

**PLANNING BOARD MEETING
TUESDAY, SEPTEMBER 10, 2002
37 North Main Street**

Members Present: Norman Russell, Jim Horgan, Brad Anderson, Marty Chagnon, Hiram Watson, Kelly Parliman, (Troy Robidas called in absent)

Selectmen's Rep: John Fitch

Staff Present: Paul Charron and Fran Osborne

Public Present: Attorney Jim Shannon & Don Rhodes of Norway Plains representing RSA Development, John & Jane Wingate, Robert & Cathy Place, Bonnie Teller (School Bus Coordinator), Gary White, Bill Vachon, Palma Cardinal, Margaret Russell (ZBA), Packy Campbell (RSA Development, LLC), Derek & Karen Place

- Recess took place between workshop ending at 7:15 p. m. and start of regular meeting at 7:25 p. m. Chairman Russell after Workshop at 6:00 p.m. to review private road standards called the meeting to order. Marty Chagnon was seated at workshop meeting for Kelly Parliman and Brad Anderson in Troy Robidas absence. The PB minutes of 8/27/02 were reviewed. Jim Horgan made a motion to approve and amend page 2, 9th line from bottom of page, after - more like 6 - 1 slope should read - **more like 1 1/2 to 1 slope**, Marty 2nd, Brad Anderson abstained.
- **Site Review Application by Palma Cardinal, Rte. 11 (Tax Map R14, Lot 11)**, for a Day Lily Nursery & Gift Shop. Pal presented new plans of her proposed Nursery & Gift Shop to the board members for review. She talked to Rick Ellsmore of the USDA/NRCS. He advised her not to touch the very back of the land. She stated she's an organic gardener. She also talked with Tom Desrosiers and she didn't need a pesticide license but did need a pesticide limited permit. Pal also worked with CEO, Paul Charron and he walked the property with her and made recommendations on the parking lot. Chairman asked if any abutters were present. Jim Walbridge an abutter, asked what is being done and Pal explained what she is proposing and he had no problem with it. No other public comments. Chairman closed public portion of the hearing. Chairman asked for PB comments. Brad - who owns the surrounding property? Pal Cardinal - Coastal Properties. Marty Chagnon - questioned the necessity for a pesticide permit. Pal explained no license was needed. Hiram said she didn't need it as she is not using pesticides. She also talked with Dale Sprague regarding the well. Brad - why did you do the buffer strip - Pal said for the concern about the well. **Hiram made motion to accept her application as complete, Jim Horgan 2nd - motion carried. Hiram then made motion to her application for the project as proposed, John 2nd, all in agreement, motion carried.** Jim Horgan made a motion to recess for 10 minutes, Kelly 2nd - motion carried. Meeting reconvened at 8:55 p.m.
- Chairman made copies of a letter received from town counsel and instructed board members they were to review privately and not to discuss with others. This is for board members review. Chairman mentioned that the board had met at 6:00 to hold a PB workshop.
- **Special Use Permit continuation by RSA Development, LLC for Elm St./Dick Dame Lane (Tax Map R34, Lot 1-8 & U9, Lots 18 & 19)** to access a 46-acre parcel of land. Board member Marty Chagnon has excused himself off the board. Attorney Jim Shannon was asked whether the Special Use Permit or the Cluster Subdivision continuation would be heard 1st. Chairman had no preference. They will proceed with the Special Use Permit. Don Rhodes will be representing RSA Development on the Special Use Permit. Don presented the Special Use Permit criteria (attached). Most of the letter addresses standards and criteria for the PB to address the "Special Use Permit." The brook will remain the way it is now (natural). Runoff will not be increased. There is no potential for flooding impact to any abutter due to the elevations - no increase in flow or flood level. If the permit is not received from the State, we will leave it as is. There is no silt that will be before and during the long-term construction

process. This is regulated and not allowed by the State. The access road will allow foot travel. The existing gravel pit and the green area are not in danger of pollution - this is not wildlife habitat area. The entire corridor of Dames Brook through the property, nearly 1/2 mile long, will remain undeveloped and accessible to the public. Mr. Rhodes asked that the Special use Permit be granted so the project can move forward. Chairman asked for public comments from abutters. Gary White - what do other committees say? Brad - where are class 2 wetlands - any buffers established after the application was received is a moot point at this time. The Conservation Commission (CC) made several comments on the Dredge & Fill Permit. The CC had some problems with the crossing. Bob Place - shouldn't we be waiting for the ZBA Variance request results. Chairman - we are required to review it regardless of what other boards are doing. Brad - the ZBA has denied the waiver request for the Special Use Permit. CEO Paul Charron - the ordinance specifically states that the Special use Permit "on" the Kicking Horse Brook can be granted. The 100' setback is the boundary line between the Kicking Horse & Dames Brook. The CEO interpretation of 100' distance has no bearing on the Kicking Horse Brook. Packy asked the Chairman if this was a turning point and an issue resulting in several months of waiting. In the Special Use Permit I previously asked for, does the word "on" mean something? This cost me significant financial hardship. Chairman - the requirement for seeking a variance was through the CEO and we have not come to a conclusion yet - this is a process. Packy Campbell - that interpretation was from the ZBA and PB, not the CEO. Bill Mashburn - impact on towns and schools was asked. Chairman said that will be dealt with later. What happens when Kicking Horse floods clear down to the golf course? In 45 years I've seen it twice. Chairman closed public portion on the Special use Permit. Chair asked board members for input. Kelly - questions Special Use Permit regarding the crossing - her concern is the road after the crossing - is that part of the application tonight? Chairman - not in relationship to the crossing but the road in the limited development zone. The permit is specifically for the crossing. CEO - permit considers the road in its entirety. This Special use Permit would consider all aspects relative to the road - wetlands also? CEO - yes. It should consider the road as a unit to its entire length. The 100' setback is not related to the prohibition. The limited development zone is not included - it specifically addresses "on" the Kicking Horse Brook. Impacts can be reviewed without a separate Special Use Permit or Variance (50' in the UR zone and 100' in the SR zone.) There is a single zone of protection - a wide fat area not just at the confluence - a single zone. The Special Use Permit should be used to review the impacts in this zone. Chairman - CEO feels the water impoundments being imposed are exclusively for roads (I feel its not just the road) but the surrounding area affected. CEO - if the impoundments are in the zone they are considered, if outside they can be reviewed. The PB can do a determination and review of the water impoundment area if outside. Chairman - we have a wetlands overlay and waterfront overlay. Brad - if some activity by the applicant triggers a Special Use Permit, it's a Special Use Permit for the entire project and anything that would impact criteria is part of it. CEO - the Special Use Permit is defined as 50' in the UR and 100' in the SR zone. Brad - impacts that occur as part of the project is worthy of review on the project. CEO - the PB cannot add to the district beyond 100'. You can consider these impacts but they are not part of the Special Use Permit. CEO - Special Use Permit is for the Waterfront Overlay Protection District. There is a 50' zone on either side of the Kicking Horse Brook. Don Rhodes - presented plan to explain areas. All areas of concern are within the 1st 100' of the road crossing. The 2 treatment areas are specifically to deal with roadway water. One is added to treat water in the lower area. It's reasonable to say they are part of the road - it discharges into the wetland area adjacent to the brook. Brad - I'm stuck on the issue of a variance and CEO's interpretation. Wouldn't a variance be needed. CEO - that's not what the Zoning Ordinance says. You can't stretch the meaning. The Zoning Ordinance is specific about what it says. Brad - our intent was not to allow Special Use Permits. This question was faxed to town counsel. Brad - it's a moot point. The language was adequate to apply this particular requirement. Chairman - I have to agree with the CEO - "it's not there" when you actually read the Zoning Ordinance. Brad - can an applicant build within 100' of Dick Dames Brook? Kelly motioned recess at 8:50 p. m., Hiram 2nd - motion carried - reconvened at 9:00 p. m. Chairman asked Attorney Shannon if he had comments and he had none.

The board members were asked for comments. Brad - asked Don Rhodes about criteria including the beaver dam - Don said that is outside the area in question and the beaver will probably be removed from the wetland. Do they require another Special Use Permit in the wetland area to remove the beaver? CEO - this is not listed. John - the town will be removing these beaver. The Fish & Game Dept. is working on this. Brad said he was upset the CC was not contacted about this. Brad - still questioning the flooding issue. Clearly the elevations don't mean the adjoining properties don't flood. I don't, correction - the CC doesn't feel this has been addressed properly. I'm not convinced the bridge (dam with constricted pipe) will be adequate to take the overflow from the Cocheco River. The water retention area and water flow from Lone Star Avenue was questioned. Recreational use was questioned in narrative provided by Don Rhodes. There are 2 other accesses for this - this is a minor point. There is impact on the fish and wildlife - heron to be exact. The N. H. Natural Heritage Inventory have been notoriously incorrect - its almost useless information from them. Brad also questioned impact of the jurisdictional wetlands area - there are other alternatives. The entire 1/2-mile of Dames Brook - insure public access in the future. The ZBA feels there are other alternative accesses. The CC did draft a letter to the PB on "Special Use Permit." Several comments were given to the PB to review the application. The CC expected to make final comments to the PB when required. The following are issues with CC:

1. ZBA Variance
2. Special Use Permits?
3. Items of critical data requirement
4. Cold water fishery stocking
5. Fish & game comment because of stocking
6. Turtle habitat, heron, etc.
7. Wetlands impact?
8. Water flow on Lone Star Avenue?
9. Removal of existing crossing - Dames Brook?

Don Rhodes said they met with the CC before the drainage and other reports were given to the CC. In my view, flooding has everything to do with elevation water gets to. FEMA does give results either side of Elm St. We will not impact these areas. It doesn't mean our project will impact these areas. It is necessary for a certain amount of elevation. We can't impact - there is something going on other than our project - we are not impacting that. We are providing a way for more capacity of the water to get through there. I don't feel further study is necessary - there are established standards in place to be used for calculations. Brad - do you have evidence of high water events? Don Rhodes - it shows on the FEMA map. Discussion. Don talked with D.O.T. on this. Brad - do your calculations take into consideration the 261' to 265' elevation on Elm St. Don - I'm using the maximum level (264.7) on our Elm St. project side. Discussion. Don - the Cocheco is taken into the calculation, everything is computed. The numbers are cited in the drainage report. The CC feels an independent hydrologist review should be done but I do not think it is necessary. In regard to recreational access - the State of N. H. requires we go with the least impact for access - DES requires this. More wetland would be impact away from Dames Brook. Attorney Shannon asked to speak - this project is private property - 46 acres to be available to the public for recreation is not required - applicant can post it. He is fine with open space or green space. Attorney Shannon addressed remarks made by Brad as follows:

- * I don't care if applicant's road washes out.
- * Mr. Rhodes comments are irresponsibly made
- * FEMA - the applicant doesn't know how or why flooding is there.
- * Dredge & Fill Permit - Mr. Rhodes comments are not true.
- * He also listed another 8 new issues.

Attorney Shannon said there is a line that can be crossed - I see it here that Brad is either unhappy with Mr. Rhodes or Mr. Charron's comments. Also the alternative is to impact more wetlands - "impartiality". Brad - tried to defend his comments. CEO - drainage calculations are based on a 25-year

storm event and FEMA flood calculations. If we used the "worst case scenario - 100 year flood" - what would happen at Elm St. bridge. I would imagine the detention ponds (I can't say for sure) the way they are designed would accommodate a 100 - year runoff. Most of the state requires 25 - year storm calculations. Kelly - are houses being built considering waterfront overlay district. Don - yes.

Jim - motion to extend the meeting time for 30 minutes, Hiram 2nd, John and Brad opposed - motion carried.

Brad - public access - how will it be addressed? Kelly and Brad - this comment is part of our decision. Attorney Shannon - for purpose of Special Use Permit - strike out unless this is for Special Use Permit. Chairman - concern about flooding issue - criteria for decision - prevention of flooding. Don Rhodes - we are preventing flooding as a result of our project. We are providing substantial detention ponds to collect water runoff. Chairman - flooding on Elm St. - in between 1972 to 1976 - this area was washed out all the way to the driveway - I don't know the reason. I do know water has gone over Elm St. What you are proposing doesn't make it worse - but does it prevent it? What about pollutants? (on attached narrative from Don Rhodes). What about soluble pollutants into wetlands (fertilizers, salt & lawn chemicals). These will be discharged into the wetlands. Don Rhodes - there may be something that could be designed toward the end of the project. This has nothing to do with the waterfront protection overlay district. This does not impact the area we are impacting. The road is flat and will be minimal salt if necessary at all because it is flat. Chairman - runoff off street (address soluble pollutants in the water). Don Rhodes - we are dealing with it with state of the art practices. Board comments - **Jim Horgan made a motion to authorize the issuance of the Special Use permit as presented in the application [to allow access to 46 acres including crossing Kicking Horse Brook new street and bridge], Hiram 2nd.** Brad commented he couldn't vote on that until independent engineering is available and that data is accurate. No other discussion. **Vote was Hiram, Jim and Kelly (yes) and Brad and Norm (no), John Fitch abstained - motion carried.**

- **Cluster Subdivision Review Application continuation by RSA Development, LLC for Elm St./Dick Dame Lane (Tax Map R34, Lot 1-8 & U9, Lots 18 & 19).** Attorney Shannon asked if they were expected to make a presentation tonight - he thought just the Special Use Permit would be dealt with. What is the board's pleasure? Chairman - I have a list to be addressed from last meeting. Kelly made a motion to adjourn for 5 minutes before this hearing, Jim 2nd - motion carried. meeting reconvened. Attorney Shannon asked if possible could we continue this to complete the list of issues and anything else the board wishes us to respond to at the next meeting. Jim - questions as they relate to the project - does Attorney Shannon have any questions regarding the application as it exists before us. Applicant is not addressing issues from the last meeting. Issues from this meeting are as follows:

- * Flooding issue regarding the Elm St. bridge
- * Access from Dames Brook for recreation purposes
- * Lot size?
- * School bus issue will be dealt with
- * Pollution runoff to wetlands
- * Sidewalk - where and how far?

Public comments - Bonnie Teller - how many students are projected? (narrative states 47). How will they get to school? What about sidewalks? Jim - where does school bus go on Elm St. Bonnie - just before Parents on the right on Elm St. is where bus pickup starts. Hiram - is it based on mileage from school? Bonnie - yes. This development will be private within walking distance of the school - 47 children are possible. Bonnie said 1 1/2 miles from school or more and you are bussed. The entrance to the development is less than 1 1/2 miles. Karen Place - 1 1/2 mile radius from the school is the calculation per Bonnie. Bob Place regarding sidewalk issue - I don't want to pay for a sidewalk for 47 kids. Bill Vachon agrees. Bob Place - questioned the variance procedure. Chairman - Packy has the same plan as before. He is changing from cluster development to condos, it is his privilege to do this.

Chairman - condos with limited common area are planned. I don't think he should start all over. Karen Place - will the road go in now? Chairman - not until the plan is approved. Jane Wingate - commented On Brad's remarks. Chairman closed the public portion of the meeting. **Kelly made motion to continue this hearing to September 24, 2002, Hiram 2nd, all in favor - motion carried.**

- Kelly passed to board members "Proposed Amendments to the Site Review Regulations" (attached). These are proposed additions for the Planning Board to review. Discussion on advertising for public hearing tomorrow for ad to be published on Friday, September 13th. Fran will get the ad to Fosters regarding private road standards being adopted and the Site Review Regulations amendments for the September 24, 2002 PB meeting. **Kelly motioned approval of the public hearing notice for September 24 2002 to include adoption of private road standards and proposed Site Review Regulations amendments and fees, Brad 2nd, motion carried.**
- Brad asked to discuss letter from Town Counsel. **Brad made a motion to be able to discuss this letter presented tonight from town legal counsel, Attorney Sharon Somers, at a Conservation Commission Meeting in Executive Session, Kelly 2nd, Hiram Watson & Jim Horgan opposed, motion carried.**
- **With no further business to discuss, John made a motion to adjourn at 10:35 p. m., Kelly 2nd, motion carried.** Minutes recorded by Fran Osborne. Taped transcript available in the Code Enforcement Office, 41 South Main St.

APPROVED

Norman Russell, Chairman
Planning Board
Town of Farmington

Date