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**COMMITTEE ON BILLS ON SECOND READING**

**February 26, 1996**

**5:30 PM**

Chairman Wihby called the meeting to order.

The Clerk called the roll.

**PRESENT:** Ald. Wihby, Elise, Clancy, Pariseau, Cashin

**MESSRS.:** V. Goulet, M. Kennedy, M. Lomasney, R. MacKenzie

Chairman Wihby addressed item 3 of the agenda:

Ordinance:

"Authorizing the Mayor to dispose of certain tax deeded property known as 66-68 Orange Street, Map 39, Lot 45."

On motion of Ald. Pariseau, duly seconded by Ald. Elise, it was voted to recommend that the ordinance ought to pass.

Chairman Wihby addressed item 4 of the agenda:

Ordinance:

"Amending the Zoning Ordinance of the City of Manchester by extending the B-2 (General Business) Zoning district into a parcel zoned I-3 (General Industrial) and I-2 (Industrial Park) located at the southeast corner of Huse Road and South Willow Street and owned by Pindot, Inc."

(Note: additional communications enclosed.)

Ald. Pariseau moved to rezone according to the plans submitted by the Planning Department. Ald. Cashin duly seconded the motion.

Chairman Wihby stated the developer was present noting they had worked out some sort of a compromise and suggested the Committee hear that.

Ald. Cashin stated the meeting was a scheduled Committee hearing and not a public hearing.

Chairman Wihby stated the compromise would cut the commercial noting that had been voted on by the Planning Board and was willing to present it to the Committee; that Ald. Domaingue had reviewed it and thought further discussion was warranted.

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Ald. Pariseau expressed his concerns relative to that part of the package that the proposed developer had submitted to the Board of Aldermen on the 21st of February and was not saying it was full of lies, but rather a lot of misrepresentations relative to the criticism of the Planning Board; that the Planning Board had never conducted a public hearing relative to this project noting that discussion was held among the Planning Board at the request of the Committee on Bills on Second Reading which was all that occurred, true there might have been a few Aldermen present but did not think they were there at the end of the last meeting where it was discussed and not having had the opportunity to speak before the Planning Board thought it was because the Planning Board had never received a formal application from the proposed developer so they weren't able to act on it in an official way.

Chairman Wihby stated it was his understanding that the Planning Board knew they could have brought it up at the public hearing and the Chairman of the Planning Board had denied it letting be heard at that first public hearing.

Ald. Pariseau stated that was not true as they had never formally applied for a site plan review or anything else.

Chairman Wihby stated when the Committee on Bills on Second Reading asked for input from Planning they could have taken it up at a public hearing and chose not to and brought it in at the executive meeting and asked if he was correct in his understanding.

Ald. Pariseau stated he did not believe that was true.

Chairman Wihby thought there was time between when the Committee acted and asked wasn't there a time between when the Committee acted and asked the Planning Department to look at it and didn't the Planning Board have a public hearing after that.

Mr. MacKenzie replied the Planning Board did have a public hearing but they would not have had time to notify abutters which they normally did for public hearings; that the Planning Board normally considers rezonings in light of the Master Plan and other issues and had thought that the public hearing should be before the Board of Mayor and Aldermen.

Chairman Wihby stated at the public meeting the Planning Board could have gotten input at that time and could have held a public hearing, and had time to hold one before the business meeting occurred.

Mr. MacKenzie replied the Planning Board had never done that in the past; that their past practice for a long time had been not to allow anybody to speak at the business meetings.

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Chairman Wihby stated so when the Committee sends something to Planning to look at they don't have any input from people.

Ald. Pariseau replied, no; that it was discussed among the Planning Board members and because the applicant had never formally applied to the Planning Department and thought the applicant owed the Planning staff a letter of apology and all the other crap.

Chairman Wihby stated let him speak on the new proposal.

Ald. Pariseau suggested that it be referred to the Committee on Bills on Second Reading or to the full Board and have another public hearing.

Chairman Wihby noted there would not have to be another public hearing as they were proposing to cut down the original site and asked what was wrong with having them speak today showing what they had noting he would allow them time to address the Committee.

A brief discussion ensued relative to the propriety of allowing the applicant to address the Committee.

Chairman Wihby stated any time changes had been allowed on all previous rezonings, so long as the parcel went down in size they never had a public hearing before.

Ald. Cashin disagreed with Chairman Wihby noting that public hearings had been held when rezonings had been cut down.

Chairman Wihby asked Mr. MacKenzie if there were any requests recently when a site was cut down and an extra public hearing had been held noting that by law if the site were increased there would have to be a public hearing, but not if the site was being cut down.

Mr. MacKenzie replied he could not recall the Board having more than one public hearing on a rezoning proposal.

Mr. Lomasney stated he wished to thank the Planning staff for coming up with an alternative noting they had studied it and figured it asked for a 7.1 rezoning from I-3 to B-2, unfortunately, it didn't work well because the hotel was in the wrong place; that the hotel would not go to the front piece that they all want them to go to noting they would go elsewhere and what they had tried to do was to come up with a plan that would satisfy the neighborhood and, hopefully, the Alderman and what they were requesting the Committee to consider was that they would take up a plan which would rezone only the land that the hotel and restaurant are on which was about 7 acres and not rezone the I-3 zone and would leave it as it is and thought the traffic impact would be significantly less, the amount of offsite improvements yet to be determined but would work it out with the

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Planning Board as they had to redo the traffic study and would also accept the deed restriction on the hotel site because they had always promised that they were rezoning the site for a hotel and had promised deed restriction; that they had talked to Bob MacKenzie about it who advised them that if they did what they wanted to do it would be spot zoning so they would change the plan as they spoke about; that they were asking to rezone the hotel piece, at least 100 feet into the wetlands because whoever owned the piece ought to own a piece of the wetlands the reason being it would protect whoever owned it and having someone go in and dumping over the guardrail, etc.; that they would need about two acres for a restaurant noting that Bob MacKenzie had advised that if it were rezoned the way they wanted to it would be spot zoning so Bob suggested they rezone a strip which would make it contiguous with a little piece of the B-2 and another piece and would not be spot zoning; that they would need to pick up parking spaces in order to satisfy the restaurant.

Chairman Wihby stated the retail/commercial was gone in that plan and they were willing to give a deed restriction on it and also something which Bob wanted.

Mr. MacKenzie interjected that it was felt it was necessary to get a commitment that the necessary improvements as determined by the City would be done.

Ald. Cashin asked Mr. MacKenzie if he agreed with the proposal.

Mr. MacKenzie replied they had said they were interested in rezoning the site just for the hotel and the restaurant noting he had recommended against it as he had considered that spot zoning; that if they wanted just those two site rezoned he thought that was the only way it could be done would be to extend the zoning all the way to So. Willow Street and would be hesitant to offer the recommendation since he had not yet talked with the Planning Board but it did address two of the many concerns that the Planning Board did have.

Ald. Cashin asked if it should go back to the Planning Board for evaluation prior to Committee action being taken.

Mr. MacKenzie stated he was unsure as to what additional comments the Planning Board would have.

Ald. Cashin asked what could be built there.

Mr. MacKenzie replied in I-3 could be industrial uses, restaurants without liquor, and also an auto sales building could be on that site.

Ald. Cashin asked if it was all owned by the same developer.

Mr. Lomasney replied, yes; that he (Mr. Nault) owned all of it.

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Ald. Cashin asked what Mr. MacKenzie's recommendations were. Mr. MacKenzie stated since he was representing the Planning Board's views he could not say he would recommend it at this point.

Chairman Wihby asked if the proposal eliminated a lot of the problems they had with traffic and the concerns as it seemed according to the article in the paper today that everyone who had been called everyone had said they didn't have a concern with a hotel being there and one of the comments of the Planning Board had been that they wanted a deed restriction so that someone couldn't change their mind later and put something else in noting that a deed restriction would take care of that.

Ald. Cashin asked where the curbcuts were. Mr. Lomasney made reference to a curbcut on Huse Road and recalled having discussed it with Bob noting that Bob recalled that the gates to the Mall of NH would not be opened onto Huse Road because of four people and as long as those four people lived there they would not open the gates and three were now gone but the fourth was still there and would, therefore, not open the gate; that it was his understanding that was the agreement and asked what was beyond that.

Mr. MacKenzie stated there was a court case and there had been concerns about opening the Mall onto Huse Road and thought the City had been concerned about it also and ultimately the neighbors had brought a court case and agreed that of all the five people involved in the court case they would not open the gates from the Mall onto Huse Road while they were still in those residences.

Mr. Lomasney asked Mr. MacKenzie if he knew of any restriction that would restrict them from having a curb opening. Mr. MacKenzie replied there would be no restriction against it as it was an industrial area noting the site had been rezoned previously for two auto dealerships and the Planning Board's concern had been, at that time that there be no main access onto So. Willow Street.

Ald. Pariseau asked how many acres would be involved where the hotel was. Chairman Wihby replied, seven acres altogether.

Ald. Pariseau stated that the hotel people had indicated they only needed 1.95 acres. Mr. Lomasney stated it did not take into account the slopes and the wetlands; that there was a parcel which was 3.8 acres as they wanted the sewer and the drainage to be on their lot and wanted them to own a piece of the wetlands; that they also needed about two acres for the restaurant and that was why they had stated less than seven acres but wanted to work something out with the Planning Department and if they could narrow it down and show that they would not build anything in that area they would do it.

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Ald. Domainque thought the survey she had conducted was pretty representative of the people in the neighborhood noting that their main concern had been the retail and had a personal question regarding the hotel itself which was why they would want to come only onto that site and not somewhere else; that if there was any traffic of any sort of any volume which would go to the restaurant and if that was what it would take to find a solution to the taxpayers felt it was needed to the people who live in the City to find a compromise.

Chairman Wihby thought it worked well especially with Bob's recommendation to write in something if someone else bought it, it was written in that they would have to take care of the traffic problems noting it seemed fair.

Mr. Lomasney stated he had talked to Clayton LaBarre several times noting they would like to find a location close to an arterial road noting in Andover on I-93 over the river behind that was a big courtyard, full of woods with 140 units for businessmen and families who did not want to be in vicinity of music in the cocktail lounge or in the vicinity of a convention, they wanted to be away from the traffic and noise.

Ald. Domainque asked if the deed restriction was big enough so that if they decided not to build there that it would revert back to the original zone.

Chairman Wihby replied Tom said he could put in whatever was necessary.

Ald. Domainque asked if a public hearing would be required as a result of the proposed changes.

Mr. MacKenzie replied a public hearing would not be required at this point as it was being downscaled from their original request of 43 acres, so it would be up to the discretion of the Board.

Ald. Pariseau asked if it would go back to the Planning Board.

Mr. MacKenzie replied it would have to go to the Planning Board for site plan review at which time all of the traffic details would be discussed.

On motion of Ald. Elise, duly seconded by Ald. Clancy, it was voted to recommend that the Ordinance ought to pass with amendment to reduce the area as outlined by the Planning Director through map illustration and subject to agreement of a deed restriction on the hotel and the condition that traffic improvements be made as deemed necessary by the City. The motion carried with Ald. Cashin duly recorded in opposition.

Chairman Wihby addressed item 5 of the agenda:

Communication from Raymond Labore relative to impact fees.

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Chairman Wihby noted Ald. Soucy had received this letter and as she was unable to attend this evening's meeting requested that this item be tabled at this time and that Planning would provide further information to the Committee at its next meeting.

On motion of Ald. Pariseau, duly seconded by Ald. Elise, it was voted to table the communication from Mr. Labore.

There being no further business to come before the Committee on Bills on Second Reading, on motion of Ald. Cashin, duly seconded by Ald. Pariseau, it was voted to adjourn.

A True Record. Attest.

*L. Bernier*

Clerk of Committee

