

**MINUTES OF PUBLIC HEARING
HELD BY THE PLANNING AND ZONING COMMISSION
NOVEMBER 3, 2008**

ROLL CALL:

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

Alternates: Eric Prause

Absent: William Cherry

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

The Chairman opened the Public Hearing at 7:06 p.m. The Secretary read the legal notice for the application when the call was made.

EVERGREEN CROSSING, LLC – 325 New State Road – construction of a 266-unit multi-family residential community – PRD Zone Change and Preliminary Plan of Development (E-45)
– *continued*

Mr. Dougan stated that he was unable to attend the meeting of October 20, 2008 but did watch it on Channel 16. He is familiar with the application and would like to be included in discussion and vote on this matter. Chairman Wichman asked Mr. Dougan if he feels he is familiar with the evidence offered on this matter and Mr. Dougan answered in the affirmative.

Mr. Mancini stated that he was unable to attend the meeting of October 20, 2008 but was able to obtain a DVD version of the meeting which he watched. He feels he is familiar with the application and would like to be included in the vote on this application. Mr. Wichman asked Mr. Mancini if he feels he is familiar with the evidence offered on this matter and Mr. Mancini answered in the affirmative.

Mr. Prause raised a Point of Order. In Article 7, Section 3 of the Rules of Procedure of the Planning and Zoning Commission, it states “Whenever practicable five members shall sit and vote on each application. When a regular member is absent or disqualified, an alternate shall be designated to act choosing alternates in rotation so that they shall act as nearly equal a number of times as possible.”

Mr. Pellegrini suggested that since the issue is who will be sitting during the vote, the applicant can proceed with testimony and once the hearing is closed a final decision can be made about who will sit on this matter.

Mr. Pellegrini reviewed the application for Commission members. The applicant would like to rezone 30 acres on New State Road, changing the property from Industrial zone to PRD zone, and construct 266 market rate rental units. The Planning and Zoning Commission had some questions. Mr. Pellegrini summarized his October 31 memorandum in which he answered the questions raised by the Commission.

Mr. Diminico had asked for correspondence from the Board of Education regarding the capacity of Robertson School. Mr. Pellegrini stated that Waddell would be the elementary school for children from this location.

Ed Soper, Water and Sewer Administrator, has been aware of the project for several months. Pat Kearney, Field Maintenance Manager, has reviewed the plans, made a site visit, and made comments to improve the plan and lessen impact. Mr. Soper stated that given a choice between Industrial and Residential zoning, he would prefer Residential because it is much easier to administer.

In response to a series of questions from Mr. Diminico, Mr. Soper stated that the aquifer in this location is currently used. If it is polluted, the Water Department would stop using the well and take corrective action. The well is monitored regularly so any rise in contaminants would be immediately recognized. Mr. Soper stated that in the 19 months since he has been employed by the Town, the levels of contaminants have been steady. The pesticides used in this area typically get bound up into the soil and seldom leech out into the aquifer. Mr. Soper stated he has read literature and reports concerning green industries. These types of businesses are much more prevalent on the west coast. He suspects that as more grants and tax incentives become available this will become a more attractive way to do business. He does see a trend in industry toward green manufacturing.

Mr. Soper concurred with Mr. Diminico's statement that open space would be more desirable than a PRD zone; however, the Water Department does not have the kind of money needed to purchase this valuable piece of property. He is unaware of any Federal funding that would make such a purchase possible.

In response to a question from Mr. Diminico, Mr. Soper stated that the Water Department would still be able to provide water to Manchester if this aquifer were fully compromised but it would stress the other sites. Mr. Soper said he would certainly have a dialogue with the developer regarding the types of pesticides and weed killers that would be acceptable.

In response to a question from Mr. Prause, Mr. Soper stated there are a total of ten wells here, two of which supplement the reservoir. They are not used all year round.

Mr. Prause believes the Planning and Zoning Commission needs to categorize the impact involved in open space versus PRD zoning.

Mr. Soper stated that open space decreases the chance of anything getting into the well. Since the Water Department cannot fund the purchase of this property, it would rather see residential than industrial in this location.

In response to a question from Mr. Prause, Mr. Soper expressed his opinion that a residential development is unlikely to cause an impact to the aquifer.

Mr. Wichman asked if the aquifer protection area was delineated by drilling wells.

Patrick Kearney, Field Maintenance Manager, explained that approximately fifteen years ago, the Water Department undertook a level A mapping of the Town of Manchester. A series of wells were drilled around the aquifers and monitored to see the draw down. A model of the aquifer was developed based on that data.

In response to a question from Mr. Wichman, Mr. Kearney said that the source of the pollution was never determined.

Mr. Dougan said that the area is presently zoned for industrial use. He has heard open space mentioned and wondered what the harm would be in leaving it as vacant industrial space until a green manufacturing company comes along or funds become available to purchase the property.

Mr. Pellegrini stated that the land is not technically vacant as it is used for agricultural purposes. He thought Mr. Dougan's observation is the fundamental question being debated and thinks it is a judgment call of the Commission, not a decision he should make.

Chairman Wichman asked anyone wishing to speak in favor of or in opposition to the application to come forward.

Frank Hubeny, FLB Architecture, stated that with the future aquifer protection limiting activities on the site, there will be a small target group available to develop the property. The plan in front of the Commission will take up one third of the overall size of impervious area compared to an industrial use in this location. The site plan leaves nine acres undeveloped.

In response to a question from Mr. Wichman, Mr. Goodman stated that the proposed mix of rental units contains an equal number of one bedroom and three bedroom units and the rest are two bedroom units. The projected rental costs are as follows: One bedroom - \$1,095 and \$1,200; Two bedroom - \$1,350 and \$1,550; Three bedroom - \$1,750 and \$1,795. The average gross income of a renter must equal three times the monthly rent, which would put the median income at approximately \$52,000.

In response to several questions from Mr. Mancini, Mr. Hubeny stated that there will be no basements in this complex. There will be carports available. The only storage would be closets and the carports.

Mr. Wichman asked if there is any possibility that the pavement will leech oil or hydrocarbons into the soil.

Dan Delaney, Fuss & O'Neill, first stated that he is not an expert on this issue. He believes that hydrocarbons are an issue at the time that pavement is put down. Once it is rolled, there is no significant seepage that he is aware of.

Mr. Soper concurred with Mr. Delaney. He has no knowledge of leeching once the pavement is cured.

Al Gionet, 631 North Main Street, stated that the traffic study was done in June or July, when many people are on vacation. He asked how much impact there will be on traffic in the vicinity of New State Road and Middle Turnpike.

Scott Hesketh, F. A. Hesketh and Associates, explained that traffic counts were done during the summer months. When the information was submitted to the Department of Transportation, it provided the applicant with additional data. The DOT actually had traffic counts that showed lower volumes than what F.A. Hesketh counted. Mr. Hesketh believes the traffic counts presented in the report are representative of the traffic volumes in this area. The intersections in the immediate vicinity of this project have the capacity needed to handle additional traffic and remain at exceptional levels of service.

Mr. Pellegrini mentioned correspondence Commission members received in their packets from Bonnie Potocki and the Manchester Chamber of Commerce.

Ms. Bertotti stated that there are no outstanding staff comments.

Chairman Wichman closed the public hearing on this item.

The Planning and Zoning Commission took a brief recess at 7:56 p.m. and returned at 8:07 p.m.

PROPOSED SETTLEMENT AGREEMENT: CAPSTONE BUILDERS, INC. VS. MANCHESTER PLANNING AND ZONING COMMISSION – the Commission will consider whether to enter into a settlement agreement to resolve the appeal of the Planning and Zoning Commission’s denial of the special exception request by the Manchester Congregation of Jehovah’s Witnesses to construct a place of worship at 214 and 230 New Bolton Road.

Chairman Wichman explained that Capstone Builders and the Jehovah’s Witnesses petitioned for a special exception to build a house of worship. It was denied and the decision appealed twice. The Town and the applicant agreed to mediation. This settlement agreement is the result of those sessions.

Attorney Tim O’Neil reviewed that the first appeal session was held on August 19 and attended by Mr. Pellegrini, Ms. Bertotti, Attorney Sullivan, and Attorney O’Neil. The second session, held on September 25, was attended the Mr. Pellegrini, Ms. Bertotti, Attorney Sullivan, Attorney O’Neil, and two Commission members. As a result of extensive discussion, a new site development plan was developed. This settlement agreement will resolve both appeals. If the agreement is approved, the new site development plan and the special exception will be approved. Attorney O’Neil is well aware of the fact that participation in this process is not supported by all members of the Planning and Zoning Commission. He stated that whether the Commission participates in mediation in the future is a discussion for another time. Tonight’s focus is whether or not to accept the proposed settlement agreement.

Mr. Pellegrini reviewed his memorandum of October 31 which includes a five-point summary of the major changes to the development plans. During the mediation process, the revised plans received two reviews from Town staff. All concerns were addressed and there are no outstanding staff comments.

In response to a question from Mr. Prause, Attorney Len Jacobs explained why his clients felt aggrieved by the denial of their application. He explained that when this application was brought before the Commission, he was familiar with another application recently denied because the location was within a residential neighborhood. The applicants thought that by moving to the outskirts of Town, they were doing what the Commission wanted them to do. When the applicant applied the first time, they were pretty confident but were denied because they did not

provide a reasonable conservation of natural features. When the applicants came back with the second application, they showed the Commission that to develop the property for a two-lot subdivision would require at least the same amount of earthwork. The owner of the property, without any permission from the Commission, can make more changes than the applicant is proposing. Attorney Jacobs believes this applicant will win on appeal because the plan is not unreasonably affecting natural resources; the denial will not stand up to legal muster.

Mr. Prause asked Attorney Jacobs if at any time during this process the applicant felt discriminated against because it is a religious institution. Attorney Jacobs stated that, based on his experience with the Commission, he would be surprised and disappointed if discrimination were involved.

Attorney Dorian Reiser Famiglietti explained that the site disturbance for two single family lots would consist of approximately 1.76 acres. With the concessions, the applicant's plan has a site disturbance of 1.71 acres. In the spirit of cooperation, the applicant is trying to meet the Commission's concerns. There are no issues with traffic, architecture, or compatibility. It is a shame for the applicant to spend the amount of money they have and not be able to continue.

Mr. Greg Pinto, President of Capstone Builders, said that he is aggrieved because when the Moderator asked Town staff if it can prohibit site disturbance for the construction of two single-family homes on this property the answer was no.

Chairman Wichman asked anyone wishing to speak in favor of or in opposition to the application to come forward.

Maria Gosina, 1149 East Middle Turnpike, stated that this application will affect what is essentially her back yard. She has lived on East Middle Turnpike for 32 years and knows nothing she can do or say will change what is happening, but wanted to express that she has enjoyed that little piece of land over the years.

There being no further public comment, the Chairman closed the Public Hearing portion of the meeting at 8:37 p.m.

NOTICE: THE CASSETTE TAPE RECORDING OF THIS PUBLIC HEARING CAN BE HEARD IN THE PLANNING DEPARTMENT.

OFFICIAL TAPE NO. 1004, 1005, 1006