

## COMMITTEE ON BILLS ON SECOND READING

**September 22, 1999**

**Immediately Upon Conclusion of PH**

Chairman Wihby called the meeting to order.

The Clerk called the roll.

**Present:** Aldermen Wihby, Sysyn, Shea, Cashin

**Absent:** Alderman Klock

**Messrs.:** R. MacKenzie

Chairman Wihby addressed item 3 of the agenda:

3. Ordinance Amendment:

"Amending the Zoning Ordinance of the City of Manchester by extending the B-2 (General Business) zoning district along South Willow Street to include land identified as TM854-Lot 1, TM854-Lot 2, TM845-Lot 1, TM845-Lot 1A, and TM852-Lot 1 currently zoned I-1 (Airport Industrial) and I-2 (General Industrial) and having a total area of approximately 33 acres."

(Note: public hearing held on August 23, 1999.)

Chairman Wihby stated we had a public hearing on it and I don't think anybody spoke against it, am I right, Robert. Did anybody speak against this at the public hearing, I don't think so or was there, speaking against.

Mr. MacKenzie replied I'm trying to remember is Artemis Paras spoke with concerns on this particular rezoning.

Chairman Wihby stated I don't remember...the Planning Board looked at it...can you tell us...go from there.

Mr. MacKenzie stated I know the Planning Board had briefly discussed it, but gave no recommendation on this particular one. I did just want to lay down perhaps some issues to discuss with you because these issues in the past have been somewhat controversial and have typically set precedents for other changes and, at this point, I don't have a formal recommendation for the Committee, but I did just want to outline these issues if the Committee was going to take an action. This first issue and there are only three issues so I'll try to run through these quickly. One is that there is a need to identify a clear cut boundary between the retail area on South Willow and the industrial. This is one of the last industrial areas that we have in the City and we have to clearly identify one because it tends to encroach if you don't have a very clear cut boundary. The other reason for protecting or creating a line is that we, the City and the State and even private developers have put a lot of money into South Willow Street to add traffic capacity. So, we don't want to rezone too much land because commercial land will eat into that traffic capacity. In this particular case, for the past four, five or six years there has been a line drawn at Cohas Brook, however, there are commercial uses past Cohas Brook. Also, in this case, the Economic Development Director has indicated and we do typically ask him whether the property is more reasonable for commercial or more reasonable for industrial. In this case, the Economic Development Director has said that these parcels are more appropriate for commercial/retail than industrial. Also, in this case, it has been argued that the new Airport approach area because it is going to be undeveloped could create a new and very visible boundary and I do agree with that that it could create a new boundary, however, I think it would be important if the Board does act to rezone these properties to make a clear cut policy creating a new boundary that it's not going to recommend any further rezonings to the south of that or is going to encourage any variances by the Zoning Board of Adjustment to the south of that. The second main issue concerns traffic...historically the Master Plan and others have been concerned about traffic on South Willow because that has historically been upsetting for a lot of people and there has been safety and other concerns with traffic. Typically, when you rezone from industrial to commercial you do have more of a traffic impact. Rezoning can bring added value to these property owners, but can bring additional burdens to the City. So, the City has tried to take reasonable steps in making sure that if a property is rezoned or developed that traffic impact studies are paid to help pay for some of the added burden on the City. And, there might be some impact on residential areas, I wouldn't say it's significant, but this particular area you may have people that could shortcut out Goffs Falls Road to the Pepperidge/Westwood Drive area or out Huse Road to the other residential area, it's probably minimal...in fact, the City has been addressing some of those traffic problems, but it does cost money to address those traffic problems. So, I would suggest that if you consider acting on this that some type of traffic impact fee either at the Board of Mayor and Aldermen level or historically it's been at the Planning Board level

because then you know exactly what the project level, how many trips are created, and the Planning Board has assessed a traffic impact fee all along South Willow Street. So, my final comment, the third comment is that we understand from the Airport Authority that the Airport approach has not been finally determined yet...FAA has not approved that and there may be some effect on the building locations adjacent to the runway...I don't believe it's going to be a significant impact, but I did just want to provide that as information to the Board. I'm not sure if that should play an actual role in the Board's action, but I think the applicant and owner should be aware that the Airport is trying to pin down those boundaries for the new expanded or extended runway 6-24. At this point, I just want to identify those and see if I could assist the Committee in any way.

Chairman Wihby stated a couple of questions. One, is normally, like you said the Planning Board or staff makes recommendations to take care of the money for added traffic or whatever, why do we have to handle it here. Normally, you do it there.

Mr. MacKenzie replied the Board did, at one time, request it of the property at the corner of South Willow and Goffs Falls Road, there the developer as part of the rezoning made a contribution...

Chairman Wihby interjected he offered it though...the Planning Board or staff can go ahead and negotiate and make it one of the conditions, right.

Mr. MacKenzie replied yes if the Board of Mayor and Aldermen stay comfortable with that approach that is a reasonable approach and since you know what is being developed you can reasonably assess that development a fair and appropriate share of traffic impact. If the Board is comfortable with that, we can continue with that.

Chairman Wihby asked if that was to be approved you'd want it to be defined as this is basically the last lot...we're not going to go any further south, do you have some sort of language you want us to use if this goes through...

Mr. MacKenzie replied I don't have any well-written language, but I think it should be understood that the Board in acting draws a clear line and that for the reasons of both traffic impact and protecting industrial land that they don't want to see rezonings go any further south.

Alderman Shea stated I've spent a lot of time with this particular issue and I'd like the members of the Committee as well as the general public to bear with me as I go through this. I have before me, Mr. Chairman, the Master Plan which was adopted November 10, 1993 and I'd like to make reference to J14 No. 5 South Willow Plan and in it it says "the South Willow Street is a special case in terms of existing commercial areas within Manchester. Anchored by the Mall of New Hampshire, the South Willow Street corridor has grown into one of the larger concentrations of commercial/retail establishments in the region. The demand for additional commercial land along this corridor has led to conflicts among competing commercial, industrial and residential land uses. A policy directive which should be implemented by the City for future development within this corridor is presented in the issues and directions sections at the end of the chapter." I now make reference to J17, issue JA-A1 4 and in it is says "in order to preserve the availability of industrial land and to preserve an adequate traffic capacity serving this industrial land, the Manchester Airport and the general South Willow Street area, the Planning Board shall establish a limit of future commercial expansion along lower South Willow Street in the vicinity of Cohas Brook." There are certainly other issues that I would like the Committee to consider. I am not, at this time, familiar with an Airport Master Plan, therefore, I would like to learn how much land area they have acquired, how much additional land needs to be acquired for officials at the Airport to accomplish their tasks, does the Airport Authority have an I-1 Airport zoning acreage, is the Airport Authority considering additional land expansion and, if so, where, when and why. And, I'd like to refer to the New Hampshire Planning and Land Use Regulations, page 134 entitled XXIX Aeronautics, Chapter 154 in our Code of Ordinances which again bear witness to the Airport. The other point that I'd like to bring up is in the petition for rezoning number 5, page 2 I have concerns as you do, Bob, about long-term impact of traffic relating to the commercially developed properties without knowing the intent of this site. They checked with the State, but they didn't give us any kind of planning. I have also concerns relating to the City's financial responsibilities when commercial properties require sewage because there's wetlands and we both know that twenty percent of the road construction costs are borne by the City, 80 percent by the State. I also...and you have made reference to the limited industrial areas within our City. Density allows for commercial developments under B-2, but under verses I-1 and I-2 this referenced zoning ordinance which was adopted January 5, 1965, page 42, section 501 has to do with the height, the area, and the bulk regulations. Now, under commercial property the principle use under B-2 allows for high density of land use which means...and I don't want to bore anyone with anymore facts, but the point is that as we both know that high density allows them to build a four-story building on that land and occupy one hundred percent of it whereas under I-1 and I-2 they have to have frontage and they can only, I think, have a .05 which would be less density, so I'm

not opposed to this particular project at this time, but I do think that we are premature in granting this zoning at this time because I don't really think we have enough facts available. So, there is also the New Hampshire Planning Land Use Regulations which I have here as well under .197 which is the Master Plan for the State and that explains also purposes and descriptions and as both Jay Taylor and you at your presentation indicated and again I want to reemphasize this that we have very, very limited industrial space within our City confines here and if we develop this commercially that will lead to less industrial use at a future date.

Chairman Wihby asked can you answer all of those questions, can you answer any of them.

Mr. MacKenzie replied I'm afraid I didn't write down all of those questions...in terms of the regulations we do understand that there are several regulations dealing with zoning changes. We have tried to fairly consistently follow this Master Plan policy and I think we have been able to do it relatively closely in the past, actually, I was involved in writing this policy. I think you'll see today that South Willow Street, the traffic capacity is fairly good given the amount of economic development, given the amount of economic activity in South Willow Street, the traffic flows are actually fairly good now, by both City investment and State investments and private one. We also recognize that these particular parcels and I'm not necessarily advocating the change here, but these parcels are parcels that have primarily gone commercial, not all of them, but primarily gone commercial already and sometimes I have to realistically look at these and say if the cow's already out of the barn maybe we should have to build a new fence to make sure it doesn't get further. I don't think these parcels given the activities you have on there now such as the Triangle commercial development or Dexter Shoe is going to revert to an industrial form just because of the nature of property values. So, it is a difficult situation, we have tried to make sure in the past that there is no large expansions of retail zoning in order to protect both the manufacturing and the traffic capacity. In this case, given the various particulars and the fact that you could draw a reasonably good boundary this may not be inappropriate. If there are specific answers that the Committee would like me to go back and research and answer, I'd be more than happy to do that.

Chairman Wihby stated I guess the way I look at this, and I've been around for a while, so I've seen the taking of industrial land on South Willow and I know we were against that and Jay Taylor's been against that, but when we went to Huse Road and then we went further into Huse Road, the only reason why we picked the brook was a boundary. There was no reason, we didn't say there's the reason, we said it's a boundary, it looks like a good boundary and that's a good place to pick. What's there now...to make this go to the Airport land only makes sense to do and

to rezone it. I guess I just want to bring attention to even though it's twenty-five something acres, there's only five or seven acres that are allowed to be built on. So, it's not a great big thing but I guess my feeling is and Alderman Clancy asked it the other day...it's been there all this time and nobody's used it, that's not a good location for industrial, so if nobody's used it or bought it or done anything with it all this time, why do we think it's going to be used to industrial.

Alderman Cashin stated when I first read this, I read 33 acres and the flag went up and I say whoa, time out, we have to be careful because...and I agree with Alderman Shea. The City of Manchester cannot afford to rezone industrial land that is adequately proportionate for industry, but this doesn't happen to be. My understanding is that most of this is wetlands, can't be used anyway and you're looking at 6.5 acres, unless I'm wrong, that is really going to be rezoned here. You have two businesses places down there already that have been there by exception or somehow they got in there by ZBA or something and the land has been sitting there for quite sometime, ever since I can remember and nothing has been done with it under industrial and that's not fair to the City from a tax base and it's not fair to the owners. So, tonight I'm willing to support this. I wasn't because I wasn't aware that there were only 6.5 acres.

Alderman Cashin moved to recommend the rezoning ordinance amendment ought to pass. Alderman Sysyn duly seconded the motion.

Chairman Wihby asked do you have a breakdown of what you want the motion to be as far as setting the boundary...

Alderman Cashin replied I do want a boundary set and I want it in writing, it has to be.

Chairman Wihby asked would you like to give it a shot.

Mr. MacKenzie replied I'd be happy to give that a try. Would you like me to do that now or provide that...

Chairman Wihby interjected yes, just so that we all know what we're voting for.

Mr. MacKenzie stated if I could read this simple policy...I had mentioned not supporting variances, but I'm not sure if that is within the purview of the Board. Let me just read this particular sentence and see if you're comfortable with it.

"That it is the policy of the City of Manchester that the rezoning of "I" districts on South Willow Street to "B" districts (and that could be several different one B-1 or B-3) not be supported south of the centerline of Runway 6-24 as extended."

Alderman Cashin moved to accept the policy and that the ordinance amendment ought to pass. Alderman Sysyn duly seconded the motion. The motion carried with Alderman Shea duly recorded in opposition.

Chairman Wihby asked is there any other matters to go over before we adjourn.

Mr. MacKenzie asked is the Board comfortable with the Traffic Impact Policy the Planning Board has adopted and when projects come before the Board they will be assessed a fair and reasonable share.

Committee members expressed their agreement with the policy.

There being no further business to come before the Committee, on motion of Alderman Shea, duly seconded by Alderman Cashin, it was voted to adjourn.

A True Record. Attest.

Clerk of Committee