

CITY OF ROCHESTER

Planning Board

Monday, October 5, 2009 at 7:00 p.m. (regular meeting)

City Council Chambers

31 Wakefield Street, Rochester, NH 03867

(These minutes were approved October 19, 2009)

Members Present

Tim Fontneau, *Vice Chair*

Nel Sylvain, *Secretary*

Tom Abbott

Richard Groat

Rick Healey

John David Meader

Eugene McCarthy

Derek Peters

Members Absent

A. Terese Desjardins, *Chair* (Excused)

Alternates Present

Gloria Larochele

Stephen Martineau

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.

Communications from the Chair

No communications from the Chair

Approval of minutes for September 21, 2009.

A motion was made by the Mr. Healey and seconded by Mr. Peters to approve the minutes of September 21 Motion carried unanimously.

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

Mr. Behrendt explained the consent agenda and opened the public hearing. No one came forward.

Consent Agenda:

- A. Kerry Fogarty, 9 First Street** (by James Verra & Associates, Inc.).
2-lot subdivision. Case # 120-177-R1-09 (PH)

Board members and Mr. Behrendt discussed removing the garage on the new lot. Also discussed was creating another residential lot in the R1 zone which allows single-family homes and someone could have an in home business which would require a variance.

- B. Metrocast Cablevision of NH, LLC, 21 Jarvis Avenue.** (by Norway Plains Associates)
Site plan to add 20 spaces to parking lot. Case # 215-61-12-09 (PH)

A motion was made by Mr. Abbott and seconded by Mr. Meader to approve the consent agenda. Motion carried unanimously.

Continued Applications:

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)

Art Nickless, Norway Plains Associates, briefly discussed a conversation with DOT, at which DOT said they would require an acceleration lane; with a 10-1 taper, from 20 feet to 10 feet. He stated everything else is acceptable.

Board members and Mr. Nickless briefly discussed the traffic, the existing driveway, the acceleration lane, the 10 foot paved shoulder, the time frame, and other items.

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

Board members and Mr. Behrendt briefly discussed precedent condition 1g on page 8 "traffic".

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

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

A motion was made by Mr. Peters and seconded by Mr. Meader to approve this application as stated in the recommendations. Motion carried unanimously.

New Application:

John Huckins, Huckins Lane & Chapman Drive (by Geometres Blue Hills, LLC, Randy Orvis). Resubdivision of three lots into four lots to create new right of way for City Street. Case # 261-3, 3-1 & 262-58-A-09 (PH)

Randy Orvis, Geometres Blue Hills, LLC, stated this is something they have been working on for several years. He stated before this plan can be recorded it needs the Board's approval.

Mr. Behrendt briefly discussed adding a note “#2” on the plan, adding language to subsequent #2, delete everything after the first sentence on #5. Mr. Behrendt stated Staff has recommended acceptance as complete and approval as stated in the recommendations.

A motion was made by Mr. Sylvain and seconded by Mr. McCarthy to accept this application as complete. Motion carried unanimously.

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

A motion was made by Mr. Peters and seconded by Mr. Meader to approve this application as stated in the recommendations. Motion carried unanimously.

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

A motion was made by Mr. Healey and seconded by Mr. Sylvain to approve this application with 3 changes as discussed in the recommendations.

Mr. Orvis asked Mr. Behrendt to give him a list of exactly what has to be done.

Motion carried unanimously.

Modification:

Highfield Commons Planned Unit Development (PUD), Washington Street/Route 202. Case #237-3,5,6,8-A-02. Modifications to approved Phase I subdivision and Phase II multifamily projects to update conditions of approval and revise conditions regarding payment of surety, conditions for issuance of permits, and other issues.

Chris Strickler, applicant stated they are here to get some questions answered.

Attorney Richard Uchida, representing the applicant asked what should be discussed first.

Board members asked how the phasing would be laid out and to discuss the surety second.

Attorney Uchida discussed the concept as 3 phases with 2 sub phases in it. He discussed the plans that were being viewed on the screen that included the pink section of sub phases A1 “single family units” and A2 “multifamily units”, and the phasing proposal. He discussed the water, sewer, and the utilities in phases A1 and 2. He stated the water tower issue has not been resolved as yet. He stated he hopes that in a day or two they will hear something from the Fire Department and have answers for the Board by the next meeting. He discussed the plans that were being viewed on the screen that included the blue and green sections, which included the utility Phase. He discussed the restoration bond, getting a building permit for the first unit, and posting a performance bond. He discussed a completion bond, the cul-de-sac, the time period when construction would cease, posting multiple bonds, the Certificate of Occupancy phasing proposal, surety, and adding a catchall provision in the documentation.

Board members discussed the completion bond, issuance of the Certificate of Occupancy in the family section, how long before the City could accept the street, and City services. Also discussed was the time period for City acceptance and other issues and items.

Attorney Uchida stated there is some material built into the ordinance and in the Notice of Decision that address the issue of what responsibilities the developer and the owners have before the City accepts the street; which perhaps should be a part of the plan so everyone understands what that is going on. He stated his experience is to get the street to a certain point and time where the inspection has occurred, the building inspector issues the Certificate of Occupancy, the letter of credit or the performance bond is reduced to a number but the number is sufficient enough to finish it. He stated the 45-day provision still governs if things are not finished up and the applicant disappears. The bond would then be pulled and the City could then award a contract to somebody to finish the job.

Board members discussed having a time trigger point for the construction of the street to be finished. Board members discussed concerns for people living there not having any City services.

Attorney Uchida stated if he were in the Boards shoes he would suggest putting a time limit on this as to how long they are allowed to sit out there after the first Certificate of Occupancy is awarded in this area (pointed to the drawing on the screen) before either the street has to be finished or the bond gets pulled and the street gets finished. He stated in his experience it would be one year after the intervening winter season, he explained if you get your first Certificate of Occupancy in September it is one year after April 1 the following year.

Board members discussed trash removal, plowing, time limit on the Certificate of Occupancy, finishing the street and or pulling the bond, cutting the applicant short by allowing only one season after the first Certificate of Occupancy and allowing the applicant at least two years and not just the one. Also discussed were posting a sign at the entrance that the residents are not eligible for City services at this time as required; however after a long period of time people tend to forget.

Mr. Strickler stated he is agreeable to two years or 50 percent of the lots have been sold.

Board members agreed on one season or after 50 percent of the Certificate of Occupancy's are issued, or two years after the first winter whichever happens first.

Draft* - Notice of Decision, Modified October 5, 2009

RE: Modified Notice of Decision of for Highfield Commons Planned Unit Development. Case #237-3, 6, 8 and 246-5-A-02.

Board members discussed concerns about a committee called the Highfield Architecture Committee and what this entity is.

Mr. Behrendt stated that is under subsequent condition #15.

Board members and Mr. Behrendt discussed subsequent conditions 11, 14, and 15 for Phase I. Also discussed the Board not wanting to be involved in reviewing each individual building of single-family homes that are to be built. The Board would only get involved if the applicant wanted to add or change something.

Attorney Uchida discussed the architectural elevation designs for the row houses. Mr. Behrendt discussed clarifying language for items 14 or 15 that included the developer having to prepare a set of template designs with a number of images for approval from the Board.

He stated the HOA would establish an architectural committee that would then approve each house design to make sure it meets the approved templates.

Board members and Mr. Behrendt briefly discussed precedent condition #9 in the Phase I subdivision, which has not been updated. Mr. Behrendt stated he would get that updated.

Board members discussed getting title and dates put on updated documents.

Board members and Mr. Behrendt discussed subsequent condition Phase I, #25, page 7, eliminate 7 inches and put in the standard 6 inches.

Mr. Behrendt stated in the PUD document on page 2, the Board gave an extension on this to August 6, 2010. He stated the developer intends to start work in June of 2010. He stated Staff is concerned if they are delayed they would not be able to make that date. He stated Staff has suggested extending the date to a year or November or December 2010.

Board members agreed adding a year to the extension making the new extension August 6, 2011.

Mr. Behrendt discussed Phases I and II. He stated the Board gave an extension last month of one month to October 30 for both of these. He discussed the water service in precedent condition in Phases I and II, #4 and asked the Board to extent this an extra month.

Board members agreed to December 30, 2009 for the new extensions.

A. Modified Draft* - Notice of Decision

RE: Modified Notice of Decision of Phase I of Highfield Commons Planned Unit Development.
Case # 237-3, 8, 3-1-R1-04.

Discussions included:

Page 2.

- Adding a note to item #2, delete item 3, discussed item 4, #5 "payment to CLD", #6 "non applicable".

Attorney Uchida gave a copy of the deed conveyance to Mr. Behrendt to keep on file.

Page 5.

- Subsequent #4 "language OK".

Page 7.

- Delete #28

Page 9.

- Clarifying subsequent condition #43c, delete item d, clarification of intent for item g,

Attorney Uchida discussed the extension for the utilities for a phase.

Mr. Behrendt stated there would be an extension for water and sewer as needed for sub phase A.

- Delete item h and J.

Page 10.

- Delete item K

B. Modified Draft* - Notice of Decision of Phase II of Highfield Commons Planned Unit Development. Case # 237-8-PUD-05. (PH)

Discussions included:

- Language for Certificate of Occupancy's
- Subsequent condition 3 at the top of the page

Attorney suggested deleting the word landscaping in item 3.

- Top of page 4, math error says 48 multifamily units should be 42 multifamily
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Mr. Behrendt stated Staff has suggested adding a note on the Phase II plan, which he read.

Mr. Behrendt and Attorney Uchida discussed page 4, #3 "uses" change word "Phase I" to "Phase II / A2".

Mr. Behrendt stated he would incorporate all the changes for the Board and the applicant within the next day or two. He stated the applicant has until December 30 to address the water issues.

Board members, Mr. Behrendt, and Attorney Uchida discussed getting final OK from the Fire Department for the water issue, and to put this on the next agenda.

This application was continued to the October 19, 2009 workshop meeting.

Other Business:

Board members and Mr. Behrendt briefly discussed requiring applicants to send their applications in a PDF format with the exception for members who do not have computers or choose not to use their computers; this would conserve paper and would also be more efficient for the members to read them from their computers. Mr. Behrendt stated he checked with some of the engineers and they said it was fine with them. Board members would also like to get the information on the City web site in case members do not have enough space on their email server.

Adjournment:

*A motion was made Mr. Healey and seconded by Mr. Groat to adjourn at 8:20 p.m.
Motion carried unanimously.*

Respectfully submitted,

Madeleine Carter, Secretary