

**MINUTES OF PUBLIC HEARING
HELD BY THE PLANNING AND ZONING COMMISSION
MARCH 5, 2012**

ROLL CALL:

Members Present: Joseph Diminico, Chairman
Kevin Dougan, Vice Chairman
Andy Kidd, Secretary
Eric Prause
Horace Brown

Alternates: Susan Shanbaum
John Chaput

Absent: Anthony Petrone

Also Present: Mark Pellegrini, Director of Planning
Renata Bertotti, Senior Planner
Matthew Bordeaux, Environmental Planner
and Wetlands Agent
Ginger MacHattie, Recording Secretary

The Chairman opened the Public Hearing at 7:26 p.m. The Secretary read the legal notice for the application when the call was made.

TOWN OF MANCHESTER PLANNING AND ZONING COMMISSION – Broad Street redevelopment area – revisions to the zoning regulations to add Article II Section 26 – Form-Based Zone – Zoning Regulation Amendment (2012-003)

Ms. Bertotti explained that Manchester's Redevelopment Agency, along with many members of the community including the Board of Directors, the Planning and Zoning Commission, and some Town agencies, has worked for a number of years to create a vision for the Broad Street area. The application before the Commission is an amendment to the Zoning Regulations to adopt Form-Based Zoning Regulations, which would apply to the Broad Street area. The result of the visioning process was the creation of the Broad Street Redevelopment Plan, which reflected the community's desire to see this area developed in a compact, walkable, environmentally sound way with a mix of uses and a linear park along Bigelow Brook which would eventually connect to Center Springs Park. The Form-Based zoning text amendment is a direct result of the vision that comes from the Broad Street Redevelopment Plan.

Ms. Bertotti showed a PowerPoint presentation explaining that Form-Based zoning is a method to regulate development to achieve a specific type of place through control of the physical form of development. In order to do that, these kinds of regulations include specific standards for buildings, building lots, streets, blocks, and public and private open space.

Ms. Bertotti said the easiest way to understand this type of regulation is to compare it to traditional zoning. Traditional zoning is all about use segregation and tends to be automobile centered. Form-Based zoning is about the mixing of uses and creation of walkable and compact types of places. She said one of the biggest differences between the two ways to regulate zoning is that traditional zoning is reactive by nature. A proposal will come to the Commission, which will then react to it on an individual basis. Form-Based zoning, by nature, tends to be much more proactive. The community comes together, creates a vision for a place and the regulation is there to ensure that the vision is accomplished.

One of the main elements of Form-Based zoning is the regulating plan, which establishes the area that is going to be affected by the proposed text amendment. The regulating plan for this proposal extends south from Middle Turnpike West, north from Center Street, and Broad Street and Green Manor Boulevard run through the center of this area. She said the regulating plan shows two different subdistricts that are both meant to be mixed use. However, the Form-Based Zone 1 Subdistrict has a primary use of commercial and the Form-Based Zone 2 Subdistrict is more of a residential type of subdistrict.

Ms. Bertotti said another element of Form-Based zoning is the Design Principles. Design Principles exist to ensure that ultimately the vision from the Redevelopment Plan is accomplished. These principles include multi-story/multi-use buildings, parking in the rear of buildings, creation of a street wall, etc.

Ms. Bertotti said the regulations start with regulating the physical form of development through regulating blocks. Blocks have to be arranged in a grid pattern which allow and enhance the connectivity and accessibility to pedestrian and vehicular access. They are also intended to bring the development down to more of a human scale, with smaller blocks and streets mid-block. There are maximum lengths set for the perimeter of the blocks.

Ms. Bertotti next reviewed the various street types, the different frontage types and the eleven building types. She included a table that deals with the specific requirements for the eleven building lots in Commission members' packets. The frontage percentage refers to the width of the lot that is occupied by primary building façade. High lot coverage is permitted which should be an incentive to develop the area. All buildings are required to be set close to the street so the furthest a building can be set back is 25 feet. The height of buildings is from one to six stories with a maximum building height of 70 feet.

Ms. Bertotti also included a table comparing uses allowed in the Form-Based Zoning District versus the current General Business zone. There are some uses currently not permitted in the General Business zone that will be permitted in the Form-Based zone, such as residential use, conference center, farmer's market, parking and parking structures, outdoor theaters, etc. There will be uses that are permitted, uses that require a special exception and uses that are allowed only on the ground floor.

Ms. Bertotti explained there are uses that currently exist that will become nonconforming. Those include drive-through restaurants, drive-through windows, light industrial, auto service and repair, auto service and convenience stores, and gas stations. Uses that currently exist as legal

and conforming as of the date of the adoption of the regulations will be allowed to continue, allowed to expand, and they will remain legal and conforming. She said new nonconforming uses will not be allowed under these regulations. There are existing buildings that will become nonconforming because they are either set too far back on the property or they are not wide enough to meet the frontage percentage requirement. Buildings currently existing that become nonconforming under these regulations will be allowed to continue and expand; however, the expansion of the building will have to meet the Form-Based zoning regulations. She showed examples of how current buildings would be allowed to expand. The regulations address the alternative compliance. The main idea is to be consistent and always keep in mind the vision for Broad Street. Other provisions included in the Form-Based zoning regulations are Building Design, Sustainable Development Standards, Parking, Open/Civic Space, and Lighting, Fences and Signs.

In response to a question from Ms. Shanbaum regarding the expansion of nonconforming buildings, Ms. Bertotti explained the example of the two additional buildings in red would not be permitted because they are not located to the setback line; they are behind it.

In response to a request from Mr. Diminico, Ms. Bertotti explained a special exception requires a review to ensure the application meets the standards of the special exception regulations. The alternative compliance is different and is there to allow design flexibility when the alternative design makes sense or it is the only type of design that is feasible. The applicant would go to the Commission and prove their case and show how this type of design still meets the general intent of the Broad Street Redevelopment Plan and is compatible with the vision for the area. She said the review itself is on a site plan basis. When the alternate design comes in, the Commission reviews it in order to decide whether the proposed development meets the general design objectives and set criteria. It would be the same for alternative uses.

In response to a question from Mr. Diminico, Mr. Pellegrini explained it is more likely that an alternative compliance would be used for dimensional standards or setbacks for existing uses. The uses in the regulations are very broad and cover most things. There may be some particular use that doesn't fit neatly into a category, which might be what the Commission addresses under alternative uses.

In response to a question from Mr. Kidd, Mr. Pellegrini explained a variance is decided based on a hardship. Form-Based zoning provides flexibility and the use of judgment. It provides an opportunity to demonstrate that the applicant is proposing something that will meet the general intent of the regulations. He said it is similar to the Historic District in that way. There are standards to be met, but the Planning and Zoning Commission has the right to approve an application as long as it demonstrates that it fits within the intended vision.

Chairman Diminico opened the floor for public comment at this time.

Mr. Herb Davis, Parkade Cinemas/ADS Properties, said he is in favor of the Form-Based zoning regulations and Town staff should be commended. The real challenge will be how this is administered. He said the Commission will need to look at how the existing businesses will be impacted. Oftentimes, the existing businesses are pushed out for new money. The existing

businesses can't keep pace. He said application of the new regulations and how existing business owners will be supported is important. He noted all streets are primary streets and asked if they will be publicly dedicated by the Town.

Mr. Pellegrini explained there are two public streets within the newly zoned area; Broad Street and Middle Turnpike. Green Manor Boulevard is a private drive. A developer will come in and create new public streets and blocks. If Green Manor Boulevard remains private, it will be similar to a private road in a subdivision.

Mr. Julian Stoppelman, Manchester citizen, said his interest is in the housing component in the redevelopment area. This is a mixed use development allowing housing and the overall plan is a good, but he urged the Commission to be sure young and old people can live in this area. Mixed use means walkable neighborhoods with stores, restaurants, and housing. The Town is currently working on the 2020 Plan and one of its goals is to increase the supply of diverse housing stock. He asked the Commission to ensure the zoning regulations provide a reasonable opportunity to expand the housing stock. He thinks the Commission should have an affordable housing component in the regulations. He explained that he does not mean subsidized housing but housing affordable to people making 80% of the Average Median Income (AMI) in Hartford, which is the average Manchester household.

Mr. Tom Tomko, 33 Bobby Lane, is an advocate for Form-Based zoning because it will provide incentives to developers. He had some concerns about including Form-Based zoning on the entire area, but was happy to see the option for alternative compliance. Mr. Tomko wondered about the ten auto uses in the area and asked if they would be allowed to continue to operate under alternative compliance. He gave an example of the Monroe Muffler building. If it were to be torn down and rebuilt, he asked if it would still be able to operate as Monroe Muffler.

Mr. Pellegrini explained that because the use and property are legal and conforming, it could stay there and the use could continue. If the building were torn down, it would be expected that the new building would be one of the new building types.

Mr. Tomko said it is a great idea to create a utopia, but people will still have some needs that are not included in these regulations. He would love to see gas stations as an allowed use with 20% of the property landscaped. Another concern Mr. Tomko mentioned was the complete elimination of drive throughs. He knows there is a special exception for banks, but further out of the core, on the fringe properties, there are still a lot of business models that function with drive throughs. This may be limiting uses for certain property owners. He thinks the Commission should consider allowing drive throughs on Center Street and Middle Turnpike.

Mr. Ahmad Ali Davis, Parkade Cinemas, is an existing business owner. He noted the regulations allow 70' structures that are a maximum of 25' from the road. He wondered how existing buildings would handle signage in order to be seen behind these large structures.

Mr. Pellegrini explained there are provisions for various kinds of signs, which are intended to be located where the business is located. Parkade Cinemas already has variances and those will not be eliminated with the new regulations. He hopes that some of the business owners will choose

to make their signs more attractive. In the new development, signs are permitted on the building or the property of the business that the sign is advertising.

Mr. Davis said he has a parcel that is over five acres that will have playgrounds and pavement parking. He asked how the regulations will impact existing businesses.

Mr. Diminico said the parking will be less stringent.

Mr. Davis said he has one of the larger parcels in this area. He asked how remodeling and building a playground would impact the area and fit in.

Mr. Pellegrini explained that activities that occur in yards could be considered civic space. The principal act on Mr. Davis' property is the movie theater. The playground or outdoor yard would not have additional parking requirements.

Ms. Natalie Chirico, Housing Commission member and senior advocate, wondered if there would be any consideration for a Senior Center in this development. The one the Town has now does not meet the needs of its seniors. She would like to see something considered for seniors.

Mr. Diminico explained part of the plan does have a community aspect. The bottom line, though, is the financing.

Ms. Chirico mentioned the Hartford Foundation for Giving and gave some examples of how she secured funding for seniors in East Hartford. She said seniors are living longer and are more active, and there is a demand for a better Senior Center. Seniors really need to be considered, she said.

Mr. Pellegrini explained the item being considered under the public hearing is the zoning regulation change. These regulations will allow and accommodate a Senior Center. Whether or not one will be built in the Broad Street area is a question for the municipality and the developer. What ultimately ends up in the area is the question, but these regulations would not prohibit a Senior Center.

Mr. Brown read all 55 pages of the regulations and met with Ms. Bertotti. There are some details that can be fixed and brought back to the Commission. Ten of the items are of a policy nature and should be discussed among Commission members. The first was on Page 1, Section 26.01.01.D, "Protect and expand opportunities for entrepreneurial and small locally-owned business that primarily serve the surrounding neighborhoods and Town of Manchester". Mr. Brown suggested it not be limited and change the wording to read, "Protect and expand opportunities for businesses that primarily serve the surrounding neighborhoods and Town of Manchester".

The next item Mr. Brown mentioned was on Page 4 of the regulations, Table 26.1, under the row that describes Alley, the last sentence says, "Alleys should be paved from building face to building face and screened if possible." He suggested that if an alley were located in a residential area, there may be a desire for a side yard, which is grass.

Mr. Pellegrini noted the definition which states the alley is for access to storage areas, dumpsters, etc. in the rear portion of a parking lot. He thought Mr. Brown may be referring to an access street, but said maybe eliminating the requirement of building face to building face may work. There was some discussion among Commission members and it was decided that the language would read, "Alleys may be paved from building face to building face and screened if possible."

Mr. Brown, referring to the Civic Space building lot detail, asked about parking requirements. Although parking requirements are listed on page 40 of the regulations, civic space is not addressed; this needs to be looked at. Mr. Brown noted the table on page 21 that allows a row house the maximum height of 45' and asked how that relates to the 35' maximum adopted by the Commission recently.

Mr. Pellegrini explained that the 35' height limit is for one and two family dwellings. A row house is one of multiple individual dwellings that are usually attached. One and two family houses are not permitted in this zone.

Mr. Brown, referring to the chart on page 24, noted that places of worship are not allowed in a frontage zone and that is where he would expect them to go. Mr. Pellegrini explained that the frontage zone is the first 40'. An internal street would be able to have a place of worship placed on it.

Mr. Brown questioned the fact that inns are allowed even without a special exception in a residential district. Mr. Diminico thought a special exception might be appropriate as well.

Mr. Brown questioned why a convenience store would be allowed in a commercial area with a special exception, but in residential frontage it would be allowed. If anything, it should be permitted in commercial but not in residential at all, he said.

Mr. Brown said he was not convinced that a farm stand or farmer's market fits in here. Mr. Pellegrini explained if a developer, as part of their civic and open space requirement, creates a public square, it may be that a farmer's market will be permitted there. He doesn't expect a farm stand store.

Ms. Bertotti said a farm stand use is an accessory use, not a structure.

Mr. Brown questioned the regulations allowing wireless telecommunications to be located on any residential building. It can't really be camouflaged from all public streets and buildings.

Mr. Pellegrini explained that certain structures can be mounted on buildings such as a clock or a chimney, which will camouflage the fact that it is a wireless structure.

Mr. Brown, referring to page 31, noted that the building height of six stories is allowed by special exception. He thought people didn't like anything over four stories high.

Mr. Dougan said this goes along with the maximum height of 70'.

Mr. Pellegrini added the way the regulations are written, the Commission *may* approve a building up to six stories. After three stories, the building has to be stepped back 20'. There are design controls. He said the financial realities will set in with developers as they will have to consider building and fire codes.

Mr. Brown, referring to page 41, Item C, wondered about the logic behind allowing a change of use with the use being intensified but no change in parking requirements.

Mr. Pellegrini explained this is assuming the developer has a certain mix of uses. Some uses require more parking than others. He noted the three caveats; no increase in square footage of the building, no reduction in parking, and residential parking still meeting the requirement of 1.5 spaces per unit.

Mr. Brown, referring to page 47, questioned item A2, which says "Fences, garden walls or hedges shall be used along all un-built property lines which abut streets and alleys." He understood that to mean one must have a fence or hedge and thinks that should be a person's choice. He did not see why one should be forced to have a fence or hedge.

Mr. Pellegrini said that requirement is for un-built property lines which abut streets and alleys.

Ms. Shanbaum asked for the exact definition of un-built. Mr. Pellegrini said he would go back and look at that.

Ms. Bertotti said Town staff does have some changes it would like to incorporate before these regulations are adopted. There are staff comments from the Town's Traffic Engineer, as well as Mr. Brown's comments. She said she would send a revised document for the Commission's review. Once the changes are incorporated, additional questions may be raised so she recommended the public hearing be held open.

Mr. Prause thought sustainable design standards will make a big difference. He thought Mr. Stoppelman's idea to include affordable housing was a good one and would be in favor of adding some type of requirement. He did not think it would discourage a developer.

Mr. Dougan thought this issue was already discussed and it was decided that there be no requirement for affordable housing. It was to be left to the market and the developer.

Mr. Kidd said he remembered talking about it as well. He would rather not put any language in the zoning regulations that requires a minimum percentage of affordable housing. He can see including it in the Plan of Conservation and Development, which is an advisory document, but would like to see what the market drives.

Mr. Diminico would like to mirror the Redevelopment Agency's focus on housing but also understands the Form-Based zone is all about giving more latitude to whoever will come in to develop. The focus is not to have certain housing pockets in Town. He is firmly convinced the foundation of the Form-Based zone should be carried over to housing. Mr. Diminico thinks that within the scope of this project there will be a mix of housing. In the end the market forces will

drive the whole project. We should keep as many options open for the developer as we can, he said.

Mr. Prause said this Commission is the force that is able to spur a requirement for affordable housing. If it is something we want to see, we are able to be sure it exists. We are not using a tool available to use.

Ms. Shanbaum agrees with Mr. Prause that this Commission should try to implement some type of minimal standard. In doing that, the mix would include multiple economic situations. Part of the plan for Manchester is to encourage affordable housing so young people can afford to live here.

Mr. Brown asked why some believe the market forces will result in some degree of affordable housing. He asked what is different now; it did not happen when the mall area was developed.

Mr. Diminico said there is a bigger focus today on the flight of the young out of state. The scope on Broad Street is much larger than only a housing element. Originally, the idea was for offices and commercial businesses. Residential was added because of the market.

Mr. Chaput said affordable housing seems like a low hurdle to set for a developer. He suggested that a percentage of affordable housing be included in the regulations and if there are no bites, it is easy enough to remove the requirement from the regulations. Once it is excluded, it is difficult to include.

Mr. Stoppelman said other incentives are possible such as allowing a waiver of height requirements or parking. He would like to see some kind of incentive that encourages affordable housing in the Form-Based zoning regulations.

Mr. Pellegrini explained the regulations have no density limit, unit size requirements, or parking requirements; it is difficult to think of ways to incentivize development in the Form-Based area.

Mr. Brown asked if the Redevelopment Agency or the Board of Directors has a voice in whether the regulations include an incentive requirement.

Mr. Pellegrini said the Redevelopment Agency's original draft included a 20% requirement; which was then reduced to 10%. In the end, the consensus was to leave any requirement out so as not to block development. Given the current economic climate and the Redevelopment Agency's desire for mixed development and generational housing, it was thought there would likely be some affordable housing. The Agency did not want to limit the pool of prospective developers.

Mr. Timothy Devanney, Redevelopment Agency Chairman, explained the Agency was trying to be less restrictive by leaving this requirement out of the regulations. Putting a minimum amount of affordable housing in the regulations was more restrictive. The whole idea behind the regulations is to be less restrictive.

Mr. Tomko said he did not think affordable housing should be regulated in this instance; it is not the place to do it. There will be a lot of deals going on and there will be financial incentives. He thought the market and the deal making should drive the amount of affordable housing.

Mr. Diminico thinks both sides have good intentions, but the Commission should err on the side of getting the area developed. He said the regulations should be less restrictive, giving the developer more latitude.

Mr. Pellegrini said the Planning Department does have some clarifying to do with the regulations. He encouraged the Commission members to think about this item. He is not hearing a directive to propose language to include affordable housing at this time.

Ms. Shanbaum, going back to a previous point, said she thinks it is perfectly appropriate to have a convenience store in a residential area and did not think it should be taken out. She did not have an opinion about a convenience store in a commercial area.

Mr. Brown said the scale of the development is from Broad Street to the cinemas. One can easily walk to a convenience store. Most of the area is commercial. He could not see any reason to put a convenience store in a residential area when it is allowed in a commercial area.

Mr. Pellegrini noted there is nothing in the regulations that speaks to papering windows with signs in convenience stores and that may be something worth adding.

The consensus of the Commission was to keep the public hearing open on this item. The Chairman closed the Public Hearing portion of the meeting at 10:30 p.m.

NOTICE: A DIGITAL RECORDING OF THIS PUBLIC HEARING CAN BE HEARD IN THE PLANNING DEPARTMENT.