

**City of Rochester  
Planning Board**

Monday, September 13, 2010 at 7:00 p.m.  
**City Council Chambers**  
31 Wakefield Street, Rochester, NH 03867  
(Approved October 4, 2010)

Members Present

Nel Sylvain, *Vice Chair*  
Derek Peters, *Secretary*  
Tom Abbott  
Rick Healey  
Gloria Larochelle  
John David Meader

Alternates Present

James Gray  
Stephen Martineau

Members Excused

Tim Fontneau, *Chair*  
Richard Groat

Alternate Members Absent

Dave Walker, Councilor (left after Mr. Varney's arrival)

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. It may be copied for a fee.

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

James Gray to vote for Richard Groat  
Stephen Martineau to vote for Tim Fontneau

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**Communications from the Chair**

Mr. Sylvain explained that item "C" was to be postponed to October 4, 2010.

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## Approval of minutes fro August 16, 2010

*A motion was made by Mr. Gray and seconded by Ms. Larochelle to approve the minutes of August 16, 2010. The motion carried unanimously.*

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### Applications:

- A. Ruth, Everett & Nathan Milbury / Thomas L. Kaczynski, 110-112 Whitehall Road** (by Norway Plains Associates). Lot line revision. Case # 240-7&\*-A-10
- B. Irene F. Cafasso, 665 Portland Street** (by Norway Plains Associates). 2 lot subdivision. Case # 109-157-R1-A-10
- C. Audrey J. Demichele Living Trust & Susan Beals Living Trust, 2 Dartmouth Lane** (by Norway Plains Associates). 2 lot subdivision. Case # 126-42-R1-10
- D. McDuffee Place Development, 41 Meadow Lane** (by Norway Plains Associates). Amendment to approved project to eliminate and easement to allow access to adjacent property for further development. Case # 122-2 & 122-10-R1-10

Mr. Sylvain explained that item "C" is to be postponed until October 4, 2010 due to some of the abutters not being notified.

Mr. Behrendt explained how the consent agenda works. Three of the applications are public hearings and if any member of the public wished to speak to an application it would be removed from the consent agenda for a full review. Item "E" is proposed for postponement and is not a public hearing.

Mr. Sylvain asked if anyone in the audience was here to speak to items "A", "B", or "D" on the Consent Agenda.

Christopher Bender wanted to speak to item "B" on the Consent Agenda.

*A motion was made by Mr. Varney and seconded by Mr. Gray to remove item "B" from the Consent Agenda. The motion carried unanimously.*

Mr. Bender was concerned that the original home is being rented as a duplex. If the subdivision goes through and another duplex is built, he has concerns with the density.

Mr. Nickless of Norway Plains Associates representing the applicant explained that the lot is not large enough to support a duplex. The lot is only large enough for one unit and you can not have a duplex in an R1 zone.

Mr. Abbott pointed out the rear of the lot is Agricultural but the lot being created would not have enough frontage to meet the requirements of the Agricultural Zone.

Mr. Varney asked what the minimum lot size required is.

Mr. Behrendt explained that the Zoning Ordinance is silent, since this is not a permitted use in the Residential 1 Zone. Since a minimum of 10,000 square feet is required for a single unit 20,000 square feet would be a good place to start if this is a legally existing duplex.

Mr. Varney suggested the board table this application until it can be determined how many units exist in the current building.

The item was postponed to September 20, 2010. Mr. Nickless will work with Code Enforcement and contact the applicant to resolve questions on the matter.

Mr. Peters recused himself from item "D". Mr. Peters lives within view of the site.

*A motion was made by Mr. Abbott and seconded by Mr. Gray to approve items "A" and "D" and postpone items "B", "C", and "E". The motion carried unanimously.*

## **Continued Applications**

### **A. Highfields Commons Planned Unit Development (PUD), Washington Street / Route 202.**

- 1. 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
- 2. Extension to meet precedent conditions for Phase I subdivision.**

Chris Strickler addressed the board; he is here to answer any questions they may have.

Mr. Varney has no issue with the Indemnification Agreement but is concerned with the Reimbursement and Use Agreement for the pump station. There is no minimum contribution toward the pump station but a maximum of \$112,000. His preference is that the City knows up front what they will be receiving and he would like to see the \$112,000.

Mr. Strickler explained he would like to have a cap on the contribution to the pump station of \$112,000.

Mr. Varney explained that the City does not have a real interest in putting the water line up Hussey Hill Road. The agreement leaves the City in the position that they may not

receive any contribution to the pump station. He does not like the variable amount situation.

Mr. Varney feels the board needs to know the total cost of the pump station and what people have contributed before they can take any action.

Mr. Sylvain asked Mr. Behrendt to provide this information to the board.

Mr. Peters asked if the 8" line was going to be big enough, where fifty percent of the homes are going to be on City Water.

Mr. Strickler is going to be speaking with Public Works to find out if they will be able to come off the 20" line that runs in from Estes Road. There will be 32 units in Phase I and 96 units in Phase II and 139 units in Phase III.

Mr. Martineau questioned what the precedent is for developers making payment to the City for these types of improvements.

Mr. Behrendt explained that these items are negotiated as part of the development and that it is appropriate where the improvements in infrastructure are of direct benefit to the developments. The negotiations are sometimes handled by the City Manager and other times by the Planning Board. It is appropriate that the agreements are included in the approvals. This agreement was negotiated between the City Manager and Mr. Strickler and incorporated into the document before the board by Mr. Uchida, Mr. Strickler's attorney. The City Manager has approved this agreement.

Mr. Gray brought forward that the subcommittee did not discuss hooking into the 20" line and if the capacity is there he does not see why 50 more homes could not be put on City water.

Mr. Strickler is not opposed to this idea where he will have to sprinkler those homes that are not tied in.

Mr. Uchida, attorney for the applicant is responsible for the documents before the board this evening. He explained that there is a rationale for the amount that is being asked from the developer. In determining the amount, consumption is considered versus capacity.

Mr. Behrendt explained to the board that the "Water Indemnification" looks good and incorporates comments from the City Attorney. The "Infrastructure Reimbursement Agreement" needs to have item "8" finalized by the board.

Item "8" should include:

- 1) No drill test is required but if the developer does test the City should receive a Report.
- 2) Clarify which units are going to be indemnified.

3) Indicate there should be stubs to the curblin.

Mr. Behrendt believes this should be ready for a vote by next week.

Mr. Peters's understanding is that half the project will be on City water. The applicant will need to come back to the board for Phase III; whether it is City water or permission to drill more wells.

Robert Diberto addressed the board and explained some of the costs associated with the pump station. The cost to build the pump station was \$225,000 of which he contributed \$165,000. Mr. Diberto provided information on the size of the waterlines and where they ran.

The amendment was tabled to September 20, 2010.

*A motion was made by Mr. Peters and seconded by Ms. Larochelle for a 90 day extension to meet precedent conditions of Phase I Subdivision. The motion carried unanimously.*

**B. Liu's Garden**, 84 Hancock Street (by Berry Surveying). Site plan application to establish a Chinese Restaurant. Case # 128-219-B2-10

Mr. Sylvain indicated that the public hearing is closed on this application and that it is before the board for final action this evening.

Christopher Berry of Berry Surveying representing the applicant discussed that the application is now complete and they are just waiting for Public Works to complete the final review of the drainage plan. There were some minor changes to the plan; including separation of the sewer line to include a grease trap. They have removed the front row of shrubs on the landscape plan to improve the sight distances. The applicant has asked the City Manager for permission for temporary storage of construction material on City land. The applicant has provided a yearly stormwater maintenance plan.

Mr. Behrendt recommends approval with the following items:

- 1) Elimination of 1E
- 2) Elimination of 1F
- 3) Elimination of 2
- 4) Add "the drainage easement must be properly maintained to ensure it is in working condition.
- 5) If a fire suppression system is required and the service needs to be upgraded, any changes must be reviewed and approved by DPW prior to construction.
- 6) The plans propose using the existing sewer service. The existing sewer service must be exposed, inspected and approved for reuse by Public Works. If the existing service is deemed unacceptable by Public Works, then the service shall be replaced from the main to the building.

7) the full set of architectural drawings will show the roof as a green metal roof.

Mr. Abbott requested a no parking sign be added to the access isle for the handicap space.

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

**C. Rose Realty, LLC Chesley Hill Estates, Chesley Hill Road (by Berry Surveying & Engineering. Amendment to approved 33 – lot subdivision to change drainage structures and patterns. Case # 246-32-R1-02**

Ms. Larochelle recused herself from this application.

Christopher Berry of Berry Surveying represented the applicant. The applicant was last before the board in November of 2009 and since that time the abutter to the project has hired MJS Engineering to review the design.

Mr. Berry met with City officials in March 2010. In an effort to resolve drainage issues they were asked to take into consideration more land clearing and impervious surface resulting in the creation of a detention pond, additionally they will be lining Chesley Hill road with rock in front of the project. They will be redirecting a portion of the flow back toward the drainage along the road where it originally flowed prior to the development.

They have disconnected and redirected a portion of the flow back over the hill and to a wetland complex on the other side. In an effort to mitigate the large flows to Mr. Gilberts property they have seen over the last four to five years the size of the pond has been increased. They have modified the outflow and incorporated a level spreader to promote sheet flow.

The applicant is looking for final approval but understands that Public Works needs time to review the final plan. A letter has been submitted by MJS Engineering saying that they are in agreement with the design.

The public hearing was opened.

Mona Perrault told the board she has water issues now. If additional water comes her way do to the changes she would like to know what her recourse will be.

Mr. Berry showed Ms. Perrault on the plans where the changes were and pointed out that there were none that could change the flow in the area of her property.

Attorney James Schulte, representing the Gilberts, explained that ultimately they are in agreement with the plan. Mr. Gilbert had some suggestions that they felt would improve drainage during spring storms. They do reserve the right to ask for something better if this does not work.

Mr. Peters stated he was a little disappointed that DPW has not had time to review the plans.

Mr. Behrendt explained that there was a meeting and agreement but that Melodie Esterberg does need to review the plans.

Mr. Sylvain wanted to know if the board is agreeable with allowing the applicant to start stockpiling material and mobilizing equipment for construction.

Mr. Berry explained to the board that there was a tree buffer that will no longer be there with the detention pond. They are now proposing construction right up to a couple of small wetlands that had buffers when the project was approved in "01"

*A motion was made by Mr. Peters and seconded by Mr. Healey to proceed forward but for the applicant to come back in one week, allowing them to mobilize on site. The motion carried unanimously.*

Mr. Peters is a member of the Homemakers Health Services Board of Directors and recused himself from the following two cases.

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

Mr. Nickless of Norway Plains Associates representing the applicant explained that the application had been before the board a few times now and that they were seeking approval this evening.

Mr. Behrendt asked that under 1A add, "applicant on the related site plan". The staff recommends approval with the addition.

Mr. Sylvain opened the public hearing.

No one spoke at the public hearing.

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

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

**F. DGH Builders, Homemakers Health Services, Rochester Hill Road (by Norway Plains Associates). 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. Nickless of Norway Plains Associates representing the applicant believes that everything is in order with this application. Public Works still needs some time to review the plans.

Mr. Sylvain opened the public hearing.

No one spoke at the public hearing.

Mr. Abbott would like a no parking sign added at the access aisle.

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

### **New Applications:**

- A. Rochester Pinewood Real Estate Development, LLC.,** Ten Rod Road (by Norway Plains Associates). Amendment to Approved Project to eliminate requirement for off-site sidewalk. Case # 221-48-A-R1-05

Mr. Nickless of Norway Plains Associates represented the applicant in discussing the possibility of eliminating the installation of the off site sidewalk on Ten Rod Road.

Mr. Nickless explained to the board that the cost to upgrade the pump station at the entrance to the industrial park was \$180,000 plus \$50,000 for a total cost of \$230,000; not the \$125,000 that was first estimated. The cost to install the sidewalk on Ten Rod Road has gone from an estimated \$83,000 to \$113,000. The applicant has a total of 4865' of sidewalk to install in the development and 1503' of sidewalk on Ten Rod Road.

Mr. Sylvain asked if there were sidewalks in the development now.

Mr. Nickless responded that 2400' had already been built and there were approximately 2400' left to be built.

Mr. Nickless asked if the board could look at possibly widening the road 5' and then placing the curb as now the State will be building sidewalk for the Ten Pines Development.

Mr. Sylvain asked if there was a surety in place for ten Pines sidewalk that is now being built by the State, could that money be used to construct a portion of the Ten Rod Road sidewalk.

Mr. Varney expressed that those types of questions would have to be answered by City Attorney Dan Wensley.

Mr. Varney feels that a five foot bike path is fine but that we should not back off on the sidewalks on Ten Rod Road. The City has to send the sidewalk plow up there anyway.



Mr. Nickless would like the board to at least address the escrow account this evening. The Brock family had placed cash in escrow as surety for the sidewalks that is tied to the 30<sup>th</sup> building permit. Currently there are only two houses constructed and neither of them is occupied at this time. The board could stipulate that the \$83,000 be placed in escrow when the applicant applies for the 30<sup>th</sup> building permit.

Mr. Sylvain agrees with Mr. Varney regarding the Ten Rod Road sidewalks and would like to see Phase II built like a pedestrian walk instead of a sidewalk.

Mr. Martineau asked how you insure that people do not park in the bicycle/pedestrian way.

Mr. Behrendt recommends continuing to October 4, 2010 to give the TRG and Mr. Nickless a chance to look at it.

Mr. Nickless would like to see the release of the escrow this evening.

*A motion was made by Mr. Sylvain and seconded by Mr. Varney that Phase II will be constructed with sloped curb with a 5' pedestrian way and the \$83,000 is released from escrow. The sidewalk will be built or escrow put in place by the issuance of the 30<sup>th</sup> building permit. The motion carried unanimously.*

Mr. Varney added that the sidewalk needs to be installed on the same side as the State is installing the sidewalk.

**B. GB New Hampshire LLC.,** 301 North Main Street (by Vanesse Hangen Brustlin, Inc.). Preliminary (design review) Site Plan to construct a 13,225 square foot pharmacy with drive-through, a secondary 8,000 square foot retail building, and associated improvements. Case # 115-40-B2-10

Gordon Leedy, certified planner representing the applicant, described the proposed retail development to be constructed on the former Poulin Jeep site. Mr. Leedy gave an overview of the site and project.

The project will consist of a 13,225 square foot pharmacy and 8,000 square foot retail space. The traffic lights and improvements by the State are all set up for the development. The project will stay away from the wetlands but the applicant will be seeking a conditional use permit for intrusion into the wetland setbacks.

The applicant is here this evening to seek the board's advice and comments.

Mr. Varney commented that there was only one abutters name shown on the plan and that he would like to see where the connector road from the future highway bridge will come out.

Mr. Leedy explained that they had first heard about the connector bridge at TRG. It would be very difficult for them to incorporate into the plan.

Mr. Peters asked Mr. Varney if there was any money allocated for the bridge.

Mr. Varney felt that this is a discussion the Council will be having in the near future.

Mr. Healey added that the connector bridge had been discussed since 2000 and that with this project there would need to be a major redesign.

Attorney Malcolm McNeill representing owner Richard Poulin told the board that in absence of funding and a definitive plan a negotiation has taken place for this commercial piece of property. A hypothetical bridge that is not funded is not a reason for the board not to review this plan.

Mr. Varney expressed that Master Plans are something that we should at least look at and if it is an unrealistic burden on the site than we need to know that.

Attorney McNeill reiterated that the applicant should have the opportunity to move forward.

Mr. Varney would like to see what the alternative might be.

Mr. Sylvain asked if the applicant could bring a proposed plan for where the road may be.

Mr. Leedy pointed out to the board roughly where the right of way would be on the plans being presented.

Mr. Behrendt feels ideally VHB would not get engineering until after receiving input from the Council. The Council will be having the discussion on October 5, 2010.

Mr. McNeill expressed his and the applicants effort to be reasonable.

Mr. Peters wants to keep things moving forward.

Mr. Leedy explained that if they started preparing plans tomorrow they would be in on December 6, 2010.

Mr. Varney asked Mr. Leedy if the site next door is having a problem with their gas collection system.

Mr. Leedy does not anticipate a problem.

Mr. Sylvain opened the public hearing.

No one spoke.

*A motion was made by Mr. Peters and seconded by Mr. Healey to close the preliminary application. The motion carried unanimously.*

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### **Other Business**

Mr. Varney brought forward a concern with the “no parking” signs that have been installed for the new food concession trailer. The signs are not of the correct type and have been installed in the right-of-way.

Mr. Peters expressed that going forward the board needs to make it clear that only City approved “no parking” signs may be used.

Mr. Sylvain would like to have a brief discussion on the abutter notifications at the next meeting.

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### **Adjournment**

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

Respectfully submitted,

Marcia J. Gasses  
Planning Secretary

(These minutes were transcribed from notes)