

**CITY OF LEWISTON  
PLANNING BOARD MEETING  
MINUTES for January 8, 2007 – Page 1 of 7**

*In accordance with the memorandum distributed at this meeting regarding election of officers and dated January 8, 2007 from David Hediger, City Planner, to the Planning Board, John Racine chaired this meeting for Item I. Roll Call. Tom Peters chaired the remainder of the agenda items after his appointment as Interim Chairman.*

**I. ROLL CALL:** This meeting was held in the City Council Chambers on the First Floor of City Hall, was called to order at 5:35 p.m., and was chaired first by John Racine and then by Tom Peters.

- **Members in Attendance:** John Racine, Stephen Morgan, Jim Horn, Roger Philippon, and Jonathan Earle. **Absent:** None.

- **Associate Member Present:** Tom Peters. **Associate Member Absent:** Ron Chartier.

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

**II. ELECTION OF OFFICERS:** Election of Interim Officers for Chairman, Vice Chairman, and Secretary of this years Planning Board. The following motion was made.

**Chairman, Vice Chairman, and Secretary**

**MOTION:** *by John Racine, that the Planning Board elect interim officers, as follows: Tom Peters as its' Chairman, John Racine as its' Vice Chairman, and Stephen Morgan returning as its' Secretary and to revisit the election of such positions upon appointments to the Planning Board made by the Mayor. Second by Jim Horn.*

**VOTED:** *5-1 (Passed - Each of the above members abstained from voting on their individual election.)*

*Tom Peters chaired the remaining items listed on the agenda.*

**III. ADOPTION OF PLANNING BOARD RULES AND PROCEDURES:** The only change made by Planning Staff was to the Rules of Procedure, Item No. 3. Meetings, Sub-Item A. That change was made to reflect the appropriate meeting times.

Distributed at this meeting were changes made by Tom Peters to the Rules of Procedure, Item Nos. 1., 2.C., 3.A., 3.C., 3.E.3., 3.J., 11., and 405. Executive sessions., and Sub-Item 3. Procedure for calling of executive sessions. to be incorporated into the Planning Board Handbook.

The following motion was made.

**MOTION:** *by Roger Philippon, that the Planning Board adopt the Lewiston Planning Board Rules of Procedure, with the above revisions. Second by Stephen Morgan.*

**VOTED:** *6-0 (Passed).*

**IV. RECOGNITION OF BOARD MEMBER SERVICE:** Recognition was made to Jeffrey Gosselin with a presentation of a plaque by David Hediger to him for his four (4) years of dedicated service on the Planning Board.

**V. ADJUSTMENTS TO THE AGENDA:** None.

**VI. CORRESPONDENCE:** The following were items of correspondence distributed at this meeting:

1. Changes made to the Planning Board Handbook by Tom Peters, 2. A memorandum dated January 8, 2007 from David Hediger, City Planner, regarding election of officers, 3. The Staff Memorandum prepared by David Hediger, City Planner, dated January 5, 2007. 4. An e-mail of a memorandum from Norm Chamberlain, of Taylor Engineering Associates, regarding Jireh Court Fire Truck Access, 5. A

memorandum from Gil Arsenault dated January 8, 2007 regarding Park Street bars, and 6. Chapter 3 – Geometric Design Standards.

The following motion was made.

**MOTION:** by **Roger Philippon** that the Planning Board accept the above items, place them on record, and read them at the appropriate time. Second by **Jim Horn**.

**VOTED:** 6-0 (Passed).

## **VII. HEARINGS:**

**A. A proposal submitted by A.R.C.C. Land Surveyors, Inc. on behalf of Four HIM Property Management, LLC to create a four- (4-) lot subdivision on a private court (Jireh Court Subdivision) at 160 Old Greene Road.** David Hediger read the introduction of this project, the conditions requested by Staff, and the action necessary from the Staff Memorandum dated January 5, 2007.

On Thursday, January 4, 2007, a Neighborhood Meeting was held to provide property owners an opportunity to learn and ask questions about this proposed subdivision.

This proposal is to create a four- (4-) lot subdivision for single-family homes on a private court (Jireh Court Subdivision) at 160 Old Greene Road. Access and frontage to these lots will be from Jireh Court, a private road. David Hediger mentioned that the City will accept City sewer for this subdivision and referred to the e-mail from Kevin Gagne, which states that easements need to be in place and that the plan needs to be amended showing the sewerline. Arthur Montana, from A.R.C.C. Land Surveyors, Inc. submitted a revised plan today (01/08/07) showing the easement areas. The private roads shall not be maintained by the City of Lewiston and includes all utilities and stormwater systems. There will be a homeowners association called “Jireh Court Homeowners Association” of which documents have been provided that reference the covenants, restrictions, and maintenance of the subdivision. There are no wetlands and no additional stormwater is leaving this site. As referenced in the memorandum from Norm Chamberlain of Taylor Engineering Associates, the final grade transitions of the private road will not inhibit the Lewiston Fire Department from access lots with the development and they found no difficulties with the 12% to 5% change. Thus far, the applicant has not provided evidence of technical or financial capacity, therefore, no approved plans will be released by the City or recorded and no construction activity will occur until the applicant has demonstrated to the Board or Staff’s satisfaction that it has been met. The applicant is seeking a Conditional Agreement so that no lot or parcel of land may be conveyed and no permit may be issued for any building or permanent structure within this development until the completion of the street grading, storm drainage, utilities, and other similar improvements. Staff is recommending that a third party verify the completed construction of the entire stormwater design and road construction from a professional engineer prior to the issuance of any building permits or a Certificate of Occupancy and that they also conduct regularly scheduled inspections of the site during construction to ensure that all appropriate erosion control measures are in place and being maintained. Staff is recommending also that prior to issuing a Certificate of Occupancy for a house lot, that a minimum of two, 2.5” caliper street trees be planted with the required front lot to keep as much existing wooded vegetation as possible on each lot.

John Racine asked what technical information is missing from the application in regards to the comment that the applicant has not provided evidence of technical or financial capacity? David Hediger responded that this is a requirement of code and said that technical capacity refers to a competent site developer has been hired. Lou Russell, the applicant, is seeking a conditional agreement versus a performance guarantee for construction of the road.

There were no concerns from the Police Department. Comments from the Fire Department, Janice Patterson from the Public Services Department, David Hediger, City Planner, Planning and Code Enforcement, A.R.C.C. Land Surveyors, and Taylor Engineering Associates were included in the distribution of the Planning Board packets.

Present at this meeting were **Lou Russell**, **Arthur Montana** of A.R.C.C. Land Surveyors,

Inc., and *Norm Chamberlain* of Taylor Engineering Associates on behalf of Four HIM Property Management, LLC. Arthur Montana presented a very brief presentation and showed the board the proposed subdivision on his mapping. He asked the board if there were any objections to the conditions listed. There were none.

This item was then opened to the public for those in support.

*Marcel Nadeau*, 63 Sherbrooke Avenue, questioned the location of this subdivision. Lou Russell explained that his property had gone before the Board of Appeals for a lot split and modification. Marcel Nadeau stated that he had no problems with this subdivision.

*Lou Russell* stated that the only concern he had was with the third party requirements. He requested the financial burden condition to be eliminated. This item was then brought back to the Board. There being no further discussion by the Board, the following motion was made.

**MOTION:** *by Tom Peters, that the Planning Board determines the application submitted by A.R.C.C. Land Surveyors, Inc. on behalf of Four HIM Property Management, LLC to create a four- (4-) lot subdivision on a private court (Jireh Court Subdivision) at 160 Old Greene Road to be complete; grants approval of the modification/waiver checklist; that this application meets all of the necessary approval criteria contained under Article XII, Section 18 and Article XIII, Sections 4 and 5 of the Zoning and Land Use Code; and grants approval to Four HIM Property Management, LLC, subject to the following conditions:*

1. *That a revised set of plans are submitted reflecting the changes in response to Staff's concerns noted in an e-mail dated January 2, 2007 from A.R.C.C. Land Surveyors, Inc. and an e-mail from Taylor Engineering Associates dated January 5, 2007.*
2. *That the Site Plan includes the 24-month expiration language contained in Article XIII, Section 11 and a signature block for the Planning Board's signature.*
3. *That a note be added to the recorded plan in accordance with Article XII, Section 18(2)(e) stating that roads shown on the plan, as private roads, shall not be maintained by the City of Lewiston.*
4. *That a note be added to the recorded plan referencing that all lots in the subdivision are subject to covenants and restrictions of the Jireh Court Homeowners Association.*
5. *That a note be added to the recorded plan that no approved plans are released from the City or recorded and no construction activity occur until the applicant has demonstrated to the Board or Staff's satisfaction that the technical and financial capacity requirements of Article XIII, Section 4(t) have been met.*
6. *That a conditional agreement statement be noted on the plan that no lot or parcel of land be conveyed, and that no permit may be issued by Planning and Code Enforcement for any building or permanent structure within the development until the completion of the street grading, storm drainage, utilities, and other similar improvements as specified on the approved plan to the acceptance of the City. This agreement shall be conditioned upon the completion of all such improvements within two- (2-) years from the date of approval of the plan.*
7. *That a third party verify the completed construction of the entire storm water design and road construction from a professional engineer prior to the issuance of any building permits or Certificates of Occupancy. This must be noted on the Site Plan as a condition of approval.*
8. *That a third party conduct regularly scheduled inspections of the site during construction to ensure all appropriate erosion control measures are in place and being maintained. Reference to the third party must be noted on the Site Plan as a condition of approval.*

9. A note be added to the plan that prior to issuing a Certificate of Occupancy for a house lot, a minimum of two (2), 2.5" caliper street trees be planted within the required front yard.
10. That the plan be amended to reflect all the necessary easements for utilities to be maintained by the City. Second by **Jim Horn**.

**VOTED:** 6-0 (Passed).

**B. Proposed amendment pertaining to street standards found in Appendix A, Article II, Section 2; Article X, Section 3; Article XII, Section 18; and Article XIII, Sections 2, 3, 4, 7, and 9 of the Zoning and Land Use Code; Chapter 66, Article IV of the Code of Ordinances and the adoption of the City Policy for Design and Construction of Streets and Sidewalks.** This item has been continued from the previous Planning Board Meeting held on December 11, 2006 in order for Staff to draft standards for private roads.

Due to recent development and during the winter of 2006, Engineering made revisions to Chapter 66, Streets and Sidewalks and Article IV, Design and Improvements of the Code of Ordinances pertaining to street construction. To be consistent, Planning and Code Enforcement has also made changes in the Zoning and Land Use Code, as there were cross references to streets and standards. Included in the Staff Memorandum were the amendments and new policy, which David Hediger read.

Distributed at this meeting was Chapter 3 – Geometric Design Standards. This is also contained in the “*Policy for the Design and Construction of Streets and Sidewalks*”. One (1) significant change was private roads. Private roads (courts) are limited to ten (10) house lots and have lesser construction requirements than public or private streets built to public street standards. Another significant change was for the acceptance of streets. Private roads serving more than ten (10) single family dwellings must be designed and constructed to the same standards as public streets. A performance guarantee of 125% of the cost is needed before acceptance of a city street. The standards also allow that a street can now be accepted without surface course or curbing in order to protect these from damage during build-out of the lots on the street, if conditions are met.

This item was then opened to the public for further comments or suggestions.

**John Egan**, housing developer for Coastal Enterprises, Inc. (C.E.I.) said he was in favor of this amendment. C.E.I. has a project off Pleasant Street that currently has a base coat down. Their project is affected by this amendment. Currently, this project is being held up. He wanted the road accepted to start home construction. If this amendment is to pass, he stated, that C.E.I. would be willing to post 125% of the cost in order to pull permits on homes, instead of waiting until May 2007.

**Lou Russell** remained present in regards to this proposed amendment. He wanted to keep the ROW at a 30' width, instead of 40' width. He stated that this does not benefit the City of Lewiston for small, private development.

The public portion was closed and then brought back to the Board for further discussion. In conclusion to this discussion, private roads for more than ten (10) houses would meet City specifications. A 50' ROW width is not necessary for private development. There being no further discussion by the Board, the following motion was made.

**MOTION:** by **John Racine** that the Planning Board send a favorable recommendation to the City Council for their consideration an amendment pertaining to street standards found in Appendix A, Article II, Section 2; Article X, Section 3; Article XII, Section 18; and Article XIII, Sections 2, 3, 4, 7, and 9 of the Zoning and Land Use Code; Chapter 66, Article IV of the Code of Ordinances and the adoption of the City Policy for Design and Construction of Streets and Sidewalks, as accepted with the following condition: that private court right-of-way (ROW) widths can be reduced to 30' in width, provided that any necessary easements are provided for stormwater, drainage, snow storage, etc. Second by **Roger Philippon**.

**VOTED:** 5-1 (Passed) (Opposed – Jim Horn).

**C. A proposed amendment to Appendix A, Article II, Section 2 and Article XII, Section 10 of the Zoning and Land Use Code relative to frontage, right-of-way provisions, and the creation of back lots for single-family dwellings.** David Hediger summarized the proposed amendment. This item has been continued from the previous Planning Board Meeting held on December 11, 2006 as being somewhat related to the above mentioned amendment to street standards.

Staff has prepared amendments relative to frontage, right-of-way (ROW) provisions, and the creation of back lots for single-family dwellings. The changes were made after review of the proposed amendments to street construction and it being apparent the ROW provisions could be improved. The intent of the ROW provisions contained in the frontage definition are to allow single-family, detached dwellings to obtain the requisite frontage, as measured along a private ROW at least 30 feet in width. The proposed amendment to the ROW provisions involves the following. 1. The ROW provisions will be removed from the definition of "frontage" and will be placed in a reserved section of the performance standards. 2. The minimum ROW width will be increased from 30' to 40' and the travel width will be increased from 12' to 20'. The minimum ROW width will provide additional area to accommodate issues, i.e. the handling of drainage, utilities, snow, etc. 3. This amendment will provide the ability of two (2) lots to obtain frontage from a ROW. The benefit will be that this will allow for a wide range of housing without the costs associated with construction of a road conforming to city street standards.

This item was then opened to the public for further comments or suggestions. There being none, this item was then brought back to the Board, with the request that this amendment be made consistent with Item VII. Hearings, Sub-Item B. (proposed amendments pertaining to street standards) with respect to ROW widths. There being no further discussion by the Board, the following motion was made.

**MOTION:** by **Roger Philippon** that the Planning Board send a favorable recommendation to the City Council for their consideration an amendment relative to frontage, right-of-way provisions, and the creation of back lots for single-family dwellings found in Appendix A, Article II, Section 2 and Article XIII, Section 10 of the Zoning and Land Use Code, as accepted with the following condition: that frontage/right-of-way (ROW) widths can be reduced to 30' in width, provided that any necessary easements are provided for stormwater, drainage, snow storage, etc.. Second by **Jim Horn**.

**VOTED:** 6-0 (Passed).

**Lincoln Jeffers (Asst. to City Admin), Mark McComas, Deputy Director of EC&CD, and City Councilor Mark Paradis.**

## **VIII. OTHER BUSINESS:**

**A. A review of Zoning Regulations Pertaining to Drinking Establishments on Park Street.** This item has been continued from the previous Planning Board Meeting held on December 11, 2006 to provide Staff additional time to provide a recommendation(s) for the Board's consideration. This review was at the City Council's request for the Planning Board to make a recommendation or suggestions back to the City Council as to what can be done.

On November 27, 2006 a workshop was held to discuss zoning and land use related issues relative to drinking establishments on Park Street in the vicinity of Oak Park, an elderly housing complex with 91 units.

Distributed at this meeting was a memorandum from Gil Arsenault dated January 8, 2007 regarding park street bars. Specifically the two (2) establishments at issue are: Club Adrenalin, located at 18 Park Street and the Blue Elephant Lounge, located at 37 Park Street. It was mentioned that the former McCrory building would allow for this type of establishment. Tom Peter's asked Lincoln Jeffers on the future use of the McCrory building. He responded that he has had interests in office space.

Staff's recommendation is that drinking places should continue to be permitted in the Centreville (CV) District. Staff is also recommending to the City Council to engage the services of the City Attorney to review Chapter 10, Article III, Special Amusement Permits and related State of Maine Law.

The main suggestion of the Planning Board was more police enforcement. Tom Peters liked the idea of police presence being paid for by these types of establishments. Jim Horn was also in agreement. Tom Peters mentioned that the establishments both have a legal right to be there given the zoning.

This item was then opened to the public for further comments, complaints, or suggestions.

**Mike Carey**, 22 Park Street, spoke in favor of the establishments in the downtown area.

**Roger Beaudoin**, a resident of Oak Park, stated that a lot of people go through the one-way to park. 91 elderly residents reside at Oak Park. He moved to Oak Park in March 2006. He had his vehicle stolen. There is a definite need for patrolling. Tom Peters reminded the residents present that there are two (2) lawful tenants there. These establishments would need to hire police there.

There were several complaints of vehicle vandalism at the Oak Park Parking Garage.

Another resident requested that the board ban these establishments from Main Street to Park Street. All four (4) Oak Park residents present at this meeting requested police enforcement and patrol.

The public portion of this item was closed and the following suggestions were made.

Tom Peters suggested revisiting this item and see what happens after six (6) months of police patrol. He also suggested placing a restraining order to keep the repeat offenders away for a certain period of time and within 600 feet of the area. Tom Peters made the suggestion that at least two (2) police officers be placed at each establishment between the hours of 10:00 p.m. to 2:00 a.m. with the authority to arrest. After a second arrest, they would be prohibited for the next six (6) months for the outside area and the parking garage. He also suggested that the owners of these establishments advise patrons why there are two (2) officers there, what's going on, and what will happen.

There being no further discussion by the Board, the following motion was made.

**MOTION:** by **Roger Philippon** that the Planning Board send the following recommendations to the City Council pertaining to drinking establishments on Park Street:

1. At the expense of the clubs – station two (2) police officers outside the drinking establishments (i.e. Club Adrenalin and the Blue Elephant) and the garage area (Oak Park Parking Garage) between the hours of 10:00 p.m. to 2:00 a.m.
2. That the Police Chief work with the District Attorney to prevent habitual offenders (i.e. second offense) from entering or being in the vicinity of each establishment (i.e. Club Adrenalin and Blue Elephant) and the garage area for a minimum of six (6) months.
3. To request the City Attorney to review Chapter 10, Article III, Special Amusement Permits, and related state law.
4. As a result of numerous acts of vandalism – recommend the installation of security cameras in the Oak Park Parking Garage.
5. That the Planning Board not consider a rezoning at this time, however, if problems continue after a period of six (6) months, the City Council may request the Planning Board to revisit this matter. Second by **Jim Horn**.

**VOTED:** 5-1 (Opposed – Stephen Morgan).

After the above motion was made, Tom Peters requested Staff to forward, by e-mail, the draft of the motion for his review. This item will be going before the City Council on January 23, 2007.

**Roger Philippon left the meeting.**

**B. Discussion regarding Urban Design Standards.** David Hediger summarized this item.

In January 2006 a joint workshop was held between the Planning Board and the City Council. Guidelines were drafted as a result of this workshop by Richardson & Associates and a committee consisting of City Staff and a member each from the Planning Board, Board of Appeals, Downtown Advisory Board, Historic Preservation Review Board, and the City Council. With the recent fire and demolition on Lisbon Street and the continued interest from property owners and developers in developing downtown properties, staff would like to revisit the proposed guidelines and overlay district and is seeking input on the proposed area. Staff is recommending removing the Downtown Residential (DR) District from the original proposed overlay district and limiting the area to the Centreville (CV),

Mill (M), and Riverfront (RF) Districts and also recommending that existing residential structures not be subject to the guidelines.

This item has been brought to the Planning Board to request guidance and input from both the Planning Board and the City Council. This item is going before the City Council at their meeting tomorrow night (01/09/07).

Tom Peters commented to not make it a requirement. Mark Paradis stated that major developers would love these guidelines and standards. We need some idea of what our City should look like. City Councilor Mark Paradis mentioned that the Downtown Advisory Board (DAB) will be writing a letter to both the City Council and Planning Board as to their support for some type of guidelines.

***Jim Horn left the meeting.***

The Planning Board discussed that these should just be guidelines, not standards and not mandates. Mark Paradis suggested at least starting with guidelines and putting them through for the Planning Staff to work through. He also suggested that the downtown residential use should not be removed. Tom Peters said to strongly suggest to the City Council from the Planning Board that guidelines are okay, but should be required. David Hediger asked, "Should we look at the entire area?" Tom Peters responded with, "Yes". If these are to be guidelines, then expand it, possibly city-wide. In closing, Gil Arsenault said that the committee will need to reconvene. There will need to be another discussion, if guidelines make sense. No action is required on this item, therefore no motion was made.

***Charles Turgeon*** was present during the entire meeting. He had submitted an application to become a P.B. Member. It was explained to him that the Mayor makes the appointments, however, currently, there is no Mayor. There is a hold on these applications until after the election. There are two (2) openings for the Planning Board. The appointments will not be made before February 2007.

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

**IX. OLD BUSINESS: *Policy and procedures regarding project amendments and associate members.*** There was no update.

**X. READING OF THE MINUTES: *Draft Meeting Minutes for Planning Board Meeting held on December 11, 2006.*** The following motion was made:

**MOTION:** *by Stephen Morgan that the Planning Board accept the Minutes for the Planning Board Meeting held on December 11, 2006, as submitted. Second by Tom Peters.*

**VOTED:** *4-0 (Passed).*

**XI. ADJOURNMENT:** This meeting adjourned at 8:10 p.m.

Respectfully submitted,

Steven Morgan, Planning Board Secretary

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