

# City of Rochester Planning Board

## Monday March 22, 2021

### Virtual Meeting

*(These minutes were approved on April 5, 2021)*

#### Members Present

Nel Sylvain, *Chair*  
Peter Bruckner  
Terry Dwyer  
Tim Fontneau  
Daniel Rines  
Mark Sullivan  
David Walker

#### Members Absent

Mark Collopy, excused  
Paul Giuliano, excused  
Robert May, excused

#### Alternate Members Present

Donald Hamann  
Lance Whitehill

Staff: Shanna B. Saunders, *Director of Planning & Development*  
Crystal Galloway, *Planning Administrative Assistant II*

(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.)

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Mr. Sylvain called the meeting to order at 7:00 p.m. and made the following statement:

Good Evening, as Chairperson of the Planning Board I am declaring that an emergency exists and I am invoking the provisions of RSA 91-A:2, III (b). Federal, state, and local officials have determined that gatherings of 10 or more people pose a substantial risk to our community in its continuing efforts to combat the spread of COVID-19. In concurring with their determination, I also find that this meeting is imperative to the continued operation of City government and services, which are vital to public safety and confidence during this emergency. As such, this meeting will be conducted without a quorum of this body physically present in the same location.

**Providing public access to the meeting by telephone:** At this time, I also welcome members of the public accessing this meeting remotely. Even though this meeting is being conducted in a unique manner under unusual circumstances, the usual rules of conduct and decorum apply. Any person found to be disrupting this meeting will be asked to cease the disruption. Should the disruptive behavior continue thereafter, that person will be removed from this meeting. The public can call **857-444-0744** and use conference code **843095**. Some meetings will allow live public input, however you must have pre-registered online, otherwise, the meeting will be set to allow the public to "listen-in" only, and there will be no public comment taken during the meeting. (Please note: In order to notify the meeting host that you would like to speak, press 5\* to be recognized and unmuted)

**Public Access Troubleshooting:** If any member of the public has difficulty accessing the meeting by phone, please email [crystal.galloway@rochesternh.net](mailto:crystal.galloway@rochesternh.net).

**Roll Call:** Please note that all votes that are taken during this meeting shall be done by Roll Call vote.

Let's start the meeting by taking a Roll Call attendance. When each member states their name, also please state whether there is anyone in the room with you during this meeting, which is required under the Right-to-Know law. Additionally, Planning Board members are required to state their name each time they wish to speak.

The Planning Secretary conducted the roll call. All Planning Board members were present with the exception of Mr. Collopy, Mr. Giuliano, and Mr. May, who were all excused. In addition, all Planning Board members indicated that they were alone in the location from which they were connecting remotely.

### **III. Seating of Alternates**

Mr. Whitehill voted in place of Mr. May.

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### **IV. Communications from the Chair**

There were no communications from the Chair.

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### **V. Opening Discussion/Comments**

#### **A. Public Comment**

There was no one present on the line from the public to speak nor did anyone submit any written correspondence ahead of the meeting.

#### **B. Discussion of general planning issues**

There were no issues to be discussed.

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### **VI. Approval of minutes**

*A motion was made by Mr. Walker and seconded by Mr. Bruckner to approve the March 1, 2021 meeting minutes. The motion carried unanimously by a roll call vote.*

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### **VII. Recommendation to expand the Downtown Commercial zone to include a parcel at 13 Sawyer Avenue**

Director of Economic Development, Michael Scala, told the Board his office submitted a Zoning Ordinance Amendment to change the zoning at 13 Sawyer Avenue from Residential-2 to Downtown Commercial. He said it is necessary to promote redevelopment of the former Care Pharmacy site. Mr. Scala said both REDC and Rochester Main Street support the zoning change.

Mr. Scala went on to say that because it is a City owned parcel, if it were to be sold there would be a developer's agreement with the sale so the City would have control over the development. He added, whatever is to be developed on the site would come before the Board for approval.

Mr. Scala said there has been a first reading and a public hearing held at the City Council with no input from residents. He said the second reading and vote will be done at the April 6<sup>th</sup> City Council meeting.

Mr. Fontneau asked if abutters need to be notified. Ms. Saunders said State Statute only requires abutters be notified by certified mail if there are 50 to 100 abutters.

Ms. Saunders said the Planning Department supports the change because it is the only parcel on Sawyer Avenue that is zoned residential. She said it makes sense to zone it Downtown Commercial because if there is a development plan in that block the City's parcel could be included.

*A motion was made by Mr. Walker and seconded by Mr. Rines to recommend the City Council make the change from Residential-2 to Downtown Commercial for 13 Sawyer Avenue. The motion carried unanimously by a roll call vote.*

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### **VIII. Amendment Article II Section 3 of the Site Plan Regulations regarding Administrative Approval and Minor Site Plan processes**

Ms. Saunders explained the Board was given a revised copy of the amendment to the Site Plan Regulations. She said the concerns brought up at the last meeting regarding application approval by the Planning Board within three days of receipt, have been included in. Ms. Saunders said the intention is to email the Board and tell them within three days. Staff will start processing as administrative approval unless any member of the Board has an issue.

Ms. Saunders explained the next proposed change was to designate any project that's 5,000 square feet of interior change of use to be considered an administrative approval.

Ms. Saunders said staff did not have to add language for the appeals process. She explained any appeal would fall under RSA 676:5 which would go the Zoning Board of Adjustment. She further explained any appeal of a Minor Site Plan decision would go before the Planning Board.

*A motion was made by Mr. Walker and seconded by Mr. Rines to approve the amendment to Article II Section 3 of the Site Plan Regulations regarding Administrative Approval and Minor Site Plan processes. The motion carried unanimously by a roll call vote.*

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### **IX. Discussion regarding impact fees**

Ms. Saunders explained Mr. Walker, Mr. Hamann, Mr. Giuliano, and Mr. May submitted input regarding suggested revision. She said she is looking for input from the Board on which items they liked, didn't like, and would like included. She briefly went over some of the highlights from each of the suggested changes.

Mr. Bruckner said if it's true that a new development has an impact on the city, there are two ways of doing it. One is with impact fees, the other is by raising the taxes the following year. He said if it will be a fee, the only way to do it is by a per square foot fee.

Mr. Walker asked if an impact fee would be applicable to a renovation to a home. Ms. Saunders said that is the way it has been enforced since she came to Rochester. She further explained it is based on gross square footage so if the square footage is increased an impact fee has been assessed on the change in square footage. Mr. Walker asked if she has reviewed the previous meetings with Bruce Mayberry. Ms. Saunders said she has. Mr. Walker said it was never intended to have impact fees assessed for additions onto homes.

Ms. Dwyer said she supports what Mr. Walker is saying. She said if someone is putting an addition onto their home there shouldn't be an impact fee because they're going to be taxed on the addition.

Ms. Saunders said Mr. Hamann recommended a waiver for new single family homes on a single residential lot which is not part of a developer's subdivision site plan for the portion of the impact fee that the Planning Board deems is not appropriate at the time of new construction, i.e. the school portion for a couple or individual over the age of 50 with no children.

Mr. Sylvain asked if staff has check on the legality of this. Ms. Saunders said she wanted to hear what the Board wanted before checking with legal counsel.

Mr. Sylvain said impact fees were originally meant for large subdivisions such as Highfield Commons. He said that was the way it was originally presented to the Board by Mr. Mayberry.

Mr. Hamann said he understands developers are paying for off-site improvements for some of the developments but that doesn't help with the debt for schools, added police protection, or added fire personnel which is what impact fees are meant to address.

Mr. Fontneau said the impact fee ordinance happened back in the early 2000's when there was a lot of rapid growth within the city. He said residents at the time felt that their taxes were going to go up because of the Village at Clark Brook development. The residents felt the developer should be bearing the cost of any additional services being needed.

Mr. Bruckner suggested adding language that says impact fees apply to two or more dwelling units. Mr. Fontneau said even in a 30-lot subdivision the developer applies for building permits one at a time.

Ms. Dwyer said the Board needs to get legal opinion.

*A motion was made by Ms. Dwyer and seconded by Mr. Fontneau to table the discussion to the April 5<sup>th</sup> meeting, and ask legal counsel to be there. The motion carried by a 7-1 roll call vote. Mr. Walker opposed.*

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## **X. Review of February 2021 surety and inspections**

Ms. Saunders reviewed the list of sureties with the Board. She said staff is working with the Village at Clark Brook on a draw down request.

Ms. Saunders said she is working with Waste Management on getting an as-built for their TRIII project where the escrow has expired.

Ms. Saunders said Highfield Commons is following DES protocol. She said the developer has let staff know the access road to Hussey Hill Road is complete. Ms. Saunders said staff will meet with the developer to discuss the issuance of two certificate of occupancies.

Mr. Walker said he was up there a few days ago and is concerned with the dirt pile they have. Ms. Saunders said Public Works and the Fire Department were going out to do inspections and will report the findings at the next meeting.

Mr. Sylvain said those dirt piles are too close to those occupied residential home sand he wants them removed.

Ms. Saunders said a portion of the dirt pile is required for the water tank installation that the City is working with the developer on. She went on to say DES is aware of the dirt piles and has required matting and erosion control.

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## **XI. Other Business**

### **A. Update from Planning Staff**

Ms. Saunders said Peter Bruckner is currently on the Historic District Commission as a regular member, he then joined the Planning Board and became the Planning Board's representative on the HDC. She said the Board needs to officially appoint him as their representative to the HDC.

There was a brief discussion whether or not Mr. Bruckner needs to recuse himself from voting.

Mr. Bruckner recused himself from voting on the motion.

*A motion was made by Mr. Fontneau and seconded by Mr. Walker to recommend Mr. Bruckner as the Planning Board representative to the Historic District Commission. The motion carried unanimously by a roll call vote.*

Ms. Saunders said she received a letter from the Fidelity Committee of the Tri City Mayors joint taskforce for homelessness. She said they are requesting Rochester to identify existing and potential Planning and Zoning related barriers; identify existing and potential Planning and Zoning related obstacles and provide their findings by June 30, 2021.

Ms. Saunders said she will put together updates and opportunities to present to the Board in April and May. She asked if anyone has any thoughts or ideas to let her know.

### **B. Other**

Mr. Sylvain told the Board they have been authorized to hold hybrid meetings again. He said on April 5<sup>th</sup> the blue team will be in the Council Chambers.

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## **XII. Adjournment**

*A motion was made by Mr. Walker and seconded by Mr. Fontneau to adjourn at 8:00 p.m. The motion carried unanimously by a roll call vote.*

Respectfully submitted,

Crystal Galloway,  
*Planning Administrative Assistant II*

and

Shanna B. Saunders,  
*Director of Planning & Development*