

MANOR BOROUGH
PUBLIC HEARING – October 18, 2023

The Manor Borough Council held a Public Hearing on Wednesday, October 18, 2023 at 6:00 P.M. in the Manor Borough Building for Eliminating Central Business District (CBD), Changing Zoning Classification of all CBD Properties from CBD to either C-1 Commercial Zoning District Classification, or to R-2 Village Residential Zoning Classification.

1. Council President, Mr. Tony Gockel, called the Public Hearing to order and 2. Lead the Pledge of Allegiance.

3. **Roll Call** of Attendance:

(Present)	Tony Gockel, President	Dawn Lynn, Vice President
	Chuck Charrie	Dave Gongaware
	Terry Nemitz	Jim Vacha
	Ed Malinoski, Mayor	Chelsea Dice, Solicitor
	Mike Radakovich, Tax Collector	

(Absent)	Christine Marchand	Ed Antonacci, Engineer
	Randy Carlson, Chief of Police	Jason Krainbucher, Zoning Officer

4. **INTRODUCTORY REMARKS**

Mr. Gockel turned the Public Hearing over to Solicitor Ms. Chelsea Dice.

5. **SOLICITOR REMARKS**

Ms. Dice explained the hearing is for an Ordinance Of The Borough Of Manor, Westmoreland County, Pennsylvania, Amending Chapter 27 (Manor Borough Zoning Ordinance) Of The Borough's Code Of Ordinances, As Previously Amended And Supplemented, And The Manor Borough Zoning Map, To Eliminate The Central Business District (CBD) In Its Totality, Thereby Repealing CBD From Types Of Districts Set Forth In §27-205, Subsection G.; And Repealing CBD In Statements Of Purposes And Intent For The Districts Set Forth In §27-207, 7.; Also Changing Zoning Classification Of All Of The CBD Properties From CBD To Either C-1, Commercial Zoning District Classification, Or To An R-2, Village Residential Zoning District Classification As Depicted On The Revised Zoning Map; And Also, To Amend §27-211, Table Of Use Regulations, In Section J, Commercial (C-1 Districts) Permitted Uses, To Amend Subsections 8, 20, 23, 28, 29 And To Add Subsection 36, 37, 38, And 39, To Amend Section P, Light Industrial (I-1 Districts) Conditional Uses, To Add Subsections 5 A. And B.; Also Amending The §27-704 To Permit Electronic Signs In A Commercial Zoning District Only; And Repealing §27-217 CBD-Area And Heights Requirements.

This was a recommendation from the Planning Commission with the intent to eliminate the CBD Zoning District and to add additional uses to the Commercial Zoning District as well as to address the Light Industrial District and Electronic Signs.

Per the MPC Ms. Dice noted there is an obligation to advertise the Public Hearing, which was done through the Penn-Trafford Newspaper, with Proof of Publication available. She went on to explain the Planning Commission recommends changing some properties to R-2 in the CBD area, as residents previously trying to sell their homes had issues obtaining a mortgage due to the zoning criteria. Some Planning Commission members felt some CBD uses should be in I-1, specifically the school bus depot and dispatch center due to the type of traffic. Any property changed as a result of this Ordinance will become pre-existing non-conforming uses. Meaning, the owner can retain the use forever as long as it is not abandoned. Existing PA case law supports this, referring to Latrobe Speedway VS Zoning Hearing Board of Unity Township, in which the landowner's intent was to keep the property with the same use despite it being for sale and not used for over 14 years.

Other changes include specific properties moving to neighboring R-2, or to neighboring C-1 Zone. Property designated as C-1 will now inherit all of the permitted uses, special exceptions and conditional uses already described in the current Zoning Ordinance. Changes to the current C-1 Zone includes the multi-family dwelling units. As proposed, multi-family units are a special exception in a C-1 Zone, to keep with the consistency with the existing C-1 Zoning language. Ms. Dice invited the Public, as well as Council, to make their concerns and opinions known. Council and the public can make statements on the record. Council can make modifications to the Ordinance prior to voting on its approval.

6. EXHIBITS

Ms. Dice then entered the following exhibits into the record:

Exhibit 1 is the Proof of Publication for the Public Hearing, September 25, 2023 and October 9, 2023, advertisement appearing in the Penn Trafford News.

Exhibit 2 is an Affidavit signed by Mr. Joseph Lapia affirming a letter was sent to all affected land owners, listing Parcel ID and dated September 13, 2023, as required by the MPC, stating the potential change in Zoning use.

Exhibit 3 is an Affidavit signed by Jason Krainbucher listing the areas of the Borough where signs were posted in the Borough on October 4, 2023, notifying of the Zoning Change and Public Hearing.

Exhibit 4 is an Affidavit to the County Planning Department and their response, read by the Solicitor, on September 12, 2023, the amendment Ordinance and map was sent to Westmoreland County and the county responded on September 14, 2023 with comments:

- Section 3b, The Parcel ID for Sangill Properties LLC should be corrected from 19-03-70-0-076 to 19-03-07-0-076.
- Section 6 Item 5 will be added or amended as permitted uses under section P.i-1, Light Industrial Zoning District conditional uses. Remove permitted uses language as it is contradictory use in the I-1 conditional use section.
- Section 6.5.a.3 correct 50:00 P.M. to either 5:00 P.M. or 17:00.

The Solicitor stated for the record, she recommends the 3 changes be made to the Ordinance as suggested by the County. The Parcel ID should be corrected, but is confident the letter was addressed to the correct property owner per the Affidavit. She admitted the conditional use change was due to a typographical error and should be corrected. Section 6.5.a.3 is not referencing time, but referencing 50 trips, and it should be corrected. Should an area exceed 50 p.m. trips, then a traffic study should be done.

7. TESTIMONY

Lauretta Kerber, owner of the Bus Depot and 72 Main Street, Manor, questioned the property status as conditional use in the current CBD Zone. The Solicitor explained Ms. Kerber's property will not stay conditional use under the Commercial Zone, but it will be conditional use under the Light Industrial Zone. Ms. Kerber is not in favor of the Zoning change. Though she admits it will not affect her currently, it could affect her heirs in the future. She acknowledges the bus depot is in a flood plain. She feels this Zoning change is targeting the Bus Depot/Dispatch Center. She would like to have the verbage added to the Commercial Zoning classification saying a bus depot is conditional use, just as it is for the current CBD designation. Ms. Kerber asserts the Bus Depot abides by the rules and regulations and does not cause traffic congestion, providing plenty of parking for the 85 employees. The bus company is a perfect fit for the land use, realizing any other business could be cost prohibitive considering special building considerations for flood plain. Her late husband brought value to the land via the bus company which otherwise would have remained vacant.

She feels the bus depot does not cause traffic issues, but pointed out the traffic congestion at the intersection going towards Sandy Hill Road on SR 993. She asked about a traffic study to be done at the intersection. In regards to lighting, she feels she complies with the current Ordinances. She also asked what is considered hazardous material and queries if diesel fuel in buses is considered hazardous. Regarding Section 5 multi-family unit, she asked about the Catering business that has very little parking. If that place sells, how is parking going to be handled. Ms. Kerber asked not to pass the Zoning Amendment as there are many vague issues that have not been clarified. She then suggested the bus depot was being spot zoned. She wants the bus depot to stay as a conditional use since it is in a flood plain and it supports the community.

Sandy Svoboda, 77 Main Street, owner of Manor Auto Service, only saw auto repair service under the Industrial Zoning classification. The solicitor explained Manor Auto Service is a pre-existing non-conforming use, which predates the creation of the Central Business District zoning classification and as long as that business is maintained with that intent, they will not lose the right to operate in the Commercial Zoning classification. A future Ordinance amendment may include auto repair.

Ed Malinoski, Mayor of Manor, feels the bus depot is being singled out. The Mayor references pages 7 and 8 and notes the pages appear to be copied from another document and feels the requirements should be addressed individually to ensure applicability. Regarding page 8, A.2. OSHA states that “the average foot-candle per square foot for parking lots depends on the activity level of the area. Generally, 1-5 foot-candles are recommended, with higher values for areas where there is more traffic or risk of damage to vehicles or danger to pedestrians”. Page 8 A.2 is limiting the lighting to no more than 1 foot-candle per square foot at the property boundary line. There are only 5 lights currently in operation that do not provide the proper illumination that is required for a safe pre-trip, safe pedestrian movement or provide a safe area for employees when they return late at night. First Student personnel are mostly retired age and have difficulties maneuvering in the yard during the late-night hours. It is very dark when employees return from a late-night charter. The yard becomes a very dangerous place at night since it is not adequately fenced or gated to keep out nefarious actors. A lighting analysis should be done to determine what is required for the safety of all personnel before we determine the level of light that is adequate. Page 8 A.3 states that Centers generating in excess of 50 trips shall submit a traffic impact analysis. What does this mean? Page 8 Section 6 5.A.4 is poorly written. Left to interpretation it could be argued that busses filled with diesel fuel could be considered storage units for hazardous materials. This needs to be rewritten to clarify.

8. QUESTIONS OR COMMENTS

Chuck Charrie of Manor Council explained the revised Zoning map fixes a wrong from previous Councils. He said the current small CBD cannot exist without it being spot zoned and was artificially inflated to make it comply on the County level. The current changes are to get the residential properties out of the CBD so they can properly sell/mortgage. With the Residential properties out of the CBD, the CBD is too small to continue. Mr. Charrie then explained auto repair will be considered as “Retail” in the Commercial Zone. He then stated the Borough did the Bus Depot a favor by not requiring a traffic study and the change in Zoning should have no affect on the Bus Depot now or in the future.

Tony Gockel, President of Manor Council, clarified the lighting aspect of the Ordinance. Should the owner in the future want to alter the lighting by adding to it, they would need a Variance from the Zoning Hearing Board.

Joseph Lapia, Borough Manager, further clarified to the Mayor about the lighting and rules at the bus depot that included lighting, screening as part of the conditional use granted in 2008.

Solicitor Chelsea Dice speculated the requirement for the reduced lighting at the Bus Depot was likely due to it being in close proximity to a residential area. She stated the lighting rules for the Bus Depot are dictated by

the Zoning rules in place when the Bus Depot was created. Subsequent rules may not have an impact or be enforced, unless the Bus Depot wants and feels the need to change.

Jim Vacha of Manor Council asked if there was a reason why the Bus Depot and Manor Auto Service will be considered Light Industrial and not Commercial. The Solicitor explained Manor Auto Service has been there for years as an existing non-conforming use. Planning Commission felt the Bus Depot fell more into an Industrial type Zone.

Lauretta Kerber inquired about the vacant lot between the Bus Depot and the Manor Auto Service. That property will be Commercial. Ms. Kerber said she has no worry now, but she is concerned about the future.

Joseph Lapia, Borough Manager, further summarized the Zoning changes, to help reduce the confusion: Properties that are CBD are changing to Commercial. The other properties such as single and multi-family homes are changing from CBD to R-2. The Bus Depot/Dispatch Center is being placed in an Industrial Zone as a conditional use. Solicitor Dice follow up that the zoning change is more advantageous for the Bus Depot, and cited the Latrobe Speedway VS Zoning Hearing Board of Unity Township as an example of not abandoning a property.

Bonnie Dawson of the Planning Commission stated the intent was for residents in the CBD Zone who are trying to sell their homes, and the focus was on Residential. She is a proponent for well lit areas and questioned if the Bus Depot is at maximum lighting. Which is to be determined. Mr. Lapia noted in 2021 residents came to the Borough because they were having a problem selling their home because they were in the CBD Zone. That meant the ground floor was for storefronts and living space was upstairs. The Buyers were having an issue with Lenders because should the property be a total loss and had to rebuild, it could not be built as a multi-family unit with residential space on the ground floor. Therefore, multi-family units were made a permitted use in CBD. Now this is in the Commercial Zone as a special exception and will require the Zoning Hearing Board at a fee of \$1,000 plus the cost of advertising. Mr. Charrie explained that in older parts of towns there are businesses on the bottom and apartments on top. He feels such buildings that become all apartments in Commercial areas are not good.

Terry Nemitz of Council asked who the Fire Marshall is. Mr. Lapia responded there is no Fire Marshall in Manor Borough, and the Borough is not permitted to appoint one. Mr. Nemitz was referring to Section 5 of the Ordinance. Mr. Lapia stated prior Solicitor Campfield researched the issue and determined Boroughs do not appoint a Fire Marshall. Mr. Nemitz felt the verbage is confusing.

9. CONCLUSION OF HEARING

Ms. Dice announced testimony is done and the hearing is concluded at 7:41 P.M.

10. MOTION TO ADJOURN

Ms. Lynn motioned to adjourn the Public Hearing. Seconded by Mr. Nemitz, the motion carried unanimously. The meeting concluded at 7:42 P.M.

Joseph N. Lapia
Borough Manager