

**City of Rochester Planning Board**  
Monday April 23, 2012  
City Council Chambers  
31 Wakefield Street, Rochester, NH 03867  
*(These minutes were approved on May 7, 2012)*

Members Present

Nel Sylvain, *Chair*  
Tim Fontneau, *Vice Chair*  
Gloria Larochelle, Secretary  
James Gray  
Rick Healey  
Mark Sullivan  
Dave Walker, Councilor

Members Absent

Stephen Martineau, excused  
Derek Peters, excused

Alternate Members Present

Matthew A. Kozinski

Alternate Members Absent

Robert Jaffin, excused  
Gregory Jeanson, excused

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

(These are the legal minutes of the meeting and are in the format of an overview 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)

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Mr. Sylvain called the meeting to order at 7:00 p.m.

The Planning Secretary conducted the roll.

Mr. Kozinski to vote for Mr. Peters.

**Communications from the Chair**

None

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**Public Comment**

Gregg DeNobile - Chesley Hill Road thanked the board for the response to his prior questions. His correspondence and further questions follow.

146 Chesley Hill Road  
Rochester, NH 03839  
[vgdenobile@gmail.com](mailto:vgdenobile@gmail.com)

April 9, 2012  
Responses from Michael Behrendt added April 22, 2012.  
*Additional questions added for April 23, 2012 meeting by author.*

To the Rochester, NH Planning Board:

I have numerous questions regarding the rezoning process and I have had very limited success in obtaining answers to these questions.

Would it be possible to have answers provided in the next thirty days?

Please see questions below.

Regards,  
Gregg DeNobile

1. Who or what group originated and determined the need for Comprehensive Rezoning?

This was driven by the Land Use Master Plan. Doing a comprehensive rezoning was the major recommendation. Here is the link:

[http://www.rochesternh.net/Public\\_Documents/RochesterNH\\_Planning/Master%20Plan/Land%20Use.pdf](http://www.rochesternh.net/Public_Documents/RochesterNH_Planning/Master%20Plan/Land%20Use.pdf)

*I understand that this document provides the authority to makes these changes, but someone or some group had to decide that this was to happen. Can you tell us who the person or persons are/were that made this decision?*

2. What are the weaknesses in the current zoning that precipitated the need to change the current zoning?

See the attached articles

- Many lots are split-zoned, meaning one part of the lot is zoned say Business, and another Residential, thereby imposing two sets of standards.

- The table of uses includes such peripheral activities as “fur ranch,” “bottling works,” and “ice cream manufacture,” while omitting ones like accessory apartment, bar/tavern, café, conference center, golf course, and parking lot.
- The sign ordinance (among other sections) is ambiguous, resulting in staff and applicants struggling to discern the requirements.
- Small areas, close to the center, are oddly zoned Agricultural. This zone should be large and continuous, situated exclusively in the outer ring.
- One industrial district is laid out in a narrow strip and virtually unusable.

*How are these items being addressed?*

*For example, how will the narrow strip be made usable?*

### 3. What is the goal of Comprehensive Rezoning?

See the attached articles

- Enhance the value of land and buildings;
- Encourage high quality housing for everybody;
- Revitalize the downtown;
- Foster economic development and opportunities for business growth;
- Conserve natural, historic, and cultural resources;
- Promote excellence in architecture, landscaping, and civic design;
- Encourage innovation, flexibility, and a collaborative review process;
- Make Rochester a more attractive, vibrant, and healthy community for its residents, businesses, property owners, and visitors.

*How will these goals be accomplished?*

*How will, for instance the value of land and buildings be enhanced?*

### 4. Is there a Mission Statement or other type outline as to what is trying to be accomplished by the Comprehensive Rezoning process?

There is not a specific mission statement but lots of reasons to do this. See the attached articles. See also the link to the Land Use Plan.

*Page 46 of 55 of the Land Use document states the following:*

#### **Structure of New Zoning Ordinance**

Recognizing that the current ordinance will likely be overhauled it is instructive to point to the following approaches that should be undertaken.

- 1) The current ordinance does not include a *Statement of Purpose* for each zoning district. This is useful in order to relate the zoning ordinance to the Master Plan for the benefit of property owners, citizens, and City officials in the application of the ordinance.

*What is the status of the "Statement of Purpose" for each zoning district?*

5. Who will determine what piece of land receives what zoning?

This was developed by the original Comprehensive Rezoning Committee with adjustments made by the Mayor's Committee, then the Planning Board, then the City Council.

*This does not answer the question. Please identify the person or persons who will, for example, determine that property "X27" on Main Street will be zoned R2.*

6. Will each property owner be notified of the zoning change?

Every property owner in the City was notified of the chapter 42 rewrite with a letter included in the last set of tax bills that was sent out.

*This letter only indicated that rezoning is in progress, it does not state that this property or parcel will be assigned a specific zone, i.e. R1.*

*Will the property owner be notified that their zoning has been changed?*

7. What options will the landowner have if there is a disagreement with the proposed change?

They can come to one of the public hearings or public input sessions being held and express their thoughts. There have been many public hearings/public input sessions held prior to now and more are being held in the future by the Planning Board and City Council. Or they can send a letter, fax, or email to Kenn Ortmann in the Planning Department. [Kenn.ortmann@rochesternh.net](mailto:Kenn.ortmann@rochesternh.net) or to him at the address below. They could also contact any or all City Council members.  
31 Wakefield Street, Rochester, NH 03867

*This does not indicate what remedy the property owner has if they are not in agreement with what zoning was assigned to their property.*

*Is there an arbitration mechanism available if there is a dispute in zoning assignment?*

8. What is the cost of this project to the Rochester Taxpayer?

Other than fees paid to the original consultants, paper, public hearing notices, and mailing costs, there is very little out-of-pocket costs. It is mostly staff and volunteer time with no additional compensation for that.

*Thank you*

9. What will the tangible benefits of the rezoning changes be to the Rochester taxpayer?

The benefits will be enormous. The existing zoning is hugely out of date and inadequate. The new zoning is state of the art, meticulously thought out, and well adapted to the community. The costs of keeping the existing zoning are countless variances, an inefficient review process, the requirement to do unnecessary things now part of zoning.

*This statement does not answer the question and appears to be speculative. Please indicate what concrete or real benefits will be delivered to the Taxpayer. Examples could include lower taxes and improved roads.*

10. Could a list of other communities that have done this type of rezoning be provided?

Many communities across the country do a comprehensive rezoning at 20 or 30 year intervals, as we are doing. I do not have a list of them off hand. Sadly, it is not done as much as it should be done, as you can see because of the great amount of work involved. Too many communities simply muddle along with their existing inadequate and out-of-date ordinance making incremental changes, resulting in an awful, confusing, unworkable patchwork of small amendments.

*A cursory search on the internet returned dozen of communities involved with Comprehensive Rezoning.*

*Would it be beneficial to contact a few municipalities to see if we could gain any insight from their experiences?*

11. There are numerous mentions of "Best Planning Practices" in the attached articles.

*Could the source of these "Practices" be provided?*

Tom Kaczynski - Stated that he had detected an anti - automobile sentiment. Mr. Kaczynski questioned how people can use their property without getting permission from government.

Robert Gates - Dry Hill Road wanted to see the requirement under home occupation for a teacher be less restrictive and allow the teaching of more than one student at a time. Mr. Gates used the example of a music teacher giving lessons to more than one student who were performing at the same level.

Malcolm McNeill - Box 815 - Dover - representing John Madden. Attorney McNeill submitted the following information.

OUTLINE OF MINIMUM LOT AREA PER DWELLING UNIT FOR MULTI-UNIT APARTMENT COMPLEXES			
City or Town	Zoning District	Minimum Lot Size	Minimum Lot Area per Dwelling Unit
Dover	RM-SU	20,000 s.f.	10,000 s.f.
Durham	Multi-Unit Dwelling/Office Res.(MUDOR)	40,000 s.f.	1,200 s.f.
	Office, Residential Light Industrial (ORLI)	40,000 s.f.	4,200 s.f.
Somersworth	R3	26,250 s.f.	*
Exeter	R4	21,000 s.f.	7,000 s.f.
	R5	12,000 s.f.	3,630 s.f.
Portsmouth	GA/MH	5 acres	10,000 s.f.

\* For multi-family dwellings of greater than three (3) units, the minimum lot area required increases by the following amounts for each additional unit over the first three:

- 0 bedrooms (efficiency) plus 3,200 s.f.
- 1 bedroom plus 4,000 s.f.
- 2 bedrooms plus 5,000 s.f.
- 3 bedrooms plus 6,000 s.f.

Other John Madden apartment complexes:

- Osprey Landing, Portsmouth, NH: 329 units, 36.1 acres. 9.1 units/acre or **4,786 sq. ft./unit**
- Eastgate Apartments, Manchester, NH: 144 units, 17.2 acres. 8.4 units/acre or **5,185 sq. ft./unit**



Mr. Sylvain announced an agenda change.

Mr. Sylvain announced that Mr. Behrendt would be leaving to become the Durham Town Planner. It was believed that Jim Campbell the Durham Town Planner would be assuming Mr. Behrendt's position in Rochester. A meet and greet would be set up in the near future.

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## **Chapter 42 Discussion**

Mr. Walker suggested that the board adopt the current dimensional tables for the commercial zones that the board has established. He did not want the board to change what they have.

Mr. Sullivan asked if there were set back problems in the current commercial zones.

Mr. Sylvain stated no.

Mr. Fontneau stated that there was the possibility of a zero foot setback from abutting residential property.

Mr. Walker stated that there was that now.

A discussion ensued regarding Neighborhood Mixed Use Zone.

Mr. Sylvain expressed that the basic concerns with the setbacks had been in the Residential Zones. He felt they would be able to change when they started putting the map together.

Mr. Behrendt went over the current dimensional standards.

Mr. Walker suggested that the current standards be applied across the board.

Mr. Behrendt explained that there were differences between the Industrial1 and Industrial2 and asked which Industrial 1 - Industrial 4 standards the board wished to apply.

Mr. Walker stated that if there was a conflict to go with the least restrictive.

Mr. Behrendt stated that the Industrial 2 would apply.

Mr. Gray stated he would like to see it laid out and voted upon at the next meeting.

Mr. Behrendt stated that the board should eliminate the wording under S. "any wall that is not a party wall requires a 6 foot side yard with access for fire fighting.

Mr. Sylvain asked that the changes be posted on the web.

The board recessed for at 7:35 p.m.

The board reconvened at 7:40 p.m.

Residential 1

Mr. Walker explained that the new table made the assumption that there was water and sewer available.

Mr. Fontneau asked for a differentiation.

Mr. Behrendt clarified that nearly all had water and sewer. The size of the lot needed would be driven by environmental concerns and the State DES. The numbers should be based upon good planning.

Mr. Walker stated assumption was that there was water and sewer in Residential 1 and Residential 2.

Mr. Fontneau stated that the State regulations would supersede the zoning.

Mr. Healey expressed the concern that if the lot was a minimum of 10,000 square feet and individual could move in, get started and have to deal with DES.

Mr. Walker stated that the State regulations would apply if there was no water or sewer.

Mr. Sullivan stated he would like maps of where water and sewer are.

Mr. Walker stated that the old regulations allowed a maximum of 30% lot coverage, the new would be 45%.

Discussion ensued regarding the allowed building height.

Mr. Behrendt was to get with Jim Grant to determine the current standard being used.

The board concluded to leave the Residential 1 as is for dimensional requirements. Eliminate lot coverage and clarify height.

Residential 2

Mr. Fontneau wanted to see a lesser setback for sheds.

Discussion ensued regarding setbacks for sheds.

Mr. Walker suggested being 5' less restrictive for sheds.

Mr. Walker suggested dropping from 12,000 to 9,000 square feet. He did not see the need to increase from single to two family.

The consensus was for single to match two family for lot coverage.

Three & Four Family

Mr. Sylvain asked Mr. Gates how many variances were given out.

Mr. Gates stated not many.

Discussion ensued regarding conformity and frontage.

Mr. Sylvain took a show of hands for 100' there were 4 members in favor. There were 3 members in favor of 60'.

The consensus was to have 80' of frontage.

Mr. Walker questioned the maximum lot coverage of 45% may be low.

Mr. Behrendt stated that over four units was only allowed by conditional use in the Residential 2.

The consensus was to change the maximum lot coverage from 45 to 60% for 3 & 4 family.

The consensus was to change from 20' to 15' on the front setback.

Discussion ensued regarding the lot coverage on multifamily.

The consensus was to change to 60% and discuss further 4/30/2012 if needed.

All other uses

Mr. Behrendt questioned the remaining nonresidential uses that were allowed by conditional use and special exception.

The consensus was to change to match the 2-family and lot coverage goes away.

Residential 3

Mr. Fontneau explained the problem was in the mapping when Residential 1 areas were changed to Residential 3. He did not feel you should allow multifamily by right in the agricultural zone.

Mr. Sylvain stated he does not want to change someone's lot so that a neighbor could put in a large multi family complex.

There was discussion on spot zoning.

Mr. Walker suggested extending the Residential 2.

Mr. Behrendt stated he was not recommending extending the Residential 2 zone. There were protectors built into the Residential 3 including the minimum of 10 acre lot size for multifamily, 150' buffer from the road and it would need to be on a main arterial road.

Mr. Fontneau expressed that if Residential 3 was eliminated and Residential 2 extended there would be more resistance. We should leave Residential 3 in and look at it when they went to the map.

Table for Residential 3

Mr. Fontneau described the existing subdivision regulations.

The consensus was to leave at 20,000 square feet.

The discussion on frontage was at 100'.

The consensus for single family was for 45,000 square feet for single family with no water or sewer.

Mr. Walker asked that the height for multifamily be checked.

## Single Family Conservation Subdivision

Discussion ensued regarding setbacks and minimum lot area.

The consensus was to change to the single family standard. Frontage all 125' and eliminate the maximum lot coverage.

A discussion on the nature of the zone took place including the nature of the zone.

The consensus for minimum lot area was 6,000, 8,000, 10,000 and eliminate maximum lot coverage and check height.

All other uses

The consensus was to go from 45,000 to 60,000 with a frontage of 125'. The setbacks were left alone with 60% lot coverage.

The board asked to have Jim Grant come to the next meeting to discuss building height.

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## **Adjournment**

A motion was made by Mr. Walker and seconded by Mr. Gray to adjourn at 9:36 p.m. The motion carried unanimously.

Respectfully submitted,

Marcia J. Gasses  
Planning Secretary