

**MINUTES OF PUBLIC HEARING
HELD BY THE PLANNING AND ZONING COMMISSION
FEBRUARY 13, 2017**

ROLL CALL:

Members Present: Eric Prause, Chairman
Andy Kidd, Vice Chairman
Michael Stebe, Secretary
Timothy Bergin

Alternate Member Sitting: Patrick Kennedy

Absent: Jessica Scorso
Julian Stoppelman
Teresa Ike

Also Present: Gary Anderson, Director of Planning
Renata Bertotti, Senior Planner
Katie Williford, Administrative Secretary
Nancy Martel, Recording Secretary

Time Convened: 7:00 P.M.

Mr. Prause opened the Public Hearing by introducing the members of the Commission.

Mr. Stebe read the legal notice.

TOWN OF MANCHESTER PLANNING AND ZONING COMMISSION – To revise Art. II, Sec. 8 (CUD zone) as follows: To remove multi-family dwellings and high-rise apartments from the list of permitted uses; to add stand-alone multi-family or multi-family above ground floor commercial as special exception uses; and to add accessory use of yards, walkways, and parking lots as a permitted use. To revise Art. IV Sec 20 (Special Exception Criteria) to remove the reference to the CBD zone at Art. IV, Sec. 20.01.01 j. To delete Art. IV Sec. 2 (High Rise Apartments). – Zoning Regulation Amendment (2016-145)

Renata Bertotti, Senior Planner for the Town of Manchester Planning Department, described the application to amend several sections of the zoning regulations pertaining to multi-family dwellings in the Comprehensive Urban Development (CUD) Zone, accessory use of yards, walkways and parking lots and special exception criteria.

The amendment to Art. II, Sec. 8 (CUD zone) was modeled after an amendment recently adopted for the General Business zone. Its intent is to allow stand-alone and mixed use residential use in zoning districts that are commercial in nature. The intent behind this amendment is to promote a mix of uses so even standalone residential buildings are on parcels that are mixed-use, she said.

Ms. Bertotti stated that the proposal meets the purpose of the CUD zone to promote a greater flexibility of uses. She explained that this amendment also meets several intents, goals and objectives of the Plan of Conservation and Development and reiterated that this is a continuation of an amendment to the General Business Zone.

One difference is that, when the GB zone amendment was adopted, the GB zone did not allow residential uses at all. The CUD zone, however, permits multi-family developments as of right under current regulations, subject to the development standards of the PRD zone or high-rise apartment regulations. The PRD design standards do not lend themselves to mixed-use types of developments and may not be well suited to the CUD zoning district, Ms. Bertotti said, speculating that this may explain why there has never been a proposal for this type of residential development in this zoning district. The zoning regulations pertaining to high rise apartments have been in place since 1972 and the Planning Department has never received an application for high rise apartments. She further stated that the high rise apartments section includes many building code and fire code requirements which should not be part of the zoning regulations.

Ms. Bertotti explained that the Pavilions apartments were the only apartments ever built in the CUD zone, and those were part of the original plan for the entire mall area. The Planning Department now proposes to delete the current provisions in the CUD zoning regulations that allow multi-family dwellings subject to development standards which are not the most appropriate for this zoning district.

Ms. Bertotti further stated the Planning Department proposes replacing the provision which currently permits residential uses under the PRD or High Rise apartment development standards with one that will allow stand-alone and mixed-use multi-family above ground floor commercial, subject to special exception in the CUD zone. The special exception approval would be subject to review criteria, including the building standards that are modeled after the form-based code regulations and other standards that are specific to these types of commercial sites. For example, the Planning Department proposes that at least 50% of the ground floor must remain commercial to prevent the entire site from being converted into a residential site. The Planning Department also proposes height regulations directly related to the size of the commercial buildings and their distance from mass transit. She also detailed the proposal for smaller sites and commercial buildings and open space and parking requirements.

She reminded the Commission that in July 2016, they adopted regulations which deal with the use of walkways, parking lots and yards. This regulation also intended to address the seasonal sale events such as the annual fireworks sales at Plaza Azteca and the appliance sale in front of P. C. Richard & Sons. However, the amendment ended up in the section of the zoning regulations that deals with the general requirements for all business zones and these locations, P. C. Richard & Sons and Plaza Azteca, are in the Comprehensive Urban Development zone. The current proposal would add these same provisions to apply in the CUD zone.

Ms. Bertotti further added, in a discussion of residential uses, that when the Commission adopted the amendment to the General Business zone regulations, Integration of Use was added under the Special Exception Criteria. That provision included a reference to the CBD zone, because staff originally intended to return to the Commission with a proposal to delete high rise apartments and propose these changes in both the CUD and CBD zones. However, it later became clear that these standards would be very difficult to meet in the CBD zone. Therefore, staff now proposes

to delete the reference to the CBD zone under Integration of Use in the Special Exception Criteria, and not to change the CBD zone regulations at all.

The proposed zoning regulation amendment was sent for review to CRCOG to which the response read, “The staff of the Regional Planning Commission of the Capitol Region Council of Government, has reviewed this referral and finds no apparent conflict with the concerns of neighboring towns. We would encourage the Planning & Zoning Commission to consider adding provisions to provide for affordable housing opportunities in accordance with the Regional Plan of Conservation and Development housing goal to increase the range of choice in housing for people of all incomes and all ages, but especially for those who have the least choice in achieving their locational preference.” Additionally, CRCOG referred to the general goal of the Regional Plan of Conservation and Development which reads, “Increase the range of choice in housing for people of all incomes and all ages, but especially for those who have the least choice in achieving their locational preference.”

Mr. Bergin requested clarification regarding the terms used in the amendment.

Ms. Bertotti informed him that the intent of the regulation is to provide for mixed use on the commercial sites.

Mr. Kidd inquired as to whether other communities’ regulations were reviewed in the requirements for this proposal.

In response, Ms. Bertotti stated the specific ratios and percentages were copied from the General Business Zone regulation, to ensure that 50% was not exceeded one way or the other.

Mr. Stebe inquired whether individual balconies would be included in the open space requirement.

Ms. Bertotti stated that a minimum of 25% of open space must be dedicated to residential use only, and balconies could be included. Additionally, each site would be required to incorporate a minimum of 25% that is accessible to all tenants of the plaza.

Mr. Stebe requested clarification as it was his understanding that open space should be accessible to all residents and he does not believe that an individual’s apartment balcony fits into open space.

Ms. Bertotti further informed the Commission that this provision can be removed from the proposal.

Mr. Stebe requested further clarification regarding mixed usage of a site, i.e., two buildings, with building one commercial and building two residential.

Ms. Bertotti explained it is 50% per site.

Mr. Anderson clarified that the buildings must be the same size.

Mr. Bergin noted that there are two subsections under open space, one 25% of the total open space dedicated exclusively to tenants, including balconies. The next subsection is that a minimum of 25% of the total open space be available for all patrons of the property and does not reference balconies. Therefore, is it possible that 25% would not fall under that calculation?

Ms. Bertotti stated that each development must have a minimum of 50% of open space. Residential uses may have balconies and commercial uses may have sitting areas, common plazas, central entertainment spaces accessible via pedestrian access ways, excluding balconies.

Mr. Prause pointed out to Ms. Bertotti her reference to accessory uses, stating that Art. II Sec. 8.02.15 references accessory uses. He speculated that this may be redundant to the section currently proposed.

Ms. Bertotti replied that these accessory uses are different from the uses regulated as the accessory uses of yards, walkways and parking lots which pertain to display, sale and seasonal sales.

Mr. Prause asked, if the site is within a half mile of existing mass transit and it exceeds 200,000 square feet, the building height could be up to 80 feet.

Ms. Bertotti asserted that this was correct; both criteria would have to be met.

Mr. Prause further queried Ms. Bertotti whether there were any changes to Art. II, Sec. 9.

Ms. Bertotti replied that there were no changes.

Mr. Kennedy affirmed that he would not construe that the open space would include balconies of individual apartments.

Mr. Prause inquired whether there were changes to the Central Business District zone to remove references to High Rise Apartment regulations.

Ms. Bertotti informed the Commission that there are no proposed changes to the CBD zone.

Mr. Prause stated that there are references in the CUD zone regulations to high rises and he did not know whether there was one in the Central Business District.

Ms. Bertotti stated that if there is one, it should be removed at a later date.

Mr. Stebe questioned the parking section, whether the proposed subsections 1, 2 and 3 are all referring to only the residential use. Additionally, he stated that it's "all other uses" which refers back to the original CUD regulations.

Ms. Bertotti stated that that parking section regulates mixed use developments with commercial uses on the ground floor.

Mr. Stebe further asked if the applicant must specifically request the 15% parking reduction as part of their application.

Ms. Bertotti replied that they would have to, but whether or not reduction is granted is at the Commission's discretion, so the Commission would formally act on the request.

Mr. Stebe inquired about number 6, Circulation.

Ms. Bertotti stated that the regulation is intended to avoid separate access for the residential uses, e.g., from the back of a commercial plaza. The parking and driveway connectivity is intended to keep the mixed use development standard.

Mr. Prause requested comment from the public.

Mr. Kennedy moved to close the Public hearing. Mr. Stebe seconded the motion and all members voted in favor.

TOWN OF MANCHESTER PLANNING AND ZONING COMMISSION – Zoning Regulation Amendment 2016-148 to revise Article I, Sec 2, Definitions, to add a definition for outdoor entertainment. To revise Article II, Sec 8, Comprehensive Urban Development Zone, Article II, Sec 10, Business 1 Zone, Article II, Sec 11, Business 2 Zone, Article II, Sec 12, Business 3 Zone, Article II, Sec 14, Business 5 Zone, Article II, Sec 15, Central Business District, Article II, Sec 22, Special Design Commercial Business Zone, Article II, Sec 24, General Business Zone, and Article II, Sec 26, Form Based Zone to add outdoor entertainment as a special exception use.

Ms. Bertotti relayed that in July 2016, the Commission was approached regarding music at an outdoor patio at Main Pub. She further stated that the Manchester zoning regulations are written in a permissive manner, so if a use is not listed as permitted, it is not allowed.

Ms. Bertotti went on to state that a discussion was held regarding the proposed definition for outdoor entertainment at the recent workshop. The Commission indicated they would only allow this under special exception which would require a public hearing and a review under the special exception criteria.

Ms. Bertotti reviewed the zoning districts in which the outdoor entertainment use is proposed to be allowed and a discussion continued around sound amplification, buffering and hours of operation. This proposal, in the staff's opinion, meets several goals of the Town's Plan of Conservation and Development, Ms. Bertotti said.

Mr. Kidd affirmed that during the workshop, conditioning the special exception was discussed. He expressed concerns about enforcing the special exception criteria.

Ms. Bertotti reiterated that these regulations are enforceable. However, she expressed concern about the Zoning Officer's ability to enforce the regulations outside of normal working hours. She maintained that as long as the regulation is legal, it's enforceable.

Mr. Anderson clarified that in terms of the hours of operation and days of the week, the hours of operation coincide with the Town's noise ordinance. He continued that an applicant would have

to request a change to the hours of operation and days of the week, and the regulation would allow the Commission some flexibility.

Mr. Kidd wondered if this proposal had been discussed with the Town Attorney to which Ms. Bertotti replied that it had not and Mr. Kidd expressed his concerns about challenges by applicants and residents. He reminded the Commission that in the workshop other towns' regulations were reviewed.

Ms. Bertotti discussed several town regulations that Mr. Shiel had investigated.

After a discussion with Ms. Bertotti, Mr. Prause expressed his satisfaction that the regulations are consistent with the current Town regulations. He further inquired about the current threshold regarding notifying other towns about properties of concern, to which Ms. Bertotti replied that she was not sure and would have to look it up.

Mr. Prause inquired whether this regulation addresses lighting.

Ms. Bertotti replied that zoning regulations currently did not address this.

Mr. Kidd inquired whether an applicant would have to come before the Commission with each different proposal to which Ms. Bertotti replied that depending on the changes, different proposals may require a new public hearing.

Mr. Prause called for public comment.

Mary Fish, 19 Strickland Street, Manchester voiced her opposition to the change in regulations regarding the Business I Zone as this zone is surrounded by residential areas with little to no buffering. She brought up the variables in sound travel that are only mitigated by large barriers. She felt that allowing outdoor entertainment in the Business I zone is essentially allowing it in residential areas. Ms. Fish stated that the negative impact for an increase in noise level will bring more calls to the Police Department and referenced effects on property values.

Keith Beaulieu, owner of the Main Pub Restaurant, said he is looking to add outdoor entertainment to his restaurant, inside the framework of Ms. Fish's concerns. Mr. Beaulieu stated that his intent has been to add the entertainment in a manner which is beneficial to all. He also pointed out that there are establishments within the town that are already allowing outdoor entertainment without permission, without regulation and without enforcement. He asserted that the allowance would be beneficial to the Main Pub and would expand the Downtown area.

Mr. Prause called for further public comment and there was none.

Mr. Kidd stated that he is concerned about the enforceability. He also wondered if there was a way to address the Business I zone to make it less all-encompassing. Mr. Kidd would like an opinion from the Town Attorney regarding the special exception conditioning. He would like to leave the public hearing open to follow up.

Mr. Stebe proposed an amendment to include the Chair's comment on light to include "sound and light equipment oriented in a manner that directs sound and light away from abutting

properties.” He reflected on prior discussions about creating a community vibe and creating a connection between neighborhoods and having something for people to do and a reason to draw people into the neighborhoods and into the downtown toward 384 and downtown heading north, making the connection between the two. He assumed that Mr. Pellegrini would have imparted the opinion that the applicant always has recourse to challenge. He further stated that the Commission has the ability to add in additional requirements if they are within 200 feet of a residential location, place of worship or a school. He believes there are locations that would benefit from this level of guidance. Mr. Stebe’s opinion is that the proposed regulation can work provided the Commission considers each exception brought forth. He further reiterated the criteria on each zoning area to include sound amplification and lighting equipment oriented in the manner that directs the sound and light away from abutting properties and buffering is provided to mitigate noise and light trespass.

Mr. Kennedy stated that he agreed with Mr. Stebe’s opinion and believes the court would find the criteria reasonable. He affirmed that the CRCOG comments are just boilerplate. He believes that a court would see the proposed regulation as perfectly reasonable. He further stated that the Commission is given heightened abilities to impose conditions near schools, churches or residences.

Mr. Stebe requested clarification on notifying abutting towns and whether it is a business practice at this point.

Ms. Bertotti explained that notification of abutting municipalities in instances of most applications which require a public hearing is an existing requirement in the general statutes. She further stated that the Town sends a notification to all direct abutters, whether they are in our town or the town adjacent to us. The Town is also required, under general statutes, to send a notification to abutting towns if there is a proposal for certain applications.

Mr. Anderson clarified that pretty much anything would trigger the notification if a public hearing is required.

Mr. Prause asked whether there is any feedback on the 10 PM restriction and wondered how viable that requirement would be with outdoor entertainment.

Mr. Anderson stated that they felt it was reasonable as there is always the opportunity to bring the music indoors after hours.

Mr. Prause agreed with Mr. Kidd about leaving the public hearing open. He is concerned about lighting and whether something could be added tonight or if it should be acted upon later.

Ms. Bertotti explained that this is not a significant change to the proposal. If the Commission wants to proceed with the added language regarding sound and light equipment, the Planning Department could add that. It is not a change that would require another notice.

Mr. Kennedy felt that adding the word “light” would be a relatively minor change.

Mr. Stebe concurred with Mr. Kennedy, and that it should be limited to the sound amplification equipment and light equipment oriented in a manner to direct the sound and light away from abutters to mitigate the noise and light trespass.

Mr. Prause expressed the need to address the fact that there are places doing this now and expressed his concerns about the regulations. He further stated that adding lighting to the condition would be useful, or at least should be reviewed as part of an application. He agreed with Ms. Fish that BI to BIII zones are generally surrounded by residential use.

Mr. Bergin agreed with Commissioners Kennedy and Stebe. He stated that the prevailing regulation will be the noise ordinance in most cases. He agreed with making a provision for light. Mr. Bergin said he is comfortable with approving this proposal as a special exception use.

Mr. Kennedy moved to close the Public hearing. Mr. Stebe seconded the motion and all members voted in favor.

The Chairman closed the Public Hearing at 8:47 P.M.

March 20, 2017

Date

Eric Prause, Chairman

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