



PLANNING & DEVELOPMENT DEPARTMENT
City Hall - Second Floor
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Planning & Zoning
Community Development
Conservation Commission
Historic District Commission

NOTICE OF DECISION

September 23, 2010

Mr. Christian Strickler
183 Washington Street, LLC
501 Daniel Webster Highway
Merrimack, NH 03054-3713

RE: Phase I subdivision of the PUD containing 88 single family and 47 townhouse lots. Case # 237-3, 6, 8, & 246-5-A-02

Dear Chris:

The Rochester Planning Board on September 20, 2010 voted to approve changes to the Phase I subdivision. The earlier notices of decision are now null and void. The updated conditions follow.

"Applicant", herein, refers to the property owner, business owner, individual(s), or organization submitting this application and to his/her/its agents, successors, and assigns.

Precedent Conditions [Office use only. Date certified: _____ ROD received? _____]

Most of the conditions below have already been met as part of the original approval of Phase I. Certification of the amended plans is required prior to issuance of new building permits or recording of any plans, in accordance with the conditions, below. Once these precedent conditions are met and the plans are certified the approval is considered final. The amended plans should not be submitted until the question of provision of water and fire fighting is resolved.

Please note* If the amended plans are not signed by December 21, 2010 then this amendment will be null and void and the earlier modified plans shall remain in effect, as appropriate. It is the sole responsibility of the applicant (or his/her agent) to ensure that these conditions are met by this deadline. We urge the applicant to carefully track his/her progress in meeting the individual conditions. See RSA 674:39 on vesting.

1) The plans are to be modified as follows:

- a) include Subdivision Approval statement (Section 4.2.10 from Subdivision Regulations) pertaining to diligent adherence to terms and conditions.
- b) add the following information to plans (obtain information for i, below, from the Assessing Office; for ii, below, from the Planning Office; and for iv, below, from the MIS office):
 - i) new Assessor's Map # and Lot # on each lot; *[new lots #'s must be approved]*
 - ii) new street names (proposed names must be approved by E911 Committee);
 - iii) show original subdivision lot #'s (lot 1, lot 2, etc.) by depicting each lot # circumscribed by a circle or within () if different from Assessor's Map and Lot #'s.
 - iv) Also, submit a separate sheet of paper (not on plans) giving proposed new street address for each map and lot #
- c) Ensure that all fire hydrants are spaced no more than 500 feet apart
- d) Include easement for City of Rochester plow trucks and other vehicles to use the cul-de-sac at the top of the hill to turn around in. (Please also clarify cul-de-sac on plans to show as being on private lot.)
- e) Add a very prominent note on the plat that no lots may be conveyed until a discharge signed by the City of Rochester is recorded attesting to either the surety being in place or the infrastructure serving the lots in a particular phase being completed.

[If the full surety is submitted prior to re-recording of the plans, then this note will not be required.]

- f) Incorporate all changes into the plans per the amendment and the drawings received on May 27, 2010, except for any conditions regarding provisions of City water. At this time, unless an amendment is granted in the future regarding City water, City water is required for the development.. *[See subsequent conditions regarding City water.]*
- g) Eliminate Truman Circle and the lots on Truman Circle (which are part of the Hussey property) and the six/seven additional lots shown on the southerly end of Fillmore boulevard as all of these lots would be part of Phase III if so approved as part of Phase III.
- h) Change the dimensions and locations of water lines in accordance with the *modification approved by the Planning Board on September 20, 2010*. There is to be a 12" line a) running up Hussey Hill Road; and b) on Fillmore Boulevard between Hussey Hill Road and Eisenhower Boulevard. The rest of Phase I is to be 8" except where private wells are planned.

- 2) Add the following notes (or equivalent) to the plan drawings:
 - a) "For more information about this subdivision contact the City of Rochester Planning Department, 31 Wakefield Street, Rochester, NH 03867. (603) 335-1338."
 - b) "All lot corners shall be marked with capped iron markers or other appropriate monumentation (installation is best done after road construction)."
 - c) Add approval block on each page of drawings for signature of Planning Department. It should read: "Approval certified by _____ Date _____" or equivalent
 - d) "There is to be no further subdivision of any of the lots. Lot lines may be adjusted but no subdivision shall be permitted which would yield additional buildable lots beyond the number approved in this plat (this requirement is made pursuant to the Planning Board's review of the parent parcel and a determination that the number of lots approved is the maximum appropriate for the parcel as subdivided)."
 - e) "There may be no ground disturbance until the restoration bond is in place."
- 3) It must be made clear how water service will be provided for Phase I and it must be demonstrated that the water service to be provided will be adequate. *[See subsequent conditions regarding water service.]*
- 4) The applicant must sign the Agreement for Payment of Inspection Fees and make a cash deposit to cover the expected costs of inspections, in an amount that is determined by the Public Works Department. (The inspections will be conducted by the City of Rochester Public Works Department or its designee. The applicant must pay for inspections - at an hourly rate as determined by the Public Works Department - of the site, including all new infrastructure serving the site.) With staff approval, the applicant may pay the deposit at the preconstruction meeting.
- 5)# Payment to CLD of consultant's fee
- 6) For the lot line adjustments, the applicant must submit to the Planning Department a copy of the signed and notarized deed, which will effect the conveyance of the affected land (the land within the lot lines being adjusted). (After the plat is certified by the Planning Department the original deed and mylar of the plat will then be recorded simultaneously (see below). The deed may refer to the plat and state that the conveyance is not effective until such time as the plat is certified and all documents are recorded.) This requirement is waived if the same party owns both lots.
- 7) Obtain driveway access permit from NH-DOT
- 8) The pre-construction meeting and inspection agreements are to be signed by the property owner to include the following statement: The applicant shall retain the services of the design engineer or her/his designee to insure that all required site work and public improvements are constructed in accordance with approved plans and conditions.

- 9) The plans are to be tied into the State Plane Coordinate System or \$2,925 is to be contributed to the Monumentation Fund.
- 10) Coordinate with the City Engineer incorporating all appropriate and reasonable drainage, utility, grading, and other requirements specified by the City Engineer. *[This condition was met.]*
- 11) A drainage maintenance agreement approved by Public Works must be executed.
- 12) The subject property or a portion may be presently in Current Use. The applicant must provide to the City of Rochester Assessing Department a revised current use map and/or any other items needed to assure that the requirements of RSA 79-A and the New Hampshire Department of Revenue's Administrative Rules are satisfied. Contact the Assessing Department at 332-5109 with any questions. It will facilitate the process for you if contact the department well in advance of commencing the project.
- 13) Pay balance of any fees, including application fee that are due.
- 14) All required state and federal permits - including State approval of the subdivision, site specific, dredge and fill, as appropriate - must be obtained with copies of permits or confirmation of approvals delivered to the Planning Department.
- 15) (a) Two sets of mylars (or one mylar and one acetate/washout) plus (b) five sets of large blue-line or black-line plus (c) one set of 11"x17" final approved plans must be on file with the City. Each individual sheet in every set of drawings must be stamped and signed by the land surveyor, engineer, or architect responsible for the plans. (The applicant need only submit additional blue-line/black-line sets of drawings or individual sheets, as needed, to make five complete sets - consult the Planning Department.) At the discretion of the Planning Department minor changes to drawings (as required in precedent condition, above) may be marked by hand.

[These plans must be resubmitted for certification and re-recording pursuant to the amendments approved on June 21, 2010 and September 20, 2010 and the two lot subdivision approved on August 16, 2010.]

General and Subsequent Conditions

All of the conditions below are attached to this approval.

- 1) Highfields was amended on September 20, 2010 to allow for a mix of City water and individual private wells in accordance with the **Water Infrastructure Reimbursement and Use Agreement**, which spells out a number of terms for this development. The form and terms of this Agreement were approved by the Planning Board on September 20, 2010.
- 2) The **Water Infrastructure Reimbursement and Use Agreement** must be signed and executed by the applicant and the City of Rochester by October 15, 2010. The approved (unexecuted) document is attached herein.

- 3) The applicant shall execute a **Well Water Indemnification Agreement** with various property owners as spelled out in that document. Each individual document must follow the template document, as approved by the Planning Board on September 20, 2010, which is attached herein. As discussed in this Agreement, the applicant shall place a surety of \$20,000, the amount approved by the Planning Board, with the City of Rochester Planning Department. If it is determined at any time in the future that this amount is not sufficient then the City may withhold any permits or take any other reasonable action to ensure that additional surety is obtained. In the event that the applicant elects not to use any private wells then it will not be necessary to execute this Agreement.
- 4) The applicant shall execute an indemnification agreement with Gary and Robynn Jewell for their property at 73 Bickford Street, indemnifying them against adverse impact to their pond in accordance with the terms laid out in the letter of September 17, 2010 from Hillside Design Group, LLC to Gary and Robynn Jewell.
- 5) The location of the right of way extension at the top of Eisenhower Drive, leading to the Jewell property (lot 236-1), may be adjusted if a different location is mutually acceptable to the Jewells and the developer.
- 6) If a surety for completion of the infrastructure is not in place for any given construction phase, a very prominent note must be included on the plan stating that no lots may be conveyed until a release signed by the City of Rochester attesting to payment of surety or completion of the infrastructure is recorded. Construction phases shall be marked on the plans to be recorded, as appropriate to clarify which lots may or may not be conveyed at any time.
- 7) Surety and construction. The memorandum from Attorney Richard Uchida sent September 2, 2009, titled "Construction phasing, building permit and bonding proposal for construction phases A1 and A2" and the colored drawing titled "Phasing plan" dated October 19, 2009, shall guide the surety and construction for construction phase A with the following changes to that memorandum: no lots in construction phase A1 may be conveyed until all of the infrastructure serving A1 is in place or an acceptable surety for this infrastructure ("performance bond" in the memo) is placed with the City. This shall be noted prominently on any plat to be recorded.
- 8) The memorandum by Attorney Richard Uchida received by the Planning Department dated October 19, 2009 is incorporated by reference into this approval and shall guide this approval (with marked up additions and deletions from that date being incorporated into a final memorandum). Where there is any conflict between that memorandum and this notice herein, this notice shall govern.
- 9) Prior to dedication of the streets to the City trees shall be installed per approval.
- 10) No certificates of occupancy shall be issued within any construction phase until the drainage structures, curbing, sidewalk, streetlights, and road (including the base course of pavement) within that phase are properly installed. Certificate of Occupancy's may be issued within construction phase A1 independent of the condition of construction phase A2, which is part of the multifamily project.

- 11) The restoration bond discussed in the memo from Attorney Uchida per general condition below must be posted with the City of Rochester.
- 12) The developer is responsible for the maintenance of the street at all times until it is accepted by the City of Rochester. Reasonable access shall be provided for lot owners and their contractors, if necessary, during the construction process (see condition regarding access for fire apparatus). Once any certificate of occupancy has been issued the developer must provide appropriate maintenance including snow plowing services in order to allow safe passage for residents, emergency vehicles, and service vehicles. The City of Rochester may use any surety attached to this project to provide the necessary maintenance, if the developer fails to provide this maintenance, as determined by the City.
- 13) In accordance with City Ordinance 19.3, the City of Rochester (through its arrangement with Waste Management) will not collect rubbish generated from houses within this subdivision until the new street is formally accepted as a city street. Until such time as the new street is accepted: a) the developer shall be responsible for making arrangements for the collection of rubbish, either from a dumpster that he/she shall place in an appropriate location on site or via curbside pick up; and b) individual property owners may not place any rubbish at the street (or on any other public streets in the city), unless approval is granted from the Public Works Director or private arrangements are made with Waste Management or another private hauler for pick up at the street."
- 14) Phase I includes lot 237-3 and a portion of lot 237-8 including the entrance road which is part of lot 237-8. Most of lot 237-8 is included in Phase II, the multifamily phase.
- 15) The original notice of decision that was approved April 4, 2005 is now null and void.
- 16) Phase I contains 135 buildable residential lots, including the following: 88 single family lots; 47 townhouse lots as shown on the updated drawing [30 dwelling units have been added to Phase I and are thus being subtracted from the total number permitted for the Phase II multifamily project].
- 17) The applicant may repeat the process outlined herein for construction phases B and C (as depicted on the colored drawing received September 14, 2009) or post surety up front for the infrastructure serving each phase. If full surety is not placed up front, then a prominent note shall be placed on the plans, as appropriate.
- 18) Submit proposed elevation drawings of attached rowhouses to the Planning Board for approval. These are to be approved prior to issuance of any building permits within Phase I for these townhouses.
- 19) All conditions per PUD approval apply except as amended
- 20) The roads shall be as shown in the submitted drawings with a minimum of 20 feet (for one way)
- 21) The template architectural designs submitted with this amendment are approved. The approved designs will then be incorporated into the Homeowner Association

documents. All buildings shall then be reviewed and approved for conformance with the templates by an architectural review committee established by the developer. The committee is empowered to make reasonable adjustments in the approved designs consistent with their intent. Only portions of buildings that are visible from a public way or a street (not an alley) are subject to review under this provision herein. This procedure shall be enshrined in the Homeowner Association documents to be recorded.

- 17) Water must be provided to the construction phases as follows. The existing Washington Street booster station can supply water to the new phase A1, phase D, and most of phase B, but not the apartments in sub-phase A2. For the apartments a tank or other workable infrastructure must be constructed because the pumps can not provide the fire flow capabilities that ISO dictates for fire fighting water delivery for structures of that size and use. The water supply should be extended up Hussey Hill Road from the booster station during phase A1. It will ensure more efficient water delivery to the site. *[See subsequent conditions regarding water above.]*
- 18) It is understood that the developer may be required to contribute toward upgrades of the Washington Street Sewer Pump Station and the Old Route 125 Pump Station for future phases (apartment phase and westerly half of PUD) depending upon capacity at that time, planned upgrades, other projects, timing of later phases, etc.
- 19) All development within this subdivision must be connected to City water and sewer. *[This condition has been revised; see subsequent conditions above.]*
- 20) Commencement of active and substantial development for Phase I and for the overall PUD is defined as the extension and placement of water and sewer pipes, sufficient to reach construction phase A1.
- 21) For each construction phase, the wearing (top) course of pavement shall be placed on the street and the street offered for conveyance to the City upon the occurrence of either of the following:
 - a) 24 months have passed from the end of the first winter season (June 1) following the issuance of the first certificate of occupancy in that construction phase; or
 - b) At least 50% of the certificates of occupancy in that construction phase have been issued and at least one winter season has passed with the road paved to binder course.
- 22) The developer may install a separate area for overflow parking or storage of boats and other effects for residents and tenants. Site plan and/or subdivision approval shall be required at that time, as appropriate.
- 23) Trail connections to roads shall be completed prior to dedication of roads. Generally, this will consist of construction of paved pedestrian sections leading to the trails with the paved sections linking to the roads, or as approved by Planning.
- 24) All curbing shall be vertical with 6" reveal.

- 25) The Homeowner's Association/developer shall be responsible for maintenance of greenspaces.
- 26) This project is exempt from the Conservation Overlay District in accordance with the provisions of that ordinance as the PUD is grandfathered.
- 27) All requirements of the approved Planned Unit Development, except as amended, shall apply.
- 28) Note that the following shall constitute vesting of this project per the Planning Board: construction of roads to the cul de sac at the top of the hill including construction of the base course with all utilities up to this point.
- 29) Construction phases for overall Phases I and II are approved subject to the following terms and conditions, subject to reasonable minor adjustments pursuant to the June 21, 2010 amended plans:
 - a) This is based on the final colored plans received September 14, 2009 and approved by the board on August 17, 2009
 - b) The reddish area marked "construction phase A" is broken into sub phases A1 and A2. A2 includes the multifamily section that was approved in overall PUD Phase II. A1 includes everything else under A, i.e. the section that was approved in overall PUD Phase I
 - c) Surety shall be placed for each construction phase (only as appropriate for A2, since the driveways will remain private) prior to conveyance of any lots.
 - d) Surety for construction phase A1 will include construction of a standard cul de sac (in the event the project didn't progress beyond phase A1)
 - e) Every lot in each construction phase shall be served by a loop road, cul de sac, or interim hammerhead turnaround.
 - f) Note that subphase A-2 is part of Phase II of the PUD but may be built as part of construction Phase A.
- 30)# **No site work may be undertaken until: a) all (or at the discretion of the Planning Department, most) of the precedent conditions are met; b) the preconstruction meeting with City staff has taken place; and c) all appropriate erosion and sedimentation control structures are in place.** These erosion and sedimentation control measures must be in place prior to the pre-construction meeting in order that they may be inspected at the meeting. Contact the City Planning Department to arrange for the preconstruction meeting.
- 31) Standard Town and Country lighting shall be installed.
- 32) All erosion and sedimentation control structures must remain in place and be maintained until vegetation is established or ground surface is suitably stabilized.

Note that the filter fabric on silt fences must be buried at least 12" below the ground surface in order to function properly. Best management practices must be followed for wetlands protection.

- 33) All utilities must be located underground unless otherwise specifically approved.
- 34) The plat (mylar) must be recorded at the Strafford County Registry of Deeds within two (2) calendar months to the date the plat is certified (e.g. if certified September 9th it must be recorded by November 9th). See RSA 478:1-a regarding plat requirements.
Failure to comply with this requirement herein shall render the lot line adjustment null and void.
- 35) 5 sets of full size (measuring at least 22" x 34") blue line or black line plus one full size mylar plus 1 set of 11" x 17" as-built site plans (or "record drawings") are to be submitted to the Planning Department prior to the City's acceptance of the streets.
- 36) The sewer impact contribution must be paid prior to issuance of Certificate of Occupancy (one time payment of \$2.00 per gallon for average daily flow)
- 37) The owner shall obtain the services of an independent engineering materials testing company to test and certify that the materials used to build the road comply with and were installed according to NH-DOT Standard Specifications for Road and Bridge Construction.
- 38) The project must be executed exactly as specified in the approved application package unless modifications are approved.
- 39) Please note. In the event of any violations of these conditions of approval or of any pertinent local, state, or federal laws – such as those regarding erosion and sedimentation control, wetlands, stormwater management, and general site development standards – the City of Rochester reserves the right to take any appropriate permissible action, including, but not limited to, withholding of building permits, withholding of certificates of occupancy, withholding of driveway permits, revocations of permits/approvals, referring violations to other agencies, and calling of bonds.
- 40) All of the documentation submitted in the application package by the applicant and any requirements imposed by other agencies are part of this approval unless otherwise updated, revised, clarified in some manner, or superseded in full or in part. In the case of conflicting information between documents, the most recent documentation and this notice herein shall generally be determining.
- 41) It is the responsibility of the applicant to obtain all other local, state, and federal permits, licenses, and approvals which may be required as part of this project. Please be advised that a signoff from the New Hampshire Attorney General is required prior to sale of any house lots or condominium units for projects, which involve 15 or more lots/units (including where the total from all prospective phases could meet or exceed this number). Contact the City of Rochester Code Enforcement Department at 332-3508 regarding building permits. This development must be in

compliance with all applicable law – including al pertinent provisions of the City of Rochester Subdivision Regulations – unless otherwise waived

(Note: in both sections above, the numbered condition marked with a # and all conditions below the # are standard conditions on all or most applications of this type).

I wish you the best of luck with your project. If you have any questions or concerns, please feel free to contact me.

Sincerely,

Michael Behrendt
Chief of Planning

CC: Matt Peterson (via e-mail)
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