiston Office" and that the Phase 2 plan is labeled as such.*
2. *That a note be added to the plan indicating that approval of the development will expire after a period of 24 months if substantial development has not begun and that extensions of approval may be requested at least 60 days prior to the time of expiration.*

Second by Denis Fortier.

VOTED: 7-0 (Passed).

B. *A public hearing for a proposal submitted by Summit Geoengineering Services on behalf of the Central Maine Federal Credit Union to increase the number of drive-thru lanes from three to four and to expand the existing employee parking lot at 1000 Lisbon Street.*

Before the following item was heard, Steve Morgan asked the Board if it would be a conflict for him to remain on the Board for the following item, since he resides nearby. It was determined to not be a conflict.

David Hediger read his Staff Memorandum dated August 21, 2008. Summit Geoengineering Services on behalf of the Central Maine Federal Credit Union has submitted a proposal to increase the number of drive-thru lanes from three to four and to expand the existing employee parking lot at 1000 Lisbon Street. This property is located in the Community Business (CB) zoning district on 1.66 acres of land, and consists of a two- (2-) story financial institution with three drive-thru windows, and an ATM located separately from the structure. Property on both First Street and South Avenue have been purchased by the credit union. Most of the proposed improvements are related to the relocation of the ATM, which is currently located adjacent to First Street. This ATM is proposed to be relocated to the existing drive-thru lane closest to the credit union. Because of this ATM relocation, there will be a loss of one drive-thru lane. Therefore, a fourth lane is being proposed. This fourth lane will create a grading issue with the existing 22-space employee parking lot, therefore, this parking lot is being proposed to be reconfigured. These improvements will be done in two phases. The first phase being the construction of the fourth drive-thru lane and the parking lot reconfiguration. The second phase will be the relocation of the ATM.

There were no concerns from the Police and Fire Departments. The responses from Public Services for the original submission have been addressed and there are no remaining concerns. Both

Planning and Code Enforcements comments were included in the Board packets. Also included in the Board packets was the response to review comments from Bill Peterlein to David Hediger dated August 13, 2008.

Present at this meeting were **William Peterlein, P.E.**, from Summit Geoengineering Services on behalf of the Central Maine Federal Credit Union. Also present were **Jennifer Williams** of Gorrill-Palmer Consulting Engineers, Inc. and **Vicki Stewart** from the Central Maine Federal Credit Union. Bill Peterlein answered the following questions. Denis Fortier asked Bill Peterlein to explain the curb cuts. Lucy Bisson stated that the curb cut changes will be a great help to minimize traffic impacts. Her concern, however, is with traffic backing up at the light and the plaza. Jennifer Williams explained traffic entering and exiting the credit union and stated that traffic should not overlap. Bruce Damon agreed that this is a very congested traffic area. Steve Morgan said that because of this project, a couple of bad situations will be improved. Jennifer Williams stated that the traffic improvements for the bank took into account the additional traffic from the proposed McDonald's.

It was asked how many cars per day go through the drive-thru? Vicki Stewart from the CMFCU stated that on a slow day, there are 50 cars and on a high traffic volume day, there are between 200-225.

This item was then opened to the public for those in favor and those in opposition to this project. There, being no public present, the public portion of this item was closed and turned back to the Planning Board.

The following motion was made.

MOTION: *by Roger Philippon, that the Planning Board determines the application submitted by Summit Geoengineering Services on behalf of the Central Maine Federal Credit Union to increase the number of drive-thru lanes from three to four and to expand the existing employee parking lot at 1000 Lisbon Street to be complete; grants approval of the modification/waiver checklist; that this application meets all of the necessary approval criteria contained under Article XIII, Section 4 of the Zoning and Land Use Code; and grants approval to the Central Maine Federal Credit Union, subject to the following conditions raised by the Planning Board and Staff.*

1. *That a note be added to the plan indicating that approval of the development will expire after a period of 24 months if substantial development has not begun and that extensions of approval may be requested at least 60 days prior to the time of expiration.*
 2. *That a signature block is added for the Planning Board chairman's signature.*
- Second by Lucy Bisson.*

VOTED: 7-0 (Passed).

C. *A proposal submitted by Robert Faunce on behalf of Don Arel to determine whether an all-terrain vehicle park at 50 Old Farm Road is an allowed use in the Rural Agricultural (RA) zoning district.* David Hediger read his Staff Memorandum dated August 21, 2008. Don Arel is the property owner of 50 Old Farm Road, which is approximately 329 acres in size and is located off of College Street. He also has an option on an additional 74 acres of land, which abuts his property and is currently owned by Chui Ngor Wong, both properties consist of a network of trails. Don Arel's property is located in the Rural Agricultural (RA) zoning district. The property owned by Chui Ngor Wong is located in the Low Density Residential (LDR) zoning district. Don Arel is proposing to create a parking area for users of this trail network, construct a small office, establish several camping areas, and then charge admission for use of these trails. As suggested by Staff, Don Arel first needs to obtain a use determination as to whether an all-terrain vehicle (ATV) park is an allowed use in the RA zoning district or a use not specifically listed as a permitted or conditional use, but something substantially similar and compatible with permitted and conditional uses in that district.

It should be noted that included in the Planning Board packets was correspondence from **Norman and Constance Poulin**, dated August 18, 2008, who reside at 720 Old Greene Road and are opposed to this request basically because of sanitation, fire hazards, the impact on surrounding neighborhoods, and the negative impact this request would have on property values. Also included was correspondence as a

formal protest from **Jason D. McDonald**, who resides at 1017 College Road, along with supporting police reports.

Robert Faunce was present at this meeting on behalf of **Don Arel**. Both **Don & Celine Arel** were also present along with **Steve Roberge**, Civil Engineer. **Bob Faunce** said that this item was brought to the Planning Board to determine what exactly is an ATV park. Bob Faunce suggested that an ATV park falls within the definition of a “non-intensive outdoor recreation”, which is a conditional use in the RA zoning district. He also said that the ATV park will consist of minimal structural development and less regrading use of the terrain. Staff is in disagreement with Bob’s interpretation of this definition and suggested that Don Arel’s proposed use is not a non-intensive outdoor recreation. Staff is also under the impression that Mr. Arel’s personal use of the property primarily focuses on four-wheel drive, off-road trucks and vehicles. However, ATV parks are typically associated with four-wheelers, dirt bikes, and similar off-road vehicles not registered on use on City streets. Bob made reference to Hemond’s located in Minot, Maine. He said that Mr. Arel’s park is unique and is a different scale of use. This is not motocross. People are going up and down slopes. About two percent are two-stroke bikes, 30 percent ATV’s, and the remaining are pickup trucks. He went on to say that many of the vehicles are registered for on-road use. You can go only 1200 feet in a full day, depending on the terrain. There are between 7-8 people per day that come for the camping. Currently, there is no charge, however, donations can be made to maintain the park. Bob went on to state that ATV parks did not exist when this code was written. On Fireslate Road there are very few complaints. This is a family-type operation. Mr. Arel would like to expand the camping area with more camp sites and then charge fees. Bob showed pictures to the board of a man-made water hole. He also said that tree stumps are left to drive over. A determination needs to be made as to the definition of Mr. Arel’s use.

Don Arel commented, it took ten (10) trucks, six (6) hours to completely get through the park. Everything is designed for fun, i.e. when he pulls a tree up, he leaves the hole for mudding. He wants to run this as a business and control the area. He referenced an oil spill at Stetson Brook and how he helped pull the stuck truck out. This was someone who entered property without permission. He stated that he wants to provide a place for people to go - a legal, recreational place. He pointed out that Lewiston has many stores and restaurants, but no place for people to go to play.

David Vincent asked, “How would you prevent Woodstock?” Would you be interested in limiting the intensity of the site. Bob said he wants to understand the definition of non-intensive use. He referenced stadiums, instead of playing fields being in the same category. Bob said that the ordinance does not define playing fields. David Hediger said that playing fields are an accessory to. Bruce Damon mentioned that there is a potential for significant erosion in regards to the trail near the City property. Don Arel stated that this trail is from logging. Bob said that the wetlands were taken from G.I.S. mapping. DEP regulations says that he can cross the wetlands. Don Arel has a permit-by-rule for a bridge crossing Stetson Brook. Don said that the DEP says that you can cross as long as you do not damage the stream bed. He is trying to make every effort to make this good. He then referenced the main snowmobile trail. He said that he does not have anything that is loud at his park. He also said that his trails are really rough and are not made for racing.

Questions from Board members were as follows. Jim Horn asked, “Does this park do serious damage to the environment?” This determination must be made as part of the definition. David Hediger stated that this item was brought to the board for a determination. The request is for a definition only. David Vincent asked, “How many miles from Thorncrag?” It was determined to be less than a mile. Gil Arsenault stated that the Planning Board can put parameters on the property, i.e. hours of operation, etc. He referenced whether the use will have a significant adverse impact. Roger Philippon asked, “Can the City impose any restrictions at this time?” Currently, this is not making a profit, but is listed on the Web site. The City can, at some point, say no to stop this operation. However, he could use it for his own purposes. Upon approval, Mr. Arel could construct a parking area, charge fees, provide camping areas. Is it possible through Development Review that restrictions could be imposed, such as hours of operation,

etc. (through a Conditional Use Permit)? Gil responded with, "Yes, however, you would need to prove that there is not an adverse impact to the adjoining properties." There does not appear to be an adverse impact at this time; however noise is a concern. Also inviting people and accepting donations is an issue.

At this point in the public hearing, there was a five- (5-) minute recess before being opened for public comment.

This item was opened to the public for both those in support and those in opposition to this request. Steve Morgan stated that the Board is looking at a conditional use for this type of zoning.

Norm & Connie Poulin, 720 Old Greene Road, stated that he is the owner of 50 acres of property with a single-family home. The back of his property abuts Don Arel's property. He said that Mr. Arel has clear cut his own land and there is no buffer left. He strongly objects to this park. He is mostly concerned with noise. He said that this all-terrain vehicle park is very loud and disturbing. He said the peace and tranquilly is being disturbed along Old Greene Road to College Street.

Mike Emmi, 650 Old Greene Road, said that he represents the Emmi family land. A back property line was established, however, the property has been clear cut. There is no buffer. He said what does this show for good faith. So many things have come in after the fact. He asked, "Where is his business plan?" There is not a lot of accuracy here. He said Dons should have been looked in depth before letting it happen.

David Baker, 27 Greenwood Lane, stated that noise is a factor. Money is to be made here. He asked, "What is to prevent all of New England to come here?" There is an opportunity for a lot of people to come. This will de-value surrounding property. Enforcement is an issue here. Who is going to enforce this. This is not practical. There are too many factors at hand here.

Tom Truchon, 6 West View Drive, asked if there are any records of illegal drug activity. He said that he went there on Sunday, August 24, 2008 and enjoyed his time there. He said that this does not compare to motocross. He also said he felt that drug and underage drinking is not a problem.

Claudette Lafrance, 1037 College Street, said that she has resided here for 46 years. She is concerned with Mr. Arel's purchase of the Wong property.

Dick Courtemanche, 27 Rejane Avenue, stated that Mr. Arel's all-terrain, off-road park leaves a trail of mud. He asked, "Who is going to clean this?" There are four churches, a new school (Pettingill School), and Thorncrag in this vicinity. This will de-value these properties. He discourages going forward with this.

Robert Wailus, 9 Bowdoin Drive, stated that he had just purchased this lot. He is worried about the zoning. There is no City sewer in this area. He asked, "What is Mr. Arel going to do, place porta-potty's." Celine Arel responded that a porta-potty can be purchased for \$150.00. Robert then asked, "How much is the fee going to be to make this thing fly?" There are going to be costs. "How will the police be able to enforce this?" He commented that the police do not have vehicles that can get up there. He also asked, "Where is the business plan?"

Irene Lemieux-Marshall, spoke on her mother's behalf (***Rejane Lemieux***). She asked, "Is Mr. Arel going to fence in his property?" She has concerns with people crossing other people's property. She also asked, "Where is the wildlife going to go?"

Jason McDonald, 1017 College Street, said that he has resided there for 2-1/2 years. There are a lot of vehicles coming in on trailers, therefore, they are not just street vehicles. Some of these vehicles can sit in one place and spin their tires at 120 mph.

Robert Goulet, 1015 College Street, asked, "What happens before they get into the park?" He wanted to live in the country. There are beer bottles and trash everywhere. He has spent a lot of money in landscaping. He wants his valuation to stay where it is at. He said that the police cannot enforce this. He also reiterated what Mr. Arel said and that was that even he cannot enforce this.

Bob Faunce said that, to date, there has been very minimal police complaints.

Wendy Bourget, 780 College Street, stated that the entrance proposed is next to hers. She stated that as neighbors, we often do not call police. Her concern is with the impact of wetlands. There is an

opportunity to preserve the wetlands through the Rural Agricultural (RA) zoning district. It was stated that this request is not for a rezoning. The board is trying to determine whether a park of this type is an allowed use in the RA zoning district.

Gerry Caron, resides in Auburn, however, he said that he is an ATV enthusiast. He feels this should be regulated with Mr. Arel's land. His ATV is not noisy. He commented that dirt bikes are a whole different ball game. He said that he has been out there. People are out there to have fun. There are a few who can ruin that. Most ATV parks will not allow drinking until after riding. He said that he will personally take people through the park on his ATV.

David Vincent asked if the trails can be blocked off. David Hediger responded that anything can be used besides barbed wire. The request here is, is this a permitted use or not in the RA zoning district? David Hediger stated that Staff does not believe it is permitted.

Norm Poulin said that there is no one out there to enforce this. He has complained to Code Enforcement several times.

Paul Deschenes (5 East Merrill Road) asked, "Is there something in writing as to what this park will entail?" How can you make a decision without anything in writing?

Karen Shaw (2 East Merrill Road) said that she resides at the corner of East Merrill Road and College Road. Bad accidents happen there three (3) to four (4) times a year. She is concerned with peoples lives and the increase in traffic.

Irene Beaulieu (688 College Road) expressed concerns with the partying that goes on.

This item was then closed to the public and brought back to the Planning Board for the following discussion. David Vincent made reference to the summary of the two (2) actions necessary on Page No. 3 of David Hediger's Staff Memorandum. This is a two- (2-) step process. This is what the use means. Most of the complaints are germane to Item No. 2. He said he is open-minded on Item No. 2 and is not in agreement with Item No. 1. Denis Fortier asked, "Does Bob Faunce's argument meet the permitted use. Roger Philippon commented that this is a tough one. It is not up to this board to determine if this is the place to put an ATV park. And, this does not give the owners the go-ahead. The most is, it "is" or it may be" a permitted use. Also, does this fall under the definition and do we look at it later under another review. Jim Horn said that he is struggling with definitions. He does not see recreational uses going on in the RA zoning district. He was questioning, does this use meet the definition? Lucy Bisson said that currently the RA zoning district is not being used for agricultural purposes. It is used for housing. This is not agricultural anymore. Bruce Damon said that this item is difficult. Uses do change. The developed area around Fireslate Place was agricultural. When the buildings needed some other use, there was spot zoning. The uses were changed. This is basically a manufacturing area. This did change the feel for what the area was. Prime residential use of this land will be very expensive. Allowing an intensive development out there would be significant. This could be more valuable to remain this way, than for it to be developed. We need to look at it with much more scrutiny. Jim Horn asked if it is okay for an ATV park to have this as long as he does not charge fees. Gil responded that Don Arel is within the law. Given the volume of land he has and the potential 75 acres, it is okay. Mr. Arel wants to do this as a hobby in his retirement. Gil stated that this certainly is a regulated use. Jim Horn then asked, "Is a business permitted?" David Vincent said the question is, is the use compatible?

The following motions were then made.

MOTION: by **Lucy Bisson** that the Planning Board determines that an ATV park at 50 Old Farm Road and the Wong Parcel off College Street is not a permitted conditional use in the Rural Agricultural (RA) and Low Density Residential (LDR) zoning districts as public or private non-intensive outdoor recreation. Second by **David Vincent**.

VOTED: 7-0 (Passed).

After a brief board discussion, the above motion was then withdrawn and the following motions were made, replacing the above.

MOTION: by **Lucy Bisson** that the Planning Board determines that an ATV park at 50 Old Farm Road and the Wong Parcel off College Street is a permitted conditional use in the Rural Agricultural (RA) and Low Density Residential (LDR) zoning districts as public or private non-intensive outdoor recreation. Second by **David Vincent**.

VOTED: 0-7 (Failed).

MOTION: by **Lucy Bisson** that the Planning Board determines that an ATV park at 50 Old Farm Road and the Wong parcel off College Street may be substantially similar to and compatible with permitted or conditional uses in both the RA and LDR zoning districts, upon an application being submitted for development review approval in accordance with Article XIII of the Zoning and Land Use Code. Second by **David Vincent**.

VOTED: 4-3 (Passed).

After this motion was made, it was stated that a second Public Hearing would need to be conducted and that a complete, detailed application for development review would need to be prepared and brought before this board for their consideration. Conditions may be added.

V. OTHER BUSINESS:

B. A discussion on the downtown moratorium. David Hediger stated that he received responses from Lucy Bisson and Tom Peters. This will go to the City Council. He will send another e-mail for board members to respond to.

C. Any other business Planning Board members may have relating to the duties of the Lewiston Planning Board. None.

VI. OLD BUSINESS:

A. Zoning and Land Use Updates, including zoning matrix, SR districts, and open space provisions. No update.

B. A discussion about permitted uses and storefront appearances in the Centreville (CV) zoning district. No update.

C. A discussion regarding Urban Design Standards. No update.

D. Lewiston-Auburn Consolidation. No update.

VII. MINUTES: Draft Meeting Minutes for Planning Board Public Meeting/Workshop held on July 14, 2008 and Planning Board Meeting held on July 28, 2008. The following motion was made.

MOTION: by **Lucy Bisson** that the Planning Board approve the minutes for July 14, 2008 (Public Meeting/Workshop) and July 28, 2008 (Public Meeting), as submitted. Second by **Denis Fortier**.

VOTED: 7-0 (Passed).

VIII. ADJOURNMENT: The following motion was made to adjourn.

MOTION: by **Jim Horn** that the Planning Board adjourn this meeting at 8:40 p.m. Second by **David Vincent**.

VOTED: 7-0 (Passed).

Respectfully submitted,

Lucy Bisson, Planning Board Secretary

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