

HEARING BEFORE THE CITY COUNCIL, NOVEMBER 16, 2009

Hearing opened at 6:35 P.M. with Councillor Rowlands, Chair of the Legal Affairs Committee, presiding.

Attendance was taken by a roll call vote; all members were present except Councillors Dombrowski, Lanciani and Rosa.

Also in attendance was Ralph Wilmur of Vanasse, Hangen and Brustlin.

This hearing was continued from October 5, 2009.

The following ORDINANCE was the subject of the hearing:

- 5-10 John Souza, Chairman, on behalf of the Planning Board: Adopt the following zoning changes proposed by Vanasse, Hangen and Brustlin to include:
- 1) The Leominster Zoning Ordinance Revised Draft, July 2009
 - 2) The Leominster Zoning Ordinance "Table of Uses," July 2009
 - 3) The Leominster Zoning Ordinance "Proposed New Zoning Districts," July 2009
 - 4) the Leominster Zoning Ordinance "New Sections," January 2009
 - 5) Section 22-19 Residence B Districts which is a correction to the "The Leominster Zoning Ordinance Revised Draft," July 2009

Councillor Rowlands said this petition is before the City Council but referred to the Legal Affairs Committee. He said they have sent out recommendations from the Boards and bodies throughout the City and then will formulate them and work through this document and make their recommendation to the City Council. He said once they do that the City Council will take action on it. He said since the allocation of the monies it has been about two years and they expect to be working on it for months. He said since the last meeting the Legal Affairs Committee started to review the document and found it was just too difficult to do a proper review and asked the petitioners to format it. He said they received an updated version and now it is easier to read. He said there is still a lot of work to do but now we can move forward.

Councillor Rowlands started with the Table of Contents. He said it is pretty consistent to the way they had it before. He said the following need to be addressed:

1. Section 7 (Scheduled Development) has been removed and removed from the new Table of Contents. The numbering needs to be adjusted.
2. Section 9 (Open Space Community Development) is missing from the Table of Contents but is in the document.
3. Section 10 (Planned Unit Development) has been removed from the document. The numbering needs to be adjusted.

Councillor Rowlands said he noticed that the Wind Energy Facility was new.

Mr. Wilmur said the Wind Generation Facility piece was in the very early draft. He said the difference now is that it is rewritten slightly so that there is no size limitation to it. He said the previous version was called Small Wind Generation Facility and this one is called Wind Generation Facility. He said the rationale behind that is because the City of Leominster is a grant recipient under the Division of Energy Recourse Green Facilities Act Program, so you are getting technical assistance to qualify as a green community. He said one of the criteria for doing so is to have that type of a zoning ordinance. He has tweaked what he had written a year ago so it would qualify for the Green Community Act criteria, which is in place now and what the City is trying to form.

Councillor Rowland asked if we needed a green initiative or energy initiative and zoning designation for a solar farm.

Mr. Wilmur said if you are planning on doing something in that magnitude you may want to look at that. He said there were provisions within the zoning act that allows solar access but thinks those are for facilities attached to a building rather than solar ray.

Councillor Rowlands thought the two could be combined.

Councillor Rowlands said on page 30 there are 11 districts and 6 overlays and the order of the new districts should be consistent and in one area and all the overlay districts should be together. It just needs to be restructured. He said the Flood Plain District would be moved up under the overlay.

Mr. Wilmur said ultimately that is the way we want it organized. He said for the purposes of just trying to get it all in one document he tacked it on to the end of Article II but figured at some point that and other things will probably be shifting around.

Councillor Rowlands said the existing overlay districts will not change.

Councillor Nickel said at one point with so many mills around they talked about a Mill District and laying it out would be difficult because there are so many.

Councillor Rowlands said in the new document there is Mixed Use 1 and Mixed Use 2. He said the Mixed Use in the old document is gone. The old Mixed Use was used on industrial land which allowed for non-industrial uses with land under 20 acres and land over 20 acres. Councillor Rowlands said the description on page 50 describes Mixed Use I as a district. He said if we are aiming Mixed Use I to be adaptive reuse to fix older buildings in the City that are maybe used for alternate use how can you define that to a district? He said before we said any industrial property and now we are saying a specific district but he doesn't know what part of the City it can be allocated to because there is abandon property we want to fix throughout the City.

Mr. Wilmur said the thrust was that most, if not all, of that is located on land that is either zoned Industrially or Commercially.

Councillor Rowlands said that is probably true. He said this is saying that this is a specific district that is outlined in the map, not saying all industrial land throughout the City or all commercial. It is saying a specific zoning location on the map.

Mr. Wilmur said assuming that it was going to apply to industrial and commercial districts, and they knew the location of the buildings in this kind of situation, they might do some designation on the map that would be both a commercial district and a mixed use district by crosshatching it or some other designation on the map. It would not necessarily apply to all commercial districts because there are some that look and function like a typical commercial district. The discussion on the working group level was that it would overlay those commercial and industrial districts where there were abandoned or under utilized buildings.

Councillor Rowlands said under the definitions for Mixed Use he doesn't want to have them mixed up and suggested MU1 and MU2.

Councillor Rowlands said the definitions are now much improved over what they had. He said the figures should be referenced and labeled. He said some of the figures are not right next to the definition and sometimes there are multiple definitions in a single figure. For instance, at the end of Accessory Building, see figure 1 and label the figure as 1. He said the terms should be consistent from definition to figure. He said the Amusement section has been put under Recreation and all the Wireless, Networking and Tower information has been put in the back. He said he would like to see some sort of forward reference for instance, Amusement (see Recreation). He said some sections that have been removed or redefined should have a forward reference also.

Councillor Rowlands said he didn't see Athletic Training Facility forwarded to the new zoning.

Mr. Wilmur said it is covered under Recreation.

Councillor Nickel confirmed the batting cages are under Indoor recreation.

Councillor Rowlands said Child Care Facility has been moved to Day Care Center and needs a reference. He said there are a list of new definitions.

Councillor Freda asked if there was another area for places for food like Duncan Donuts or a food establishment that is also in to gas stations. She said she knows they can't cover everything in the definitions but definitions are key.

Councillor Rowlands said he is of the mindset that the more energy you put in to the definitions the better.

Councillor Freda said when we don't it is subject to interpretation.

Mr. Wilmur said there is a new definition for restaurants with drive-thru.

Councillor Rowlands said there is a note that says the Health Care Overlay District definition is not incorporated in this draft.

Mr. Wilmur said they are.

Councillor Rowlands said that note should be removed.

Mr. Wilmur said on page 19, they added definition "k" which is the definition for story.

Councillor Rowlands said on page 25 there is also a definition of a "story".

Mr. Wilmur said this one is specific to the HCOD. He said he wanted to make sure it was incorporated as it was adopted by the Council.

Councillor Rowlands said on page 20, the illustration terms of mean ground level and the mean roof level are not referenced in the definitions, so either remove them from the picture or define them in the definitions.

Councillor Rowlands said page 21 the definition for light manufacturing can be left open for a wide variety of interpretation.

Councillor Nickel asked if the definition took in things like truck noise under light manufacturing.

Mr. Wilmur said that would be the assumption but a lot of that can be regulated in other parts of the ordinance. If you define it by size you could have a very small facility but extremely noxious and noisy and that would have more of an impact than a huge facility that you really don't notice.

Councillor Rowlands said he feels this definition is a little light and subject to a lot of interpretation.

Mr. Wilmur said he can give them some alternative definitions they can ponder and determine what verbage they might be more comfortable with.

Councillor Tocci said she noticed that he left out Processing, Blending, Fabrication, Treatment or Packaging. She said a lot of the plastic industry, even if they are small and doing light manufacturing, still have those processes they need within their building. She asked if there was a reason why it was left out or another word in the new section that is taking care of those.

Mr. Wilmur said he thinks it is covered under Manufacturing.

Councillor Tocci asked if he split it up as Light Manufacturing and Manufacturing by itself.

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Mr. Wilmur said yes.

Councillor Rowlands said that is a good point. Maybe there needs to be subcategories under the category of Manufacturing.

Councillor Rowlands said there is a Personal Service Establishment. He said it use to be called Personal and Consumer Service Establishment. It has been redefined as well as Pet Services. The whole Recreation Use is redefined including Amusements.

Councillor Rowlands said he hasn't delved into the sign section but there are major changes to that section.

Mr. Wilmur said the only definition that changed is the definition of "Sign". He said the rest of the subdefinitions for sign are the same as they were.

Councillor Tocci said according to the section for signs the message that is displayed shall not change more frequently than every 3 seconds and then if you skip one it reads no message may scroll across the board. She asked if there is a difference between changing and scrolling.

Mr. Wilmur said scrolling is what you see at Time Square where it is rolling around the building and moving laterally and changing is one moment showing temperature and then the next moment it will show the time and then temperature and time. The message itself is not moving.

Councillor Rowlands said so we can't have scrolling but you can have flashing?

Mr. Wilmur said it is up to you how you want to regulate this. He said the suggestions came from the Building Department and at the time there was no other discussion about it so I put it in. He said some communities want to regulate every aspect of a sign and get down to the nitty-gritty like this does. He said some communities don't care if it scrolls or flashes.

Councillor Freda said she may put in an amendment to change the zoning on signs prior to this being complete because St. Anna's is stuck with their sign. She said when a cost has been incurred and they have gone through the proper channels of the Building Department, they shouldn't be told they can't do that. It's like why didn't they tell them that they can only have one message a day when they took the permit out and before they spent \$30,000.00.

Councillor Rowlands said he is purposely staying away from signs tonight because that will be a lengthy discussion.

Councillor Rowlands said under two family dwelling it defines it as a building designed for containing two independent dwelling units above the other. He asked why not side by side. He said it is confusing to him about two family and duplex.

Councillor Nickel asked Mr. Wilmur about fall zones relating to wind and energy facilities.

Mr. Wilmur said it will all be covered in the new section. There are a lot of standards for construction, oversight and maintenance of a wind generation facility and fall zone is covered.

Councillor Rowlands said on page 33 there seems to be a numbering problem.

Mr. Wilmur said he will continue to try to fix and refine the numbering but Microsoft Word has a mind of its own and might not get all of them.

Councillor Rowlands said the Zoning Board of Appeals owns no Special Permits any longer in this re-write. The only Special Permits are held with the Planning Board with the exception of Adult Entertainment. He said if you go to the Table of Uses where you outline the different entities, it has been removed but needs "SPCC" put back in.

Councillor Rowlands said one of the major changes we have to nail down is what Mixed Use1 really is. He said Mixed Use 2 is very well defined.

HEARING ADJOURNED AT 8:12 P.M. AND CONTINUED TO DECEMBER 28, 2009 AT 6:30 P.M.

Lynn A. Bouchard, City Clerk
and Clerk of the City Council