

**CITY OF ROCHESTER
Planning Board**

Monday, April 20, 2009 at 7:00 p.m. (workshop)

City Council Chambers

31 Wakefield Street, Rochester, NH 03867

(These minutes were approved May 4, 2009)

Members Present

A. Terese Desjardins, *Chair*

Tim Fontneau, *Vice Chair*

Nel Sylvain, *Secretary*

Tom Abbott

Richard Groat

Rick Healey

Eugene McCarthy

John David Meader

Members Absent

Derek Peters (Excused)

Alternates Present

Gloria Larochelle

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).

Ms. Desjardins called the meeting to order at 7:00 p.m. The secretary conducted roll call.

Communications from the Chair

No communication from the Chair.

Ms. Desjardins appointed Ms. Larochelle as voting member for Mr. Peters.

Opening Discussion / Comments

Public Comment / Discussion of general planning issues

No comments or discussions.

Approval of minutes for April 6, 2009 meeting

A motion was made by Mr. Healey and seconded by Mr. Sylvain to approve the minutes of April 6, 2009. Motion carried unanimously.

Recognition of Lance Powers for Years of Service to the Planning Board

Ms. Desjardins stated former Planning Board member Lance Powers could not be attend tonight's meeting to receive his plaque, the plaque would be presented at the May meeting.

Item A was taken off the consent agenda for discussion.

Consent Agenda:

- A. Rose Realty, LLC/Robert Diberto, 14 Spruce Street** (by Norway Plains Associates)
Extension to meet precedent conditions for approved 2-lot subdivision. Case # 120-219-R2-08

Board members briefly discussed the modification application.

Mr. Behrendt stated the modification is not ready to discuss, it would be heard on May 4.

A motion was made by Mr. Meader and seconded by Mr. Healey to approve this extension to October 21, 2009. Motion carried unanimously.

- B. Casaccio RE Holdings, LLC, Rochester Toyota/Dodge, 56 Farmington Road** (by Civil Take Off LLC). Extension to meet precedent conditions for approved site plan for 5,125 square foot addition and renovations to current automobile sales and service facility. Case # 216-6 & 7-B2-08

A motion was made by Mr. Fontneau and seconded by Mr. Meader to approve this extension to October 30, 2009. Motion carried unanimously.

CONTINUED APPLICATIONS:

Highfield Commons Planned Unit Development (PUD), Washington Street/Route 202.
Phase I subdivision and Phase II multifamily development. Cases #237-3,5,6,8-A-02; #237-3, 8, 3-1-PUD-II/R1-04; #237-8-PUD-II/R1-05.

Ms. Desjardins explained the process of this discussion starting with item A.

- A. Modification to approved subdivision for PUD Phase I to create construction phases for Phase 1 and to define active and substantial development.**

B. Clarification on commencing the Phase II multifamily prior to the Phase I subdivision.

C. Reconsideration of earlier vote to allow recording of the plat for the Phase I subdivision without placement of surety for infrastructure.

Attorney Jim Tamposi, discussed the purpose and order of the development, bonding for Phase I, bonding for specific construction phases, building the apartments first, and other items.

Board members discussed the construction phases that were being viewed on the screen, and wanting text that would document and describe the phases.

Attorney Richard Uchida, representing Chesapeake Development, stated they are picking up this project from Jim Mullaney (current developer); he stated yes they could define documentation for the Boards approval. He described the process and stated the construction phases may be a bit different from Mr. Mullaney's project.

Board members discussed getting a description for the infrastructure for the phases.

Attorney Uchida discussed where they are proposing to start the project, the water and sewer, the loop, getting the Board a set of construction and engineering plans for the phases, and other items.

Mr. Fontneau stated it has been the practice of this Board in the past when allowing development in construction phases that each phase whether it be the entire or the construction phase be able to survive on its own. He stated it would also help to add new terms so it is not phase I of phase I, it would be more like construction phase A. It is very confusing to have five phases within a phase. He asked if it were Chesapeake's intention to take on the whole project. Attorney Uchida replied yes.

Attorney Uchida discussed taking over all the phases, and feeling comfortable with the concept.

Attorney Uchida stated he would like to know if the Board would endorse their idea.

Board members discussed a time frame, and agreed the Boards intention is to work with the developer.

Attorney Uchida stated they should be back within the next 90 days.

Board members discussed getting documentation and defining each phase, surety for infrastructure, what the completion is, what would be constructed next, how a plat gets recorded and other items.

Mr. Varney discussed agreeing that after each phase is approved and moved forward, surety would be posted for the next phase and recording the next part of the plat. It then progresses and eventually shows up as a complete project in the registry. He stated the Board is concerned about allowing the entire plat to be registered without complete surety in place because that means you could sell lots and if there is no surety, the infrastructure may or may not get done.

Attorney Tamposi discussed phasing that may change a little and the plans could reference any of those changes, language in Mr. Behrendt's memo that would appear on the plan would prevent anyone from selling a lot or use any other language that would be acceptable to the Board.

Board members discussed recording a plat, phasing, selling a lot, and other items.

Attorney Tamposi stated before any lot could be offered it would have to be registered under the Land Sales Full Disclosure Act with the Attorney General's office.

Mr. Fontneau stated the Board's concern about recording the plat is because there is not a mechanism in place that could actually stop the sale of a lot if it is on a recorded plan in phase III even if phase III were never built.

Attorney Uchida stated they would be facing criminal and civil sanctions at the State level, also, consumer protection claims by the buyer trying to sell a lot that the developer had no right to sell. He stated you get the Attorney Generals registration when all the approvals are done. He stated once a phase is bonded and those lots or units are to be sold in that phase, it's his understanding the Board would not want them to come back and ask for a break on something.

Board members agreed they like what they are hearing concerning this project.

Attorney Tamposi stated they are not opposed to not recording the entire plan as long as it is agreed that the surety would be done on a construction-by-construction phase basis as discussed.

Ms. Desjardins stated they are trying to protect the future homeowners as well as the City itself, and looking at this in smaller chunks.

Mr. Fontneau described what happened at the meeting (Feb. 23, 2009) where a motion was made by the Board to allow recording of the plat for phase I without placement of surety for infrastructure.

Mr. Behrendt stated if the Board wishes to rescind its earlier approval the Board should formally vote to do so.

Attorney Tamposi discussed the 300-unit plus development that included the pumping station, the diameter of water and sewer lines, concerns that the ordinance that may change, vesting the development, and making improvement.

A motion was made by Mr. Fontneau and seconded by Mr. Sylvain to rescind the vote to record the entire plat that was taken on February 23, 2009. Motion carried unanimously.

Ms. Desjardins gave a scenario to better understand the process of this development. She stated if we are looking at the entire United States, taking only Idaho which would be a bright blue and the rest of the states would be gray but would be a part of the project but Idaho is the only project that is being focused on, then we go to Texas making that bright blue and the rest of the states would be gray.

Mr. Fontneau stated he believes it is the Board's desire to work with the developer in organizing and recording this properly.

Attorney Tamposi stated it is the desire of Chesapeake Development to construct the apartments first, doing a loop road, which would be a large part of the development that would benefit many phases, and other items.

Attorney Uchida stated he would like a sense if the Board would consider an increase of the number of multi-family units in Phase II, which would be about 20 units more. They are also looking to provide additional amenities to the package i.e. an indoor pool, community center, and an outdoor basketball court.

Board members agreed the amenities are favorable and they might be open to that. Increase in traffic was also discussed.

Attorney Uchida stated they would do a full traffic study.

Other Business

Board members discussed getting verification and documentation of the process of the Attorney General's office.

Mr. Behrendt stated he would call the Attorney General's office and get that information.

Adjournment

*A motion was made Mr. Healey and seconded by Mr. Abbott to adjourn at 7:55 p.m.
Motion carried unanimously.*

Respectfully submitted,

Madeleine Carter, Secretary

(These minutes were transcribed from notes)