



City of Westbrook

DEPARTMENT OF PLANNING

2 York St. Westbrook, Maine 04092 (207) 854-9105 Fax: (866) 559-0642

WESTBROOK PLANNING BOARD TUESDAY, NOVEMBER 17, 2009, 7:00 P.M. WESTBROOK HIGH SCHOOL, ROOM 114 MINUTES

Present: Ed Reidman, (Chair) (Ward 5), Rene Daniel (Vice-Chair) (Ward 1), Dennis Isherwood (Ward 2), Anna Wrobel (Ward 4), Cory Fleming (At Large), Scott Herrick (Alternate), Paul Emery (Ward 3)

Absent: Greg Blake (At Large), Michael Taylor (Alternate)

Staff: Molly Just, Richard Gouzie, Natalie Burns

Chairman Reidman called the Westbrook Planning Board meeting to order at 7:00 p.m. in Room 114 of the Westbrook High School.

1. Call to Order

Continuing Business

2. Land Use Ordinance – Section 201 Definitions, Section 204 Non-Conforming Uses and new Section 311 Light Manufacturing District – The intent is to establish a new zoning district to promote the vision for the area south of the Stroudwater River, between Saco and Spring Streets and generally north of the Central Maine Power line easement. The vision includes expansion of the high-tech business and manufacturing sector and the prevention of negative impacts that would detract from the area as a high-tech manufacturing and business park.

Staff Memo:

Land Use Ordinance – Section 201 Definitions, Section 204 Non-Conforming Uses and new Section 311 Light Manufacturing District

Process. In order to implement the proposed provisions the following changes to the ordinance would also need to be adopted and are outlined in the attached draft language:

- Addition of the Light Manufacturing definition to Section 201;
- Addition of new terms and definitions to Section 201
- Addition to Section 203 of provisions regulating expansion of a non-conforming use outside of a building to prohibit expansion beyond that previously approved; and
- Addition of the Industrial Park District 2, new Section 311.

Update. The Planning Department recommends the following changes to the draft provisions of the Light Manufacturing District. The proposed changes are minor and do not require advertising and holding a new public hearing.

Westbrook Planning Board Minutes
November 17, 2009

1. *Based on feedback from neighborhood businesses, the Planning Department recommends that the Planning Board consider a different name for the proposed district – Industrial Park District 2. This is not a substantial change to the proposed language and is not in conflict with the intent of the district. The language has been updated to reflect this change, should the Planning Board choose to make this change.*
2. *Retain the existing provisions, those of the Industrial Park District, regarding odors. Based on feedback from the public hearing the odor provisions of the Industrial Park District are preferred over those proposed for the new district. This is not a substantial change from the advertised language and the Planning Department supports this change.*

The Planning Department recommends approval of the subject amendments to the Land Use Ordinance as it is consistent with the City's vision for this area.

Summary. *The City Council has referred to the Planning Board for consideration and recommendation the creation of a new zoning district generally in the area running between the power lines and the Stroudwater River and between Saco and Spring Streets. The new zone would enable the continued fulfillment of the vision for this area to expand as a high-tech manufacturing/business park. The new district would be more consistent with the City's vision for the growth of high tech businesses in this area of the City, as well as the other commercial uses that already exist in the area and would prevent nuisance-like impacts on the area that would likely accompany an increase in heavy industrial uses.*

The subject area would be rezoned from Industrial Park District to Industrial Park District 2 (see attached provisions). The only change to the performance standards would be to add a maximum height where currently there is none and additional environmental controls to minimize the impact of outdoor storage, noise and vibrations.

The new zone would not permit heavier industrial uses, would not permit mining and mining-related activities and would allow warehousing, whereas the current zone does not. Existing non-conforming uses could continue to operate and expand on the site so long as the current performance standards are met. In addition, non-conforming uses can be replaced on the same site if an existing non-conforming use is sold.

Since developing a list of current uses within the proposed district, staff and the Planning Board have identified uses that fall within the intent of the proposed district. After considering the level of impact of the uses and comparing the uses with the intent of the proposed district, we determined that creating a new permitted use, Commercial Service Business, would be appropriate. In addition, we have proposed allowing warehousing as a permitted use, whereas it is not currently allowed in the existing Industrial Park District. Warehousing is a necessary use in order to transport and transfer goods within an economically vibrant community. Based on the nature of this area and the nature of the proposed district, the warehousing use, as defined, is consistent with the intent of the proposed district. This leaves only two businesses as non-conforming as to the current Industrial Park District and the proposed Industrial Park District 2. These businesses are a cheerleading instruction business and a retail business.

Ed Reidman I call the Westbrook Planning Board meeting to order. As we have a quorum present we are ready to conduct business.

Westbrook Planning Board Minutes
November 17, 2009

So that everyone understands before we get into the meat of the meeting the board's position right now is we are ready to consider the changes that have been requested with regard to this item. The action that the board will take is a recommendation to the Westbrook City Council. What the Westbrook City Council does once they receive it is up to them.

We have gone through a long process considering the Light Industrial District. We have looked at the boundaries which we went all the way around the boundaries and no one indicated that they wanted to change the boundaries. We looked at the uses the current district has and we found the warehouse use in particular was there but it was not part of the existing zoning, we have added that. We have added terms and definitions. We did all these things going through workshops, with input from the public. We had our Public Hearing and now we are ready to make a decision.

There is always the possibility to reopen the Public Hearing but if the Public Hearing is reopened we are back to square zero with a Public Hearing, we would have to schedule that at a later date. It is my intention not to reopen the Public Hearing, unless a board member wants to propose that. Seeing none we will go forward.

The item before us tonight is Land Use Ordinance section 201 definitions, section 204 nonconforming uses and a new section 311 Light Manufacturing District. The intent is to establish the creation of a new zoning district generally in the area running between the power lines and the Stroudwater River and between Saco and Spring Streets. The new zone would enable the continued fulfillment of the vision for this area to expand as a high-tech manufacturing/business park.

There are two new items in the memo from the staff and I have concerns with both of them. I would have you start on Molly's memo where she is talking about changing the name of what we have been dealing with known as Light Manufacturing District to change it to Industrial Park District II. I have no objection to the use of that term but I am concerned as the Council sent us a light Manufacturing District and I would like to send it back to them.

The other item is on the last page of the draft that deals with odor. If you look under "H" in the current draft on page 6 it says: "*Odors must not exceed existing levels at the zone lines.*" Then it says "*Wood pulping and similar processes are a prohibited use.*" I do not know why that is there because if you go back to page 5 and you look under the non-permitted uses which start on page 4, prohibited uses bullet "d" *Extraction and processing of raw materials*. I have to assume that would pulping is processing of raw materials.

Mr. Gouzie you worked for the mill at one time, would that be your interpretation?

Richard Gouzie yes it is.

Ed Reidman my objection to... I do not mind putting in the word wood pulping but I do have a problem with the existing lot lines. We have in the past had an odor problem that covered the entire City and I am not talking about the mill. It seems extreme to me to go with the zone lines. Property line seems to be the most reasonable to me. The original one called it to be at the building line.

I present those items and would like to deal with those two items first before we get into the rest of the items.

Are there any other comments or questions?

What I would like to have would be a motion to either change the language in regard to Light Manufacturing District to what is proposed first and vote on that and then after that to vote on whether we should add this.

I am going to remind the Board that this is the seventh draft that we have before us.

Dennis Isherwood I would like to say something about keeping the definition the same as what Council asked us to approve. They did not ask us for a Light Manufacturing District. Perhaps we should keep it the same as what was given to us.

Ed Reidman would you consider making a motion that would retain the Light Manufacturing District's definition?

Dennis Isherwood Mr. Chair I would like to make a motion to retain the Light Manufacturing District definition.

2nd by Scott Herrick

Ed Reidman are there any other comments in regard to it?

The vote was 5-1 in favor (Paul Emery opposed)

Ed Reidman the other item is the odor item, whether it should be as proposed. The change on this one and I do remember a discussion of it at the Public Hearing and it was how do you retain the order and where do you retain to. The only thing in my opinion and please if it is not your opinion, please say so, that to the zone lines are extreme. That put you all the way from Spring Street to Stroudwater Street and from the River and out beyond the CMP Power lines which I think is a little bit larger then it should be. Normally are noise and other items that we measure we measure them at the property line.

Molly do you have something on that?

Molly Just Mr. Chair I just want to make sure that I hopefully didn't hear you correctly. The Zone line would be from Spring Street to the Stroudwater River. I thought I heard you say Stroudwater Street and then over to Saco Street and then to the CMP...

Ed Reidman yes I did, I apologize Stroudwater Street should have been Spring....

Molly Just yes Stroud water River to Saco then over to the CMP power line... ok.

I have confirmed with our land use Counsel that you could go either three ways without a need to re-advertise. You could keep the language as proposed as advertised, you could keep the language is currently governs the Industrial District because that would effectively sort of be no change. Or you could have the limit at the property line and you would not need to re-advertise. Staff put forward what was proposed so we are comfortable with that. We are also comfortable with what is in the existing zoning district and are also comfortable with the lot line.

I have personally thought that the building would be easier to monitor. That is also difficult because there are emissions through the building. I understand either way.

Ed Reidman does everyone understand what we are talking about?

Scott Herrick I have a comment. My only concern about using zoning as the boundary line is that you have different treatment for different properties, meaning if someone is in the center of the zone they can have odors go throughout; a significant distance and is you are on the edge, you will be treated differently. That is my only concern with using the zone.

Ed Reidman are there any other questions or comments?

Rene Daniel I had the same thoughts as Scott did. I find that very hard to judge when you are talking about Zone. However lot line is very clear and everyone is at the same equal footing. I would feel comfortable making a motion.

Rene Daniel I move to set the wording in this particular area that would remove zone line and would replace property line.

I think it would be a lot easier for Mr. Gouzie to – enforce that then it would be trying to enforce such a large area.

2nd by Anna Wrobel

Ed Reidman everyone understands the change to this proposal?

The vote was 6-0 in favor

Ed Reidman at his point as I said earlier we have gone through six other drafts, we have worked with the Public with the openness of our program to hold it in workshop and allowed everyone a chance to speak.

The document you have in front of you with the changes that have just been changed back or changed back in the Light Manufacturing one and changed in the odor one are now before you.

We have worked with the items and I would turn your attention to two things; 1. It is to my understanding that the effective date of this Ordinance if it goes forward is March 24, 2008. That is a Council decision, not ours. 2. The other thing that we have gone through and never totally argued the points... it starts on page 4 Molly's memo and is called 311.3 prohibited uses:

“311.3 Prohibited Uses. *Those uses that are prohibited shall include, but are not limited to, the following:*

- (a) Junk yards*
- (b) Retail trade and restaurants not accessory to a permitted use*
- (c) Mining and drilling operations*
- (d) Extraction and processing of raw materials*
- (e) Asphalt plants*
- (f) Refining of petroleum or its products, including tar distillation*
- (g) Commercial petroleum storage yards”*

We know a lot of testimony we have received going through this involved those items which would not be permitted if the council enacted this policy.

We can send it forward with all those restrictions in there; we could remove restrictions if that is the Board's wish.

I am going to look at our Attorney; if we send this up with all of the items that you can not have there, that I just read *Prohibited Uses*, the Council has the right to eliminate Prohibited Uses.

Natalie Burns that is right.

Ed Reidman that is where we are at right now.

Paul Emery Mr. Chairman, I would like to go to section 311.3, Prohibited Uses, top of page 5 Item D. I am also at this time looking at the business listing map and I am going to lot #28 which according to the key on the right is listed vacant. Before was vacant this property was occupied by a company that took and processed materials such as granite and other minerals for the purpose of including them in counter tops. They took granite for example and ground it down and polished it. Under that definition here granite would be a raw material and they would be processing it in that type of operation would not be allowed in the park. I would have a problem with that. I feel that type of operation would be supportive of a construction industry or remodeling industry and so forth and I think it is a little to narrow, thank you.

Ed Reidman other members have any other comments?

As you saw earlier the other side of the coin was wood pulping, which fell into the other one. I do not disagree with your analogy. I am at a loss to work around that.

Anna Wrobel the key distinction seems to be weather in terms of drawing a line whether they processing of raw materials is regarded as heavy industry or light manufacturing if there was someway of clarifying the language for example is in the use that Paul was talking about. Would it be light manufacturing the creation of granite counter tops? If there was some way to make the language... as you say it is to narrow and in some ways it is not precise enough in terms of distinguishing what would be regarded as light manufacturing vs. heavy manufacturing. To me that is the key I know are requires some word smithing to make that distinction but I think that is where the line can be drawn.

Molly Just first of all Kitchens Concepts was a retail business. That is exactly what they were. That use is not allowed in the district. That business has moved on.

It is to my understanding that by the time they got the product the product was no longer raw. They did not mine it and it was refined for the lack of a better term) by the time they got it. Absolutely they did finish it, cut it and sold it. But they did not mine it, it was not raw in the truer sense when they got it and in fact it was a retail store.

Ed Reidman does that give you some level of comfort?

Paul Emery no because essentially here...processing ... ok, if they do not take the granite out of the ground there but they process it, not as a retail but a wholesale industry it would not be allowed because that would still be called processing of raw material.

In the same way would you allow for example in this district any type of cabinet construction which takes the process of would which is a raw material? I think this is too restrictive.

Ed Reidman I would suggest that you make a motion for modifications and see where it goes.

Paul Emery I could do that but I do have very strong feelings about this exercise. So rather than spending time with the wording I would really like to get whether we should recommend this or not.

Ed Reidman excellent segues, would you use your microphone and start that motion?

Paul Emery I would like to move that we do not recommend to the City Council the adoption of the land ordinance Section 201 Definitions, Section 204 Non-Conforming Uses and new Section 311 Light Manufacturing District.

Ed Reidman thank you, do I have a second? Seeing none motion fails for lack of a second.

Rene Daniel I move that we recommend to the City Council the adoption of land use ordinance Section 201 Definitions, Section 204 Non-Conforming Uses and new Section 311 Light Manufacturing District to the city Council for their approval.

2nd Dennis Isherwood

Ed Reidman any debate on the motion?

Anna Wrobel just for clarification is it possible in debating the motion to discuss a change to some of the wording or is that not appropriate?

Ed Reidman Mr. Daniel has made the motion that includes materials that are submitted here, the map the boundaries and all of that. Now if you would like to make a change you would have to site specifically where you would want to change like we did earlier with light manufacturing and the odor issue.

Anna Wrobel it is interesting as Paul brought this up and kind of dropped it as he did not want to get into that but I... you have raised an issue that is a concern to me. For example as you mentioned cabinet making or the processing of or wood turning or that sort of thing; in my mind that is a perfect light manufacturing use. I would hate to see wood turning, furniture building or cabinet making denied any Light Manufacturing District. It seems to me that is a perfect definition of light manufacturing and I would like to see that language in some way changed to permit that kind of a Use. In that way I think the language is too restrictive. I haven't had a great deal of time to think about it but I would hate to see a furniture maker not able to work in a light manufacturing district.

Do I need to come up with the actual wording at this moment I am not really feeling... under pressure I don't think I could come up with exactly the correct wording for.

Ed Reidman the definition of light manufacturing: *Light Manufacturing. Manufacturing uses/activity involving the manufacturing, fabricating, packaging, processing or assembly of finished products from previously prepared material, such as bottling, printing and publishing, machine shops, precision tools and instruments, assembly of electrical or electronic components, tool and die shops. In no event shall light manufacturing include the processing of raw materials other than as permitted in the Industrial Park District 2 Light Manufacturing District (Sec. 311).*

I think Molly's definition regarding the granite and the furniture fits there.

There is a sawmill out on the County Road that processes logs into planks, or whatever you want to call it then from there... that is the original raw material there. I agree with the definition of the original raw material being a block of granite or some other material that gets changed in the processing.

Anna Wrobel so planking came into a furniture shop that would not be restricted as that would not be regarded as the world material. It would have to be the tree with the roots and branches, okay.

Molly Just Mr. Chair I just want to make sure in your motion that you do reference the sections as listed changes to section 201, section 203 and a new section 311.

Ed Reidman Mr. Daniel read it off of the Planning Board notice and is cited there as 204 when you're actually dealing with 203?

Molly Just that is correct and the numbering is correct in the advertising.

Rene Daniel I would certainly change that thank you for catching that.

Ed Reidman Mr. Isherwood you do not have any problem changing the number?

Dennis Isherwood no problem

Rene Daniel no problem

Ed Reidman I we copacetic right now at this point?

Molly Just yes thank you

Ed Reidman Any more comments or questions?

Paul Emery I spent a lot of time thinking about what I would or would not recommend tonight. I put aside some things like full-page ads, not a consideration, massive documentation no matter how excellent, not a consideration, presents of tee shirts, not a consideration. I've thought more into the spirit of what Westbrook was trying to accomplish.

I looked back into the different Comprehensive Plans. Briefly, in 2000 the City of Westbrook did a plan that said essentially this plan attempts to spell out what the future will look like and how we will get there. It is designed to help Westbrook march forward in the new millennium.

The goals are broken down into functional areas, such as housing, economy and so forth. As it was never etched in stone, they represent the thinking of the community at the time when the plan was developed. The community evolves; these goals and strategies may also change and evolve. However, by describing them here, we provide a benchmark from which to compare our successes and failures as a community. By providing the benchmarks, we provide a systematic and strategic approach to making land use and investment decisions.

In this same report it mentions Industrial large scale office development will be directed in the Southern part of the community in the Warren Avenue area. The Stroudwater area with its special visual characteristics will be controlled through planned unit development mechanisms. The area around the existing Industrial Park will continue to provide for traditional industrial park uses. It does point to the pace of the development activity needs to be monitored. The Plan was intended to be updated every two years and that was not done. The plan is detailed in the beginning and more vague in the out years. Adjustments will be made as part of the City Council and Planning Board's on going planning process and as part of our successful implementation of the plan.

One of the areas of the land use pattern was, in section 8.14, to provide, promote build out of existing industrial parks in commercial zones employing WEIC, wetlands banking and other incentive based programs.

Another goal objective is to provide future expansion of industrial and commercial uses, essentially to increase non residential tax base and provide job opportunities for local residents.

There is reference again...We have Policy One Associates, on March 9, 2007 and spent money to develop a strategic economic plan and development plan report... working together to drive economic development. The word here is working development.

Westbrook Planning Board Minutes
November 17, 2009

It does mention in this section that the City is home to several businesses, notably Idexx, Artel and there is a real opportunity to do leverage with this success given its proximity to the States other Bio Science, technical and so forth... University of Maine. But with that leverage you still have to continue to develop and integrate specific areas concern and focus making sure that the efforts integrated over all economic development plan vision including Westbrook City Park.

The problem I have with what I have heard (my personal opinion) but this also speaks to my responsibility to the Ward that I live in and I am a neighbor of the Industrial Park. The City at this time states most sensibly that the emphasis is on integration and not exclusion. This is what troubles me with what has been going on during the past year.

The future land use and quality of life in the City, once known as a paper manufacturing giant is moving into its future of environmentally friendly, economically sound, progressive active community looking forward to continue excellence.

What we have here, in my personal opinion is that we are trying to write this to push one side at the expense of the other and we are going to do it by an Ordinance rather than sitting down working together. Which is why, as it is written I can not support it.

Ed Reidman is there anyone else that cares to speak before we vote? Seeing none...The motion on the table is to recommend to the Council the items that were before us earlier, Section 201 in the definitions, Section 203 Non-Conforming Use and a new Section 311 plus the District map.

The vote was 5-1 (Paul Emery opposed)

Ed Reidman I want to thank all of you that have participated with us through this process and I hope you will follow it through the Council.

3. Adjourn

Respectfully submitted by Linda Gain PECE Administrative Assistant

MINUTES MAY NOT BE TRANSCRIBED VERBATIM. SECTIONS MAY BE PARAPHRASED FOR CLARITY. A COMPLETE RECORDING MAY BE OBTAINED BY CONTACTING ENGINEERING, PLANNING AND CODE ENFORCEMENT at 207-854-9105 ext. 220 and lgain@westbrook.me.us. THANK YOU