

City of Rochester Planning Board
Monday August 2, 2021
City Hall Council Chambers
31 Wakefield Street, Rochester, NH 03867
(These minutes were approved on September 13, 2021)

Members Present

Nel Sylvain, *Chair*
Mark Collopy, *Vice Chair*
Peter Bruckner
A. Terese Dwyer
Robert May
Mark Sullivan
Dave Walker

Members Absent

Tim Fontneau, excused
Daniel Rines, excused

Alternate Members Present

Keith Fitts
Paul Giuliano
Donald Hamann
Lance Whitehill

Staff: Shanna B. Saunders, *Director of Planning & Development*
Crystal Galloway, *Planning Administrative Assistant II/Interim Planner I*

(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.)

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

Crystal Galloway conducted roll call.

III. Seating of Alternates

Mr. Giuliano voted for Mr. Rines

IV. Communications from the Chair

There were no communications from the Chair

V. Approval of Minutes

A motion was made by Mr. Walker and seconded by Ms. Dwyer to approve the July 19, 2021 meeting minutes. The motion carried unanimously by a roll call vote.

VI. Consent Agenda

A. Jeffrey Gudim, 131 Pickering Road

A motion was made by Mr. Walker and seconded by Mr. Sullivan to approve the consent agenda with all standard conditions. The motion carried unanimously.

VII. Continued Applications

A. Farmington Associate Properties, LLC, 68 Farmington Road

Ms. Saunders told the Board the applicant has requested a continuance to the September 13th meeting.

A motion was made by Mr. Walker and seconded by Ms. Dwyer to approve the continuance until September 13th. The motion carried unanimously by a roll call vote.

B. New England Gaming, LLC, 7 Milton Road

Richard Bedrosian explained that the lottery has full control over everything that he does pertaining to this project and that they have not yet finalized all of the rules. The rules are anticipated to be finalized in early September 2021. There are anticipated to be 200 HHR machines, 50 hybrid machines, and a mix of manually operated games, though the exact mix of said games and are still unknown. There will be between 25 – 45 employees, as there will be a lot of security and surveillance. The lottery will ultimately determine the surveillance. There will be constant auditing of the games. Multiple rooms will be needed such as: employee break room, cashier in a cage, surveillance room, etc. The exact number of rooms will be unknown until early September when the lottery decides. At this time, there are 72 charities included. 2 charities a day, as close to 365 as possible. Mr. Bedrosian cannot yet predict how much money charities will be making as the lottery is still deciding on revenue. There will be a food and beverage service for those playing, but no bar. At this time, it is anticipated that there will be 20,000 square feet of gaming space. This will allow each machine/game to be spread at least 6 feet apart if social distancing due to COVID were to occur again.

Ms. Saunders stated that this project will be located behind the existing Ocean State Job Lot, in the back half of what was previously K-Mart. This project has gone through a couple of TRG meetings already. There are no conditional use permits, waivers, and is not considered a development with regional impact. Planning Board recommended that the application be accepted as complete as there is sufficient information to allow the board to vote.

Mr. Walker made a motion to accept the application as complete seconded by Mr. Sullivan. The motion carried unanimously.

Ms. Saunders stated the recommended conditions of approval include items from the Department of Public Works regarding locations of existing sewers. As final layout of the game room is not completed at this time due to state laws not yet being finalized, the applicant will come back to the board with the final layout as a condition of approval. The Police Department reviewed the plan and added conditions regarding reviewing the security plan and the outside security cameras. There were also questions about existing pump station capacity that Public Works would like confirmation on. A condition of approval is being added in regards to the existing landscaping that needs to be spruced up by the property owner. The rest of the conditions are all standard conditions of approval.

Ms. Dwyer asked what the hours of operation would be to which Mr. Bedrosian replied that lotteries are permitted to be open from 11 AM to 1 AM.

Ms. Dwyer asked when last call for serving alcohol would be. Mr. Bedrosian stated that the lottery has not yet finalized a cut-off time, but that he does not anticipate serving alcohol after 10:00 PM. He stated they are not in the business of serving alcohol and will be very cognizant of how much is being served.

Ms. Dwyer asked if smoking will be permitted to which Mr. Bedrosian responded that it will not be permitted. Mr. Bedrosian stated that he is unsure how this will be addressed, whether it be a sign outside, or with a designated smoking area outside of the building away from the door.

Mr. Walker made a motion to approve with the conditions as stated in the staff recommendation, seconded by Ms. Dwyer. The motion carried unanimously.

VIII. New Applications

A. L.P. Gas Equipment, Inc., 111 Northcoast Drive

Ms. Saunders recommended that VIII A and VIII B be reviewed together as they are the same project that cross both properties. Ms. Saunders recommended that there be separate motions of approval at the end of reviewing.

Scott Lawler (Norway Plains) representing both L.P Gas Equipment and Ossipee Aggregate Corporation, explained that they are seeking approval for a fourth railroad track to be approved for staging of additional propane rail cars as they come in. The current facility does not operate as efficiently as they would like. They are currently relying on New England Northcoast to shuffle the rail cars for unloading of propane. The fourth rail will allow for more space for staging the rail cars and other preparatory work while awaiting unloading.

Mr. Lawler went on to explain that there is sufficient space between the third and fourth rail for an additional unloading rack, at a future date. In addition, a NHDES Wetlands Permit is required from Wetlands Board to allow impact of 2,000 square feet of wetlands. They are seeking a conditional use permit to allow 1,500 square feet of site work within wetland buffers.

The existing chain link fence will be shifted from where it currently exists to outside of the fourth rail, as well as installing a small sub-terrain bio retention system to account for storm water that will be generated due to

change in land coverage. Norway Plains is currently working with the Department of Public Works to finalize the design approvals. Mr. Lawler stated that they will be installing erosion sedimentation controls around the perimeter during construction.

Ms. Saunders noted that the development went before the Conservation Commission June 23rd and they have recommended approval with no conditions. There are no waivers and it is not recommended that this be considered a development with regional impact. The Planning Department recommends that the applications be accepted as complete.

Mr. Walker made a motion to accept the applications as complete seconded by Ms. Dwyer. The motion carried unanimously.

Ms. Saunders went over the precedent conditions of approval which included conditions set forth by the Department of Public Works, including various plan modifications, test pit data, and soil boring data in the design of new rail. Public Works would also like storm water management design reports in accordance with the new chapter- Chapter 218 of the City Ordinance. DPW has discussed the storm water impacts at length with the engineer. It has been agreed to seek approval from the board tonight and move forward with more discussion regarding said impact based on some of the additional information that will be provided from the borings. There has also been a condition added that the Department of Public Works may get third-party review if required during construction. The remaining conditions are standard conditions of approval. Ms. Saunders recommends that the applications be approved.

Mr. May noted that this is the first time he has seen a request for laying new railroad tracks in all of his years on the Planning Board.

Mr. Sullivan asked if it were correct that the tracks dead-end at the back. Mr. Lawler responded that that was correct. He noted that all tracks end with a bumper, as the Spaulding Turnpike is located directly behind.

Mr. Sullivan asked if Northcoast owned the rail line and if they had to oversee the installation. Mr. Lawler said that Northcoast does own the rail line. He stated that this is part of a Tiger Grant issued to Northcoast that includes not only this project but a sizable project regarding improvements to the rail line down by Haven Hill Road.

Ms. Saunders asked that the Board vote on both agenda items for the conditions of approval as stated. It was noted that a Conditional use permit was needed for L.P. Gas Equipment.

Mr. Walker made a motion to approve the Conditional Use Permit for L.P Gas Equipment, seconded by Mr. Sullivan. The motion carried unanimously.

Mr. Walker made a motion to approve with the conditions as stated in the staff recommendation, seconded by Mr. Sullivan. The motion carried unanimously.

Mr. Walker made a motion to approve with the conditions as stated in the staff recommendation, seconded by Mr. Sullivan. The motion carried unanimously.

B. Ossipee Aggregates Corporation, 99&79 Northcoast Drive

VIII A and VIII B were reviewed together. See previous item.

C. 401 North Main Street, LLC, 0 North Main Street

Hannah Giovannucci, Civil Engineer from TF Moran, representing 401 North Main Street, LLC spoke regarding the project. Ms. Giovannucci is looking for site plan approval for a proposed auto dealership, as well as a Conditional Use Permit for the Conservation Overlay district. Ms. Giovannucci spoke to the history of the lot, as it was formerly the Rochester City Landfill which closed in 1962, an auto dealership, and a furniture store. In 1997, there was a lot of differential settlement which caused cracking to the building, allowing methane gas to leak into the building. In 1997 NHDES recognized the lot as a landfill and hazardous waste site. The proposed building will be a 1-story building with a 22,000 footprint. They will provide access, parking, storm water, etc. There are currently 2 access points which will be consolidating into one. Ms. Giovannucci stated that they are also requesting a 25% reduction of the required customer parking due to the nature of the property. She noted there will be no need for that much customer parking. In addition, they are requesting a waiver for the Cape Cod berm to allow turtle crossing to the river.

There will be landscaping throughout the site, with side buffers. Bow Hall Maples will be planted in the front, as they tend to grow upwards, obstructing little view of the cars. Ms. Giovannucci stated they are requesting 75 – 100 feet between the trees to allow vehicles to see while exiting to allow viewing from the street.

There is storm water on site. Currently the storm water is coming into the ground and seeping through the contaminated soil, further contaminating the ground water. The pavement will serve as a cap, as well as the cap for landscaping, which will be a two foot clean fill. This will collect the storm water, pretreat it while slowing it down, and let it sit before being released into the river. They are proposing to have an R-tank system which is kind of like egg crates that allow the storm water to collect in that area and an outlook control structure that slows the water down.

Ms. Giovannucci pointed to Parcel 6, on the map and noted that there is an existing head wall that is crumbling and deteriorating. They plan to connect to this, improve it, and incorporate erosion control. Ms. Giovannucci stated that the design of the project seeks to improve the area environmentally, as well as provide a wooded buffer.

Ms. Saunders noted that the Planning Department has been working with TF Moran for the past 6 months, noting that this is a very unusual project due to the land previously being Rochester City Landfill. Due to this factor, the developers cannot infiltrate the ground in any way. The Conditional Use Permit went before the Conservation Commission on June 23rd, 2021. The Commission recommended the plan be approved with two conditions. The first condition was for buffer plantings be added to landscape, which has been added to the plan. The second condition was to remove of, and properly dispose of any invasive species, that may be found. This has been added as a note to the plan.

Ms. Saunders stated that three waivers are being requested. The first is regarding landscaping. Although the request is to waive the entire section, landscaping will still very much be incorporated into the plan, and the applicant will be bound by it. The second waiver is regarding a 25% decrease in the number of customer parking spaces. Ms. Saunders noted that the developers are still providing many more parking spaces than required, however more are designated to cars sale and fewer to the customers. It was noted that if at any time the board finds the customer parking insufficient they can go back to the developers and request that the ratio be adjusted. The third waiver is regarding the sloped curbing, which no issue was found with. It is a private site, meaning a private plow will be used. The Conservation Commission liked how the sloped curb was to allow turtles to cross to the river. Ms. Saunders recommended that the application be accepted as complete.

Mr. Walker made a motion to accept the application as complete, seconded by Ms. Dwyer. Motion carried unanimously.

Ms. Saunders then went on to speak about the precedent conditions. She noted there was a lot of discussion at TRG regarding the location of the driveway, but it was ultimately decided to let this property and the next property development (plans already seen for second property) proceed with the proposed driveway in their proposals and any development across the street will simply need to take into account the existing conditions, which will now include these developments. DPW is fine with driveway location. However, there still needs to be discussion about the connector drive between this dealership and the proposal next door. DPW wants to talk about moving that location a little more towards the road. This can be worked out in the future. 2nd, third,

fourth conditions are about utilities. Last condition is about sidewalks. DPW would like to have the developer construct the sidewalks as on the plan, knowing that the next dealership will construct their own and then DPW would look at raising funds to connect the two to existing sidewalks to the north and south. Which would mean sidewalks from Dominos to The Ridge. Asked for copies of draft easements to be submitted and spill prevention control and countermeasure plan. And that applicant shall apply for a permit under the new Chapter 218. The rest are general precedent conditions of approval. It was noted that all of the Subsequent Conditions were all standard, with the exception of one. Condition number 7 addresses backflow prevention devices before the Certificate of Occupancy is issued. Ms. Saunders recommend approval with all conditions.

Mr. Sullivan posed a question regarding the settlement of the site. Ms. Giovannucci responded that site is experiencing differential settling due to the landfill compressing. Ms. Giovannucci went on to explain that there would be measures taken to limit the effect of the settlement on the site, including a low transfer platform and large piers, which would be driven 45 – 65 feet down. It was also noted that the entire parking lot would have geo-reinforcing fabric and that the engineers made sure that the design would accommodate any potential differential settling so that the storm water would still be collected and released.

Mr. Walker asked if service bays were included in the plan. Ms. Giovannucci explained that there have been movement areas designated and that most loading/unloading will take place before, or after business hours. These areas are around 27 to 30 feet wide, allowing cars to pass even if a truck were to be parked.

Mr. Walker asked if vehicle maintenance would be taking place on site. Mr. Sylvain and Ms. Giovannucci clarified for Mr. Walker that there will be vehicle service on site. Ms. Giovannucci pointed out the access point on the map.

Mr. May asked for clarification regarding the sidewalks. Ms. Saunders explained that the sidewalks will be built on each properties frontage by those developing the lots. The Department of Public Works believes they can then raise the money to fill in the gap between the two sidewalks.

Mr. Fitts suggested that a condition be added that the owner would have to return to the board for approval if the brand were to change, as this could potentially result in architectural changes.

Mr. Giuliano asked if the property across the street, 400 North Main, would be utilized as storage for vehicles. Ms. Giovannucci said that there are no plans to store vehicles there.

Ms. Dwyer asked if the methane had been completely mitigated. Ms. Giovannucci responded that Mike Dacey, Senior Associate/Senior Hydrogeologist & NH Office Manager, for Geolnsight, is designing a system that will be beneath the entire site, which will collect and release the methane.

Mr. Sylvain asked if the methane-system would be similar to those used at Dunkin Donuts. Mike Dacey stepped up to the podium and spoke about the methane gas mitigation system, stating that the design is similar to the one at Dunkin Donuts. It was noted that the system is designed to make sure the gas does not accumulate.

Mr. Sylvain asked what type of material will be used for stabilization that is being driven into the ground. Ms. Giovannucci responded that they would be using rammed aggregate piers that are cylindrical and expand. A cement-mortar material is then put on top of the piers, as well as an aggregate. After that a device is used to ram the piers into the ground so that they pack out the soil nearby, stabilizing it and providing a base.

Ms. Dwyer noted that it sounds similar to what is used to secure beach houses on the sandy soil.

Ms. Saunders noted that there was a suggestion that if the architecture changes due to a branding change, they owners come back for board approval.

Mr. Walker made a motion to accept the conditional use permit with the two conditions cited, seconded by Ms. Dwyer. The motion was approved unanimously.

Mr. Walker made a motion to approve the three waivers requested, seconded by Ms. Dwyer. The motion was approved unanimously.

Mr. Walker made a motion to approve the project with the conditions as stated in the staff recommendation, seconded by Ms. Dwyer. The motion was carried unanimously.

IX. Other Business

A. Planning Update

Ms. Saunders briefly discussed the parking study, to which Mr. Sylvain asked if there was data regarding a parking garage. Ms. Saunders responded that it was a consideration, but that it could be very costly. Several members felt that the parking study was weak on data and did not accurately reflect Rochester's parking needs, specifically as it pertained to accommodating current and future growth.

Mr. Sullivan asked who was in charge of moving this process along in terms of next steps. Ms. Saunders noted that if the Planning Board felt strongly enough, they could make a recommendation to City Council. She also stated that it was a difficult time to conduct such a study due to COVID, but that those who conducted the study recommended continuing to track performance of those spots that were looked at. Ms. Saunders said that the board could ask City Council for funding in order to do so.

Mr. Collopy suggested that a parking committee/commission be formed that would handle the oversight of parking for Rochester. Several members liked the idea of such a committee. Mr. Sullivan suggested that the first step should be the implementation of parking meters and the enforcement of said meters. Mr. Sullivan also noted that there could then be a discussion in regards to what would be done with the revenue from the meters. Mr. May noted that wayfinding signs could potentially be a beneficial tool in order to get people to park elsewhere, where there may be an overlooked space.

There was discussion about what next steps the Board should take. It was noted that Strafford Regional Planning Association could be a good resource in terms of getting "boots on the ground." It was decided that the Planning Board form a sub-committee for parking, composed of members from City Council, the Planning Board, and business owners prior to bringing recommendations to the City Manager.

Ms. Saunders stated that the first reading of the downtown height requirements would be read before City Council tomorrow night, Tuesday, 8/2/2021. It was noted that some developers have asked that the 15 feet setback be reduced to 10 feet. Mr. Sylvain noted that the setbacks could remain at 15 feet, as it is a maximum amount, and the developers could chose to build to only 10 feet. Ms. Saunders agreed with this statement.

Ms. Saunders addressed the SRPC appointments for Technical Advisory Committee, asking the board if they would like to keep the remaining appointments, Jim Campbell, Peter North, and Mike Bezanson .The board agreed that these individuals should continue to serve.

Ms. Saunders introduced Mia McFadden, the temporary Administrative Assistant for the Planning and Development Department.

B. Other

Ms. Saunders gave an update of the third party review inspections for Highfields. It was noted that Board members had before them a report on erosion control from third party engineer. Asked third party to review erosion control and implementation and construction regarding the storm water. Planning Department stated they had a great meeting with the investors the previous day. Hussey Hill Road pond has failed twice. Asking that the developer's engineers review to suggest structural changes as the existing ones do not appear to be holding up against the rainstorms we have endured. Ms. Saunders also stated that the asbuilts were requested, which the board has been asking for for quite some time. She stated there was a follow up meeting tomorrow, Tuesday, 8/2/2021, to review the status. Ms. Saunders will have an update for the board the following meeting.

Ms. Dwyer asked if they were still receiving Certificates of Occupancy. Ms. Saunders stated that the Planning Department is not giving Certificates of Occupancy until the conditions set in April have been met, including sending the asbuilts, finalizing the storm water system so that it is functioning, and relocating the piles of dirt away from the units, as requested.

Mr. Sylvain inquired as to whether building permits were still being issued. Ms. Saunders stated that they are not currently requesting building permits, though she believes there are only four/five building permits left to issue. Mr. Sylvain also inquired about the relocation of the dirt piles. Ms. Saunders stated she had been to the site the previous Friday and noted the piles were down to the 35 foot height limit, but had yet to be moved away from the units.

Mr. Sylvain asked for an update regarding the Cease and Desist. Ms. Saunders responded that no Cease and Desist has been issued as of yet. Ms. Dwyer asked what more needs to be done, or not been done before the Cease and Desist letter is issued. Mr. Walker stated that though the Cease and Desist letter is out of the board's hands, there is the option to revoke the building permits.

Mr. Sylvain and Ms. Dwyer discussed the site-walk that had recently occurred. Ms. Dwyer asked that asked that Ms. Saunders send an update to the board after the follow-up meeting with the investors, rather than wait until the next Planning Board meeting. Ms. Saunders agreed to send an update by the beginning of the following week, at the latest.

X. Adjournment

A motion was made by Mr. Walker and seconded by Mr. Collopy to adjourn at 8:24 p.m. The motion carried unanimously by a roll call vote.

Respectfully submitted,

Crystal Galloway,
Planning Administrative Assistant II/Interim Planner I

Shanna B. Saunders,
Director of Planning & Development