

**SPECIAL MEETING
BOARD OF MAYOR AND ALDERMEN
(PUBLIC HEARING)**

February 24, 1998

7:00 PM

Mayor Wieczorek called the meeting to order.

Mayor Wieczorek called for the Pledge of Allegiance, this function being led by Alderman Clancy.

A moment of silent prayer was observed.

The Clerk called the roll. There were fourteen Aldermen present.

Present: Aldermen Wihby, Klock, Reiniger, Sysyn, Clancy, Pinard, Shea, O'Neil, Girard, Rivard, Pariseau, Cashin, Thibault, Hirschmann.

Mayor Wieczorek advised that the first purpose of the hearing was to hear those wishing to speak in favor of or in opposition to a proposed Ordinance; that the Clerk would present the proposed Ordinance for discussion at which time those wishing to speak in favor will be heard, followed by those wishing to speak in opposition; that anyone wishing to speak must first step to the nearest microphone when recognized and recite his/her name and address in a clear, loud voice for the record; that each person would be given only one opportunity to speak; and any questions must be direct to the Chair.

The Clerk presented the proposed Ordinance:

“Amending the Zoning Ordinance of the City of Manchester by extending the R-SM (Residential Suburban multi-family) to include a parcel of land at 598 Holt Avenue currently zoned R-1B (Residential single-family) and I-2 (Industrial Park) and having an area of approximately 2.0 acres.”

Mayor Wieczorek requested that Robert MacKenzie, Director of Planning, make a presentation.

Mr. MacKenzie stated this is a request to rezone a parcel of land which is about 2 acres in size on the east side of the City. As you can see here on the screen, just to orient you this is Interstate 93 right here. We have Elton Avenue, Waverly Avenue and on the other side, East Industrial Park. There is an area that many of you may remember as Eastgate Apartments which was built almost 10 years ago. You can see right here this is Eastgate Way and North Eastgate Way. This is a multi-family project that was built townhouse style multi-family units. All of this area is zoned R-SM which is Residential Suburban Multi-Family. It allows small multi-family buildings and townhouses. To the east of this area is all zoned Industrial I-2. To the north, to the east and you can see these buildings right here. These are pretty much industrial buildings. This is actually an industrial condominium right here. Also to the south of this property is zoned I-2 which is an industrial park classification. The parcel that is stated here is a

parcel being requested to extend this R-SM district, the multi-family district, to include this parcel. Just a couple of items of interest. You can see that actually the parcel is surrounded on three sides by existing multi-family and although to the south it is zoned I-2, this building right here is actually a stone single family house. So in essence currently this property that is shaded is surrounded by residential uses. Currently the parcel actually has two zoning districts on it which is kind of unusual but that is the zoning as it came out when the R-SM was zoned around it. This small sliver right here is R-IB which is a single family zoning district and the larger parcel of the site is I-2 Industrial. At this point I would be happy to answer any questions of the Board.

Alderman Wihby asked, Bob, why was it cut out like that in the first place.

Mr. MacKenzie answered originally when the application came in, the applicant only wanted to petition his own property which went around this. This is actually a separate lot. John Madden owned the rest and then petitioned to rezone it.

Alderman Wihby asked what about before. Was it rezoned before?

Mr. MacKenzie replied as you can see the zoning line used to go along here and here. This was all originally I-2, so when the property owner came in he had it rezoned to R-SM in this shape.

Alderman Wihby asked but what is wrong with that middle space. Why wasn't that rezoned then?

Mr. MacKenzie responded the property owner did not want his property rezoned at that time.

Alderman Wihby asked is the same property owner now asking to do that.

Mr. MacKenzie answered I am not sure if it is the same individual.

Alderman Shea asked, Mr. MacKenzie, are you presenting any findings for approval or disapproval this evening, either orally or written in terms of...

Mr. MacKenzie answered I don't have any formal recommendation to you on any of these. I would provide any comments or answer any questions.

Alderman Shea asked well isn't that the responsibility of the Planning Board, to present findings either approval or disapproval.

Mr. MacKenzie answered yes, the Planning Board, if this Board so chooses, can request information or recommendation from the Planning Board. To date, that has not occurred.

Alderman Shea stated pardon me.

Mr. MacKenzie replied to date the Board has not requested that the Planning Board respond or provide a recommendation.

Alderman Shea responded well I am. As an Alderman can I request findings?

Mayor Wieczorek answered the Board collectively has to.

Alderman Shea replied oh, I see the entire Board has to. On another point, in 1988 the CLD which was an engineering firm had a, there was a compensatory wetlands study done in terms of when the R-SM was granted, the Eastgate was granted, there was a problem with the wetlands and at that time they were supposed to provide for a compensatory wetlands project. Has that been done to your knowledge?

Mr. MacKenzie answered I do know that at the time the only issue of wetlands was in a small area along here. They requested a crossing of the wetlands with this roadway. I do know that this was also partly subsidized by Housing and Urban Development funds and they had to go through a long checklist to make sure they satisfied all of those. I am not sure specifically if there was any mitigation put together. I do know that they met all the requirements at the time.

Alderman Shea asked but weren't they supposed to provide for a compensatory wetlands in order to compensate for the wetlands that were used.

Mr. MacKenzie answered I am not aware that they were required to do that.

Alderman Shea replied yes they were according to the agreement. I looked it up. What will prevent a similar situation from developing if, in fact, the rezoning were to take place here, in terms of wetlands?

Mr. MacKenzie answered the rezoning includes this piece of property right here. To my knowledge, there is no wetlands on the site.

Alderman Shea replied to your knowledge. But if that were made into multi-family dwellings, wouldn't there be drainage problems involved.

Mr. MacKenzie responded there are always drainage issues. The Planning Board works with those and we normally require the Highway Department to sign off on a site plan to make sure there is no drainage impact on an abutter. The regulations generally say that there can be no increase in the peak hour generation of water run off to an adjacent property. So that is an issue that when you get down to the site plan reviewing, for example run off in the parking lots and the roofs of the buildings, that has to be addressed.

Alderman Shea asked how about the impact on traffic and health and safety and other matters. Wouldn't that be a consideration in terms of...in other words we don't know what is going to happen once this is rezoned do we?

Mr. MacKenzie answered no and typically, I know it is more difficult for the Board of Mayor and Aldermen, but typically a parcel, an applicant does not have to represent what they would like to build on a particular piece of property. This is to determine whether the land is generally suitable for a particular project or a particular land use. The details of how much a project may generate in terms of traffic or other impacts usually comes up at the Planning Board and then they wrestle with that. I can tell you that based upon the zoning, you could probably put anywhere between 20 and 24 dwelling units on the property looking at the zoning characteristics, although that may be less given how difficult it might be to put parking on that site. Typically, a multi-family building generates about five trips per dwelling unit so you are talking about roughly 100 trips per day that might be generated by this.

Alderman Shea stated and that would affect the school population in that area too.

Mr. MacKenzie replied yes it could.

Alderman Girard stated, Mr. MacKenzie, we are waiting for a draft of the rewrite of the zoning ordinance. Are there any recommendations for this area that could be shared with the Board or are we premature in taking any of these requests under consideration until we have had a chance to look at that rewrite?

Mr. MacKenzie answered that would be up to the Board to decide if they wanted to postpone these. I am not sure the applicants would be happy about that, but I think it is within the authority of the Board to do that. With respect to this particular parcel, I mean you can see and if you went out to the site and looked at it if someone did build a true industrial plant on that particular lot, as is currently allowed under the zoning, I think you would have a lot more severe problems then if this went to residential. I mean some of the type of industrial uses that could go on that, and frankly this is directly in the backyard of the property areas surrounding it, could create difficulties. These are the type of odd situations that do arise over time that we would like to try to address as part of the zoning update.

Alderman Clancy asked, Mr. MacKenzie, is this parcel of land surrounded by commercial property, commercial business right now.

Mr. MacKenzie answered no, it is surrounded by residential.

Alderman Clancy asked well where is TBI in contrast to this right now. Where is TBI?

Mr. MacKenzie replied TBI is located right here. That is the large building on the corner of East Industrial and Holt. Then you go up a hill, there is a fairly significant grade, and you get to these. Each one of these is a multi-family unit. I think there is eight dwelling units in each one of these. Then as you come up the hill there is a residence on the south side and this is the site that they would like to rezone. It used to be one single family home on that property. I think that has been torn down now.

Alderman Clancy asked what is on the other side of it where it says proposed R-SM extension.

Mr. MacKenzie answered that is the area that they would like to change from Industrial to the R-SM Multi-Family Dwelling District.

Alderman Clancy asked now what is to the left of that.

Mr. MacKenzie replied those are multi-family dwellings. Each one of those buildings is a multi-family unit. In total, I believe there is 144 apartments.

Alderman Rivard stated I am very familiar with that area and I just can't believe that we would allow anybody to put an industrial development on that particular piece of property. It would not be in anybody's best interest to do that so I understand what they are trying to do here and certainly would support rezoning it because that doesn't make sense as it presently is zoned.

Alderman Girard asked, Mr. MacKenzie, with an additional 20-24 units that could be located on that site are there any type of formulas that would say how many school children would be the result of this type of development.

Mr. MacKenzie answered yes, we do have the formula and I am just going to...I know that the formula for a single family home is roughly .35 students per dwelling unit. I think, depending on what they built here, multi-family differs a little bit from townhouse but you are probably talking on the order of .1 public school, elementary school students, per unit. So if it was 25, I guess that is 2 1/2 to 3 kids.

Alderman Girard asked how many single family homes could we put in that area.

Mr. MacKenzie answered in the R-SM you can build single family and I am not sure how many you could build, maybe five. You might have to put a small cul-de-sac street in order to build single family.

Mayor Wieczorek called for those wishing to speak in favor.

Bill Tucker, 95 Market Street, Manchester, NH, stated:

I am representing Krysnor Homes, Inc. the owner of this property. I think that Bob did an excellent job making the presentation. I won't repeat any of that. I will try to answer a couple of questions. The first is my client acquired this property in September from the estates of Richard Burke and Emma Burke who had lived there for a number of years and I believe that when Mr. Madden got this rezoning they were opposed to that. This was their family home and they did not want to move or did not want their property rezoned so that is I believe how this unique situation occurred. They have now passed away and the property has been sold and it is right for development. The house has been taken down. We have talked and I spoke personally with Mr. Madden this afternoon, and he is in favor of having this rezoned to a residential use. He would hate to see industrial go in there as I am sure people who live in that area would hate to see an industrial use surrounded by all these residential properties. I would hate to be the one who made a presentation to the Planning Board for an industrial property and development on that site. Our plan is to make it into a residential complex. The engineering has not been done so we can't tell you precisely how many units but I think the estimate is a fair one. I will be happy and Norris Viviers is with me who is the principal owner to answer any questions you may have.

Alderman Girard asked, Mr. Tucker, has any consideration been given to some sort of neighborhood business or neighborhood type of commercial use like a convenience store or something that would serve those homes in Eastgate.

Mr. Tucker answered I don't believe that consideration has been given to that. That also, I believe, would require a rezoning to a B zone or something other than it is right now. We could not do that either.

Alderman Girard stated I am aware of that. I am just wondering whether or not any consideration had been given. It seems to be that it might be a logical place for some sort of neighborhood type of business.

Mr. Tucker answered consideration has not been given, and we thought the most compatible use was residences which is exactly what surrounds the parcel.

Mayor Wiczorek called for those wishing to speak in opposition. There were none.

Mayor Wiczorek advised that all wishing to speak having been heard, the testimony presented would be referred to the Committee on Bills on Second Reading to be taken under advisement with reports to be made to the Board of Mayor and Aldermen at a later date.

Mayor Wiczorek advised that the second purpose of the hearing was to hear those wishing to speak in favor of or in opposition to a proposed Ordinance; that the Clerk would present the proposed Ordinance for discussion at which time those wishing to speak in favor will be heard, followed by those wishing to speak in opposition; that anyone wishing to

speakers must first step to the nearest microphone when recognized and recite his/her name and address in a clear, loud voice for the record; that each person would be given only one opportunity to speak; and any questions must be directed to the Chair.

The Clerk presented the proposed Ordinance:

“Amending the Zoning Ordinance of the City of Manchester by extending the R-1B (Residential one-family) district to include parcels of land currently zoned R-2 (Residential two-family), generally including all properties fronting on Lewis Street, and having an area of approximately 2.0 acres.”

Mayor Wieczorek requested that Robert MacKenzie, Director of Planning, make a presentation.

Mr. MacKenzie stated this particular area is located on the west side, just north of the Parker Varney School. You can see right here the Parker Varney School and the Parker Varney School site. Directly adjacent to James Pollock Drive which comes up and ends at Lewis Street. Lewis Street is actually a fairly short street as you can see here that comes off Summerside Avenue which comes off Milford Street. You can't quite see Milford Street here on the map but it is just south of Milford Street. As you come up Summerside Avenue and it is somewhat steep coming up, there is a series of houses that are probably, those are older houses that are probably turn of the century. As you round the corner at Lewis Street, there are more modern houses, probably the 1950's, 1960's. The request in this case is to rezone a number of parcels on Lewis Street from the currently zoning with is R-2 which allows one and two family homes at a higher density to the R-1B which is a single family zoning district. So in essence they are going to move this line here and push it inward to be aligned right here. There are approximately six lots which would be involved. The City actually owns this parcel right here on Lewis Street. There was and this map does not show a new house that was built on this lot which is actually a two-family home that was built fairly recently. You can see that some of the homes here on Lewis Street on the tail end are actually currently in the single family zoning district. So roughly a third of the street is in single family R-1B and the other two thirds are in the R-2. So the request is to extend the R-1B so that all of the lots fronting on Lewis Street would be zoned R-1B Single Family. Generally, R-1B Single Family allows one family homes on lots of a minimum of 7,500 square feet. I would be happy to try to answer any questions of the Board.

Alderman Cashin asked, Bob, I know the Planning Board hasn't met on it, but what is your professional opinion. Do you have any problems with this?

Mr. MacKenzie answered I do know that in several other cases in the City in large blocks of R-2 neighborhoods they have petitioned to bring them down to an R-1B. I think it occurred in the Dunbar Street area and also on Hanover Hill. To my knowledge, those down zonings have, I mean the neighborhoods have been happy with that. It does affect what you can build on the properties. Generally, there is a significant jump in density in the R-2 district. You can build twice as many homes on the same amount of land. I think given the character of this

neighborhood, I think they are all single family homes with the exception of that brand new one. So I think it is reasonable for the Board to consider.

Mayor Wieczorek called for those wishing to speak in favor.

William Sirak, 22 Lewis Street, Manchester, NH, stated:

I am here representing the residents and neighbors of Lewis Street and Summerside Avenue, many of whom are seated behind me. They have come together and formed a petition. I have 14 signatures on the petition and it reads as follows:

Dear Mayor Wieczorek and Aldermen:

The undersigned residents of Lewis Street and Summerside Avenue respectfully request that the remainder of Lewis Street, which is known R1-B west of James Pollock Drive and R-2 between Parker Varney School and Summerside, be returned to its former zoning designation of R1-B to prevent the further development of multi-family residences on Lewis Street which (1) presents a safety and access problem for the students of Parker Varney School and the residents of Lewis Street (and if you take a look at that corner at the top of Summerside and Lewis Street, if a car parked there if we had snow conditions I doubt very much that any kind of emergency vehicle would be able to pass through that area); (2) detracts from the single family character of the neighborhood. (Again I would like to emphasize that this is a neighborhood initiative that has brought us here this evening).

Recent construction of a two family residence at 23 Lewis Street and the full occupancy of 98 Summerside Avenue has resulted in congested parking on the lawns and narrow street and corner potentially preventing access for fire and emergency vehicles, especially under snow conditions, and obstructing vision for motorists of school children walking to and from school.

In support of our request, the Mayor and Aldermen are respectfully requested to review the City's Future Land Use Plan adopted by the Planning Board in 1993, recommending that Lewis Street and designated contiguous streets be returned to a R1-B zone (reference Map J-3).

I think, historically, it has been a single family neighborhood. It was moved to an R-2 and I think based on the Future Land Use as proposed by the City and the current safety conditions, we respectfully hope or the 14 people who signed the petition respectfully hope that you return it to an R1-B.

Dave Kittredge, 35 Lewis Street, Manchester, NH, stated:

I live across the street from Mr. Sirak and I am here in support of this petition. This is a matter that was actually discussed probably over 10 years by the City Planning Board when I was a member of it. Unfortunately, it was really not dealt with at that particular time. The rezoning of Lewis Street is something that should be done mainly because the existing properties there are

predominantly single family residences. There is a new two family residence directly adjacent to my home which has resulted in some considerable loss of value of my home as a result of it being built there. As Mr. Sirak pointed out, and I feel very strongly about this, there is a distinct public safety issue involved here. Lewis Street and Summerside Avenue converge at a 90 degree angle pretty much and the traffic coming and going to and from the school, compounded by the fact that in the morning and the afternoon the young children walk directly in the middle of the street, all of which adds to the potential for a serious problem there at some time in the future. I would just like to state that I am in favor of the petition.

Alderman Cashin stated I just want to go on record in favor of the petition and I would ask this Board to favor it also and send it to Bills on Second Reading.

Mayor Wieczorek called for those wishing to speak in opposition. There were none.

Mayor Wieczorek advised that all wishing to speak having been heard, the testimony presented would be referred to the Committee on Bills on Second Reading to be taken under advisement with reports to be made to the Board of Mayor and Aldermen at a later date.

Mayor Wieczorek advised that the third purpose of the hearing was to hear those wishing to speak in favor of or in opposition to a proposed Ordinance; that the Clerk would present the proposed Ordinance for discussion at which time those wishing to speak in favor will be heard, followed by those wishing to speak in opposition; that anyone wishing to speak must first step to the nearest microphone when recognized and recite his/her name and address in a clear, loud voice for the record; that each person would be given only one opportunity to speak; and any questions must be direct to the Chair.

The Clerk presented the proposed Ordinance:

“Amending the Zoning Ordinance of the City of Manchester by extending the I-2 (Industrial Park) zone to include a portion of land currently zoned R-S (Residential Suburban) in the area generally to the northeast of Zachary Road cul-de-sac (Map 727/Lot 1-I).”

Mayor Wieczorek requested that Robert MacKenzie, Director of Planning, make a presentation.

Mr. MacKenzie stated just to orient you, many of you may know where Zachary Road is. This is Zachary Road coming down to a cul-de-sac. Zachary Road comes off East Industrial Park Drive which is located over here. Some of these other roads you may know. That is Proctor Road and Lake Shore and a little bit further east of this you would probably see Lake Massabesic. There are two zoning districts in this area. There is an I-2 and again that is Industrial Park which allows general commercial, not retail, but commercial, industrial and warehousing. Then you have an R-S which is a Residential zoning district allowing single family homes on roughly one acre of land. To further orient you, you are probably also familiar with a parcel of land called Lake Shore Hospital. This parcel is approximately right here. You

can see the main building, Lake Shore, and then there is also a smaller what we call the white building on the Lake Shore site. This area is directly adjacent to the parcel. The parcel being requested is actually a much larger parcel encompassing an area that goes all the way up to Proctor, Lake Shore and out into what is a major wetland here along Hog Brook. The total parcel is about 41 acres in size, but roughly 1/3 of the parcel right now is zoned Industrial, I-2, that is over here. They are requesting that about 15 acres of that existing parcel be rezoned from R-2 to I-2. The balance of the parcel which fronts on Proctor Road and Lake Shore would remain zoned single family. So the only access to this particular area would be off the cul-de-sac at Zachary Road. Again, all of the properties abutting on Zachary Road are industrial in nature. These are small manufacturing, distribution, warehousing type operations. I think that is all the comments I had at this time. I would be happy to try to answer any questions.

Alderman Wihby asked Lake Shore, where is that, the hospital.

Mr. MacKenzie answered you can see the building itself is right here. There is a parking lot and then there is the small, what I call the white building right there. So it is just to the south of this property.

Alderman Wihby asked where is the road to get into Lake Shore.

Mr. MacKenzie answered they come in right here at the cul-de-sac and then there is a driveway that comes off the cul-de-sac into a parking area.

Alderman Wihby stated so a right would take you there and a left would take you to the warehouse.

Mr. MacKenzie replied correct.

Alderman O'Neil asked is there presently a buffer on that line between the R-S and the I-2.

Mr. MacKenzie answered currently this is all a wooded area.

Alderman O'Neil asked how about the existing I-2 line there.

Mr. MacKenzie answered this is the existing I-2 line. It is all a wooded area.

Alderman O'Neil stated so the only building is the one that is down just north of Zachary Road right there.

Mr. MacKenzie replied yes. This is all a wetland. In fact there are a number of wetlands on this site. This is all a major wetland along Hog Brook, but also there are wetlands encircling an area here and also up right in here.

Alderman O'Neil asked so they are limited on...

Mr. MacKenzie answered it looks as though they would be limited to what they could develop to an area that I am circling right here. There is kind of a knoll, a wooded knoll and that is about the only place they could develop. They have shown what they could potentially put on that property.

Alderman Pinard stated anybody that is interested, tomorrow morning at 9 a.m. I will be viewing that site because I feel that there could be land lock so anybody interested in coming meet us there at the entrance of Lake Shore at 9 a.m.

Mayor Wiczorek asked who is going to be there.

Alderman Pinard answered the gentleman right there who wants to purchase the property or change the zone.

Alderman Clancy asked what is your name sir for the record.

My name is Dan Callaghan and I will be speaking.

Alderman Pinard reiterated anybody who is interested please come down so we can all have a viewing and see if there is going to be land lock. If there is, we will have to take it from there.

Mayor Wiczorek called for those wishing to speak in favor.

Atty. Daniel J. Callaghan, 111 Amherst Street, Manchester, NH, stated:

I am a lawyer at Devine, Millimet and Branch in Manchester. I reside at 505 River Road in Manchester. We represent the property owner, Mr. Peter Horne, who is here with me tonight. What we are seeking to do as Mr. MacKenzie stated is to rezone 15 acres of land that is currently zoned residential property to the Industrial-2 zone so that we can build some industrial use on our property. Currently, about half of the property is zoned Industrial-2 and the other is zoned Residential, R-2. If I can approach the plan I can show you the property. This bright orange line is the existing zoning line. This piece here is approximately 20 acres. This is the current zone

I-2. It all one piece of property, but in order to access this piece of property we would have to come in off the cul-de-sac on Zachary Road and cross wetland. This section of 20 acres that is zoned Industrial is currently all wet and cannot be developed. The balance of the property, which is as I am tracing it, the zoning line is all zoned Residential. What we are requesting tonight is that this red line be the new zoning district for Industrial. This would be Industrial and that this piece remain, approximately 5.6 acres, Residential. It fronts on Proctor and Lake Shore. The only place that we can develop on the property is in the Zachary Road parcel here

which is all wetland and what is not shown is on an island of upland which is shown in green where we have shown a proposed site. We have not submitted anything to the Planning Board yet. The other possible use we are contemplating is a commercial office for research and development. The balance of the zoning line is here. This property would have only one use on it. The residential property would serve here. The wetland serves as a buffer to the back of the property and this is all wetland. As Mr. MacKenzie pointed out, all of the uses on Zachary Road are industrial. This is important, we believe, in considering this application and Zachary Road accesses 2 use Industrial. The Residential uses would be limited to access on Lake Shore or Proctor. In regards to this plan, I do have...this plan also shows the location of Lake Shore in relationship to the proposed usage and you will note that our proposed use fronts and is directly usable to Zachary whereas Lake Shore is set back of the property. I do have another plan to show you. The first plan I have shows you the entire Zachary Road with location of buildings. Bear in mind again we do not show the wetlands and the other plan has a larger scale just to show you the relationship of the proposed buildings on Lake Shore. I believe I have enough copies. If not, I will provide them. Alderman Pinard has already received his. I would point out to the Board as well that this property is currently treated, on the records of the Tax Assessor's Office, as commercial. The entire 41 acre parcel. It has a land value assessment of \$550,000. We believe the existing conditions to the property warrant a rezoning to allow for some industrial use within this area. I know that you are all aware of the limitations with regard to industrial properties within the City and I would refer to the article in yesterday's Union Leader with regard to the Hackett Hill Road matter and the fact that there is concern about further residential development within the City. I also think it is unwarranted to current residential development which, based upon this site, again assume that this is all residential. Without crossing the wetlands, the only residences that could be put here would be required to access and leave their properties through an industrial road. In addition, we think that it improves the tax base for the City of Manchester. We will be submitting, any plan that we submit will be submitted to the Planning Board and will receive their scrutiny. As Alderman Pinard of Ward 6 said we will be meeting on the site tomorrow. I will be glad to answer any of your questions.

Alderman Clancy asked, Mr. Callaghan, would this be one way in and one way out. Zachary Road would be the only way out?

Mr. Callaghan answered if we had an industrial use, yes.

Alderman Clancy stated in other words, once they went in Zachary Road the only way they could come out would be out Zachary Road onto East Industrial Park Drive.

Mr. Callaghan replied correct, if the rezoning were granted for the industrial use, that is correct. We would not access Proctor or Lake Shore.

Alderman Clancy stated I think one way in and one way out I kind of have a hard time with that myself because I got some streets in my ward where the one way in and one way out and say a catastrophe or something happened on the corner how would you get by.

Mr. Callaghan responded well I think if there were an issue with regard to accessing the property when we actually do the development, I believe the Planning staff would want to insure that there was sufficient ways for the property to be accessed by emergency equipment and we would obviously make those provisions with regard to that. I believe a lot of the other properties that are shown in red along Zachary Road have the same circumstance.

Alderman Clancy replied yes, I know what you mean but I am just saying you are quite a ways in when you are going this way where the ones on Zachary Road are before the Lake Shore Road and they are only maybe...

Mr. Callaghan interjected that is clearly within the purview of the Planning Board and Planning staff and I know that in my experience with other developments, they will want to insure that they do have adequate access to the property. The concern that we know would be addressed by some of the neighbors who live on Proctor or Lake Shore is that they may not want an industrial use to use access onto predominantly residential streets.

Alderman Clancy stated it would be something similar to the Mall where they could access on to Huse Road in case of an emergency.

Mr. Callaghan replied that may be the case. The Planning Board may require an alternative access for use by emergency people only and that would not be a problem.

Alderman Wihby stated, Dan, I think you touched upon...if you look at the map up there if you extended your whole area and took the top part where you want to leave as R-2 and made it all industrial you would be abutting those streets and those are houses, is that what I see along that whole road. There is no area there that is not buildable that wouldn't interfere if you had traffic over there or are we just causing a problem on another road?

Mr. MacKenzie answered I think there would be significant concern by the neighborhood if you extended an industrial street out connected to either Proctor Road or Lake Shore. I think there wouldn't be that concern if it was an emergency drive which the Planning Board has required before, gated emergency access because that happens frequently.

Alderman Wihby asked, secondly Dan, what do you say about Lake Shore property and if we are going to have children there and what is going to happen at that intersection. I think that is...I think we all know that is probably the biggest concern that people have with this development.

Mr. Callaghan answered I guess the question would be is exactly what our use is. We decided to show a warehouse as being probably the more intensive use instead of an office space. I think that, again, is a Planning issue. We can regulate traffic flow in terms of hours of operation. If there is a school at Lake Shore, Lake Shore I assume if we weren't there you would still be having school children going through an industrial street which is a question that you all have to ask. Zachary is an industrial street and I don't know what conditions you would impose in terms of improving Zachary for the protection of children. The property is set back far enough away that presumably, Lake Shore's property, that buses presumably would be accessing the property and turning around and that sort of thing so that you could alleviate that. I believe the Planning staff could also regulate the hours of operation of the intense use of the property to protect on that. I don't see that as a problem.

Alderman Wihby asked is this a new person owning this property.

Mr. Callaghan answered yes. Mr. Horne purchased the property and I do, after the Clerk has read a short memorandum, outlining...at Bills on 2nd Reading you may recall, Alderman Wihby, there was a question as to what percentage of the property was being rezoned. It is about 50-50 in terms of current zoning and there is...

Alderman Wihby asked if you didn't rezone it, what would be there.

Mr. Callaghan answered if we did not rezone, we could put residential houses.

Alderman Wihby asked single.

Mr. Callaghan answered single, it is an R-S zone and we could locate them on this buffer here and here and you would be requiring residences to use Zachary Road, an industrial road. That should be a view of this ward in terms of the best use of this particular piece of property.

Alderman Wihby asked how many houses could go there.

Mr. Callaghan answered I am not sure. It is about 20 acres of land, some parts are wet.

Alderman Wihby asked are we talking 5 of 100.

Mr. MacKenzie replied no, since it is zoned R-2 they require one acre lots, so on that upland area you might be talking 10.

Alderman O'Neil asked, Dan, with regards to Lake Shore no matter what goes there there is going to be a natural buffer. You most likely will not be able to see because of the wetlands.

Mr. Callaghan asked Lake Shore or...

Alderman O'Neil replied no, the hospital itself, the site. You most likely would not be able to see whatever is built there, correct. Just looking at it here.

Mr. Callaghan answered I believe so. This part is on Lake Shore's property and I don't know what they have on their particular property. The green area is dry. The tan area is wetlands. So presumably nothing would be built there by them. The balance of our property is mostly wooded at this point and we don't plan to go into obviously the wetland area or the green area.

Alderman Shea asked, Dan, refresh my memory. How much of the R-SM will be rezoned to add on to the I-2?

Mr. Callaghan answered there is a little bit more than 20 acres of R-S land and we are asking to rezone about 15 acres. To be exact, 15.111.

Alderman Shea asked is that primarily wetlands that you are not rezoning and you are going to leave the wetlands, is that what it is.

Mr. Callaghan answered yes. This is the residential piece. This is about 20 acres of land. Within the 20 acres of land, all of the shaded portion which I believe is about 5 acres here is wet. That will be rezoned and could not be used for anything. The 20 acres of wetland as located here and not shown in the plan are also all wet and will not be rezoned and could not be used. The wetland will remain in the residential zone.

Alderman Shea asked so you are trying to rezone the residential to industrial so as to build an industrial type of structure. Maybe Bob and then I will go back to Dan, what findings were submitted by the Planning Board in this regard? Anything at all?

Mr. MacKenzie answered the Board of Mayor and Aldermen have not requested any findings from the Planning Board.

Alderman Shea replied so there were no findings. Okay, back to you Dan. Have any impact reports been received from the Conservation Commission at all regarding this particular project?

Mr. Callaghan answered not that I am aware of but I don't expect there would be because we have not submitted anything formally to the Planning Board. Once we do submit it to the Planning Board all of the departments within the City, including the Conservation Commission, would respond.

Alderman Shea asked how about the Highway Department.

Mr. Callaghan answered again, same response.

Alderman Shea asked the Water Works.

Mr. Callaghan answered again the same response.

Alderman Shea stated so basically the Board here, or the Bills on 2nd Reading, is asked to make decision but we really don't have anything from the Planning Board, we don't have anything from the Water Department, we don't have anything from the Highway Department, we don't have anything from the Conservation Commission. I mean what comes first here? Shouldn't we, I mean this isn't directed to you, but Bob MacKenzie, shouldn't we have some information so that when some particular areas are rezoned that a decision can be valid or could be based on what impact this could have. I mean whose responsibility is this for people on the Aldermanic Board to make decisions that are going to be helpful to the community at-large?

Mayor Wiczorek stated I will let the Chairman of the Bills on 2nd Reading answer that.

Alderman Wihby replied everybody has this in their packet under 11. If you pull this out, my recommendation would be basically what Alderman Shea is saying. On the top there it says Planning Board may make recommendations. I thought we always did it shall make the recommendation and then it comes down that way. I always thought when we sent these things out the Planning Board always came back to Bills on 2nd Reading and gave us a recommendation. We didn't have to listen to it, but at least we had the recommendation. I would suggest that this plan doesn't say may but says shall make. We have never asked you, Bob, in the past on every single one to give us an input. It comes. Is this a different plan or something?

Alderman Pariseau stated Bills on 2nd Reading Committee has requested information from the Planning Board.

Alderman Wihby replied we have always requested information and always acted on a recommendation, always.

Alderman Pariseau stated the Bills on 2nd Reading it did. It comes to this Board now...

Alderman Wihby interjected no it used to come here in a public hearing. We used to have a recommendation from the Planning staff.

Alderman Pariseau replied it doesn't work that way.

Alderman Wihby responded it has always, always worked that way.

Alderman Pariseau replied no it hasn't. It has come to this Board for a public hearing, then it goes back to Bills on 2nd Reading. When it goes back to Bills on 2nd Reading, the Board or the Committee on Bills on 2nd Reading ask Mr. MacKenzie to get input from the Planning Board and that is the way it happens.

Alderman Wihby responded no. Mr. MacKenzie, have you not given us a recommendation at the Public Hearing on development.

Mr. MacKenzie answered roughly 1/3 of the time, the Planning Board has reviewed rezoning requests and provided a recommendation. In those cases, they were aware of the project in advance, they knew what, perhaps, they wanted to build and perhaps even had been asked before that. Typically, in 1/3 of the cases the Board has asked the Planning Board to respond and in roughly 1/3 of the cases the Planning Board has not provided any response and the Board of the Mayor and Aldermen has acted.

Mr. Callaghan stated our client, Mr. Horne, purchased the property and believed that the better marketing plan was to first have a portion of the property rezoned to I-2 so that we could market to the appropriate industrial user and then we would submit that to the Planning Board and go through all of the site plan and other requirements and all of the different boards of the City would respond. If, in fact, we did have a user presently, we didn't, we would have gone to the Planning Board which would have told us to wait until the rezoning occurred. So there is a chicken and egg response and I recognize what Alderman Wihby has said with regard to that but we think we have proposed a plan which does respect the wetlands because we don't touch them at all. In fact, development uses Zachary Road at a place where the wetlands do not have to be crossed. I believe we stayed away from the water piece and that is another thing I want to put up. The parcel of the property that is wet is also subject to the Water Works easement which cannot be built upon and a large Public Service easement under which we cannot build.

Alderman Shea stated how close will the wetlands be to the industrial park or the industrial building that you plan on...

Mr. Callaghan answered it is depicted on the plans you see there. I don't know the specific dimensions but the building is set back away from the wetlands and may be shown on the plans you have there. The tan area is the wetlands.

Alderman Shea replied so it would be close to it though, huh.

Mr. Callaghan responded and again, we would be willing to provide the protection.

Alderman Shea asked if it is close to it, consideration must be given to how drainage problems will be influenced by more impervious materials. You understand what I mean by impervious materials, such as driveways using asphalt, spillage of oil and fuels resulting from trucks and so

forth and because of land loss, the absorption capacity which was once land cannot be used because it is being used for parking. These considerations are not being taken into consideration with all developments and that is why this Board here doesn't always understand these particular problems and that is why we depend upon the Planning Board to give us these types of responses and if we don't get them then this is what is happening in our community. There are a lot of developments going up because lawyers and other people are coming in and they are able to present certain types of marketing situations and Aldermen aren't up to par in terms of understanding all these things. It is impacting certain parts of the City more so than it should and that is really what my concern is as an Alderman.

Mr. Callaghan answered I appreciate your concern and I do know from my experience with the Planning Board, that if we submitted this plan with a tenant or user in mind, that they would require specific drainage plans. I would point out that we are not building in any of the wetlands and in fact we have 20 acres of wetland property that if this were granted we would not use and we would be glad to dedicate it to the City.

Alderman Shea replied yes, but we are talking about the timing. So important. We are always talking about how timing affects certain decisions and if the Board of Mayor and Aldermen decides to rezone this, the timing then is what are we going to do in order to get variances and other types of situations. That is why it is so important, before rezoning is done, that people understand this and decisions that Aldermen make are really so vital and important when rezoning takes place. That is what I am talking about.

Alderman O'Neil stated we have got to be careful. We can't be blaming the people trying to do this project for this if the process in the City isn't right that is what we need to change. I know there has been talk about this Technical Review Committee where there would be a checklist, to have the Conservation Commission, Highway, Police, whatever, but we can't blame them for this process.

Alderman Shea replied I am not blaming them.

Alderman O'Neil responded well they are presenting rezoning based on current procedure and how to do it. We are asking them questions. They don't know exactly what they are going to put on it.

Alderman Shea replied you can defend them if you want.

Alderman O'Neil responded well I am not defending them but if the process is wrong, we need to change the process but we can't be taking it out on developers.

Alderman Girard stated I think the question for the Board is whether or not the highest or best use of this land is industrial or residential. I mean the merits of the particular plan or what may

or may not go there, I think the Planning Board is where any site plan development would go. The first hearing we had tonight was to rezone a piece of land so that it fit with the residential character of a neighborhood. We went from Industrial to Residential. This is just exactly the opposite. If the question is what is the highest and best use of the land given the surrounding neighborhood, the only question that I would have for either Mr. MacKenzie or Mr. Callaghan is in the area that you can develop or from the area that you can develop what is the distance to the houses on Proctor and Lake Shore Road and what is the distance to the Lake Shore Hospital. I mean I think the concern as to whether or not it is the appropriate use has to be how it would impact the residential use that is already there. To be candid, I don't see that parcel every being developed residentially. The one that you are talking about Mr. Callaghan.

Mr. Callaghan answered this would be the portion of land that we would rezone I guess. The property line for residential is 170' on Lake Shore Road. That is the closest that this reaches Lake Shore Road. I believe this house is at the elbow which is about here. So to the zone line, at least 170' and as you can see from this plan, the house is here, the building is going to be about 400' to 500'.

Alderman Girard replied so there is a significant natural buffer.

Mr. Callaghan answered right. There is a buffer anyway and as I understand it we own this portion that abuts, that fronts on Lake Shore and Proctor. There are no house on that side of Lake Shore or Proctor that abut that. In addition, this is all woods from here on. I don't know exactly where the houses are located. So we have this wetland and again we are not building on this.

Alderman Girard asked so really you are talking about affecting how many, how many actual residences are within 300' of where you are building the thing.

Mr. Callaghan answered I could not answer that. I would refer to our engineering but I am not sure that if you use 300' from the building I am not sure there are any.

Alderman Girard asked, Mr. MacKenzie, I know you have been asked before and it is similar question posed at the first hearing. Is this an appropriate use of the land and perhaps we have to ask the Planning Board for a formal recommendation, but do you ever see that being developed as a residential parcel given where it is?

Mr. MacKenzie answered I think in most cases the developer would only want to develop that if he could somehow get access back to Proctor or Lake Shore. I would find it hard to believe that the developer would want to empty a fairly nice residential project directly out into an industrial park. So unless somehow they could develop a large scheme and cross, in essence, two wetlands to get out to either Proctor Road or Lake Shore, it would be more difficult to develop that residentially. And, of course, both Proctor and Lake Shore have their own difficulties with

receiving much more traffic. They are relatively narrow, more country roads and part of Proctor and part of Lake Shore are also in poor shape. So I think ideally if this site was going to be developed residentially, it should access not Zachary Road but in the other direction. But as you can see, the wetlands almost carve this site into a few different chunks of parcel. Again, the tan areas are the wetlands. You have the area that is shown with a building closer to Zachary. In order to get out to the other two roads you would have to cross wetlands and you do have to get permits for that.

Mr. Callaghan stated there was one letter that was in the file from representatives from Lake Shore Hospital and if I could briefly respond to that. It was delivered to the Mayor and Aldermen on January 26 and as I saw it there were four issues that were raised. The first one was that this would be an Industrial-2 use and that those uses would be allowed, because we don't have a specific use of any industrial use and that is the same with regard to any zoning request but more importantly the Planning Board can regulate any type of use which has an adverse impact with regard to that and we also to the extent that I, one person had raised the issue about and I hesitate to say it, but a waste transfer station. I would commit, on behalf of my client, if the property were rezoned we would put a restriction on record that would prohibit that use that would be binding on other owners. With regard to the second comment, they essentially and I am quoting "there is an abundance of other available locations in the I-2 zoning district that would not require rezoning of one of the few remaining undeveloped residentially zoned areas in the City of Manchester." I refer you to yesterday's Union Leader article with regard to Hackett Hill Road which said exactly the opposite. There is very little industrial land in the City of Manchester and, therefore, current businesses are relocating outside of the City. The third comment was that this was a host of one of their few remaining undisturbed natural wetlands. Correct, but the wetland is not being disturbed. Finally, with regard to Universal Health and its possible sale to the City, we see how close or how far away depending on whether the glass is half full or half empty, Lake Shore is from this particular project, we would recognize that whatever use we had that if there was a school in that area or a hospital or any other use that the Planning Board could regulate the hours of operation to assure that that would be addressed. I appreciate the opportunity to meet and if you have any questions for Mr. Horne, he is here.

Mayor Wieczorek called for those wishing to speak in opposition.

Atty. Gary Hicks, Wiggin & Nourie for Universal Health, Manchester, NH, stated:

I represent Universal Health, the owner of the Lake Shore Hospital. I appreciate very much Dan's presentation and Mr. Horne's concerns expressed here tonight but we are very strongly opposed to this rezoning application. I would like to make one correction. Mr. Callaghan pointed out that all of the uses now on Zachary Road or he said that all of the uses now on Zachary Road are industrial well there is one glaring exception to that and that is indeed the Lake Shore Hospital. That is clearly in the R-S zone. We had to be a disagreeable neighbor and my client, in fact, is tired of being neighbors with anyone in the City of Manchester and we are

very concerned that the rezoning proposal, an R-S zone to an I-2 zone will adversely impact any realistic use of the property of Lake Shore Hospital as currently configured. Let me be very brief because the hour is late. We stand by the positions taken in our letter. As to one issue that was raised regarding buffer zones, I think the buffer zones are pretty much in the eye of the beholder. If anyone thinks that there is a meaningful buffer zone between the Lake Shore Hospital buildings and this proposed use or if anyone thinks there is a meaningful buffer zone between the homes on Lake Shore and Proctor and this proposed use, I suggest they do go down and take a look at the property. The use of this, one of the proposed uses of this facility is frankly noisy. A 24-hour, high bay truck distribution center. In New England, many times they run the trucks 24 hours like they do in the rest of the country and they don't turn them off. I could go into further detail, but we have stated pretty much in our letter our concerns. The other concern I heard tonight was the traffic access in and out of Zachary Road. Again, much like the buffer zone, if you think that can be solved with proposed use or proposed zoning change in terms of accommodating school buses, accommodating parents, and accommodating 18 wheelers, please go down in your automobile and drive the road.

Alderman O'Neil asked about the traffic pattern now. I live out in that section of the City. On East Industrial Park Drive, as well as Zachary Road, as far down as that property.

Atty. Hicks answered the traffic pattern, as I understand it today given the current zoning use is not very heavy down Zachary Road. There wasn't much action there today and I think that if you altered the zoning to I-2 you are going to increase the traffic whereas right now I don't think you have a traffic problem in terms of ingress and egress through the cul-de-sac at Zachary Road.

Alderman Girard stated just to follow-up on Alderman O'Neil's point, Atty. Hicks, whether Zachary Road itself has got that much traffic, East Industrial Drive certainly does with the number of vehicles that are going in and out of there, trucks and school buses, I mean you are still going to have the same problem. I understand your position because there is currently negotiations going on between the City and your client to buy that to turn it into a school so I understand the interest you are trying to protect but to say that it is going to be better because there won't be any kind of so-called industrial traffic on Zachary but to neglect that it will be all over East Industrial kind of seems inconsistent to me.

Atty. Hicks answered it doesn't to me because the traffic that exists on East Industrial would not be altered. The traffic that exists on Zachary which is now reasonably acceptable and at a comfortable level would be dramatically altered if this parcel was changed to I-2. It is, I would encourage all of you to go down there and drive down Zachary Road because it is a bottleneck. If you start adding traffic more than what currently exists. I would also like to add that I think that, and I wasn't around, but I think that the original I-2 versus R-S configuration here was cut out to accommodate the so-called buffer between the R-S zone and the homes on Lake Shore

and Proctor and a very legitimate viable plan that the City had for enhanced industrial development.

Alderman Rivard stated I just want to comment on the potential traffic problem down there. I think the school would be the number one generator of traffic if, in fact, it was located there. I did drive on that street today and I have driven on it many times, I just wanted to bring myself up to speed and I don't think that is going to cause a problem rezoning it, personally. I think the school would be the major generator of traffic.

Atty. Hicks answered I understand. The school traffic though would be periodic. A proposed high bay truck distribution center would be constant.

Mr. MacKenzie stated I just had a comment if you were done with this particular individual concerning the process.

Alderman Shea stated Lake Shore does have somewhat of a drainage problem now, I think there is wetlands and so forth. Would there be any impact if this were built in terms of drainage or problems that way?

Atty. Hicks answered Alderman Shea we haven't studied that and I can't answer it. I was done there today and I know that we have had drainage issues in the past. Presumably they would be drainage issues similar to what any proposed development has. Sorry I can't answer your question.

Alderman Clancy stated say that this Lake Shore Hospital does not materialize, the City doesn't, we don't get the building as far the school. What do you propose then?

Atty. Hicks answered on one level I wish I knew. On the other level we still maintain that any industrial use on the adjacent parcel will diminish the marketability and the usefulness of our parcel which remains in R-S for residential purposes.

Alderman Clancy stated you could have a white elephant too you know. You could have a white elephant there.

Mayor Wiczorek commented it has been white for some time.

Alderman Girard stated it is an industrial park. It is at the end of an industrial road. I mean they built Lake Shore knowing that it was in an industrial park so I am not exactly sure really where the concern is coming from.

Atty. Hicks replied we built our facility in a R-S zone reliant upon the fact that it would remain so.

Alderman Sysyn asked you can build a hospital on a residential zone.

Atty. Hicks answered yes, it is a permitted use.

Mr. MacKenzie stated just to comment on the process, I am sure that the Planning Board would be happy to respond to the Board and if the Board wanted to make it a requirement that they respond, I am sure they would happy to do that too. I do have some concerns about having a recommendation though prior to this hearing. I know that when I come to the hearings I always find out a lot of information and it might be premature for the Planning Board, not having heard this information tonight, to prepare and provide a recommendation. I think the best process is that if the Board is interested, I could provide the information from this hearing to them and they could submit a recommendation.

Mayor Wieczorek stated you know as a matter of fact you said exactly what I was going to be...the direction I was going in is this is a public hearing. I think that when you allow the public an opportunity to speak for and against a particular plan, if the Planning Board comes in and makes a recommendation you are already kind of tilting the thing to the people that are here and I think that it is a process that we are going to have to be working through and when it gets to Bills on 2nd Reading, after you hear what the people have to say on both sides of an issue, then you can call for whatever things you require.

Alderman Shea stated there is a distinction between recommendations and findings. No one is coming and saying he should come in with a recommendation, what we are saying is that there should be some type of information called findings, things that are certain, acceptable or not acceptable but we are saying we are not recommending anything at all we are just saying there should be findings. I think that should be part of the Planning Board and I think that probably has been. It would give the people here who don't, I am on the Bills on 2nd Reading, your Honor, but it excludes the other people who have to vote on this because they are not privy to this information and I think it is important. I am not saying I agree or disagree with what has gone on, I am saying that if we have findings we can make a better decision. Isn't that what we should do as Aldermen, your Honor? Make the most important decisions that will affect the quality of life for all the citizens of Manchester and that is really what I am saying here.

Alderman O'Neil stated, your Honor, I can only go back to my previous time serving and I agree with Alderman Wihby. I thought, and maybe the Planning staff used to make a recommendation, not the Planning Board and maybe that is something we need to go back to. You know that they have conferred with other various City departments, etc. Conservation Commission so that we again it would be part of hopefully making the City more business friendly instead of this big, long dragged out process which I think hurts us in some cases.

Alderman Wihby stated when a proposal comes forward, we should be sending it to Bills on 2nd Reading and the Planning staff to review.

Alderman Hirschmann stated not to complicate things but the fellow that is requesting this, does he is he entitled, I mean it almost seems like the City has a conflict of interest here that we are somehow working with this Mr. Hicks for this other parcel. Doesn't this other fellow...it just seems a little a stray here that...

Mayor Wieczorek replied I don't think so. As a matter of fact, we are going through the due diligence right now with the process. We are looking at Lake Shore but we don't know that that is going to be the ultimate decision that we are going to make, that that is going to happen.

Alderman Hirschmann responded but he even said the comment school at one point. Now I am looking at a public hearing and this fellow is trying to request industrial use and in my eyes I go up and down Zachary Road, my distributor is there, it is an industrial space. I don't even think a school belongs down there. That is my opinion. That is how I am going to leave it.

Mayor Wieczorek replied well we have got another couple of weeks before a decision is made because I don't want a short-term solution to the Chandler School problem. I want a long-term solution to it.

Mayor Wieczorek advised that all wishing to speak having been heard, the testimony presented would be referred to the Committee on Bills on Second Reading to be taken under advisement with reports to be made to the Board of Mayor and Aldermen at a later date.

There being no further business to come before the public hearing, on motion of Alderman Pariseau, duly seconded by Alderman Pinard, it was voted to adjourn.

A True Record. Attest.

City Clerk