

# **CITY OF ROCHESTER**

## **Planning Board**

Monday, August 16, 2010

7:00 p.m.

## **City Council Chambers**

31 Wakefield Street, Rochester, NH 03867

*(These minutes were approved September 13, 2010)*

### Members Present

Tim Fontneau, Chair  
Nel Sylvain, Vice Chair  
Derek Peters, Secretary  
Tom Abbott  
Richard Groat  
Gloria Larochele  
John David Meader  
Ray Varney

### Alternates Present

James Gray  
Dave Walker

### Members Absent

Rick Healey (excused)

### Alternates Absent

Stephen Martineau (excused)

Staff: Michael Behrendt, Chief Planner  
Marcia J. Gasses, 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.

Mr. Fontneau called the meeting to order at 7:00 p.m. Marcia Gasses, Secretary conducted the roll call.

James Gray to vote for Rick Healey

### **Communications from Chair**

The chair has been asked to remind speakers to speak into the microphone.

---

## Public Comment

There was none

## Discussion of General Planning Issues

Mr. Sylvain asked when the board would be having the next retreat.

Mr. Peters will set up the joint retreat with the Zoning Board of Adjustment during the end of September or beginning of October.

---

## Approval of minutes for August 2, 2010

*A motion was made by Mr. Gray and seconded by Mr. Peters to approve the minutes of August 2, 2010. Motion carried unanimously.*

---

## Project Applications:

Mr. Peters recused himself from the following two projects for Homemakers of Strafford County.

- A. **DGH, Homemakers Health Services, Rochester Hill Road** (by Norway Plains Associates). Preliminary (design review) Site Plan to construct a 40-bed Assisted Living Facility pursuant to previously approved Homemakers Planned Unit Development (PUD). Case # 243-39-A-PUD-10

Mr. Art Nickless of Norway Plains Associates represented the applicant. Mr. Nickless explained they had received the final design from the architect and they now have the site completely designed. There are still a few loose ends in respect to utilities.

The revised plan shows a mirror image of the building as it was originally laid out and is represented on the copy members have in their packets.

The design included a one way circulation for drop off and includes 21 parking places.

Mr. Nickless explained they would be treating 90% of the run-off on the site.

The goal of the Homemakers is to eventually install a pump station to handle the entire PUD. For now they will be installing a pressure main that will act as a sleeve for a smaller pump that the applicant will be putting in.

The City needs some time to review the plans we have submitted. They will be ready and back in September and looking for final approval at that time.

Mr. Sylvain questioned where the kitchen and loading dock area would be located.

Mr. Nickless pointed out the area of the kitchen and pantry on the plans. The applicant is trying to keep a residential feel to the facility and will not be needing a loading dock. The pantry does have a separate entrance for deliveries so that they will not be coming through the front door.

Mr. Fontneau opened the public hearing.

No one spoke.

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

The preliminary application is now closed and the applicant should be ready for a formal application and approval in September.

**B. Homemakers Health Services, 215 Rochester Hill Road** (by Norway Plains Assocaites). 2 lot subdivision to create new lot for DGH Builders' 40 bed assisted living facility (A., above). Case # 243-39-PUD-10

Mr. Art Nickless explained that they needed to separate the lot in order to convey to Desiree and Guy Hafford land to locate the assisted living facility.

There were questions as to how the road was going to be treated.

Mr Abbott recommends that they go to the Council for indemnification, considering this a private road.

Mr. Behrendt explained it would be up to the board at this time as to whether this is a private road or a shared driveway.

Mr. Abbott recommends it be considered a private road.

Mr. Fontneau felt that if even if they considered it a shared driveway now, it would become something else at a later date.

*A motion was made by Mr. Abbott and seconded by Mr. Sylvain to have this go to the Council and that an indemnification be filed prior to the issuance of a building permit. The motion carried unanimously.*

Mr. Behrendt will look to get this item on the September regular Council Meeting agenda.

Mr. Fontneau invited the public to speak to the proposal.  
No one addressed the board.

Mr. Behrendt explained to the board that this application is not ready for acceptance at this time but the applicant will be looking for acceptance and approval at the September 13, 2010 meeting.

**Highfields Planned Unit Development (PUD), 183 Washington Street, LLC., Washington Street and Hussey Hill Road.** 200+ acre Planned Unit Development with a total of 370 proposed residential dwelling units; and 2) Phase I subdivision of the PUD of the 88 single family and 47 townhouse lots. This rehearing is being held as a result of one abutter not having been notified of the original proposals. Case # 237-3, 6, 8, & 246-5-A-02

Attorney Richard Uchida representing 183 Washington Street LLC., explained they were here for Phase I and the original PUD. Abutters received notice for Phase II and for lot line adjustment to place driveway in the current location.

The applicant is not seeking any changes as part of the preapproval. The water is a separate issue to be addressed later in the evening.

The PUD that was approved would be approved again; a total of 370 units.

Mr. Fontneau asked board members if they had questions regarding the PUD.

Mr. Fontneau explained that by going back and reapproving the PUD, the action taken by the board is not going to reset dates.

Attorney Uchida reviewed Phase I which contains 87 single family homes and 47 townhouse units. The construction bonding and phasing plan are all under way. If the board votes to reapprove you are simply ratifying what you have already seen.

Mr. Behrendt gave an overview of what the applicant was looking for tonight.

Mr. Behrendt recommends the PUD be accepted and the PUD application fees waived. The recommendation is with the change to 135 buildable lots in Phase I, 88 single family homes and 47 townhouses. Phase II will contain 96 multi-family units and Phase III will contain 139 housing units.

*A motion was made by Mr. Peters and seconded by Mr. Gray to accept the application as complete and waive the fees for the application. The motion carried unanimously.*

Mr. Fontneau opened the meeting to public comment on the PUD application.

Mr. Bob Diberto on behalf of Rose Realty asked that all issues on Highfields be voted on at one time, after all issues regarding this project are brought up and discussed. There are issues regarding item three on this project regarding water, which he feels should be discussed and the application then voted on in its entirety.

*A motion was made by Mr. Peters and seconded by Mr. Sylvain to close the public hearing on the Planned Unit Development. The motion carried unanimously.*

*A motion was made by Mr. Peters and seconded by Mr. Meader to approve the Planned Unit Development Application.*

Mr. Gray clarified that the application they were voting on includes City water in all units, as originally planned.

*The motion then carried unanimously.*

Mr. Behrendt recommended that the board accept Phase I as complete and wave the PUD application fees. The following corrections to be made:

- Add the following on page 15 at the end of precedent condition 1) b) i) regarding map and lot #'s: *[new lot #'s must be approved]*
- The word “restoration” should be eliminated in precedent condition 1) e) at the top of page 16.
- Add the following on page 16 as a new precedent condition 1) g):

“Eliminate Truman Circle and the lots on Truman Circle (which are part of the Hussey property) and the six/seven additional lots shown on the southerly end of Filmore Boulevard as all of these lots would be part of Phase III if so approved as part of Phase III.”

- Add the following on page 16 as a new precedent condition 1) h):

“Adjust total number of townhouse lots shown to equal 47.”

*A motion was made by Mr. Sylvain and seconded by Mr. Peters to accept the application as complete and waive the fee. The motion carried unanimously.*

Mr Fontneau opened the public hearing on the reapproval of Phase I.

No one spoke.

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

*A motion was made by Mr. Sylvain and seconded by Mr. Gray to approve the application as approved in 2005 with any changes through June 21, 2010. The motion carried unanimously.*

Mr. Behrendt asked if the board was going to vote on a motion to approve the clerical changes as stated earlier.

Mr. Fontneau asked if the board or public had any comments.

There were no comments.

*A motion was made by Mr. Gray and seconded by Ms. Larochelle to approve the clerical changes as stated. The motion carried unanimously.*

**D. Highfields PUD, 183 Washington Street, LLC.**, Washington Street and Hussey Hill Road (by Joseph Wichert, surveyor). 2 lot subdivision of open space parcel for the purpose of aligning all lots and surrounding open space for Phase I subdivision to correspond to the boundaries of the Phase I subdivision. The plan incorporates previous approved amendments designed by Donald Powers Architects. Case # 237-3-PUD-10

Attorney Richard Uchida represented the applicant. He explained the need to formalize the existence of Phase I. There were some minor lot line changes to make to have everything line up.

Mr. Behrendt explained this is really just a two lot subdivision. He recommends the application be accepted as complete and the board hold a public hearing.

*A motion was made by Mr. Peters and seconded by Ms. Larochelle to accept the application as complete. The motion carried unanimously.*

Mr. Fontneau opened the public hearing.

Gary Hussey wanted to know what the change was.

Mr. Uchida showed Mr. Hussey the change using the plans.

Mr. Hussey would like to see the pile of dirt moved that is on top of the hill, dust is blowing onto his property.

Mr. Strickler explained the piles are being screened now and that the pile should be gone before to long.

Mr. Hussey explained the dust is coming over to the house; they need to water more or do something else to control it.

Mr. John Clement asked to see the lines of the proposed subdivision.

Mr. Fontneau clarified that the subdivision is adding open space to the phase it is benefiting.

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

*A motion was made by Mr. Peters and seconded by Mr. Gray to approve the application. The motion carried unanimously.*

**E. Highfields Commons Planned Unit Development (PUD).** Washington Street/Route 202.

Amendment to PUD and approved Phase I subdivision to allow for use of private wells rather than City water. Case # 237-3,5,6,8-A-02

Mr. Chris Strickler explained that a sub-committee had been established and had met to address some of the issues. City water will be brought up Hussey Hill and around to Monroe Drive and would tie in those houses; this will bring the wells farther away from the homes on Hussey Hill.

Mr. Sylvain indicated that the applicant will provide City water to up to one half of the project.

Mr. Strickler stated that they would also want to make sure that the 8” line was sufficient.

Mr. Gray explained that this does not talk about the heating system. The homeowner could choose to do geo-thermal for heat because there would be no net loss.

Mr. Fontneau opened the public hearing.

Mr. Gary Jewell addressed the board. He is concerned about the water as he has a dug well, less than 200’ from this property. Mr. Jewell also has a spring fed pond on his property. Mr. Jewell also would like to see the connection to his property if it is occur, that it is placed so that it is not directly behind his house.

Mr. Robert Diberto of Rose Realty feels that it appears the current developer is avoiding tying into the proposed water line to sometime in the future. The prior developer Mr. Melaney never paid in 2006 the monies owed for contribution to the pump station and water line. Mr. Diberto wants to see what is owed the City paid, for the water line and the improvements to the pump station.

Mr. Sylvain stated, “the developer is paying for the line up Hussey Hill Road.”

Mr. Diberto explained the City purchased 12” line and put in a 12” stub in the pump station.

Mr. Sylvain added that Bruce Willis who designed the pump station had said that an 8” line would be sufficient.

Mr Fontneau asked Mr. Behrendt if we have anything in writing from any department requesting money.

Mr. Behrendt had only heard of this today and it was a verbal agreement and he had not been part of the discussion.

The language in the current draft agreement is not about the constructed pump station but a possible station to be located further up the hill.

Mr. Uchida explained that there was talk of a pump station if a water tower should go in. They had also learned for the first time about this supposed deal. The applicant only needs an 8" line at this time and they are paying to put this in.

Mr. Fontneau asked if there were other abutters who wished to speak.

Mr. John Clement asked the board to think about the possibility they may have problems. Mr. Clement has a 45' dug well.

Mr. Strickler explained that they could go either way; they could either drill a new well or tie the affected party in to the waterline.

Mr. Abbott explained that you are not required to tie into City water if you are an existing home.

Mr. Peters added that the proposed wells are 500' deep because you need that level of storage to use for geo-thermal.

Mr. Jewell described his pond as spring fed and the springs are 8-10 feet down. The pond is 11/2 acres and approximately 500' from the property line.

Mr. Mike Dubois wanted to make sure he is not forced to tie in. He has a drilled well and he remembers in the 80's his well dropped when construction took place on the turnpike.

Mr. John Clement wanted to know how the water is going to be written into the PUD, what if the project is sold.

Mr. Uchida explained they will draft the agreements and the agreements will be put on file, the water indemnification will be part of the record.

Mr. Strickler feels that there are 2-4 wells that could possibly affect Mr. Jewell's water.

Mr. Sylvain wanted to know how long the indemnification would last.

Mr. Strickler discussed as long as Phase I, possibly six years.

Mr. Sylvain was thinking more like seven years.

Mr. Uchida suggested one year following the year the last certificate of occupancy is issued.

Mr. Jewell would like to see the time period longer.

Mr. Strickler does not have a problem going out further if Mr. Jewell feels more comfortable.

Mr. Fontneau brought the discussion back to the board.



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

Mr. Peters wants to see Mr. Jewell's well added to the indemnification to add a drilled well. He agrees with the last certificate of occupancy being the cut off, but recommends the time period be three years after the last CO.

Mr. Walker felt that some things should not be compromised on. The board should stick with the approval with City water.

Mr. Varney felt that we should include Mr. Jewell's well, but should have an agreement that is after two years beyond the issuance of the last CO. He does not see this as a significant risk and it is a good compromise.

Mr. Fontneau explained that he felt this is a reasonable compromise. The City does not have the funds to contribute to the building of a water tower.

Mr. Varney feels there should not be a connector to Bickford Road.

Mr. Gray questioned adding more wells in Phase III.

Mr. Strickler asked that the board leave the last lots open. They want to be able to come back, nothing is a given at this time.

Mr. Fontneau asked for a motion that would include Mr. Jewell's well indemnification and a review by the City attorney.

Mr. Behrendt explained this would all be part of the precedent conditions. Mr. Diberto's questions should be addressed and the wording of the time period should not go into infinity.

- 1) Indemnification would be choice of property owner except for Mr. Jewell who would require a well.
- 2) Indemnification should go to two years after the last certificate of occupancy is issued for Phase I.
- 3) The pond on Mr. Jewell's should be addressed.
- 4) The issue of the tie-in should be left flexible.

Discussion ensued regarding Mr. Jewell's pond.

Mr. Sylvain wanted the board to come to some agreement on the wells as that was the issue before the board.

Mr. Fontneau explained that in regard to Mr. Diberto, it is not up to the board. The board does not have the authority to address the issue; it is up to the City Manager.

*A motion was made by Mr. Sylvain and seconded by Mr. Peters to approve amendment to convert a portion of the PUD to wells instead of City water based on the negotiated agreement with changes and the developer getting together with Mr. Jewell.*

Mr. Varney wants the agreement reviewed before the vote.

Mr. Peters agreed it needs to be reviewed by the City attorney.

*A motion was made by Mr. Varney and seconded by Mr. Gray to table this application to September 13<sup>th</sup>. The vote was unanimous.*

Mr. Varney left the meeting and Mr. Walker will now be voting in his place.

---

**Review of draft Comprehensive Rezoning Ordinance:**

**A. Article XX- Standards for Specific Permitted Uses**

- XX-1**
- XX-2**
- XX-3**
- XX-4**

Mr. Groat questioned manufactured housing unit.

Mr. Abbott explained a manufactured housing unit has a HUD sticker, while a modular home has a sticker issued by the Fire Marshall.

- XX-5**
- XX-6**
- XX-7**

Mr. Peters questioned whether windmills would go under this section.

Mr. Behrendt said that they would go under Chapter 21.

*A motion was made by Mr. Peters and seconded by Mr. Gray to accept Article XX. The vote was unanimous.*

**B. Conditional Uses**

- XXI-1**
- XXI-2**
- XXI-3**
- XXI-4**
- XXI-5**
- XXI-6**

On page XXI-6, #5 – change “rear setback” to beyond the rear façade.

On page XXI-6, #5 – change “in the side setback” to read “to the side of the building”

On page XXI-6, #8 – remove “rare” in the first paragraph

On page XXI-6, #8 b – remove “an unusually high quality design” with “it”

On page XXI-7, #11 – change “in the rear setback” to say “beyond the rear façade”

On page XXI-7, #11 – change “in the side setback” to say “to the side of the building”

On page XXI-8, #13 – change “4” to “6”

*A motion was made by Mr. Walker and seconded by Mr. Abbott to approve article XXI with changes. The motion carried unanimously.*

**C. Article XXII – Special Exceptions**

XXII-1

XXII-2

XXII-3

Expirations – Mr. Behrendt will check the RSA on the expiration of Special Exception.

XXII-4

XXII-5

XXII-6

XXII-7

XXII-8

XXII-9

XXII-10

*A motion was made by Mr. Peters and seconded by Mr. Walker to approve article XXII as amend. The motion carried unanimously.*

---

**Other Business**

Mr. Peters asked Mr. Behrendt to send out the *Draft* Recreation Master Plan. The committee will be meeting a week from Thursday on August 26, 2010 and they are looking for comments.

---

*A motion was made by Mr. Walker and seconded by Mr. Abbott to adjourn at 10:00 p.m. The motion carried unanimously.*

---

Respectfully submitted,

Marcia J. Gasses  
Planning Secretary