

**CITY OF ROCHESTER**  
**Planning Board**  
Monday, February 23, 2009 at 7:00 p.m. (workshop)  
**City Council Chambers**  
31 Wakefield Street, Rochester, NH 03867  
(These minutes were approved March 16, 2006)

**Members Present**

Tim Fontneau, *Vice Chair*  
Nel Sylvain, *Secretary*  
Tom Abbott  
Richard Groat  
Eugene McCarthy  
John David Meader  
Derek Peters

**Members Absent**

A. Terese Desjardins, *Chair* (Excused)  
Rick Healey (Excused)

**Alternates Present**

Ray Varney

Staff: Michael Behrendt, Chief Planner  
Madeleine Carter, Secretary

(These minutes are the legal record of the meeting and are in the format of an overview of the meeting. It is neither represented nor intended to be a true transcription 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. Fontneau called the meeting to order at 7:00 p.m. The secretary conducted roll call.

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**Communications from the Chair**

Mr. Fontneau welcomed Derek Peters, as the new Planning Board member.

Mr. Fontneau appointed Mr. Varney as voting member for Mr. Healey.

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**Public Comment / Discussion of general planning issues**

No public comment or discussions of general planning issues.

## Approval of minutes for February 2, 2009

*A motion was made by Mr. Sylvain and seconded by Mr. McCarthy to approve the minutes of February 2, 2009. Motion carried unanimously.*

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Mr. Behrendt explained how the consent agenda is put together.

Items A, H, and I were taken off the consent agenda for discussion.

### Consent Agenda:

**B. Rochester Pinewood Real Estate Development, LLC, 68 Ten Rod Road** (by Norway Plains Associates). Extension to (May 4, 2009) meet precedent conditions for lot line adjustment. Case # 221-49 & 48-57-R1-08

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**C. New Hampshire Northcoast, 20 Summer Street** (by Norway Plains Associates). Extension to (April 7, 2009) meet precedent conditions for lot line adjustment. Case # 112-3 & 120-425-B2-08

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**D. Russell C. Howard, Dry Hill Road** (by Norway Plains Associates). Extension (April 16, 2009) to meet precedent conditions for 2-lot subdivision. Case # 247-20-1-A-08

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**E. Kel-Mar LLC, Betts & Cross Roads.** (by Berry Surveying & Engineering). Extension (April 17, 2009) to meet precedent conditions for approved 17-lot subdivision. Case #203-25-A-08

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**F Mark Phillips, England Road** (by Norway Plains Associates). 17-lot subdivision: modification regarding payment of surety for inspections and extension to (April 11, 2009) meet precedent conditions. Case # 263-10-A-07

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**G. Salvelinus, Inc., c/o J. Grossman, 249 Blackwater Road** (by Norway Plains Associates). Modification of 6-lot subdivision regarding conveyance of frontage lots without surety. Case # 263-25-A-07

*A motion was made by Mr. Varney and seconded by Mr. Meader to approve items B through G in the consent agenda. Motion carried unanimously.*

**A. New Hampshire Northcoast Corporation & City of Rochester, Wallace Street**  
(by Norway Plains Associates). Lot Line Adjustment. Case # 120-321 & 306-I3-09 (PH)

Art Nickless, Norway Plains Associates, stated this application is simple and straightforward. He discussed the plans that were being viewed on the screen that included encroachment of the buildings, fences, and other items. He stated he believes the applicant is looking to require the City to place around the “big, long, shallow curve” some monuments so when someone builds on that lot in the future they won’t go back over the line. He stated that is a concern of the abutters.

Mr. Behrendt stated Staff has recommended approval as submitted in the recommendations.

Mr. Fontneau opened the public hearing.

Mark Laurion, stated he is the property manager for Mid City Realty, the property owned by Raymond and Rita Laurion. He asked what is the intention of this lot line adjustment and the property involved. He stated he would also like to have bounds set. He stated he would like to have clarified the encroachments of the building, fence, and what the City is planning on doing back there.

Mr. Nickless stated as for the use of the property he is probably not the person to respond to that. He discussed the existing business (Blue Seal Feeds), which are a bit boxed in and are looking to get some extra land. He stated he believes there are many things the City is looking to do with this property. He stated they are also looking for the Board to waive the fees because this would benefit the City.

Mr. Behrendt stated he recommends speaking with the City Manager to see if something could be worked out concerning the encroachments of the building and fence.

Board members, Mr. Behrendt, and Mr. Nickless, discussed placing monuments to identify where the back lines are located, the encroachments of the building, demolishing the buildings, not putting anything in there right now, the site review process, putting a note on the plan or somewhere appropriate saying the monuments would be set prior to any future development, flagging the boundaries before demolition start, and other items.

Mr. Varney stated he would contact the City Manager tomorrow to explain the concerns, which he believes he is already aware of, and let him take care of it.

*A motion was made by Mr. Varney and seconded by Mr. McCarthy to close the public hearing. Motion carried unanimously.*

*A motion was made by Mr. Varney and seconded by Mr. McCarthy to approve as recommend and waive all the fees. Motion carried unanimously.*

**H J & T Trust, 25 Norway Plains Road** (by Norway Plains Associates).

Modification to 3-lot subdivision regarding conveyance of lots, construction of turnaround, and construction of swale. Case # 215-15-R2-08

Art Nickless, Norway Plains Associates, discussed the plans that were being viewed on the screen that included a brief history of the approved 3-lot application, the lots in question, conveyance of the lots, posting a bond for the turnaround, the drainage swale, items tying into construction, building the swale when the first lots get built, allowing the plan to be put on record, tying the construction of the turnaround to lot 215-15-1, and no building permit or conveyance on lot 215-15-1 until a bond is in place or the road is constructed completely to the Cities specification.

Board members discussed the turnaround and building the drainage structure.

Mr. Nickless discussed the plans that were being viewed on the screen that included the road to the subdivision, conveyance, posting a bond for a building permit, and other items.

Mr. Behrendt discussed the existing approval. He discussed having the turnaround and the drainage swale both be constructed prior to a Certificate of Occupancy on either of the new lots, changing precedent condition to provide surety of the road turnaround and the drainage swale, tying the turnaround to lot 215-15-1, and the entire swale being built.

Mr. Nickless stated the swale would be built in conjunction with construction on lot 215-15-2 which is on the improved section of the road, the turnaround is not germane as to what is going on down here (pointed to the diagram), the swale could be tied to construction of lot 2 and the turnaround tied to construction of lot 1. Before lot 1 can be conveyed surety must be placed and / or the road must be built before a building permit is issued or before the lot is conveyed to a second or third party.

Board members, and Mr. Nickless discussed the Certificate of Occupancy, and other items.

Mr. Nickless recommended putting in the conditions that whichever lot is developed is responsible for building the drainage swale as designed in the site plan.

Board members, and Mr. Nickless discussed conveyance, tying it to a building permit, building the drainage swale, surety for the turnaround, and other items.

Mr. Behrendt discussed the request to allow lot 215-15-2 to be built without a turnaround, which is different than originally proposed. He discussed placing a note on the plan for the lots.

Board members discussed the building permit, the swale, no Certificate of Occupancy issued for lot 215-15-1 until the hammerhead is constructed, and other items.

Mr. Nickless discussed surety for the swale before the building permit, the swale being constructed and completed prior to a Certificate of Occupancy for either lot, tying surety and or building of the T to lot 15-15-1 alone. No building permit for lots 15-1 or 15-2 until surety is in place for the swale. No building permit for lot 15-1 until surety is in place for the turnaround.

Mr. Behrendt stated he would send the Board the Notice of Decision to make sure everything is in place that was talked about before sending it to the applicant.

*A motion was made by Mr. Varney and seconded by Mr. Sylvain to approve this modification with changes as discussed. Motion carried unanimously.*

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## **I. Adoption of the Natural Resources Master Plan**

Board members and Mr. Behrendt briefly discussed the Council's endorsement.

Mr. Behrendt passed around a sign off sheet for Board members to sign for the Master Plan and a sign off sheet for the fee modification.

*A motion was made by Mr. Sylvain and seconded by Mr. McCarthy to adopt this plan. Motion carried unanimously.*

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## **Continued Applications:**

### **A. Steve Miller, 139 Flagg Road (by Norway Plains Associates). 7-lot cluster subdivision. Case # 259-29-A-08**

Art Nickless, Norway Plains Associates, discussed the CLD "intern / engineer in training", memo from CLD to Public Works Department, paying someone from CLD who has no license to do reviews, redirecting water to the back of the property, and the memo from Mr. Behrendt. He discussed the plans that were being viewed on the screen that included the wetlands, and other items.

Board members discussed getting last minute comments from CLD, drainage, seeing and getting a detailed downstream study the City Engineer was going to do, that is part of the recommendation and part of the ordinance, which should have been presented earlier for discussion on the watershed and other items.

Mr. Behrendt stated Staff has recommended approval as stated in the recommendations. He explained the process that CLD does, forwarding digital / electronic copies to Board members, follow up review from CLD, forwarding Norway Plains Associates responses, the standard conditions, process for Public Works Department sign off, forwarding final CLD reviews, and other items.

Mr. Nickless discussed the plans that were being viewed on the screen that included the wetlands, and other items.

Board members discussed the open issues from CLD, tinkering with the designs weeks after Board approval, which is not appropriate, and other issues and items.

Mr. Fontneau opened the public hearing. No one came forward.

*A motion was made by Mr. Varney and seconded by Mr. Meader to close the public hearing. Motion carried unanimously.*

*A motion was made by Mr. Varney and seconded by Mr. Sylvain to allow the increase of runoff as specified in chapter 50. Motion carried unanimously.*

*A motion was made by Mr. Varney and seconded by Mr. Groat to approve as recommended. Motion carried unanimously.*

Board members discussed the fact that there are too many loopholes, and this topic should be discussed at a retreat or a planning workshop.

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**B. Highfield Commons Planned Unit Development, Route 202.** Phase I subdivision and Phase II multifamily development. Case #237-3,5,6,8-A-02

Jim Mullaney, Developer, discussed the long awaited cooperative water tower. He explained the modification to the new members.

Mr. Behrendt stated Staff has recommended approval as stated with the exception of item 2, the 3<sup>rd</sup> circle on page 14 should say surety for construction phases.

**1. Approved subdivision for PUD Phase I to reduce scope of phase I**

Board members discussed moving the Hussey property from Phase I subdivision to Phase III of the PUD of the master plan. Mr. Mullaney replied that is correct.

Board members, Mr. Behrendt, and Mr. Mullaney discussed the plans that were being viewed on the screen that included the Phases, and the entire development of the PUD.

Board members discussed seeing the amended layout.

Board members discussed the plans that were being viewed on the screen that included the construction Phases, surety, and other issues and items.

*A motion was made by Mr. Varney and seconded by Mr. Sylvain to put in the record to allow the modification to the subdivision based on the plan dated September 2, 2008 initiated by Mr. Behrendt. Motion carried unanimously.*

## **2. Approved subdivision for PUD Phase I to create construction phases for Phase I**

Board members and Mr. Mullaney discussed construction of Phase I and drainage, the Phases, the loop road, vesting, and the entrance road to the multi-family lot in Phase I.

Mr. Mullaney discussed exceeding the value of what has been spent on the project and the return of the multi-family. He stated the assessor is charging a current use fee of \$1200.00 per unit. He discussed the lift station, the turning lane, and other items.

Board members, Mr. Behrendt, and Mr. Mullaney discussed building the road, vesting, the access road, bonding, signing the plat, getting more details of the first section of the road, the water booster and a pump station that has already been approved, Phase I infrastructure which should be incorporated somehow, posting surety, and other items.

Mr. Mullaney requested 12 months to either build it up to base coat or to bond it, which requires them to have it done 1 year from bonding.

Board members discussed Mr. Behrendt and Mr. Mullaney working out language for construction of the road in Phase I so it could then be approved at the next meeting.

Mr. Mullaney stated he would send correspondence to Mr. Behrendt via an email.

This was continued to the March 2, 2009 meeting.

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## **3. Approved subdivision for PUD Phase I to allow recording of plat without surety**

Mr. Fontneau read item 3 on page 15 of the recommendations concerning conveyance.

Mr. Mullaney discussed frontage, bonding, and other items.

Board members, Mr. Behrendt, and Mr. Mullaney discussed surety, putting a prominent note on the plan, bonding, getting the City Attorney's comments, having the City Attorney's comments a condition of the approval, recording a plat without bonding, and other items.

*A motion was made by Mr. Sylvain and seconded by Mr. Abbott to approve as recommended. Motion carried unanimously.*

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## **4. Approved multifamily site plan for PUD Phase II and waiver to remove requirement to obtain building permit within one year of plan certification**

Board members discussed giving a 1-year extension instead of 2 years. The applicant can come back after 1-year for the Board to look at it again.

This application was denied without prejudice.

Mr. Fontneau called a recess at 8:55, meeting resumed at 9 pm.

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## **Proposed Amendments to Historic District Ordinance**

Items discussed included:

- Pages 1 and 2, no changes
- Page 3, reverse sentences in item 3
- Page 4, items C, D, E, and recommendations
- Page 5, item G, and HDC recommendations
- Page 6, maintenance
- Page 7, item G and L
- Page 8, no discussion
- Page 9, item B (spelling of first word)
- Pages 10 to 15, no discussion
- Pages 16 to 18, discussions of various items
- Pages 19 to 21, no discussions

These proposed changes have been continued to the March 2, 2009 meeting.

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## **Other Business:**

### **Electronic Signage and Glare – Proposed Zoning Amendment**

Discussions included:

- Update of previous meeting
- Next meeting on Thursday, February 26, 2009
- Enforcement issues

Discussions to be continued at the March 2, 2009 meeting.

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## **Adjournment**

*A motion was made Mr. McCarthy and seconded by Mr. Sylvain to adjourn at 10:10 p.m.  
Motion carried unanimously.*

Respectfully submitted,

Madeleine Carter, Secretary

(These minutes were transcribed from notes)

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