



City of Caribou, Maine

*Municipal Building
25 High Street
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**CARIBOU PLANNING BOARD
Wednesday, May 7th, 2014
5:30 PM-Council Chambers**

AGENDA

I. Call Meeting to Order

II. Minutes of April 2, 2014 meeting

III. New Business

- A) Public Hearing on additions to the land use table
- B) Review Nuisance Property Ordinance progress
- C) Comprehensive Plan Update

IV. Adjournment

Posted April 30, 2014

Tony Mazzucco, Assistant City Manager



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Caribou Planning Board Meeting Minutes Wednesday, April 2, 2014 @ 5:30 pm City Council Chambers

In Attendance: Phil Cyr, Bob White, Matthew Hunter, Graham Freme and Todd Pelletier

Members Absent: Jim Cerrato

Others in Attendance: Tony Mazzucco Assistant City Manager, Police Chief Michael Gahagan, Jan Murchison, Lamarr Clannon NEMO Director, Al Hodsdon, Jay Kamm, Troy Haney, Philip McDonough II, Mayor Gary Aiken and Denise Lausier

- I. Call Meeting to Order** - The meeting was called to order at 5:30 pm.
- II. Minutes of March 5, 2014 meeting** - Todd Pelletier moved to accept the minutes as presented; seconded by Matthew Hunter; Vote was unanimous.
- III. Public Input** - There was no public input.
- IV. New Business**
 - a. Presentation on Low Impact Development** - Lamarr Clannon, NEMO Director presented a power point presentation on Low Impact Development. Al Hodsdon spoke on the importance of protecting public water supplies and keeping certain businesses away from them.
 - b. Public Hearing on Subdivision Request** – Phil Cyr opened the Public Hearing at 6:40 pm. Troy Haney was in attendance to speak on the building of these condominiums which began last October. There will be a U-shaped driveway with a total of eight dwellings with 1,200 square feet of living space. The Board reviewed the application. With no other comments, the Public Hearing was closed at 6:43 pm. Tony Mazzucco commented that the Board needs more appropriate tools going forward for this type of development. Matthew Hunter moved to approve the Subdivision application; seconded by Todd Pelletier; Vote was unanimous.
 - c. Steve Trombley Request** – Steve Trombley explained that he bought property at 208 Limestone Street that has a gravel pad, water, septic and two car garage expecting to be able to put a mobile home on that property, but is unable to because it is zoned industrial. Tony Mazzucco explained that it was 2010 or 2011 since there was a mobile home there and that the property has been zoned Industrial for a few years, so to consider placing a mobile home there to live in would be a non-conforming use. Matthew Hunter questioned if it was the use or the structure that is considered non-conforming and Tony clarified that it is the use. Todd Pelletier questioned if One Steel would still offer to buy the property as they did before. Steve Trombley stated that he wants to live there and he is not concerned with being next to a scrap metal yard because he works the same hours that

they are in operation. The Board discussed spot zoning and the impacts it would have on this particular situation and other spot zone requests that may come up in the future. The Board discussed the driveway of the property, water quality and the buffer of trees between the property and One Steel. Bob questioned a variance and Tony said he has checked into a variance and it doesn't meet any of the conditions. Todd Pelletier moved to take no action on this request; there was no second to the motion, motion failed. Upon more discussion, Bob White moved to put this request on hold and seek a legal written opinion; seconded by Matthew Hunter; Vote - four yes, one no, motion carried. Tony Mazzucco stated that he hoped to get a legal opinion to the Board by the next meeting in May.

- d. **Daniel Haines Home Occupation Application** – Daniel Haines explained that his business is applying window tints on vehicles, which he is currently doing and he is licensed for his home. He has a sign on the garage, nothing by the road and the property is located in the R-3 Zone. The Board reviewed the application. Phil Cyr stated that the Board does not have a proper application for this process that what they currently have is a bit over the top and that they should look at making a simpler application. Bob White moved to approve Daniel Haines' Home Occupation application, seconded by Matthew Hunter; Vote was unanimous.
- e. **Adding Condos to the Land Use Table** – Tony Mazzucco explained that adding condos to the Land Use Table prepares us for the future. It will not be more cumbersome than what the State requires. Tony stated that this will be an effort to reign in infrastructure and will be better use of land. Matthew moved to hold a Public Hearing to discuss adding condos to the Land Use Table; seconded by Todd Pelletier; Vote was unanimous.
- f. **Nuisance Property Ordinance** – Chief Gahagan stated that there is nothing in City Ordinance or State Statute to help with nuisance complaints. Tony Mazzucco explained that there are absentee landlords outside of the City that are not responding to issues and there are no tools to get them to the table to deal with these issues. Chief Gahagan spoke on bath salts being a big issue. There are pods of three or four properties in one area of bath salt users and sometimes police are called 30-50 times to one residence. A mechanism is needed for landlords that don't respond and are ignoring the issues. He said 90% of landlords are good landlords. There was also discussion on the possibility of having landlords go through Planning Board review as any other business would. Consensus was to have Tony Mazzucco put legal changes recommended into the document and to continue working on the Ordinance.
- g. **Applicant to Fill Open Planning Board Seat** – The Board had one application to review from Philip McDonough III. Todd Pelletier stated that he would abstain from the vote because he works with him at SW Collins. Bob White moved to accept the application and forward it to the City Council for approval; seconded by Matthew Hunter; Vote - four yes, one abstention (Todd Pelletier).

V. **Adjournment** – Todd Pelletier moved to adjourn the meeting at 7:35 pm; seconded by Matthew Hunter; Vote was unanimous.

Respectfully Submitted,

Robert White
Planning Board Secretary



OFFICE OF THE CITY MANAGER
CARIBOU, MAINE

To: Caribou Planning Board
From: Tony Mazzucco, Assistant City Manager
Date: 4/30/2014
Re: Agenda item- Public Hearing on Additions to the Land Use Table

On the following page is the text for the ordinance that would add condos as an allowable use on the land use table for the City of Caribou. This is one of many needed updates to our land use table. The Planning Board will need to hold a public hearing and then vote to approve the ordinance which is then sent to the City Council for a second public hearing and a vote.

Councilor _____ introduced the following ordinance:

Ordinance No. 4, 2014 Series
City of Caribou
County of Aroostook
State of Maine

AN ORDINANCE AMENDING SECTION 13-204 OF CHAPTER 13 LAND USE ORDINANCES

Short Title: Adding Condominiums to the Land Use Table of the City of Caribou

The City Council of the City of Caribou, County of Aroostook, State of Maine, pursuant to the requirements of the City of Caribou Charter, Section 2.11 (1) does ordain the following:

Section 1: Sec. 13-204 of Chapter 13 Land Use is amended to read:

	R-1	R-2	R-C	R-3
Condominiums	YES/PB	YES/PB	YES/PB	NO
	C-1, C-2	I-1, I-2	H-1	
Condominiums	NO	NO	NO	

This ordinance, being introduced on _____, 2014 and a public hearing being held on _____, 2014 was duly passed by the City Council of the City of Caribou, Maine, this ___th day of _____ 2014.

Gary Aiken, Mayor

Kenneth G. Murchison Jr, Councilor

Joan L. Theriault, Councilor

David Martin, Councilor

Philip J. McDonough II, Councilor

David Genthner Sr, Councilor

Shane McDougal, Councilor

Attest:

Jayne R. Farrin, City Clerk



OFFICE OF THE CITY MANAGER
CARIBOU, MAINE

To: Caribou Planning Board
From: Tony Mazzucco, Assistant City Manager
Date: 4/30/2014
Re: Agenda item- Discussion on Nuisance Property Ordinance

Attached is a revamped nuisance property ordinance that incorporates our initial legal advice on the ordinance as well as changes suggested by Chief Gahagan. These changes make provisions for protection of victims of domestic violence, clarify the appeal process for the Chief declaring a property a nuisance, strengthens definitions and language, and makes some other small changes. I have highlighted most of the changes to the ordinance. This updated version will serve as the jumping off point for continued development of this ordinance. There are a number of options the Board can take from here including continuing work at the board level, sending this version to legal review, holding a public hearing on this version, holding a Planning Board workshop/discussion with landlords in Caribou on these changes and working with them on the ordinance, or instructing staff to do the same.

40. Nuisance Properties

A. Purpose; Findings.

The purpose of this Nuisance Property Ordinance is to protect the health, safety, and welfare of the residents of the City of Caribou by reducing the recurrence of Nuisance conduct in dwellings that disturbs the peace and tranquility of others. The City has a substantial and compelling interest in protecting neighborhoods affected by conduct that unlawfully disturbs the peace and/or constitutes a nuisance, because such conduct adversely affects the health, safety, and welfare of residents, and diminishes the quality of life in neighborhoods where it occurs. Such nuisance conduct, and its impact, should be abated. This Nuisance Property Ordinance is required because other prohibitions and penalties under state law and the City's code of ordinances have not adequately eliminated or controlled chronic, disorderly or nuisance activity in the City. The enactment of this ordinance and its occasional amendment is intended to alleviate the deleterious impact of chronic, unlawful or nuisance activity in dwelling places and neighborhoods by authorizing early and constructive intervention by the City's Police Department.

B. Definitions.

"Nuisance conduct" is any conduct that would have a tendency to disturb unreasonably the community, the neighborhood or an ordinary individual in the vicinity of said building, including, but not limited to: chronic nuisance activity, loud music, boisterous parties; sounds emanating from within the structure which are annoying outside the building; loud noise or fights within the building or in its vicinity involving tenants of the building or their invitees (excluding incidents involving domestic violence); tenants or invitees of tenants being intoxicated on public ways in the vicinity of the building; the arrest and conviction of tenants or their invitees for activities which constitute either a crime or civil infraction under either state or local law; repeated visits by emergency services; other similar activities in the building or outside the building itself; or other conduct proscribed pursuant to 17-A M.R.S. § 501-A.

A "nuisance property" is any property on which there is located a building that houses one or more dwelling units, or any bed and breakfast establishment, hotel, motel, lodging or rooming house or other structure that provides residential accommodations, at which property the police have found to have occurred, on five (5) or more occasions in any sixty (60) day period, or ten (10) or more occasions in the preceding year, that the owner, a tenant, or a tenants' co-habitees, guests or invitees, or other occupants have engaged in nuisance conduct. Bed and breakfast establishments, hotels, motels, lodging or rooming houses shall have the occurrences counted towards the property as a whole regardless of units; residential rentals/properties shall be counted towards the individual unit, not the property as a whole.

C. Nuisance Properties Prohibited.

1. The Police Chief, or his/her designee, shall have sole discretion in determining whether conduct is a nuisance for the purposes of this ordinance, and whether a building constitutes a nuisance property. The decision of the Police Chief may be appealed to the City Manager. The decision of the City Manager may be appealed to the City Council.

2. No person who has engaged in conduct that, in whole or in part, resulted in the Police Chief's designation of a property as a nuisance property shall continue to occupy as owner-occupant, or be allowed by the owner to occupy, such nuisance property.

D. Administration; Notice.

1. The Police Department shall document and monitor the occurrence of nuisance conduct at properties in the City. When an occurrence of nuisance conduct has taken place, it will be recorded and the owner notified in writing. The owner may appeal that determination to the police chief.

- a. For the purpose of this ordinance, calls related to domestic violence complaints shall not be considered towards the occurrence of a nuisance property and trigger a violation.
- b. For the purpose of this ordinance, calls related to a chronically ill person who has repeated visits by emergency services should not trigger a violation.

2. Whenever there have been five (5) or more occurrences of nuisance conduct at a residential property in any sixty (60) day period, or ten (10) or more occurrences of nuisance conduct in the preceding year, the police chief may notify the property owner or his/her designee that their property is a nuisance property. After any number of nuisance conduct designations, the Police Chief may work with the property owner or his/her designee to address current and potential problems.

3. Whenever the Police Chief or his/her designee has declared a building and/or property to be a nuisance property, the City shall cause an owner or his/her designee of the property to be notified, in writing, of such declaration and of the events which form the basis for that designation. The notice shall require the owner or his/her designee to meet with representatives of the City, including the Police Chief or his designee(s) within ten (10) business days from the date of the written notification to identify ways in which the problems which have been identified will be eliminated.

4. The notice(s) authorized or required herein shall be effective and deemed delivered upon the date such notice(s) are either (A) placed in the U.S. Mail as registered mail, return receipt requested, or (B) served by a Caribou police officer or other person authorized to effect service of process, in conformance with the procedures for personal service set forth in Maine Rule of Civil Procedure 4(d). Service of notice on one owner shall be deemed to constitute notice to all owners.

5. At the time of the nuisance property meeting required under section D (3), the owner or his/her designee shall be obligated to provide to the city the following documentation:

- i. A copy of the names of all tenants or other persons authorized to reside or presently residing in the building(s) on the property and the units they occupy;
- ii. Copies of all leases with tenants residing in the building(s) on the property; and
- iii. Contracts with any property manager or other person responsible for the orderly operation of the property;

In addition, the owner or his/her designee will agree to take effective measures to address the nuisance property, which measures shall be memorialized in a written agreement at the conclusion of the meeting with the City and shall be implemented within one (1) week of said meeting unless another date is agreed upon. Failure to enter into such an agreement at the conclusion of the meeting will be deemed a violation of this code, and the City may file a complaint in the district court seeking all compensatory and equitable relief permitted by law.

If the same property should be classified as a nuisance property on a subsequent occasion, then the city is under no obligation to meet with the owner but may proceed directly with a complaint to the district court seeking all compensatory and equitable relief permitted by law and seek a court order to post the building(s) on the property or any units therein prohibiting occupancy.

E. Enforcement

If the owner (a) refuses to agree to take effective measures to address the nuisance property, (b) takes ineffective measures to address the nuisance property as determined by the City, (c) fails to implement the agreement reached with the City to address the nuisance property, or (d) if, in the discretion of the city, the nuisance property requires immediate posting, the City may post the building against occupancy, and/or may file a legal action against the owner seeking any and all damages and remedies to which it is entitled pursuant to state and local laws. The first violation of this ordinance will result in a \$250 fine being imposed against the owner. The second and all subsequent violations will result in a fine of \$500.

F. Cost of service for responses to nuisance properties

1. Whenever the police department is required to respond to a situation at a nuisance property under this ordinance for which the property owner has not met with the police chief and followed through on any corrective actions determined as a result of that meeting, the owner of the nuisance property shall pay the cost of service for each such response as follows: for each such response for service the owner shall pay seventy-five (\$75.00) dollars which shall be in addition to any penalty to which the owner may be subject. Charges which become payable hereunder shall be treated as liens on the property in question. EMS call and domestic violence calls will not be considered as responses under this section.

2. Failure to pay the cost of service within thirty (30) days after demand therefor shall subject the owner to a fine not less than seventy-five (\$75.00) dollars nor more than five hundred dollars (\$500.00) for each offense. Each act of violation and every day upon which any such violation shall occur shall constitute a separate offense.



OFFICE OF THE CITY MANAGER
CARIBOU, MAINE

To: Caribou Planning Board
From: Tony Mazzucco, Assistant City Manager
Date: 4/30/2014
Re: Agenda item- Comprehensive Plan Update

Staff work is progressing slowly on the comprehensive plan. I am waiting on 4 sections that were primarily being completed by city departments or community volunteers and am about 80% complete with remaining sections. The next few weeks should show substantial progress in completion and I am hoping to have a nearly complete draft plan to the Board in the next month, whereby we can then begin addressing the strategies and goals.