**AMENDED**

**City of Rochester Planning Board**

Monday November 21, 2016

City Council Chambers

31 Wakefield Street, Rochester, NH 03867

*(These minutes were approved on December 19, 2016)*

*Members Present*

Nel Sylvain, *Chair*

Dave Walker, *Vice Chair* – departed at 10:16pm

Tim Fontneau

Rick Healey

Robert Jaffin

Robert May

Mark Sullivan

Tom Willis

*Members Absent*

Matthew Kozinski, excused

*Alternate Members Present*

James Gray

Deborah Shigo

Staff: James Campbell, Director of Planning & Development

 Crystal Galloway, 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 7:00p.m.

The Planning Secretary conducted the roll call.

**III. Seating of Alternates**

Ms. Shigo to vote for Mr. Kozinski.

**IV. Communications from the Chair**

Mr. Sylvain wished everyone a happy Thanksgiving.

**VI. Opening Discussion/Comments**

 **A. Public Comment**

 No one from the public present to speak.

**B. Discussion of general planning issues**

There were no issues to be discussed.

**VII. Approval of minutes**

*A motion was made by Mr. Walker and seconded by Mr. Jaffin to approve the November 7, 2016 meeting minutes. The motion carried unanimously.*

**VIII. Extension/Continued Applications**

 **A. D.R. Lemieux Builders, Inc., 114 Rochester Hill Road – Extension for an approved site plan**

Mr. Campbell said the applicant is requesting an extension to June 6th in order to finalize State requirements.

*A motion was made by Mr. Walker and seconded by Mr. Willis to approve the extension to June 6, 2016. The motion carried unanimously.*

**B. Caler & Real Estate Advisors Inc., 151 Franklin Street**

Christopher Berry of Berry Surveying & Engineering explained the lot line revision would be part of the Jeremiah Lane subdivision to allow for a safer intersection. Mr. Berry said the lot line revision would also make it safer for the applicant to be able to leave their driveway, saying they currently have to back out on to Portland/Franklin Street.

Mr. Sylvain opened the public hearing. No one was present to speak so he brought the discussion back to the Board.

Mr. Campbell said staff would recommend the Board accept the application as complete but not approve the lot line revision until the subdivision is ready for approval.

Mr. Willis asked if they would be keeping the existing driveway. Mr. Berry said yes, that is part of the Conditional Use Permit to keep it in its current location.

Mr. Walker asked if there will be a barrier to keep traffic out. Mr. Berry said there will be something simple such as a fence.

*A motion was made by Mr. Fontneau and seconded by Mr. Walker to accept the application as complete. The motion carried unanimously.*

*A motion was made by Mr. Walker and seconded by Mr. Fontneau to continue the application to the December 5th meeting. The motion carried unanimously.*

**C. Real Estate Advisors Inc., 24 Jeremiah Lane**

Mr. Berry explained the 53-lot subdivision and said they have met with Board and staff numerous times on the proposal. He said during the design review process it was determined that the major entrance to the subdivision should be at Franklin and Portland due to the fact the Jeremiah Lane is substandard and the certain quality of life that the residents on Jeremiah Lane currently have.

Mr. Berry said they have met with the Conservation Commission twice on a Conditional Use Permit application, have completed a site walk with them and have file for jurisdictional wetlands impacts.

Mr. Berry said the original ideal of the subdivision was to use the open space that is already being enjoyed by the neighbors. He said the applicant is willing to put in time and money into keeping those ideals.

Mr. Sylvain opened the public hearing.

Al Benton of 585 Portland Street said he was there to represent his in-laws Leo & Evelyn Huppe who live on Jeremiah Lane. Mr. Benton said his family would like to maintain the right-of-way that has been there for the last 50 years and there cannot be anything to impede the right-of-way as it is deeded with the State.

Mr. Benton went on to ask what the timeline for construction would be.

Sylvia Warren of 576 Portland Street said she is concerned with headlights shining into her house as she is directly across from the proposed new street.

There was no one further from the public present to speak; Mr. Sylvain brought the discussion back to the Board.

Mr. Campbell said staff would recommend the Board accept the application as complete and continue to a meeting specific to enable staff and the applicant to continue working on the subdivision plans. He added the applicant has been great to work with, however there are a few matters the Board needs to help guide them on.

Mr. Campbell said staff believes there still needs to be two ways of egress and it would be the applicants responsibility to upgrade Jeremiah Lane. He said all the lots designated for duplex’s need to be at least 9,000 sq ft with 150 feet of frontage; saying they are not being proposed that way. Mr. Campbell also said staff recommends a third party traffic and drainage review be completed at the applicant’s expense.

Mr. Sylvain asked what the construction timeline would be. Mr. Berry said they are hoping to be able to start in the spring so phase 1 would be the first few months of 2017. Mr. Sylvain asked what could be done to shield the abutter across from the proposed new road. Mr. Berry said they will take down her contact information and work with her.

There was some discussion of upgrading Jeremiah Lane and clarification if it is indeed a city street. Mr. Campbell said he has the City Council minutes from when they accepted it.

*A motion was made by Mr. Sullivan and seconded by Mr. Willis to have a third party review of the traffic and drainage analyses complete at the applicant’s expense.*

*A motion was made by Mr. Sullivan and seconded by Mr. Walker to accept the application as complete. The motion carried unanimously.*

The Board discussed the need for a third party review of traffic and drainage analyses. Mr. Berry said his client had agreed to the traffic study but not to a third party drainage study. Mr. Friend-Gray said a project of this size needs another set of eyes so there isn’t a problem in the future. Mr. Fontneau said it would be a good idea to have a third party look at drainage because there are conflicting reports.

*A motion was made by Mr. Sullivan and seconded by Mr. Walker to separate the review for third party traffic and drainage analysis made in the previous motion. The motion carried unanimously.*

*A motion was made by Mr. Sullivan and seconded by Mr. Walker to have a third party review of the traffic analysis completed at the applicant’s expense. The motion carried unanimously.*

*A motion was made by Mr. Sullivan and seconded by Mr. Walker to have a third party review of the drainage analysis completed at the applicant’s expense. The motion carried unanimously.*

The Board went on to talk about the size of the proposed duplex lots. Mr. Sullivan said if the Building, Zoning, Licensing Department doesn’t think the lots are big enough for a duplex they won’t issue a building permit.

There was a brief discussion regarding the right-of-way an abutter has and also the need to have a second egress and whether or not Jeremiah Lane should be one way or not.

*A motion was made by Mr. Fontneau and seconded by Mr. Healey to limit use of Jeremiah Lane to one way. The motion was withdrawn after some discussion.*

Mr. Berry said there are still some issues with staff that can’t be resolved and they are looking for guidance from the Board. Mr. Walker said the Board should stand behind staff. Mr. Campbell added that the applicant has been great to work with; there are just a few things they disagree on.

*A motion was made by Mr. Fontneau and seconded by Mr. Willis to postpone the application for 30 days with the applicant returning for the December 19th meeting. The motion carried unanimously.*

 **D. SDJ Development of Rochester, LLC, 183 Washington Street**

Matthew Peterson of Hillside Design Group said they have been working with staff over the past week to break up the plan and the notice of decision in order to be mindful of time during the meetings.

Mr. Peterson explained the original plan was approved in 2002 and was supposed to be a mix of residential and commercial units. He went on to show and explain the layout of the original plan.

Mr. Peterson said from the beginning people have said they would like more land so they are now trying to make the lots at least one acre.

Mr. Sylvain opened the public hearing.

Joseph Boudreau of 20 Pierce Drive asked what the timing will be on the proposed development; he asked where Fillmore Boulevard will end and the private road will begin; he asked if Rochester needs more multifamily units; and what the price would be for more land with the lots. Mr. Boudreau said he wants answers to his questions.

There was no one further from the public present to speak; Mr. Sylvain brought the discussion back to the Board.

Mr. Campbell said the applicant is looking to get feedback from the Board to see if they’re moving in the right direction. He went on to say PUD’s were a great idea but doesn’t think they’ll work in Rochester.

Mr. Fontneau said the proposed plan the applicant has shown is better than anything they have seen for Highfield Commons. He went on to say however, he is concerned with building another 200 units.

Mr. Willis asked if the market supports the need for another 200 units. Mr. Campbell said he spoke with Jennifer Marsh, Economic Development Specialist who said their office fields a lot of calls as to where people can rent within the city; and added Millennials are looking to rent, not buy because they don’t want to stay in one place for long.

There was some discussion regarding Hussey Hill Road and the need for an updated traffic count on Route 202.

Mr. Sylvain said he thought there had been an agreement that Hussey Hill Road wouldn’t be used.

*A motion was made by Mr. Fontneau and seconded by Mr. Healey to accept the application as complete. The motion carried. Mr. Jaffin and Ms. Shigo opposed.*

The applicant will be back for the December 5, 2016 meeting.

Mr. Sylvain called a recess at 9:46pm

Mr. Sylvain called the meeting back to order at 9:52pm

 **E. Cramer Family Trust& Patricia Woodward Trust, 156 Old Dover Road & Laura Lane**

Bob Stowell of Tritech Engineering and Attorney Kevin Baum presented the lot line revision plan. Mr. Baum said at the last meeting there were three potential issues; frontage, abutter’s first right of refusal, and whether or not Laura Drive is a city maintained road.

Mr. Baum said they had a conference with the City Attorney who said the lots are permitted and confirmed Laura Drive has been a long time city maintained road; with that understanding it is a class V road. Mr. Baum said they again confirmed with the city attorney about the non conforming lots; he referenced Chapter 42.30 Section C of the Zoning Ordinance saying these lots are permitted; you can reduce the non conformity. He went on to say one of the abutters had laid claim that they had first right of refusal on the Woodward lot, they have had a chance to double check the title and see the first right of refusal. Mr. Baum said based on that they don’t believe there is a valid right of first refusal. He said there is nothing in the title records, the only thing they have found or have been shown is a 21 year old purchase and sales agreement simply stating right of first refusal on additional Woodward property. He said it doesn’t reference any specific property, and more importantly he said under the legal document of merger anything that is in an agreement that doesn’t make it into the deed is considered to have extinguished. Mr. Baum added this is a civil matter and should be addressed as such.

Mr. Sylvain opened the public hearing.

Todd and Michelle Bourasso of 12 Laura Drive asked if any of the Board members have had an opportunity to drive down Laura Drive. Mr. Sylvain said that he had.

Ms. Bourasso said the road is a narrow dirt road and in March and April the mud is so deep all the residents are required to drive 4-wheel drive vehicles. She said drainage is a big issue.

Ms. Bourasso asked who will be completing Laura Drive. Who will pay for it? Will the city oversee the work?

Mr. Bourasso said the upgrades to the road are important because of the drainage issues. He went on to say the size of the lots and the frontage is an issue considering what is required. Ms. Bourasso said by looking at the plan is shows possibly brining a road from Laura Drive thru to Old Dover Road which would reduce the frontage of said lot even further.

Taryn and Hank Decken of 162 Old Dover Road informed the Board they plan on going through with a lawsuit as their attorney feels they have grounds. Ms. Decken said they hadn’t heard anything from the applicants since the last meeting until approximately three hours before tonight’s meeting when they offered to sell them a half acre of land for $100,000. She said she feels the applicant is not working with them at all to try and resolve this issue.

Ms. Decken said the plan as shown is looks very benign but they know the applicant is planning a subdivision and who knows how many houses will be put in. She went on to say the Conservation Commission needs to get involved because there is lots of wildlife and wetlands on the property. The Deckens said they understand the applicant will get their subdivision; they just want to make sure it’s handled properly.

There was no one further from the public present to speak; Mr. Sylvain brought the discussion back to the Board.

Mr. Campbell said he heard from the City Attorney regarding the non conformity and he agreed with Mr. Grant, Director of Building, Zoning and Licensing and Mr. Creighton, Chief Planner that there are no issues with the lot line revision; and as for the right of first refusal, it didn’t transfer to the deed so therefore it’s not valid.

Mr. Fontneau asked for clarification as to what the lot line revision is. He asked if a line is being erased. Mr. Stowell explained they are not erasing any lot lines; they are making one lot larger and one lot smaller.

Mr. Stowell added that the construction of the cul-de-sac would be at the cost of the applicant.

Mr. Fontneau asked what construction would entail to construct the cul-de-sac on Laura Drive. Mr. Stowell said it would be an appropriate gravel area at the end of the road. Mr. Fontneau asked if DPW and the Fire Department signed off on the cul-de-sac. Mr. Campbell said the Fire Department did not have any issues at TRG and added it’s being improved from what it currently is.

Mr. Fontneau said usually when there is road improvements proposed the Board gets some detail. Mr. Sylvain asked that the City Engineer Owen Friend-Gray come forward. He asked if Laura Drive is a city accepted street. Mr. Friend-Gray said he’s not 100% certain. He said he worked with the City Clerks office to find deeded ownership of the road and there is no record of deeded ownership. He said currently the road is drawn out going off the other deeded properties. Mr. Friend-Gray said talking to the NH Municipal Association unless there is a free and clear deed of the roadway it is assumed the abutters own to the center line. Mr. Friend-Gray said it is currently a city maintained road and it is on city lists as a city road and is intended to remain a city maintained road until public works is directed otherwise.

Mr. Sylvain said as of right now the road is only 14 feet wide; he asked in order to build the cul-de-sac will the road be brought up to new street widths. Mr. Friend-Gray explained he’s not 100% certain because he hasn’t addressed this specifically with the City Attorney.

Mr. Willis said years ago when Laura Drive was constructed it was the preference of the residents to keep it a gravel road to keep with a country feel. Ms. Bourasso said they bought on a dirt road because they wanted to live on a dirt road.

Mr. Willis asked the residents if they have wells and what the quality of their water is. Mr. Bourasso yes, they have some iron so they have to have a water softener as well.

*A motion was made by Mr. Healey and seconded by Mr. Jaffin to accept the application as complete. The motion carried by a 5 -3 roll call vote.*

 *A motion was made by Mr. Fontneau and seconded by Mr. Healey to continue the application to the December 5th meeting. The motion carried unanimously.*

 **F. Quantum Real Estate Group, LLC, 156 Old Dover Road**

Bob Stowell of Tritech Engineering explained they are proposing to subdivide two 2 ½ acre lots from a 21 acre parcel; one lot will have the existing house and the second will be for new construction.

Mr. Sylvain opened the public hearing.

Taryn and Hank Decken of 162 Old Dover Road said they are concerned with a possible new road along their property line. Ms. Decken said the applicant claims they don’t have any further plans and asked why the Board doesn’t ask for them. Mr. Sylvain explained there are no official plans as of this time.

There was no one further from the public present to speak; Mr. Sylvain brought the discussion back to the Board.

*A motion was made by Mr. Fontneau and seconded by Mr. Jaffin to accept the application as complete. The motion carried unanimously.*

Mr. Campbell said the applicant is requesting a waiver from the Subdivision Regulations that require wetlands and topography be shown on the entire parcel.

*A motion was made by Mr. May and seconded by Mr. Fontneau to approve the waiver request. The motion carried unanimously.*

There were brief discussions regarding the current septic design and the steep slopes on lot 73-2.

*A motion was made by Mr. May and seconded by Mr. Healey to approve the subdivision. The motion carried unanimously.*

**IX. New Applications**

 **A. JIP Construction, LLC, 2 Bickford Road**

Packy Campbell presented the amendment application to allow for above ground utilities for his one lot subdivision. Mr. Campbell added it would be difficult to have underground utilities because of the way the driveways come in.

*A motion was made by Mr. Willis and seconded by Mr. Healey to accept the application as complete. The motion carried unanimously.*

Mr. Sylvain opened the public hearing. No one was present to speak so he brought the discussion back to the Board.

*A motion was made by Mr. Willis and seconded by Mr. Healey to approve the amendment. The motion carried unanimously.*

**X. Review of October 2016 Surety and Inspections**

Mr. Campbell told the Board there hasn’t been any changes to the surety. No one from the Board had any questions or comments.

**XI. Other Business**

No one had any other business to discuss.

**XII. Adjournment**

*A motion was made by Mr. Healey and seconded by Mr. Fontneau to adjourn at 11:00 p.m. The motion carried unanimously.*

Respectfully submitted,

Crystal Galloway,

*Planning Secretary*