

**MINUTES OF BUSINESS MEETING  
HELD BY THE PLANNING AND ZONING COMMISSION  
JANUARY 5, 2009**

**ROLL CALL:**

Members Present: Eugene Sierakowski, Chairman  
Joseph Diminico, Vice Chairman  
Kevin Dougan, Secretary  
Salvatore Mancini  
Andy Kidd

Alternates: Eric Prause  
Matthew Galligan  
Adam Gootkin

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

Time Convened: 8:52 P.M.

**OLD BUSINESS:**

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

Mr. Pellegrini reminded Commission members that a public hearing was held on November 17, 2008 and the members present at that time were Mr. Sierakowski, Mr. Dougan, Mr. Diminico, and Mr. Prause.

Mr. Sierakowski asked Mr. Kidd if he has familiarized himself with the record of this application and Mr. Kidd answered he had not.

Mr. Sierakowski explained to the applicant that the Commission usually has five seated members. If five members are not available, the Commission extends a courtesy to let the applicant decide if they wish to wait for a full commission before any action is taken.

Attorney Katherine Reggino, on behalf of the applicant, asked for an extension until the entire Commission can familiarize itself with the application.

Zoning Regulation Amendments at Article II Section 8.03.24 and Table II 8-1 CUD Zone (W-137)

MOTION: Mr. Dougan moved to grant an extension for this application to the January 21, 2009 meeting. Mr. Kidd seconded the motion. Members Sierakowski, Dougan,

Mancini, and Kidd voted in favor of the motion. Member Diminico opposed the motion. The motion carried 4 to 1.

DYE HOUSE ASSOCIATES, LLC c/o KONOVER PROPERTIES – 190 Pine Street – conversion of dye house mill building to 57 residential apartments – Site Plan – Historic Zone (D-131); Erosion Control Plan (D-132)

Mr. Kidd expressed significant concerns about this application, including that it is not in keeping with the Plan of Conservation and Development, that the project is 100% subsidized at some level or another, that it has a low mix of 1 bedroom apartments vs. 2 or 3 bedroom and that it is not consistent with the surrounding mill properties. But, Mr. Kidd said this is a unique opportunity to renovate a blighted property and that it is a major project that will benefit local contractors. He said he will support this application.

Mr. Dougan said he also had reservations about the project that include density, low income housing, and the likely net revenue drain on the Town. However, the application is before the Commission for a site plan consideration and said he will support it. Mr. Mancini said he believes this application represents the best possible use for this property and will support it.

Mr. Diminico said he was pleased that his fellow Commission members looked hard at this application and have decided to support it. He has supported the application from the beginning. This property was the last to be renovated for a reason; the building was heavily blighted and the renovation cost prohibitive. The Town of Manchester and the Board of Directors have an issue with blight. If nothing were done with this property, the alternative would be terrible. He reminded the Commission that the proposed use is permitted.

Mr. Sierakowski said he had concerns similar to those mentioned by Mr. Kidd and Mr. Dougan. He thinks overall this is a “money loser” for the Town, but it will take care of the last blighted building in that area. He said he will vote to support this application, with regrets.

Site Plan – Historic Zone (D-131)

MOTION: Mr. Diminico moved to approve the site plan. Mr. Dougan seconded the motion and all members voted in favor.

Erosion Control Plan (D-132)

MOTION: Mr. Diminico moved to approve the erosion control plan. Mr. Dougan seconded the motion and all members voted in favor.

**NEW BUSINESS:**

WILLIAM POE, JR. – 156 Union Street – Request for a rear lot under Article III Section 6.01 for the construction of single-family home – Special Exception (P-181); Erosion Control Plan (P-182)

Special Exception (P-181)

**MOTION:** Mr. Diminico moved to approve the special exception with the condition that an evergreen buffer be installed to screen the properties between 20 and 34 Rossetto Drive. Mr. Kidd seconded the motion and all members voted in favor.

Erosion Control Plan (P-192)

**MOTION:** Mr. Diminico moved to approve the erosion control plan. Mr. Kidd seconded the motion and all members voted in favor.

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

Mr. Brian McCann, on behalf of Exxon/Mobil, requested permission to place a temporary shed on the site to allow for remediation. He estimated the shed would remain for three to four years. The shed would be enclosed within a nine foot cedar fence. He said the system operates using a network of recovery wells for the treatment of the groundwater. Through a separate permit process, the applicant will provide the sewer department with monthly discharge reports. He said he unit will not be kept on the property any longer than necessary. Mr. McCann said the applicant chose the shed location because there is still some existing pavement in this area.

In response to some questions from Mr. Diminico, Mr. McCann said the noise generated by the equipment is below 45 decibels and meets Town noise ordinance criteria. The groundwater extraction takes place 24 hours a day, seven days a week.

In response to a question from Mr. Dougan, Mr. McCann explained that soil will be excavated from the site, taking approximately two days. The groundwater should be remediated in three to four years.

Mr. Kidd said he thought a nine-foot cedar fence would be imposing and asked for a description. Mr. McCann did not have a picture of the fence, but explained that it is partially for aesthetics and partially for security, as a remediation system at this same location had been vandalized in the past. Mr. Sierakowski suggested planting evergreen trees around the unit on the visible sides for screening. Mr. McCann explained that operationally, he will need two access points to the unit so he would need to offset some of the screening.

Ms. Bertotti stated that staff comments were minor and technical in nature. The water department requested clarification in the legend and the environmental planner has had a conversation with the applicant regarding his concerns, which will be addressed on a revised plan.

SDC Zone Site Plan (M-378)

**MOTION:** Mr. Diminico moved to approve with the modification stated in staff memoranda from Bernard Kalansuriya to Renata Bertotti, dated January 5, 2009; and Matthew Bordeaux to Renata Bertotti, dated December 5, 2008 and with the condition that vegetation be planted to buffer the east, west, and south views of the fence enclosure and that the landscaping plan be submitted to the Planning Department staff for approval. Mr. Dougan seconded the motion and all members voted in favor.

TOWN OF MANCHESTER PLANNING AND ZONING COMMISSION – revision to the Zoning Regulations to adopt a six-month moratorium to review zoning regulations that govern multi-family housing – Zoning Regulation Amendment at Article IV Section 17 (T-483)

Mr. Sierakowski stated that this is a very complex issue to deal with and he appreciated the public's comments. There are about a half a dozen developments in process now, either going up or approved and not yet constructed. He thinks it would be best to give the Commission a break to look at the big picture. Regarding the letter from Attorney Hollister, he said the Commission is aware of the first issue. The other issue has not been looked into yet, since the letter was received after the close of business today. Mr. Sierakowski suggested adopting the moratorium as it is, and amending it in the future if there is a flaw.

Mr. Pellegrini noted that the next meeting is scheduled for January 21 and he offered to have an opinion from the Town Attorney for consideration at that meeting.

Mr. Diminico thought the worst thing the Commission could do was rush to judgment on this issue. This would allow time for the Town Attorney to review the letter. The Commission could vote on the matter on January 21. Mr. Diminico stated that something as monumental and drastic as a moratorium should not be taken lightly. He said nobody who spoke at the public hearing supported a moratorium. The purpose of the public hearing is to allow for public input. He said the conscience of Manchester spoke tonight and to rush a judgment tonight is wrong.

Mr. Mancini said he is not opposed to passing the moratorium tonight and checking with the Town Attorney afterwards. The whole purpose of the moratorium is to rethink how we do things.

Mr. Kidd commented that this is an emotional topic but feels it is the prudent action at this time. The Commission needs to take a step back and look at the existing zoning regulations and the Plan of Conservation and Development, tighten some of the language and clear up some gray areas. A six month moratorium would allow for a finite window in which to work. He is in favor of putting a cap on the amount of time allowed for a moratorium.

Mr. Dougan's opinion was to consult with legal counsel before adopting the moratorium. This would delay the decision for two weeks. He said because a moratorium is a major step the Commission should make sure the amendment is in order.

Mr. Diminico said he thinks the Commission is unified in the sense that it should step back and take a look at the zoning regulations, the question being how to do it. A moratorium is a grave undertaking. He suggested looking at the regulations by geographical area or by zoning district. Mr. Diminico reminded Commission members of a workshop in which the Commission members and Town staff set its priorities and of all that needs to be accomplished.

Mr. Sierakowski said he respects Mr. Diminico and his comments but disagrees this time. He said he proposed a moratorium because there have been a number of issues the regulations did not control. This is the appropriate time; a building boom is not going to happen any time soon. Mr. Sierakowski said he prefers to adopt the moratorium tonight then check with the Town Attorney to see if there is an issue.

Mr. Pellegrini stated that if the ordinance needed to be amended, there would need to be another public hearing held on the amendment. There was further discussion among Commission members about whether to adopt or postpone the vote. Mr. Kidd stated that after hearing this discussion he thinks the right thing to do is to table the decision, check with the Town Attorney, and come back in two weeks with a better understanding. Mr. Mancini would not be opposed to waiting for the Attorney's feedback, but urged the Commission to take action at the next meeting.

Zoning Regulation Amendment at Article IV Section 17: Moratorium (T-483)

MOTION: Mr. Diminico moved to table to the January 21, 2009 meeting. Dr. Dougan seconded the motion and all members voted in favor.

**ADMINISTRATIVE REPORTS:**

Mr. Pellegrini noted a supplemental packet had been provided to Commission members with a draft sidewalk plan. The plan requires review and amendment every five years. In this case, this must be completed by the end of January. A public hearing needs to be held before adoption and is scheduled for the next meeting. He offered to hold a workshop at the Commission's convenience. It was the consensus of the Commission to hold a workshop at 6:00 p.m. on January 21 and members will provide questions or comments to Town staff in advance of the workshop.

**APPROVAL OF MINUTES:**

July 7, 2008 – Public Hearing/Business Meeting

MOTION: Mr. Sierakowski moved to approve the minutes as written. Mr. Diminico seconded the motion and members Sierakowski, Dougan, and Diminico voted in favor. The motion carried 3 to 0.

December 8, 2008 – Public Hearing/Business Meeting

MOTION: Mr. Sierakowski moved to approve the minutes as written. Mr. Dougan seconded the motion and all members voted in favor.

EVERGREEN CROSSING, LLC – 325 New State Road – Whether to hear the application for a PRD Zone Change and preliminary Plan of Development (E-46)

Mr. Pellegrini summarized Attorney O'Neil's memorandum of December 23, 2008 which explains the Commission is not obligated to hear an application that is the same or substantially the same as one it denied within a one year period of the original application. The Commission accepted the application of Evergreen Crossing LLC at the last meeting. The Commission must now determine whether it is substantially the same or substantially different. Attorney O'Neil's memorandum states that if the Commission is having difficulty evaluating whether substantial changes have been made, the safer approach would be to hear the application.

Mr. Diminico said the proposed preliminary plan contains 32% less units than the original application, there are no units in the upland review area, and is proposed to be an owner and not a rental project which he believes constitutes a substantial change and the application should be heard.

Mr. Sierakowski said the application was denied because a PRD zone is not in keeping with the Plan of Conservation and Development which calls for industrial zoning in this area. The applicant is still asking for a zone change which is not a substantial change to the original application.

There was a debate between Mr. Diminico and Mr. Sierakowski about whether the changes to the application were substantial. Mr. Mancini interjected that Attorney O'Neil's memo suggests that if the Commission is having difficulty evaluating this request, the safe approach would be to hear the application. Mr. Dougan was of the opinion that the Commission is obligated to hear the revised application.

Whether to hear the application for a PRD Zone Change and Preliminary Plan of Development (E-46)

MOTION: Mr. Diminico moved to hear the Evergreen Crossing application finding that the new application was substantially different from the previous submittal. Mr. Dougan seconded the motion and all members voted in favor.

Mr. Sierakowski would like to set up a six month schedule to hold special workshops and meetings.

Mr. Diminico believes that would be better discussed after the vote on the moratorium.

Mr. Pellegrini just edited the list of priorities and will redistribute to Commission members. There are several things that must be done within a certain timeframe, he said.

MOTION: Mr. Diminico moved to suspend the rules to go beyond eleven o'clock. Mr. Dougan seconded the motion and all members voted in favor.

Mr. Diminico said that the Commission needs to come to an understanding of whether or not five members need to be present for a vote. He did not think the Wal-Mart issue needed to be postponed as a quorum was present.

Mr. Prause mentioned a Planning and Zoning seminar taking place soon and recommended attendance, especially for the new members.

**RECEIPT OF NEW APPLICATIONS:**

DIANE CASALS – 136 Woodland Street – Subdivision (C-222) – request for a three lot subdivision to construct a duplex residential house.

EAST CATHOLIC HIGH SCHOOL – 105/115 New State Road – Inland Wetlands Permit (E-47) – Installation of a scoreboard at baseball field.

The chairman closed the business meeting at 11:08 p.m.

I certify these minutes were adopted on the following date:

January 21, 2009  
Date

\_\_\_\_\_  
Eugene Sierakowski, Chairman

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

OFFICIAL TAPE NO. 1011, 1012, 1013