

**CITY OF ROCHESTER  
Planning Board**

Monday, August 17, 2009 at 7:00 p.m. (workshop)

**City Council Chambers**

31 Wakefield Street, Rochester, NH 03867

*(These minutes were approved September 14, 2009)*

*Members Present*

Tim Fontneau, *Vice Chair*

Nel Sylvain, *Secretary*

Tom Abbott

Richard Groat

Rick Healey

Eugene McCarthy (arrived 7:20)

Derek Peters

*Members Absent*

A. Terese Desjardins, *Chair* (Excused)

John David Meader (Excused)

*Alternates Present*

Gloria Larochelle

Ray Varney

*Alternates Absent*

Stephen Martineau (Excused)

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 7:05 p.m. The secretary conducted roll call.

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

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**Communications from the Chair**

No communication from the Chair

**Opening Discussion/Comments** (up to 30 minutes)  
**Public Comment**

**Discussion of general planning issues**

No public comments or discussions of general planning issues.

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**Approval of minutes for August 3, 2009**

*A motion was made by Mr. Abbott and seconded by Mr. Peters to approve the minutes of August 3, 2008. Motion carried unanimously.*

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**Proposed Amendments to City of Rochester Sign Ordinance, Section 42.8, Regarding Electronic Message Signs**

Discussions included the following items:

- Downtown district
- Signs not wanted in R1 or R2 district
- Recommending adoption by September 14
- Killing proposed ordinance and starting over again for 1<sup>st</sup> reading
- Letter from Ron Poulin
- Grandfather clause
- Mr. Groat's draft proposal
- Numbers 8 and 11 in Mr. Groat's suggestions
- Not endorsing the City Council's version
- Subcommittee meetings
- Conditions of original proposal
- Endorsing Council Varney's proposal

*A motion was made by Mr. Fontneau and seconded by Mr. Peters not to support the proposed amendments.*

Other items discussed:

- No possible way to enforce every sign
- Fine tuning
- Hours of operations
- Board could recommend changes now
- Participating in the process
- Coming up with some common changes
- Bringing the committee back for discussions before the next City Council meeting

*Mr. Fontneau withdrew his motion seconded by Mr. Peters.*

Other discussions:

- Date and time in September everyone could get together to make other recommendations to the City Council
- Emailing copy of exactly which proposal is being talked about
- Emailing recommendations
- Whether it is legal to have discussions via email on this particular subject
- Board members agreed to have a meeting of the Sign Committee and any interested Planning Board members (and Councilor Hervey) are welcome to attend on Wednesday, September 2, @ 6 pm
- Mr. Behrendt to email Board location of where the meeting will be held

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**Presentation of two proposed applications for Transportation Enhancement funding**  
(by Tom Willis, City Engineer)

Tom Willis, Public Works Department, had proposed to give a Power Point Presentation on the Transportation Enhancement “TE” program and their vision for each project, however the cameras were not working and he proceeded without the cameras. He briefly discussed the letters of intent that were submitted to the Strafford Regional Planning Commission and the NH Department of Transportation. He stated the purpose is to build "community support" for one or both of the projects. The Transportation Enhancement program is a federally funded program administered by NH-DOT and Federal Highway Administration every two years. He discussed items such as the program itself, 12 eligible TE activities, such as the “Rails to Trails, Historic Preservation, Scenic & Historic highway programs, Pedestrian & Bicycle Facilities, and others”. He discussed the TE program Process – Timeline. He stated the desire for funds are very complete. He stated at this time, New Hampshire has been allocated \$6 million and there have been 92 requests statewide. He stated there are two projects that have been submitted; one is the sidewalk project, which would be linked to East Rochester. The sidewalk would go up Portland Street all the way to East Rochester with asphalt material and either sloped or vertical curbing. DOT has estimated that project to be around \$1.5 million dollars, 80% to be federally funded and 20% to be local funding (\$300,000). The other project is the “Rails to Trails” enhancement. This would be on the Rochester Rail Line from Wakefield Street to the Farmington Town line. There would be a guardrail system at the bridge. This project would make the Route 11 area a secondary access with about 3.25 miles of total improvement. He stated they are asking endorsement for these two projects. He stated the more support the better.

Board members and Mr. Willis discussed the pedestrian path for byways to Gonic, Rochester, and East Rochester. Also discussed was the Portland Street project concerning curbing and plowing.

*A motion was made by Mr. Fontneau and seconded by Mr. Healey to endorse both projects. Motion carried. One opposed: Ms. Larochelle.*

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

**Consent Agenda:**

- A. Rochester Pinewood Real Estate & Bruce Boudreau, 68 Ten Rod Road** (by Norway Plains Associates). Extension to (September 4, 2009) meet precedent conditions for Lot Line Revision. Case #221-49&48-57-R1-08
- B. Steve Miller, 139 Flagg Road** (by Norway Plains Associates). Extension to (February 24, 2010) meet precedent conditions for 7-lot cluster subdivision. Case # 259-29-A-08
- C. SUR Construction, Inc., 20-24 Farmington Road** (by Norway Plains Associates) Site plan for excavation permit to remove existing ledge and overburden. Case # 216-1, 2, 3-B2-09 (PH)

Mr. Fontneau opened the public hearing for SUR Construction. No one came forward.

Mr. Behrendt stated the applicant has requested postponement of this application to September 14, 2009.

*A motion was made by Mr. Healey and seconded by Mr. Sylvain to approve the consent agenda. Motion carried unanimously.*

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**CONTINUED APPLICATIONS / Amendment/Modifications:**

- A. Cleary Cleaners, 185 Charles Street.** Modification to approved site plan to change the location for the handicap parking space. Case #132-47-B2-08

Jay Cleary Sr., applicant, stated they have begun work on foundation for the ramp. He stated the signs are up. He stated he spoke with Tom Willis, Public Works Department, and got an agreement on the deteriorated City and Private pavement they would be removing in the area around the ramp and the proposed Van accessible parking area.

Mr. Behrendt stated they do have the three signs up in front; they are also doing the work in the rear of the building for the handicap ramp, and have started to clean up the area on Wilson Street for the pavement. He stated Staff has recommended approval with the two conditions that include the handicap sign and repairing the deteriorating pavement.

Board members and Mr. Behrendt discussed pavement and striping.

Mr. Cleary stated he spoke with the City Engineer and stated they are not in a position to pave the whole thing. He stated they would be making a cut near the area where the City water comes in. He stated the City Engineer said unless they were paving right away they did not want Cleary to be cutting out any more than that in that area. He stated they would be putting down hard packed crush stone so it would not be breaking down the edge where it would be cut.

Mr. Behrendt and Mr. Cleary discussed striping the parking lot. Mr. Cleary stated that would be done.

*A motion was made by Mr. Healey and seconded by Mr. Peters to approve this modification. Motion carried unanimously.*

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[The camera was operating at 8:50 pm]

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**B. McDonald's USA, LLC, 161 Wakefield Street.** Three proposed modifications to approved site plan for redevelopment of McDonald's restaurant: change to architectural design, reconstruction of sidewalk, and change to island at rear. Case # 113-49-B2/R2-09

Tim Doyle, VP of Operations for the Napoli Group, LLC, handed out modified drawings of the island in the rear of the building. He stated it would be difficult to plow that area.

Board members and Mr. Doyle discussed the plans that were being viewed on the board concerning the original approved plans for snow removal.

Mr. Doyle discussed replacing (at their cost) the sidewalk in front of the building, which is on City property.

Mr. Behrendt discussed the plans that were being viewed on the screen that included the handicap access, and stated Staff recommends replacing the sidewalk on the opposite side of the road with handicap assess as well as the one in front of the building.

Mr. Doyle stated they have no plans to replace the sidewalk on the other side of the street.

Sense of the Board was no need to replace the sidewalk on the opposite side of the street. Board members agreed they are happy McDonalds is replacing the sidewalk at no cost to the city.

*A motion was made by Mr. Peters and seconded by Mr. Sylvain to allow the reconstruction of the sidewalk in front of McDonalds. Motion carried unanimously.*

*A motion was made by Mr. Peters and seconded by Mr. Sylvain to approve the modification to the island in the back. Motion carried unanimously.*

Mr. Doyle handed out drawing with changes to the architect design. He stated they would like to do an upgrade to stone, which he stated would last the lifetime of the building.

Board members discussed changing the material from the original approved material to the stone look material.

Mr. Behrendt stated Staff takes no issue with the change however Staff requests this specific material be denied and recommends the applicant be allowed to work with the Planning Department, Karen Pollard, Economic Department Director, and a few Planning Board Members to provide some other material/design that is acceptable

Mr. Doyle stated there are other buildings on that street that have the same kind of textured material.

Board members and Mr. Doyle discussed the differences of color/shades from the EIFS and the proposed stone material.

Board members agreed the stone material would be a good enhancement to the City, and works out well.

Mr. Doyle stated this material is good for wear and tear, and is durable.

*A motion was made by Mr. Sylvain and seconded by Mr. Peters to approve the design change. Motion carried unanimously.*

Board members asked Mr. Doyle to define the material of the stone. Mr. Doyle replied the material is Owens Corning, Texas Cream (C5V 2080).

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**C. Robert L. Higgins, 387 Washington Street** (by Norway Plains Associates) Amendment to approved site plan to change location of 5,000 square foot warehouse and create new driveway for business. Case # 250-32-1-A-08 (PH)

Art Nickless, Norway Plains Associates, stated they did get approval from the Zoning Board of Adjustment to change the square footage to 6,000 square feet.

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

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

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

*A motion was made by Mr. Healey and seconded by Mr. Peters to approve this application. Motion carried unanimously.*

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**D. Joel Thone, 201 South Main Street** (by Norway Plains Associates).

Site plan to expand parking area for Chiropractic Office. Case # 126-97 & 98-R1-09 (PH)

Art Nickless, Norway Plains Associates, discussed the plans that were being viewed on the screen that included the space between the abutters' house, the fence, the post, and the guardrail. He stated there are minor issues with some of the Precedent Conditions. He discussed items, 1b, c, d, g, h, i, and item 4 of the Staffs recommendations.

Board members and Mr. Behrendt discussed revising and/or eliminating the conditions as discussed by Mr. Nickless.

Mr. Behrendt discussed a proposed deadline of October 17, 2009 to meet the conditions. He discussed adding a condition for licensing with the City Manager to show the easement on the plans.

Mr. Fontneau opened the public hearing.

Glenn Weismantel, abutter, stated the crush stone is a good idea. He stated the Board approved a 6-foot fence for screening. He requested the Board and Dr. Thone stand by the original approval at the last meeting.

Mr. Nickless discussed the plans that were being viewed on the screen that included the placement of landscape timbers, planting berms and daylilies.

Board members, and Mr. Nickless discussed plowing down the daylilies in the winter, and installing landscaping timbers.

Board members discussed the differences for buffering a residential area opposed to buffering a commercial area. Also discussed were the guardrail and the stockade fence.

Mr. Nickless discussed the plans that were being viewed on the screen that included the parking spaces, and the space between the abutter and the guardrail.

Board members discussed consideration for the gas fumes for the residential property.

Board members, and Mr. Nickless discussed the plans that were being viewed on the screen that included installing the guardrail, the post, cedar stockade fence, and parking.

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

Mr. Nickless stated looking at the fence from Mr. Weismantel's side of the house: it would look like 8 foot, 8 foot, 8 foot all the way down the line with posts in between at the guardrail. There would be lag bolts attaching the fence to the post (approximately 2 ½ feet up in addition to the regular post that normally go for the fence).

*A motion was made by Mr. Sylvain and seconded by Mr. Peters to approve with conditions as discussed to include a cedar fence, landscaping timbers and daylilies. Motion carried unanimously.*

Mr. Behrendt discussed clarifying the modifications and conditions and stated he would email the draft Notice of Decision to the Board for their approval.

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Mr. Fontneau called a 10-minute recess at 8:50 pm. Meeting resumed at 9 pm.

**E. Highfield Commons Planned Unit Development (PUD), Washington Street / Route 202.** Modifications to approved Phase I subdivision regarding: Case #237-3,5,6,8-A-02

Chris Strickler, stated he is one of the partners of 182 Washington Street. He stated they have purchased the land. He handed out updated colored drawings. He discussed moving Precedent Condition 1 to a Subsequent Condition. He stated they are focusing on Phase II of the development, which is probably a 2011 phase. He stated the plan that is presented this evening is a little different than the one that was sent that included where the water runs. He discussed the plans that were being viewed on the screen that included Phasing and construction phases, the pump station, Phases numbered A1 and A2. He stated they are hoping to break ground by May 1<sup>st</sup>, 2010.

Board members and Mr. Strickler discussed the two colored phases, which are A1 and A2, the water supply for the apartments, and the pump station.

Mr. Varney read the last item on page 11 in the recommendations concerning the comments from Tom Willis, Public Works Department.

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**Item 1. Timing for submitting designs for rowhouses**

Mr. Behrendt stated Staff has recommended approval on item "1. Timing for submitting designs for rowhouses" with the conditions as stated.

Mr. Varney stated he does not recall elevation drawings being approved by the Planning Department; it should come back to the Board for approval.

Mr. Behrendt stated he would change Planning Department to Planning Board and change to a Subsequent Condition.

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

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**Item 2. Creation of construction phases**

Board Members and Mr. Strickler discussed an agreement with the previous owner, Jim Mullaney, and keeping item "D" in so it does not get forgotten.

Board members and Mr. Behrendt discussed the colored construction phases, revisiting the old Notice of Decisions to try and resolve some of the issues, starting off fresh with this developer and a new Notice of Decision, multiple approvals that may conflict with each other, rewriting the Notice of Decisions to make everything clear, having surety in place, and other items.

Mr. Behrendt discussed getting clarification for phases A1 and A2, Staffs recommendations, maintenance of trash pickup, snowplowing, and other items.



Mr. Behrendt stated Staff recommends holding off discussion for A2 apartments to the next meeting.

Board members and Mr. Strickler discussed getting Filmore Blvd. accepted as a City street within one year, before phases B & C are developed.

*A motion was made by Mr. Healey and seconded by Mr. Sylvain to approve the construction phases with conditions as stated. Motion carried unanimously.*

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### **Item 3. Payment of surety**

Mr. Fontneau discussed paying surety by construction phase.

Attorney Richard Uchida, Orr & Reno, Concord, New Hampshire, is helping with the procedure of this development. He discussed the issue of the original condition in phase I, condition #6 and read the condition. He stated because the issue of a building permit for phase II (A2) is being deferred to the next meeting Attorney Uchida is proposing to put a proposal together to Mr. Behrendt on the issue of the surety and how they might use that alternative language to create the same financial guaranty of surety for the City but use a restoration bond then a maintenance and **laton** defects bond to build the infrastructure without the full guaranty but satisfying all the conditions. He stated he believes he could provide a proposal that would provide the City with protection that is needed and at the same time it is a little bit cheaper.

Mr. Behrendt stated the Precedent Conditions are not considered met and the plans are not signed and recorded until all of the infrastructure is actually physically completed. He stated they would need an extension to meet the Precedent Conditions.

Attorney Uchida discussed getting subdivision registration from the Attorney General's office for old phase I which we would need a paper copy (not a mylar) of the plat signed for submission to the Attorney General's office. He stated he believes that could be done without jeopardizing some danger that the paper copy would get recorded. He stated they would then know what is needed in place from a financial prospective in order to proceed.

Mr. Fontneau asked Mr. Behrendt to forward the letter of proposal Attorney Uchida is talking about.

Board members discussed building all the infrastructure before getting a building permit. Mr. Behrendt replied it would have to be completely built or partly built and partly bonded.

Mr. Strickler discussed agreeing how the bonding is to be handled and making that a Subsequent Condition and carrying a bond for 9 or 10 months before starting construction. He stated September 30, 2009 is their deadline.

Board members and Mr. Strickler discussed posting a maintenance and restoration bond vs bonding the entire project.

Attorney Uchida stated posting maintenance and restoration bond vs. bonding the entire project is because the bond cost is cheaper to do that way. He explained what Mr. Strickler was talking about. He stated he believes surety needs to be in place before a plot is recorded but we need to work on when that plot would be recorded.

Mr. Fontneau stated the Board would postpone item 3 to September 14, 2009

Attorney Uchida stated they would provide a written proposal on how to handle the surety.

Mr. Varney asked if there have been any conversation with the City about the water tank. Mr. Strickler replied yes.

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**New application:**

**Severino Trucking Co., Inc. c/o Thomas Severino** (Route 11 Investments Inc., c/o Mark Stevens, property owner), 92 Farmington Road (by Appledore Engineering, Greg Mikolaities). Preliminary (conceptual) application for excavation of material to be used at the Exit 15 Spaulding Turnpike project. Case #216-11-I1/I3-09

Tom Severino, Severino Trucking Co., discussed the plans that were being viewed on the screen that included a brief history of the site, the use of the material for exit 15 of the Spaulding Turnpike, the current permit status and other items. He stated 400,000 cubic yards of material is needed for exit 15. He stated they would be meeting with the Conservation Commission and DES. He stated there are 6 bridges they would be building, one of them is over Route 11 that is on the States red listed bridges so therefore it is very important for them, schedule wise, to move expeditiously as possible. He discussed the plans that were being viewed on the screen that included the overall concept and cross section. He asked what other information the Board would need to approve this.

Mr. Behrendt stated they are under a tight timeframe. He discussed the applicant's arrangements with other Boards, and making out a formal application. He stated TRC did not see any significant issues. He discussed the Granite State Ridge program that the City is working on He stated the applicant is planning this excavation and prospective future commercial development of the site in accordance with prospective plans for the Granite Ridge project to create a service road off Route 11.

Board members and Mr. Severino discussed controlling the traffic on Route 11.

Mr. Severino discussed the plans that were being viewed on the screen concerning the entrance and describing exactly where control would be placed.

Board members discussed what might happen with the area above the wetlands.

Board members and Mr. Severino discussed the plans that were being viewed on the screen that included the wetlands, the oversized retention pond, surface water, the terrain, the runoff issue with blasting of ledge, hours of operation, four to six, 10 wheel trucks, an occasional 18 wheel truck on site, lane configuration, trucking pattern, phasing plan, acceleration and turn lane, and other items.

Mr. Severino stated this is a three-year project with a completion date on the Turnpike of October 5, 2012. He discussed the process of how and when excavation would take place.

Board members and Mr. Severvino discussed having full traffic control, which included having officers, flag persons, troopers, possible light control and / or detailed officer, and letting the people have the right-of-way.

This application was continued to September 14, 2009.

### **Other Business**

No other business discussed.

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### **Adjournment**

*A motion was made Mr. McCarthy and seconded by Mr. Healey to adjourn at 10:50 p.m. Motion carried unanimously.*

Respectfully submitted,

Madeleine Carter, Secretary

(These minutes were transcribed from notes)