

**PLANNING BOARD  
RINDGE, NEW HAMPSHIRE  
September 4, 2007**

**DATE: September 4, 2007 TYPE: Public Hearing DATE APPROVED: 11/06/07**  
**TIME: 7:00 PM-11:00 PM CHAIR Kim McCummings**  
**CALL TO ORDER, at 7:00 PM**  
**ROLL CALL MEMBERS:** Kim McCummings, Deb Sawyer, James Hoard, John Vorfeld,  
Roberta Oeser  
**ROLL CALL ALTERNATES:** Keith Halloran, Art Fiorelli, Doug Gutteridge  
**EX OFFICIO** Patricia Lang Barry  
**PLANNING ASSISTANT:** Robyn Payson

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**Also Present:** Jo Anne Carr of South West Regional Planning. Jane Pitt – New Planning Director.

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Kim McCummings opened the meeting at 7:00pm.

**Announcements**

Kim announced that the Planning Board had unanimously selected Jane Pitt to be the new Planning Director.

Robyn announced the upcoming Municipal Law Lecture Series and the Office of Energy and Planning's Fall Planning and Zoning Conference. Roberta Oeser said that the Planning Board would have to vote to approve paying for members to attend these events.

Robyn read a memo from Town Administrator Carlotta Pini requesting warrant articles for the primary vote in January.

Kim McCummings discussed the meeting with Franklin Pierce College at which the application process was reviewed. Doug Lear was named as the contact person.

**Legal Update**

Roberta Oeser reported that Bob Van Dyke prevailed in court in his Impact Fee case against the town. Doug Gutteridge asked how much this court case cost the town in legal costs. Kim said she would let the Board know as soon as the information became available.

**Committee Updates**

The Zoning Committee has started to meet.

**Correction to Minutes**

Kim McCummings stated that the Minutes of June 5 had been corrected to show that Art Fiorelli did not sit on the Stenersen Cathedral Road project.

**Aquifer Protection Ordinance**

Robyn Payson distributed the opinion from Town Counsel she received earlier in the day to the questions about the Aquifer District posed by Jo Anne and the motion which was sent to her by Robyn.

Roberta said that the response did not answer the question the board was asking. Other board members felt that Town Counsel had adequately resolved the issue. There was agreement that the Aquifer Protection Ordinance needed to be reviewed and updated. Further discussion on the matter was tabled for the work meeting of September 18.

**OLD BUSINESS**

**Review minutes August 7, 2007** James Hoard made a motion to approve Roberta Oeser seconded. The motion carried unanimously.

**Review minutes August 21, 2007** James Hoard made a motion to approve Pat Barry seconded. The motion carried with Deb Sawyer abstaining.

**Application Review**

**Minor Site Plan**

**Map 3 Lot 4-7 Dolly Ln. and Route 202**

**Tim Halliday**

Mr Halliday requested a continuance to October 2<sup>nd</sup> Roberta Oeser made a motion to continue the hearing, John Vorfeld seconded the motion. Motion carried unanimously.

**Major Subdivision -**

**Map 5 Lot 4 Abel Rd/Whicker Drive**

**Matt Sauvola**

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Sitting on this case: Kim McCummings, Deb Sawyer, James Hoard, John Vorfeld, Roberta Oeser, Pat Barry, Keith Halloran for Dave Tower

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Kirk Stenersen of Higher Design reviewed the seven lot subdivision on Whicker Drive. No input was received from the Road Committee and the Conservation Commission did not express any concern with the development. The Board did not ask for third party review on this project.

Roberta Oeser made a motion subject to the following Conditions:

- 1) Documentation of State Subdivision approval.
  - 2) Documentation of State Wetlands permit for the road construction impacts.
  - 3) This subdivision is subject to the Town of Rindge Impact Fee Ordinance
  - 4) This subdivision is subject to the Town of Rindge Phased Development Ordinance.
- The following schedule applies for issuance of building permits.

Year 2007	3 Dwelling Units
Year 2008	3 Dwelling Units

The Planning Board recognizes that the developer may apply for 5 permits in a 24 month period.

James Hoard seconded, the motion carried unanimously.

## Major Subdivision

### Map 11 Lots 36-1 & 36-2 Cathedral Rd.

#### Phillip Stenersen

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Sitting on this case: Kim McCummings, Deb Sawyer, James Hoard, John Vorfeld, Roberta Oeser, Pat Barry, Keith Halloran for Dave Tower

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Kirk Stenersen of Higher Design reviewed the plans that had been updated based on the review by Clough Harbor. The final plans were received by the Planning Office August 31, 2007. Final comments from Clough Harbor were received the day of the meeting -September 4, 2007. Mr. Stenersen met with the review engineer to address each issue noted in the review. The Board discussed the results of the review and changes to the plan Mr. Stenersen had made.

Roberta Oeser pointed out the comment from Clough Harbor Engineer Kevin Thatcher that he recommended the plan be approved. Keith Halloran said that we needed to be sure that all concerns noted in the Clough Harbor review were identified and addressed.

Keith said that approval needed to be contingent on the issues in the September 4, Clough Harbor letter.

The Homeowner's Association documents have been submitted to Town Counsel, but as of this hearing, no response has been received.

John Vorfeld expressed concern about future driveways not being constructed appropriately on the lots with the steepest slopes. Kirk offered to put a note on the plan referring to locations of certain steep slopes requiring the driveway to be a 4:1 slope by 7 feet off the edge off the driveway.

Abutter Cindy Sands said that she feels this project will adversely change the nature of the area permanently.

Art Fiorelli said that he wanted the Planning Board to address a procedural issue in order to avoid any appeals in the future. The PURD regulations authorized by the PURD ordinance, under "Section 3 Objectives" states the Objectives **must** be adhered to. The Planning Board voted at the previous meeting that this project did not meet two of the Objectives of the PURD.

There is no provision in the PURD Ordinance as adopted by the town in 1977, or the PURD regulations nor in RSA 674:21 which is the Innovative Land Use RSA allowing the Planning Board to waive any of the requirements of this regulation. The only way to waive it is to amend it, and to do this the Planning Board must hold Public Hearings to change the Regulation. Subdivision and Site Plan Regulation fall under a different RSA and can have waivers granted but according to Paul Sanderson of the Local Government Center, the Innovative Land Use RSA 671:21 is different in that the town has to authorize the Planning Board to provide a waiver, which it did not do.

Art said he wanted to point this out as a possible legal issue that needs clarification because of possible consequences which could result in appeal and reversal.

James Hoard said that you can't regulate based on intent. If it meets our numbers it meets our objectives and it meets our ordinance. He said he didn't think it should be denied because

someone doesn't think the project doesn't meet the intent. If you don't like the Ordinance you can amend it.

Art said that all he was saying was that the Planning Board voted that this PURD did not meet all of the objectives.

Kim said there are hard numbers and spirit and the spirit is difficult to define.

Keith said that to take James's standard according to the numbers, the Board voted four to one that this plan did not meet objective "C" of the PURD Ordinance and there was a 3-3 stalemate on Objective "A". Therefore a PURD is in question. The public land set aside is disappointing because the land being set aside are the scraps and the un-buildable land. It would have been nice to see a more innovative concept that still gave them 19 lots but was a more generous and creative use of what the PURD is trying to achieve.

Roberta said that the PURD belonged in the Subdivision Regulations and parts of the Subdivision regulations can be waived.

Kirk said that this he has provided 28% of the land as Common Land instead of the required 25%.

Judy Cypret said that as a citizen of the town it is very frustrating to see something that came up a month ago dealt with now rather than when it came up originally.

Art said he was making a procedural point and not speak specifically about this project. He went on to say that these Objective are not stated in the Subdivision Regulations so they could not possibly fall under the waiver authorization of the Subdivision Regulations. His point was to say that there were two objectives that the Planning Board voted that the project did not adhere to that could not have been taken up months ago because the vote was just taken at the last hearing, and the neither the PURD regulation nor the Ordinance nor RSA 674:21 allow the Planning Board to look the other way. That needs to be addressed some how.

Roberta Oeser made a motion to approve the plan with the following conditions:

- Conditions specified in the CHA September 4<sup>th</sup> letter being put on the plan.
- Performance bond for road construction
- Escrow for monitoring road construction
- Phasing Schedule with a maximum of five building permits per year.
  - 1) 5
  - 2) 5
  - 3) 5
  - 4) 4
- Approval of the homeowner's association documents by Town Counsel.
- This shall be subject to the Impact Fee.
- Active and Substantial completion shall be road construction with base coat upon issuance of the fifth occupancy permit
- Vesting shall be considered the Phasing Schedule being adhered to.

James Hoard seconded the motion. The plan was approved unanimously.

**NEW BUSINESS**

**Voluntary Merger**

**Map 46 Lots 23 and 30.**

**Map 46 Lots 33 and 34**

**Map 49 Lots 3,4,5,6,7**

**Spring Road (Woodmere).**

Jean Stokinger

These lots will be merged to result in two lots, Map 49 Lot 5 ( 2.21 acres) and Map 46 Lot 30 (.9 acres). James Hoard made a motion to approve the merger. Roberta Oeser seconded, the motion carried unanimously.

**Minor Site Plan-Application Submission**

**Map 6 Lot 49A 4-3 Lisa Drive**

**John Woodcome**

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Sitting on this case: Kim McCummings, Deb Sawyer, James Hoard, John Vorfeld, Roberta Oeser, Pat Barry, Doug Gutteridge for Dave Tower

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John Woodcome presented his plan for building a storage building, which will be on a concrete slab, with no electricity lighting and no plumbing.

James Hoard made a motion to accept the application. Roberta Oeser seconded. The application was accepted unanimously. The Board then moved into a public hearing on the application.

Roberta Oeser made a motion to waive the following:

A. General Information, #3 and #9

B. Proposed Development #3, #8 thru #12, #15 and #18

(A copy of the referenced checklist is filed with the minutes.)

James Hoard seconded the motion

Art said that he didn't know how an application could be accepted when it was incomplete or how items like foliage lines or snow storage areas could be shown by pointing to the plan and not having them noted on the plan. He said that in his opinion these check list items should not be waived.

Keith Halloran said that the issues of drainage and potential impact on abutting properties need to be objectively resolved and not waived.

Vote for granting waivers as follows:

Kim McCummings-No, Deb Sawyer-Yes, James Hoard-Yes, John Vorfeld-Abstain, Roberta Oeser-Yes, Pat Barry-No, Doug Gutteridge-Yes. Waivers granted 4 in favor 2 against 1 abstention

James Hoard made a motion to approve the Site Plan. Doug Gutteridge seconded the motion.

Vote to approve the Site Plan as follows:

Kim McCummings-No, Deb Sawyer-Yes, James Hoard-Yes, John Vorfeld-Yes, Roberta Oeser-Yes, Pat Barry-Abstain, Doug Gutteridge-Yes. The Site Plan was approved, 5 votes in favor 1 against 1 abstention.

**Minor Site Plan-Application Submission**  
**Map 10 Lot 29-1-1 US Rt 202**  
**TAC Commercial Properties**

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Sitting on this case: Kim McCummings, Deb Sawyer, James Hoard, John Vorfeld, Roberta Oeser, Pat Barry, Doug Gutteridge for Dave Tower

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Mr. Coneys began by asking Art Fiorelli to recuse himself because he remembered Mr. Fiorelli expressing the opinion that buildings like his were ugly. Art was not seated as an alternate on this case so the request was not relevant.

Mr. Coneys presented his plan for a second self storage building on his lot. The building will be the same size and design as the existing building. There will be no plumbing, no change in signage and only one light on the building which will illuminate the thirty foot drive between the buildings.

There was a question as to the true location of the septic system. Mr. Coneys said that it was not located in the place shown on previous plans, but closer to the front of the property. The Board felt that the true location of the septic system needed to be established and that could be done by obtaining a copy of the septic plan on file with DES.

James Hoard made a motion to accept the application, Doug Gutteridge seconded. The application was accepted unanimously.

Roberta Oeser made a motion to waive the following items on the check list:

- A. General Information #6, #10, #12
  - B. Proposed Development #3, #6, #11
- (A copy of the referenced checklist is filed with the minutes.)

James Hoard seconded the motion to grant the waivers, motion carried unanimously.

Roberta Oeser made a motion to approve the plan with the following condition

- Applicant must obtain Septic plan showing location of septic tank.

John Vorfeld seconded. The Plan was approved unanimously

**Meeting Adjourned 11:00pm**  
**NEXT MEETING**  
**September 18, 2007**  
Respectfully submitted,  
Robyn Payson