

City of Rochester Planning Board
Monday February 6, 2012 at 7 p.m. Regular Meeting
City Council Chambers
31 Wakefield Street, Rochester, NH 03867
(These minutes were approved on February 27, 2012)

Members Present

Nel, Sylvain, *Chair*
Tim Fontneau, *Vice Chair*
Gloria Larochelle, *Secretary*
Rick Healey
Stephen Martineau
Derek Peters
Mark Sullivan
Dave Walker, Councilor

Alternate Members Present

James Gray (arrived at 7:30)
Gregory Jeanson
Matthew A. Kozinski

Staff: Michael Behrendt, Chief Planner
Kenn Ortmann, Planning Director
Marcia J. Gasses, Planning Secretary

(These are the legal minutes of the meeting and are in the format of an overview of the meeting. A recording of the meeting will be on file in the City Clerk's office for reference purposes. It may be copied for a fee)

Mr. Sylvain called the meeting to order at 7:00 p.m. The planning secretary conducted the roll call.

Mr. Kozinski to vote for the vacant seat.

Communications from the Chair

None

Approval of Minutes for January 23, 2012

A motion was made by Mr. Peters and seconded by Mr. Walker to approve the January 23, 2012 meeting minutes. The motion carried unanimously.

Public Input on Chapter 42 rezoning

Cliff Newton 168 Old Dover Road explained he could not find who was on the committee in 2002 or what citizens were involved. There had also been an additional committee appointed by Mayor Jean. The board had it now and they needed to make something good of it. He was upset that the recommendation

had been to look at the Master Plan after rezoning. Looking at the Master Plan you see New Urbanism and he questioned if that was where the community wanted to go. He questioned whether people were going to walk to work, get groceries and healthcare. He suggested that the board may want to look at rezoning an area at a time. Going forward he had four suggested items he planned to work on:

1. The Mayor and Council along with the Planning Board vacate the Comprehensive Rezoning proposal, including any maps and begin anew keeping proper records.
2. Under Redress of Grievance Committee, to review and support HB 1223 under the right to know law.
3. Order implementation of penalties if a person violates 92.2 under the oath of office
4. Introduction of a bill that would make any zoning ordinance proposed using illegal documents, null and void.

Tom Kaczinski of 112 Whitehall Road urged the board to review the Master Plan. Some themes had come forward that had not set right with him from the start, such as the PUD's. The amenities in the PUD's were not sustainable. He felt that those types of development were only sustainable during the communist and socialist movement. Rezoning had floundered for 10 or 11 years it was full of control and regulations and it should be examined thoroughly.

A motion was made by Mr. Walker and seconded by Mr. Peters to close the public hearing. The motion carried unanimously.

Mr. Sylvain commented that he understood the issue with the minutes. He stated that what the board was trying to do is get the document correct and move forward.

Project Applications:

- A. Donald Routhier and Rickey Cooper & Donald Routhier and Estate of Sharon Weeks, Salmon Falls Road** (by Holden Engineering). Two lot line revisions to join portions of lots 227-37 and 227-38 with lot 227-35. Case # 227-35 & 37, 227-35 & 38-A-12

Don Routhier the applicant stated he was in agreement with the language submitted by Mr. Behrendt that evening. The language included "Should the applicant pursue use of the access easement across lot 227-37, including removal of any structures impeding that access. The applicant shall secure all appropriate approval from the City of Rochester, including issuance of a driveway permit, prior to construction of the access way."

Mr. Sylvain opened the public hearing.

Kathy Baker an abutter to the project stated she did not understand what the applicant was trying to do.

Mr. Routhier explained the Lot Line Revision.

Ms. Baker stated she was just concerned with the placement of a house behind her home.

Mr. Behrendt explained that there was enough frontage next to the Bakers property even without the LLR to place a house behind the Baker's home.. He then identified the lot lines.

A motion was made by Mr. Peters and seconded by Mr. Walker to close the public hearing.

Mr. Behrendt recommended approval with the language submitted.
A motion was made by Mr. Walker and seconded Mr. Healey to accept the application as complete. The motion carried unanimously.

A motion was made by Mr. Peters and seconded by Mr. Walker to approve the application. The motion carried unanimously.

B. Colby Footwear, Inc., Don Silberstein, 15-25 Oak Street (by Norway Plains Associates). Site Plan for a 76,550 square foot two-story addition to an existing 30,372 square foot warehouse building. Case #138-79 & 80-B2-R2-12

Art Nickless of Norway plains Associates explained that a plan had been submitted in 2000 and in 2007. The applicant decided to go back to the drawing board and has gone back to a square 2-story building rather than a 1-story. The applicant was an important distributor of shoes and their sale of shoes on the internet has taken off. They are in need of more warehouse space. A variance to allow expansion into the R1 Zone had been granted. A portion of the building is to be constructed into what is now a gravel parking lot. He stated enough parking existed on the site and there would be no loading docks on the Patriot Way side of the building.

Mr. Sylvain opened the public hearing.

Mr. Sylvain brought the discussion back to the board and left the public hearing open.

Mr. Peters asked where snow would be stored.

Mr. Nickless identified the area on the plans.

Mr. Fontneau asked if the truck traffic on Patriot Way would be eliminated.

Mr. Nickless explained not necessarily. He indicated that Knights Construction was the builder.

Mr. Fontneau expressed that the site was a great location and that it seemed like there would be a higher and better use for the location. He thought an industrial park would be possibly a better location.

Mr. Nickless did not disagree but when you own the site it is different.

Mr. Behrendt stated it was a formal application but not ready for acceptance. There were no significant issues but drainage did need to be addressed along with architectural details.

Mr. Nickless requested the application be postponed to March 5, 2012.

C. Paul and Sue Normand, 70 Betts Road (by Berry Surveying). Preliminary conceptual application for a four lot subdivision of a parcel onto a private road without frontage. Case # 203-27-A-12 (not a public hearing) Conceptual Discussion

Chris Berry explained that this was a conceptual review. The lot included considerable frontage along the Spaulding Turnpike. The access is via a right of way. The original home was constructed on the hill with a second structure constructed in 2003. This was allowed because it was shown it could be subdivided at the time. Zoning had changed to disallow frontage along a turnpike. The applicant would like to subdivide off a lot for a family member and one for a retirement home. They would also like to place the two current homes on their own lots. Access would need to be upgraded. The applicant was

requesting of the ZBA to have access on a private road. They would be discussing limiting development to what is shown on the plan at the ZBA. They would wait for ZBA action to submit a formal application.

Mr. Behrendt explained that the applicant was asking for a variance to add three new lots without frontage. The Planning Board would take guidance from the ZBA. It was a fairly large parcel of 16 acres. There were currently two houses on one lot. They would need to wait to see what the ZBA asks.

Mr. Healey did not have an issue. He pointed that the right of way cuts through the cemetery.

Mr. Berry stated that they would need to work within the law regarding the cemetery.

Mr. Peters asked what the acreage was for the two homes on one lot.

Mr. Fontneau questioned why the homes on other lots were not shown on the plans.

Mr. Berry stated they were not shown at this time.

Mr. Behrendt asked if the applicant would like to come back to the Planning Board on February 27, 2012.

Mr. Berry stated they were looking to March 5, 2012 for design review with abutter notification.

D. Amendment to approved Planned Unit Development for the Villages at Clark Brook, Old Dover Road (by Bedford Design Consultants). The proposal involves a change in the approved design and mix of uses. The 250 dwelling units (262 are approved) would include 35 single family lots, five 36-unit multifamily building, six duplex units, six live/work units, and 23 already developed lots in Little Quarry section. Case # 256-66-A/264-23-A-03

Dick Anagnost explained they had acquired Clark Brook in 2008. He gave the history of Little Quarry. They were purposing an amendment to the original PUD so that they could move forward with what is a market driven and market priced project. They felt the amendment meets the needs of the current market. In addition he explained that he was involved with the finance committee working with Albany and Safran.

Bob Baskerville from Bedford Designs described the existing conditions of the site. He had been involved with the project for 31/2 years. Last spring a vernal pool study had been done. A vernal pool was located by Little Quarry and one possibly by the entrance but it would not be an issue. He identified where recently identified wetlands fell on the previously approved project.

They found that if the design for the main project took up most of the uplands location of the septic system would be problematic. He identified potential sites for the septic and drainage structures with test pits to be dug in the near future.

The original Little Quarry was planned to be a 55 and older community with that restriction later removed. The original density proposed for the multifamily was 262 with the current proposal for multifamily to be between 250 and 256. The proposal for single family homes has dropped from 114 to 76.

The amount of City road has been reduced by 73% with a reduction of impervious surface of 50%. He liked the live/work option which allowed the option of doing small commercial on six of the lots. The applicant did not propose to make any connection to Blackwater Road. There would be an access road through the apartments to make one big loop. The roads will be designed to fit the contours of the site. The plan is for community septic with water from Somersworth available.

The applicant was looking for freedom with architecture. They planned to follow the PUD guidelines of open space, topography and public access with parking spaces for open space. There would just not be the traditional neighborhood design.

Dick Anagnost explained that they are a green builder using energy star design. The architectural design would be the most difficult portion.

Mr. Sylvain opened the public hearing.

Joanne Spurling explained she owned a 15 acre plot at 425 Old Dover Road. When the project first came in she had been concerned about with the potential affect on her well. Within a couple of years of Little Quarry being built her water had gotten worse and she had to tie into City water. Four years ago her basement started flooding. She discussed the formation of a vernal pool after construction had taken place along with drainage concerns she had.

Ms. Spurling discussed her concern with the traffic impact of the generation of what she estimated to be 500 trips per day. The original project list had not had anything this large on it. She had questions regarding the cost of homes and apartments and whether they would be subsidized housing. In addition she had concerns with occupancy rates.

Peter Whitman the original developer wished to address Joanne's concerns and believed issue was unrelated to what is proposed. He stated that Dick Anagnost was a serious businessman who worried about places for people to live. The community was very fortunate to have him take over the project.

A PUD subcommittee was formed before and had worked together in a public session through concerns, issues and allowed members of the Planning Board to have gone through the process with him. He thought the subcommittee was very important.

Jeff Gott asked the engineer to explain the vernal pools in the back.

Mr. Baskerville described a vernal pool as 18 inches to 3 feet in depth and staying for at least 6 weeks. Vernal pools had been found toward the front of the site. He then identified areas for potential detention ponds. They would need to make sure there were infiltration areas.

Jeff Gott expressed concern for run off and how it would affect dug wells.

Mr. Sylvain brought the discussion back to the board.

Dick Anagnost went over some of projects he had completed. He explained that drainage needed to be contained on site. In regard to well issues, he explained that significantly more blasting would have been needed with the original proposal but times had changed.

Mr. Behrendt explained that this application was before the board as an amendment. What was proposed would be substantially different then what was approved. In the case of an amendment the original documents would still be appropriate. To be treated as an amendment the proposal would show minor changes. He then itemized the changes and if the board felt they were no longer applicable then a new application should be submitted.

Mr. Behrendt explained that the PUD could be extinguished and the site returned back to Agricultural zoning. The PUD is an opportunity for when a developer wanted to do something unusual it may be appropriate to design the project in a unique way. He expressed that it should only be for an unusual

piece of property. In exchange for granting leeway, where 36 unit multifamily housing is not allowed in the underlying Agricultural zone, it was suggested the applicant not place the units in a traditional development format.

Mr. Sullivan expressed confusion.

Mr. Behrendt clarified that in his opinion what was proposed was not what is defined by the ordinance.

Mr. Martineau expressed that if what was proposed was substantially different it should be resubmitted.

Mr. Fontneau agreed that whatever the merits the application should not be in the form of an amendment.

Mr. Walker stated that the developer is proposing to change the project; whether it is considered an amendment or a new project the Planning Board has the bottom line. He questioned what the difference would be.

Mr. Behrendt explained a reduced fee and not based on the ordinance.

Mr. Walker stated that the board still has to review each and every part.

Mr. Peters stated he liked the smaller density and the elimination of the access point off Blackwater Road.

Mr. Sylvain asked the developer to provide elevations on Old Dover Road for the large buildings, along with the building specifications. He also asked the distance to where the City of Rochester water stops.

Mr. Baskerville stated it was about ½ mile or 2400 feet to Rochester water.

Mr. Sylvain asked the distance to Somersworth water.

Mr. Baskerville stated it was about 100 feet.

Mr. Anagnost explained that the original project was not buildable. Their legal council recommended coming back as an amendment.

Mr. Peters stated that the five large buildings would need to be fire suppressed.

Mr. Martineau asked the type of multifamily.

Mr. Anagnost stated they would be market rate.

Mr. Anagnost explained there was a 5% vacancy rate in Rochester which is considered healthy. The state vacancy rate was below 5%.

Mr. Martineau questioned why the applicant thought the proposal would still work ten years from now and how five big units would fit into the agricultural zone.

Mr. Fontneau explained that in the mid 80's there was a lot of multifamily in the agricultural zone. The biggest concern from neighbors when the PUD was proposed was to circumvent zoning and put in large multifamily. They were convinced that with the right controls that it could work. Now the applicant is

coming back with an amendment. He felt it was significant with 5 large multi units. They were convinced the multi was a small part of the original proposal and what is proposed is not keeping with the original proposal. He felt this was a new proposal.

Mr. Gray stated that what it is called is not important, that the large buildings change the character significantly. The buildings on top of the ridge were going to be significant. His biggest objection was units A through E. He would want to see elevations.

Mr. Anagnost stated that this proposal is a concept; it had not been fully engineered. There is something ideal but it is not perfect now. They need to be able to get to a point where they can deal with it.

Mr. Walker stated they should move forward with the amendment and work with the applicant to put together something that works.

Mr. Sylvain asked that they provide the elevations so the board could determine whether they should be two or three story buildings.

Mr. Peters stated that this was a concept and that the board needed to work with the applicant.

Mr. Martineau stated that if they do the amendment they need to be very clear to show the sight line. They need to see that perspective.

Mr. Anagnost stated they had been to TRG and there were no negatives except for Mr. Behrendt's.

Mr. Sylvain asked the board if they wanted to look at this with a subcommittee or as a committee as a whole.

Mr. Walker expressed that there was a lot of negotiation and a subcommittee would work best.

Ms. Larochelle stated that they had worked through the other PUD and questioned why it wouldn't be possible in this case.

Mr. Sylvain asked for the timeframe.

Mr. Baskerville explained that the developer would prefer to start construction in the spring on Phase I.

Mr. Gray expressed that some of Highfield's went to sub-committee. If the applicant built the three units and put the road in as originally designed it would not delay them.

Mr. Anagnost clarified that three units on the original were commercial.

Mr. Sullivan stated he would like it to go to subcommittee. The board concurred.

Mr. Sylvain appointed a subcommittee of:

Mr. Jeanson	Mr. Gray
Mr. Peters	Mr. Sylvain
Mr. Healey	Mr. Behrendt

The subcommittee will meet on Tuesday February 21, 2012 at 3:00 p.m.

The board recessed at 9:25 pm.

Mr. Sylvain called the meeting back to order at 9:30 p.m.

Mr. Sylvain stated the **Capital Improvements Program** would be the next item on the agenda.

Mr. Peters pointed out that project 907 & 911 were the same project and that on page 33 under building and roofing the Fire Station roof had already been replaced.

Mr. Nourse explained he would be making corrections. The DPW and utility building roof did not meet the threshold for CIP.

Mr. Nourse explained under drainage maintenance that items popped up on a daily basis and that there was not a hot list. They take chunks of the city and improve drainage as they can.

Mr. Nourse stated it would cost approximately \$50,000 of City funds to improve the curves along Salmon Falls Road by Whitehall Road.

Ms. Esterberg explained that the Salmon Falls road project had been broken up over several years. The intersection at Route 202 may qualify for some funding.

Mr. Sylvain asked if the reconstruction of Brock Street would receive outside funding.

Mr. Nourse stated there was no grant money.

Mr. Martineau asked if they were coordinating with Marshview.

Mr. Nourse stated yes.

Ms. Larochelle asked for an explanation of TIP.

Mr. Sullivan explained the Transportation Improvement Program is a fund that collects a \$5 tax on every vehicle that is registered. Of the tax \$4.50 can be used for pavement.

Mr. Sullivan asked about meter replacement and what the audit had showed. Was it a \$320,000 loss in revenue?

Ms. Esterberg stated she would have to check. They were down to one meter gun that could be radio read.

Mr. Peters asked about the \$19 million dollars on page 163.

Mr. Nourse explained Rochester had joined with a coalition of cities and town to work with the EPA.

Mr. Jeanson asked if the pools were full of water.

Ms. Esterberg stated they were drained and winterized.

Public hearing on, and prospective adoption of, proposed amendments to the Subdivision Regulations. Sections 6.7 and 6.8 - procedures regarding surety and inspection fees.

Mr. Peters asked why under 6.7.1 they would send this out.

Mr. Sylvain explained they discussed that if needed the DPW would come to the board first.

Ms. Larochelle explained that when they had made that decision it was to cover the possibility of what would be done if they lost an engineer and it became necessary.

A motion was made by Mr. Walker and seconded by Mr. Peters to strike DPW Director and substitute Planning Board under 6.7.1. The motion carried unanimously.

Mr. Peters questioned the three day notice for inspections.

Ms. Esterberg explained it would be nice if they were told 3 days in advance but on large projects they were on site daily.

Discussion ensued.

Mr. Sylvain opened the public hearing.

A motion was made by Mr. Peters and seconded by Mr. Walker to close the public hearing and adopt the proposed amendments to the subdivision regulations as amended. The motion carried unanimously.

Discussion of Chapter 42 rezoning

A motion was made by Mr. Walker and seconded by Mr. Peters to change Rural Residential to Agricultural. The motion carried unanimously.

Mr. Gray asked if they were accepting the proposed document.

Mr. Walker stated some of the proposed.

Mr. Peters believed that Mr. Gray was saying throw everything away.

Mr. Peters stated they had a choice to either throw it away or work with it.

Mr. Gray felt it would be less confusing if the board started over.

Mr. Sylvain asked if the items fit do we just change the zone name.

Mr. Martineau asked that if the Council turned down was it okay to work off the proposed.

Mr. Behrendt explained that the 12-0 was a procedural vote.

Mr. Fontneau stated that he got the feeling it was voted down because citizens did not like it.

Mr. Sylvain stated he wanted something that was good for the City. It had turned political at the Council.

Mr. Peters stated it starts with the zones.

Mr. Gray stated he wants to take up residential as a whole.

Mr. Walker asked how many residential zones the board wanted now that they had made the change to Agricultural.

Mr. Sylvain asked if the board wanted to implement anything from Rural Residential into Agricultural.

Mr. Walker explained the intention of Residential 3 was to create a buffer to Agricultural where multifamily is allowed.

Mr. Ortmann explained that they needed to start with what they were trying to accomplish. Residential 2 would allow pretty dense multifamily development. Residential 3 was to give property owners in between Agricultural and Residential 2 some options to do multifamily. The question was whether they wanted to allow more flexibility or preserve more Agricultural.

Mr. Peters stated we are a property rights state.

Mr. Ortmann explained that the more specific the ordinance the more guidance is given. If you there is more flexibility it can be harder to give guidance.

Mr. Sullivan stated that the Master Plan is the design guide. They are tying the guide with the regulations.

Mr. Jeanson stated the board needed to take a look at what they were trying to do.

Mr. Fontneau acknowledged he is in favor of property rights but in favor of zoning because he knows what happens. If we use the Master Plan the document goes in the direction that Kenn describes. He suggested they look at Industrial and commercial and then tackle residential.

Mr. Walker stated that they can not take this piecemeal. It was philosophical if they had a Residential 3, do they have one or not? This could not be piece meal.

Ms. Larochelle suggested starting with commercial.

Mr. Sylain asked for a vote up or down on Residential 3

Mr. Jeanson	yes
Mr. Peters	no
Mr. Healey	yes
Mr. Gray	no
Mr. Martineau	yes
Mr. Walker	yes
Ms. Larochelle	no
Mr. Sullivan	yes
Mr. Fontneau	yes
Mr. Jeanson	no
Mr. Sylvain	yes

There will be four residential zones

Mr. Sylvain brought forward an issue raised by Karen Pollard regarding the elimination of the Special Downtown District in the proposed Zoning rewrite.

Mr. Ortmann explained that the Special Downtown District review was written into the zoning because of the uniqueness of the area and the review was preformed by staff. The concern was if you make simple changes go through the minor site review process it could have a negative impact of the downtown.

Mr. Fontneau stated the Special Downtown works well.

Mr. Sylvain stated he had no problem with that.

Review of final draft of proposed amendments to the Site Plan Regulations - reformatting and rewrite of development standards (Article III)
Postponed

Other Business

Mr. Gray wished to see Golick's moved to a full site review.

Mr. Ortmann went over three options. He stated it was about striking a balance and struggle trying to make things fast and efficient.

Golick's would require full site review.

Adjournment

A motion was made by Mr. Healey and seconded by Mr. Martineau to adjourn at 10:55 p.m. The motion carried unanimously.

Respectfully submitted,

Marcia J. Gasses
Planning Secretary
(These minutes were transcribed from notes)

