

CITY OF ROCHESTER
Planning Board
Monday, October 19, 2009 at 7:00 p.m. (workshop)
City Council Chambers
31 Wakefield Street, Rochester, NH 03867
(These minutes were approved November 5, 2009)

Members Present

Tim Fontneau, *Vice Chair*
Nel Sylvain, *Secretary*
Tom Abbott
Richard Groat
John David Meader
Derek Peters

Members Absent

A. Terese Desjardins, *Chair* (Excused)
Rick Healey (Excused)
Eugene McCarthy

Alternates Present

Gloria Larochelle
Ray Varney

Alternates Absent

Stephen Martineau

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

Mr. Fontneau appointed Mr. Varney as voting member for Mr. Healey, and Ms. Larochelle as voting member for Ms. Desjardins.

Public Comment / Discussion of general planning issues

No public comments or discussions of general planning issues.

Approval of minutes for October 5, 2009

A motion was made by Mr. Sylvain and seconded by Mr. Peters to approve the minutes of October 5, 2009. Motion carried unanimously.

CONTINUED APPLICATIONS:

A. John Nelson & Joan Holt, 75 Four Rod Road (by Norway Plains Associates).
2-lot subdivision. Case # 219-19-A-09 (PH)

Art Nickless, Norway Plains Associates, stated the City Council voted to authorize one new building permit as recommended by the Planning Board at their last meeting.

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

A motion was made by Mr. Varney and seconded by Mr. Peters to approve this application.

Mr. Behrendt stated Staff recommends approval as stated, and in subsequent condition #3 add the words "the indemnification form after the plat" which should be recorded with the plat and the Notice of Decision

Motion carried unanimously.

B. Highfield Commons Planned Unit Development (PUD), Washington St./Route 202.
Case #237-3,5,6,8-A-02. Modifications to Phase I subdivision and Phase II multifamily approvals, and non-substantive language of PUD approval for the purpose of updating conditions of approval regarding payment of surety, conditions for issuance of permits, architectural design, and other issues.

Chris Strickler, applicant, briefly reviewed the conditions of the bond and asked the Board if they had any questions.

Board members and Mr. Behrendt briefly discussed the updated email and memo from Attorney Richard Uchida concerning the proposed Notice of Decisions.

Mr. Behrendt stated Staff has recommended everything be dated and all markups be finalized, clarification of language for the applicants benefit on section 3B that the applicant does not need to complete the intra-structure for the sale of lots as long as they have the bond in place under 3A. He stated Staff has recommended a vote to adopt all of the modifications on Phases I, II, and the PUD as stated in the recommendations. He stated he would send a final Notice of Decision via email for the Boards approval.

Board members and Mr. Behrendt briefly discussed item 3A, clarifying language in item 3B, the Certificate of Occupancy, conveyance of the lots, Phase I Notice of Decision, precedent condition 1e, surety, precedent condition 2e, the water issue and other items.

Mr. Strickler stated they would be meeting with the City Manager, the Codes Department, and Fire Marshal this coming Wednesday.

Board members and Mr. Behrendt discussed page 6 subsequent condition 20, eliminating item D, clarifying item 21, issues with the Fire Department, and other items.

Mr. Strickler stated he has no problem with the way things are written.

A motion was made by Mr. Varney and seconded by Ms. Laroche to accept and approve the modified PUD Notice of Decision dated October 19, 2009. Motion carried unanimously.

A motion was made by Mr. Varney and seconded by Mr. Peters to approve the modified Notice of Decision for Phase I dated October 22, 2009. Motion carried unanimously.

A motion was made by Mr. Varney and seconded by Mr. Meader to approve the modified Notice of Decision for Phase II dated October 6, 2009. Motion carried unanimously.

A motion was made by Mr. Varney and seconded by Mr. Meader to accept the Highfield construction phasing building permit and bonding proposal dated October 19, 2009 and to include Staff's recommendations. Motion carried unanimously.

Mr. Behrendt stated he would forward all the information to the applicant.

Public Hearing and prospective adoption:

Proposed amendments to City of Rochester Site Plan Regulations and Subdivision Regulations to allow for a waiver that is consistent with the spirit and intent of the regulations, in accordance with a recent change to RSA 674:36 II (n)

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. Varney and seconded by Mr. Groat to approve the recommended changes to the Site Plan and Subdivision Regulations as stated in the recommendations. Motion carried unanimously.

Proposed amendments to the City of Rochester Zoning Ordinance:

Section 42.25 Administration and Enforcement. (a) Procedure for Enactment and Amendment. Proposal to increase the timeframe required for City Council to act on a proposed zoning amendment after first reading from 90 days to 120 days.

Board members and Mr. Behrendt discussed the number of days as stated in the recommendations, amendments, possible revisions, and other items.

A motion was made by Mr. Sylvain and seconded by Mr. Peters to initiate the change from 90 days to 120 days. Motion carried unanimously.

A motion was made by Mr. Sylvain and seconded by Mr. Peters to recommend the change from 30 days to 45 days. Motion carried unanimously.

B. Section 42.15 Permitted Uses and Table 42.14. Proposal to allow Outdoor Wood-Fired Boilers in the Agricultural zoning district and to establish conditions for their use.

Mr. Peters stated after reviewing the letter from the City Manager and the Fire Marshal he stated he does not see why the Board has to go with the proposed ordinance. He stated the State already has jurisdiction so why would we want to get involved.

Mr. Varney stated this is an issue of not wanting to get involved in enforcement again. He stated they are not asking the City to enforce emissions, what is being asked is to place restrictions as to where these can be placed. He stated in particular in Agricultural zones and on minimum lot size and a certain distance from lot lines. He stated he believes this does not make the City liable for anything. He stated the State governs emissions and the types of wood burning boilers that can be used. He stated it is up to the Board and the State law allows the Board to specify what zones this could be used in and increasing setbacks. He stated he believes it is important because without an ordinance someone could put a wood-fired boiler in an R1 or R2 zone, on a 60 by 60 lot with a smoldering wood fire running in June, July, August, and September. He stated that is something we do not want.

Mr. Fontneau explained what a wood-fired boiler is and how it is used.

Board members discussed the Fire Department criteria, the State's interpretation and setbacks, issues from residents, and permits being required, RSA regarding fuel, requiring a minimum of 5 acres in the agricultural zone for the boilers, issuing permits, and other items.

Mr. Behrendt read a comparison from the City's ordinance and the State's statute. He stated he would email the Board a copy of the State's statute.

Board members discussed having the Fire Marshal at their next meeting for his comments, and whether the City Attorney should be involved.

Mr. Behrendt stated he would ask the City Attorney if he needs to be involved or not.

Board members discussed reading the information concerning the boilers more closely to determine whether there needs to be any changes, modifications, or more discussion, City Council first reading, hearing this again at the November 2, 2009 meeting.

Other Business

Board members and Mr. Behrendt discussed the Regional Impact email sent to the Board as to whether or not to place the item on the consent agenda.

Mr. Varney stated he does not believe this should be placed on the consent agenda. He stated he believes it should be part of each project when the application is accepted as complete and obtain jurisdiction over the project, someone could then ask is this a project of Regional Impact and just say yes or no at that time. He stated possibly 99 percent of them would be no.

Mr. Behrendt explained what the Regional Impact criteria is, how to handle the issue, interpretation of the law, problems with not having a good mechanism to remember to ask about whether this is a Regional Impact item, one vote at the beginning of the meeting, making this as simple as possible, and other items.

Mr. Behrendt read an excerpt from the RSA.

Board members and Mr. Behrendt discussed using it as a checklist item, notifying neighboring communities, doing it at the acceptance stage, and other items.

Other discussion included the number of cars at the BP station on South Main Street and them taking their sign down.

Mr. Behrendt explained what the approval would consist of; which would include striping, customer and employee parking, and other items.

Board members discussed striping and parking.

Mr. Behrendt stated he would email the Notice of Decision for the BP station tomorrow.

Other discussion included bumping the Minor Site application for the former Dinosaur Shop to full Board discussion.

Mr. Behrendt stated Staff believes if any application comes in with anything to do with vehicles, it should require full Board review.

Other discussion included the OEP conference that was held in Lincoln, New Hampshire.

Board members and Mr. Behrendt discussed trying to get some of the OEP speakers to come to a workshop meeting to speak for 45 to 60 minutes, or at least somewhere closer to Rochester.

Adjournment

*A motion was made Mr. Sylvain and seconded by Mr. Meader to adjourn at 8:17 p.m.
Motion carried unanimously.*

Respectfully submitted,

Madeleine Carter, Secretary

(These minutes were transcribed from notes)