

**MINUTES OF BUSINESS MEETING
HELD BY THE PLANNING AND ZONING COMMISSION
NOVEMBER 17, 2008**

ROLL CALL:

Members Present: David Wichman, Chairman
Eugene Sierakowski, Vice Chairman
Joseph Diminico, Secretary
Kevin Dougan

Alternates: Eric Prause (sitting)

Absent: Salvatore Mancini
William Cherry

Also Present: Mark Pellegrini, Director of Neighborhood
Services and Economic Development
Renata Bertotti, Senior Planner
Ginger MacHattie, Recording Secretary

Time Convened: 7:48 P.M.

NEW BUSINESS:

WAL-MART REAL ESTATE BUSINESS TRUST – Zoning Regulation Amendments – Article II Section 8.03.24 and Table II 8-1 – CUD Zone (W-137)

Chairman Wichman remembers dealing with the sale of gasoline in the CUD zone five years ago and had misgivings then. He also remembers there were access concerns at Sam's Club. Mr. Sierakowski is concerned with gasoline sales being as of right in the CUD zone. Gasoline sales are allowed on major arteries. BJ's was allowed ancillary sale of gasoline, but it is located on a major artery. Mr. Sierakowski would like some time to think this over due to the broad implications of the application.

Mr. Diminico stated that when he looked back at the reasons for denial, he found compatibility and access to the site as the reasons. He agrees with Mr. Sierakowski's sentiments. Mr. Diminico said that the size of 100,000 square feet was a good attempt to limit applicability; however he wondered what was to stop other retailers from adding on. He said this might snowball and wants to take a closer look. He would rather see gasoline sales as a special exception to preserve the area.

Mr. Pellegrini explained that the CUD zoning district is not a traditional zoning district. The regulation is structured to allow a mix of uses. He explained that the first step is to apply the CUD zone to the vacant land, which was done initially in the mid 1980s. All uses listed as permitted have to be approved first as part of a preliminary plan of development. At this stage there is a public hearing and the applicant must show the preliminary plan of development is compatible with the location and surrounding uses. The special exception process is essentially the same process. The CUD zone was created to provide flexibility, but also to retain some control.

Article II Section 8.03.24 and Table II 8-1 – CUD Zone (W-137)

MOTION: Mr. Sierakowski moved to table the application. Mr. Diminico seconded the motion and all members voted in favor.

KONOVER ACQUISITIONS, LLC – 184 and 188 Spencer Street – Zoning District Change from RR to GB (K-66)

Mr. Wichman thought this zone change request is a good one to grant because he believes commercial development in this area will improve with prospering businesses in the area.

Mr. Sierakowski respectfully disagreed with Mr. Wichman's assessment. He said the Commission just adopted the Plan of Conservation and Development in March. At that time, there was a strong consensus to focus on filling the vacant buildings. While this plan might fit with the wishes and plans of Konover, it may not necessarily be good for the Town of Manchester. Mr. Sierakowski is aware that preserving agricultural land has been gaining strength and noted a meeting to be held on November 20 to discuss this issue. Simply because an owner can achieve a greater economic benefit is not a reason for a zone change. He is not in favor of this unless the Commission first goes through the process of amending the Plan of Conservation and Development.

Mr. Dougan stated that the Plan of Conservation and Development specifically says to preserve rural residential property. Because of the vacancy in the area now, approval of this application may make matters worse. Manchester needs to redevelop the existing vacant sites first.

Mr. Prause said he will honor what was approved in March.

Zoning District Change from RR to GB (K-66)

MOTION: Mr. Sierakowski moved to deny the zone change because it is not in keeping with the Plan of Conservation and Development. Mr. Diminico seconded the motion. Members Diminico, Sierakowski, Dougan and Prause voted in favor of denial; Chairman Wichman voted against. The motion passed 4-1.

CIL REALTY INCORPORATED – 8 Linwood Drive – Miscellaneous Approval (C-221)

Tom Perkins, Corporation for Individual Living, requested approval to locate a group home for four individuals at 8 Linwood Drive. There is a DCF facility on Nutmeg Road, less than 1,000 feet away "as the crow flies" and therefore approval is needed. Mr. Perkins explained that there is no established methodology for measuring the distance. Different ways of measuring include driveway to driveway, building to building, door to door, or property line to property line. If the distance is measured from building to building in a straight line, it is approximately 970 feet, if measured property line to property line in a straight line, it is approximately 925 feet and if measured door to door along the public street, it is more than 1500 feet.

Mr. Diminico wondered if a definitive way to measure the 1,000 feet has been addressed by any other community. Mr. Perkins said that Jim Welsh, DDS Director of Legal Affairs, suggested the most realistic measurements would be made based on public access; how one accesses one facility from the other.

Mr. Diminico suggested the most realistic approach would be to write to the Legislature and have them define how to measure the distance.

Mr. Sierakowski remembers in the past making a dot in the center of the property and drawing a

1000' radius around that dot. He expressed concerns over setting a precedent and wants to be sure the Commission is using a consistent standard.

Mr. Diminico believes that the spirit of this rule is concentration. Logically that would mean measurement would be taken building to building, which in this case measures 970 feet. Personally, he would not feel good about denying this application over 30 feet.

Mr. Perkins explained that a number of factors are considered when locating a facility, such as the type of structure, the proximity to services and families, and the layout of the home. This particular home is conducive to housing the four individuals who are in wheelchairs. It was not the intention to locate this facility so close to another.

There was some discussion among Commission members about measurement standards and setting a precedent. Commission members were reminded that the applicant is conceding the two houses are within 1000 feet using the most conservative measurement and asking permission to be within that distance.

Miscellaneous Approval (C-221)

MOTION: Mr. Diminico moved to waive the 1000-foot separation distance. Mr. Sierakowski amended the motion to add that because the distance is just under 1,000 feet it will not create an undue concentration and will not have a negative impact on the neighborhood. Mr. Dougan seconded the motion and members Wichman, Sierakowski, Diminico, and Dougan voted in favor. Mr. Prause abstained. The motion passed 4-0.

SOUTH UNITED METHODIST CHURCH – 1208 & 1226 Main Street – Special Exception (S-212) – request for extension until December 8, 2008

Special Exception (S-212) – request for extension until December 8, 2008

MOTION: Mr. Diminico moved to grant an extension to December 8 to consider the special exception application. Mr. Dougan seconded the motion and all members voted in favor.

ADMINISTRATIVE REPORTS:

Fee in Lieu of Open Space

Ms. Bertotti stated that when putting together text she visited several Towns' websites and borrowed sections of the text from several policies, combining what she understood to be important to Commission members. The process began because the fee in lieu of open space cannot be administered unless there is a mandatory requirement for open space. The proposal would apply to the residential subdivisions of more than five acres. She noted that the proposed Section 4.07.01 requires that "no less than 10%" of the area of a subdivision be provided as open space. The Assistant Town Attorney informed Ms. Bertotti of some recent court cases in which the mandatory percentage was challenged and the challengers won. She suggested changing the wording to say "no more than 10%".

There was some discussion among Commission members about the wording, whether wetlands will be accepted, how the value of the land is determined, whether to allow the developer to pay a flat fee per lot, and what happens in the case of resubdivision. Ms. Bertotti explained there were selective criteria in the proposed regulations.

Multi-Family Moratorium

Mr. Pellegrini distributed a draft moratorium regarding multi-family housing. He briefly described the purpose and definition of multi-family units as three or more units in a single structure. The Commission would need to establish an effective date and the moratorium would not be retro-active, he said. Any plan submitted to the Town before the effective date will not be affected by the moratorium.

There was a consensus among Commission members to have Mr. Pellegrini prepare an application and submit it to CRCOG and schedule a public hearing.

Miscellaneous Housekeeping

Mr. Pellegrini reminded the Commission of the planning for agriculture meeting to take place on Thursday, November 20 at 7:00 p.m. in the Police Department Community Room.

He would like to schedule an early afternoon workshop to establish priorities for 2009. There was a consensus to hold it before the regularly scheduled meeting of December 8.

Mr. Pellegrini asked Commission members to think about whether they would like to make a practice of referring PRD zone changes to the Economic Development Commission when the request involves industrial land. If the Planning Department knows ahead of time, it can schedule a review with the Economic Development Commission and come in with its comments, thereby smoothing out the process. Mr. Prause thinks the Commission should be following the Plan of Conservation and Development and should make its decisions independently.

Mr. Diminico asked that the mediation process be put on the agenda for the workshop.

RECEIPT OF NEW APPLICATIONS:

BRIAN MCCANN – KLEINFELDER – 555 Middle Turnpike East – SDC Zone Site Plan (M-378) – request to place a temporary shed on the property for soil remediation process.

The chairman closed the business meeting at 9:45 p.m.

I certify these minutes were adopted on the following date:

December 8, 2008
Date

Eugene Sierakowski, Chairman

NOTICE: THE CASSETTE TAPE RECORDING OF THE BUSINESS MEETING CAN BE HEARD IN THE PLANNING DEPARTMENT.

OFFICIAL TAPE NO. 1007, 1008