

DRAFT

**MINUTES OF BUSINESS MEETING
HELD BY THE PLANNING AND ZONING COMMISSION
MAY 6, 2024**

ROLL CALL:

MEMBERS PRESENT:

In Person: Eric Prause, Chairman
Patrick Kennedy, Vice Chairman (*Recused for REG-0002-2024*)
Michael Stebe, Secretary
Chris Schoeneberger
Daniela Luna
Michael Farina
Electronically: Teresa Ike

ALTERNATE MEMBER SITTING FOR SIDEWALK PLAN AND REG-0002-2024 ONLY:

In Person: Zachary Schurin

ALTERNATE MEMBER SITTING FOR REG-0002-2024 ONLY:

In Person: Bonnie Potocki

ALTERNATES PRESENT:

Electronically: Maliha Ahsan

ALSO PRESENT:

In Person: Megan Pilla, Principal Development Planner
Gary Anderson, Director of Planning & Economic Development
David Laiuppa, Environmental Planner/Wetlands Agent
Electronically: Katie Williford, Administrative Secretary
Time Convened: 8:10 p.m.

BUSINESS:

SIDEWALK AND CURB PLAN 2024-2029 – Proposed amendments to the Town Sidewalk and Curb Plan.

MOTION: Mr. Kennedy moved to approve the 5-year update to the Sidewalk & Curb Plan as presented at the May 6, 2024 Planning & Zoning Commission meeting, with the modification that the reference to the addition of the east side of Autumn Street to the map be eliminated. Mr. Schoeneberger seconded the motion.

MOTION: Mr. Farina moved to amend the motion to make changes to the bullet points under Critical Path Extensions as follows:
1. Replace “has identified” with “identifies”

2. Add the paragraph, “The desire to see a Schoolwalk Safety plan implemented that prioritizes planning for sidewalk extensions and sidewalk gap filling on arterial and collector roads within a 1-mile schoolwalk distance to all public elementary schools, a 1.5 mile schoolwalk distance to Illing Middle School, and a 2-mile schoolwalk distance to Manchester High School.”
3. In the existing first bullet point, strike “schools” and “the school location.”

Mr. Stebe seconded the motion to amend the motion.

Mr. Farina emphasized that the switch from radius to school walk distance is only for arterial and collector roads and said Town staff’s proposed language would require adding many more sidewalks to the plan. He stated that drawing out routes along arterial and collector roads would be feasible and suggested that the Board of Education probably already has that information.

Mr. Kennedy said that Mr. Farina’s proposal is unworkable for the reasons that Ms. Pilla related from Public Works. Complicating the sidewalk plan by trying to do schoolwalk distances would divert resources unproductively, he said.

In response to questions from Mr. Prause, Ms. Pilla said that including a one mile radius around all schools, bus stops, and parks covers almost the entire town as a priority area, except for the southeast and southwest corners. All arterial and collector roads are included as priorities in the plan as written.

Mr. Prause, Mr. Stebe, Ms. Luna, Mr. Farina, and Ms. Ike voted in favor of the motion to amend the motion. Mr. Kennedy and Mr. Schoeneberger voted against the motion. The motion to amend the motion passed five to two.

MOTION: Mr. Farina moved to amend the motion to add the streets that were passed out by Mr. Farina to the map. Mr. Stebe seconded the motion.

After some discussion, Mr. Farina decided to make motions for each street one by one.

Mr. Kennedy said he did not think adding streets to the plan without having any expert basis for doing it was an appropriate way to proceed and he would not vote for adding streets to the plan.

Ms. Luna asked if there are right-of-way issues for any of the streets Mr. Farina proposed adding.

Ms. Pilla provided information on each of the streets:

- Parker Street has limited right-of-way.
- Porter Street is included.
- Charter Oak Street has limited right-of-way and utility poles.
- Middle Turnpike East is included.
- Tolland Turnpike has limited right-of-way. The Chatsworth Court development is under construction and the approved plans were designed to include a pedestrian crossing with the assumption that the north side sidewalk would be used because there is limited right-of-way on the south side.
- Spring Street has limited right-of-way.

Mr. Farina withdrew the motion but requested documentation of the rights-of-way at a future date.

Ms. Luna asked for clarification of what exactly staff meant by “limited right of way.” Mr. Anderson responded that, in this case, a lot of these streets are long streets and there is limited right of way along a good portion of the street, meaning that additional property would have to be taken in order to have a sidewalk all the way down the street. It’s a combination of the length of the street; the amount of space that would need to be taken, which the owners would need to be compensated for; and how disruptive to the community it would be.

In response to questions from Mr. Stebe, Ms. Pilla confirmed that the edits indicated with bubbles on the draft map will be translated into lines on the map after approval. That is not done in advance because it is based on GIS data, which is not updated until the plan is approved. The plan gets updated every 5 years by this commission unless Public Works proposes an update to correct an error.

All members voted in favor of the amended motion, with Mr. Schurin voting in place of Mr. Schoeneberger.

The Town of Manchester Sidewalk and Curb Plan update will be effective on May 28, 2024.

HARTFORD HEALTHCARE CORPORATION – Applicant requests to amend the Manchester Zoning Regulations to add a subsection to Article IV, Section 13 to permit a limited exception to the maximum signage limitation for medical services. – Zoning Regulation Amendment (REG-0002-2024)

Mr. Kennedy recused himself.

Zoning Regulation Amendment (REG-0002-2024)

MOTION: Mr. Stebe moved to approve the zoning regulation amendment to add language to Article IV, Section 13 to permit a limited exception to the maximum signage limitation for medical services, with the modification that the proposed language be added to the end of Art. IV, Sec. 13.07.01 instead of creating a new Sec. 13.10.06.04.

Mr. Farina seconded the motion and all members voted in favor, with Ms. Potocki voting in place of Mr. Schoeneberger.

The reason for the approval is that the proposed amendment is consistent with the following recommendations of the Plan of Conservation and Development:

- As stated in the applicant’s submitted narrative.
- “*Distribution, Healthcare, & Industry*” recommendation #2: Continue to retain existing industry clusters in distribution, healthcare, manufacturing, logistics, etc.

The zoning regulation amendment will be effective on May 28, 2024.

TRIVIK BUILDERS, LLC – Modification to site plans at 27 Lillian Drive. – PRD Detailed Site Plan Modification (PRD-0001-2024)

Mr. Wes Wentworth, professional engineer and soil scientist with Wentworth Civil Engineers, Lebanon, CT, presented the application. Hari Kuppuraj, managing member of Trivik Builders, was also present.

Mr. Wentworth provided background on the project, which was approved in 2021 for a 37-unit residential development. Construction has been underway for the past few years and some field changes were made during construction.

Mr. Wentworth detailed the major modifications:

- The 2-ft. grass strip between the sidewalk and parking in front of the buildings was removed.
- Instead of having a full 6-in. curb, the pavement is flush with the sidewalk.
- Because of the removal of the grass strip, light poles were installed in the sidewalk. The sidewalk around the lights was widened to allow for passable space around the lights.
- Buildings C, F, and E are split-level buildings. Sidewalks are supposed to continue in front of those but, instead, they put a retaining wall that prevents passing through on those concrete walks.

Mr. Wentworth stated that Town staff did not approve of those changes. He said that they could include the grass strip and still accommodate the minimum 24 ft. lane width and 18 ft. deep parking spaces. However, they could not have a curb there because it would be 6 in. higher than the sidewalk and would cause flooding during rainstorms. They are proposing wheel stops for safety in those areas.

Mr. Wentworth stated that they eliminated the retaining walls from the plan and proposed some steps. Staff did not approve of that change either and, following a conversation with Ms. Pilla, they have proposed regrading in those areas so the sidewalk can go straight through. The only change based on the approved plan would be, on Building F, the unit to the south would require two steps from the sidewalk to get to the front door.

Other changes include that Building B will now have 2 ADA units, and two parking spaces onsite have been relocated with no net change in the number of parking spaces.

Mr. Wentworth summarized how the plans have ended up after staff review:

- The grass strips are still in front of the parking spaces, but wheel stops are proposed instead of curbs.
- In the rears of all of the buildings, there are concrete pads. The grading had to be changed to allow for those.
- There are 2 ADA units in Building B.
- Building F has two steps down into one lower unit only.
- Parking spaces from elsewhere on site were relocated to in front of the ADA units.
- A community mailbox was added in the island in the parking area.

In response to a question from Mr. Prause, Ms. Pilla stated that the plan being presented was

provided today. It addresses most, if not all, of staff's concerns; however, since it just arrived today, other departments have not viewed it yet. She recommended that the Commission not make a decision until other departments have a chance to review the plans.

In response to a question from Mr. Prause, Mr. Wentworth said the walls are not still blocking the sidewalk. The grading has been changed. It will be an elevated sidewalk with a landing and then another elevated sidewalk, and that is over a distance of about 30 ft. There will be a few retaining walls just to prevent erosion. It will be possible to walk through with no steps.

Mr. Prause asked Mr. Wentworth to walk the Commission through some updated elevation views at the next meeting.

Regarding the sidewalks and the ADA units in Building B, Mr. Stebe asked if the slopes are within ADA slope compliance. Mr. Wentworth confirmed that they are. Regarding access between the building and mailbox, Mr. Wentworth said that Mr. Kuppuraj contacted USPS, and they will deliver directly to those two units.

Mr. Stebe asked about the reason for the extension of the storm drains behind Buildings B and C. Mr. Wentworth said the contractor made a decision in the field and it was a conservative measure; yard drains are good to add sometimes to reduce the chance of ponding or erosion.

In preparation for the next meeting, Mr. Stebe requested that, in the meeting packet, staff help the Commission understand the narrative and the changes that are being made.

Mr. Wentworth said that he submitted revised plan sheets today but would revise the whole plan set so it is one clean set.

Mr. Farina asked if there are any modifications that staff did not object to that the Commission could act on tonight. Mr. Wentworth replied that they still would not be able to get COs for the buildings, which is the goal.

The application will be discussed again at the May 20, 2024 meeting.

BOTTICELLO PROPERTIES LLC – Show Cause Hearing – Cease and Desist Order for violations to the Inland Wetlands and Watercourses Regulations at 69 Woodside Street

Mr. Laiuppa said that there have been previous violations on the property for the same issue, agricultural discharge into a regulated area. The property owner or their representative has been working toward compliance, but the measures taken were not successful. The Cease and Desist Order has been issued because the last Notice of Violation, issued in December, was not complied with. It required plans, which were submitted and agreed upon. It was also discussed, at that time, that there would be no activity on the west side of the pasture land without permission from the Town, because it is Town-owned property.

Mr. Laiuppa stated that activity was done on the west side of the pasture, on Town property, and the submitted plans had not been followed. Prior to visiting the site, Mr. Laiuppa was told by the representative for the owner that they had a different idea than what was on their plan, and he let them know that it had to be presented in writing before they took any actions. They took those actions without approval.

Mr. Laiuppa presented the observed flow patterns leaving the pasture. There is a compost area to the east of the pasture. A swale in the pasture collects runoff from the pasture and compost area. As soon as it leaves the pasture, it enters an intermittent watercourse, which is a regulated resource. Beyond that, there is a wetland area. Anything discharging that isn't clean water is a violation of the regulations, Mr. Laiuppa said.

Mr. Laiuppa stated that there is a newly cut swale that intercepts the runoff from the swale in the pasture and sends it to the north. While it does stop the illicit discharge into the watercourse and wetland, it violates the agreement that no activity would be done on the west side. It also intercepts water that would have been feeding into the wetland and watercourse. The goal is for the water to flow, but to be clean, he said. The original plan incorporated changes to act as a filter: Widening the swale, filtration, and vegetation to uptake excess nutrients. Because the plans weren't followed, this was a violation and the Cease and Desist Order was issued.

Mr. Laiuppa presented the text of the Cease and Desist Order, which included a requirement that either the previously agreed upon plans be implemented by May 17th, or a new set of plans be submitted by May 10th.

Mr. Laiuppa presented photos of the property:

- In August 2023, flow was coming out of the pasture and onto Town property. He noted an area, on Town property, that had been vegetated but was mowed by the property owner.
- In April 2024, there was a berm that included soil and wood chips that cut off flow to the stream. The newly constructed swale takes the flow to the north. There is a concrete pipe as a physical crossing to get from one side of the swale to the other. All of this activity is on Town property.

Attorney Kevin O'Brien, O'Brien Law, West Center Street, represented Botticello Properties LLC. Anthony Botticello, a member of the LLC, and Ethan Dougan, the one who met with Town staff, were also present.

Attorney O'Brien explained that the applicant had always believed that the property line was the wood line.

Attorney O'Brien stated that he and Mr. Dougan met with Town staff in winter and said they would fix the issue in spring. Mr. Dougan does not work on the farm, so another person did the work. That person, understanding that the Town wanted to stop the pollution of the watercourse, built that trench and put up that berm.

Attorney O'Brien asked for more time to work this out with Town staff. Assuming it is Town property, they would have to fill in the trench and perhaps go back to the plan agreed to last January. He explained that they thought the biggest problem was the pollution, and they will do what is necessary. He was unsure if the required timeframes are practical; another week or two would be helpful.

Mr. Laiuppa said the Commission could be flexible on the timeline, but he would not want to add too much time. To implement the previously agreed upon plan, Botticello Properties would have 11 days. To submit a new plan, they would have 4 days. It seems there needs to be more education about the intent and what may be required to keep the system healthy, Mr. Laiuppa

said, so if they want to propose new plans, it may take longer than 4 days.

Mr. Kennedy asked if an extension of the deadlines to May 24th and 31st would work. Attorney O'Brien believed it would work for the farmers.

Mr. Stebe noted that this has been under discussion since well before December. He suggested that May 17th was a reasonable deadline for both parties to agree on a final plan. Attorney O'Brien and Mr. Laiuppa agreed that timeline would work.

Mr. Laiuppa pointed out that today is not the day these dates were presented; the Order was issued on April 29th. The correction of the activities (the swale) will require coordination with Public Works. There will also be discussion outside of the realm of wetlands violations by the Public Works Director, so there will be other things happening in parallel.

Mr. Farina said he was amenable to the modification. He referred to a mention of water going onto the property from the road due to the lack of a curb, and asked staff if there is anything that needs to be adjusted on the Town's end.

Mr. Laiuppa said he spoke to the Director of Public Works about that. If there is proof that it is occurring, it can be addressed. Public Works is not aware of that happening, so the property owner would need to document that.

In response to a question from Mr. Schoeneberger, Mr. Laiuppa said, with regard to the swale, it is a Cease and Correct Order. It won't be just filling in the swale; the tree warden has to weigh in as to whether there was damage from roots being cut when creating the swale.

Mr. Schoeneberger encouraged the Commission to give the farmers time to address the situation.

Regarding the discussion of discharge to neighboring properties in East Hartford, Mr. Laiuppa emphasized that the purview of this commission is the protection of regulated resources in Manchester.

Mr. Prause commented that the wetlands regulations already allow a lot of latitude for agriculture to do what it needs to do, but at this point it has become damaging to the wetlands. He asserted that the Commission supports farming and agriculture.

Show Cause Hearing

MOTION: Mr. Kennedy moved to uphold the Cease & Desist Order issued by David Laiuppa, Inland Wetlands Agent, on April 29, 2024, with the modifications:

1. That the deadline for implementation of the previously agreed upon plan be extended to May 31, 2024, and
2. That the deadline for submission of a new plan be extended to May 24, 2024.

Mr. Schoeneberger seconded the motion and all members voted in favor.

ADMINISTRATIVE REPORTS:

Upcoming Training Opportunities

Ms. Pilla stated that the CLEAR Land Use Academy will hold a training session about fair and affordable housing policies on May 17th.

IWP-0036-2023 (177 & 181 Wyneding Hill Road) – Appeal update

Ms. Pilla informed the Commission that the judge overseeing this appeal is pushing for mediation, so Assistant Town Attorney John Sullivan will join the next meeting for a brief executive session to explain what that means and to ask the Commission’s opinion. Executive sessions are generally not recommended for planning and zoning commissions, but this is a rare case that involves litigation.

Mr. Anderson commented that Planning staff and the Commission have traditionally had a close working relationship, and they are working toward the same goals. He stressed that there was no intentional usurping of the Commission’s authority. Staff did what they felt was right and what the Commission wanted. In the future, staff will work to ensure it is clear what the Commission is directing them to do.

Mr. Prause asked if there was any update on the Connecticut Siting Council petition for 250 Carter Street. Ms. Pilla said the evidentiary session began on May 2nd and was continued to May 21st. The Siting Council did extend their deadline to make a final decision to September or October.

Ms. Potocki informed the Commission that she had submitted her letter of resignation from the Commission, and there will be a replacement at the May 20th meeting. The commissioners expressed their appreciation for Ms. Potocki’s contributions.

Mr. Prause raised the possibility of scheduling a third meeting in May. After a discussion, the Commission decided not to hold a third meeting, but to schedule the POCD workshop and executive session for May 20th and the Rules of Procedure workshop for June 3rd.

APPROVAL OF MINUTES:

April 15, 2024 – Public Hearing/Business Meeting

MOTION: Mr. Farina moved to approve the minutes as written. Mr. Kennedy seconded the motion and all members voted in favor.

RECEIPT OF NEW APPLICATIONS:

There were no new applications.

The Chairman closed the business meeting at 9:56 p.m.

I certify these minutes were adopted on the following date:

Date

Eric Prause, Chairman

NOTICE: A DIGITAL RECORDING OF THIS BUSINESS MEETING CAN BE HEARD IN THE PLANNING DEPARTMENT.