

ROCHESTER ENVIRONMENTAL COMMISSION

MEETING MINUTES

7-10-23

Amended and approved at 8-7-23 REC meeting on a vote of 5-0-0*

Roll Call

A quorum was present as made up by these members in attendance:

- Carlos Perez
- Bob Shellingar
- Kate Powers
- Elizabeth Primus

Not present: Rosemary Jonientz

Housekeeping

Swearing in new members:

Swearing in of new members requires that a notary public be present and one was not available at the time of the meeting.

Kate Powers, who had not yet been sworn, will come to City Hall on July 12, 2023 to complete the swearing in process.

Elections of Chair:

Staff reported that Commissioner Jonientz could not attend but had communicated that she would accept and serve if nominated and elected chair. Commissioner Perez nominated Commissioner Jonientz to serve as Chair, Commissioner Shellingar seconded the motion, and the REC quorum then elected Commissioner Rosemary Jonientz Chair unanimously.

Elections of Vice-Chair:

Commissioner Perez nominated Kate Powers to serve as Vice-Chair, Commissioner Primus seconded the motion, and the REC quorum then elected Kate Powers Vice-Chair unanimously.

Agenda Approval

The agenda was not formally approved nor was it disputed.

Review/Acceptance of Last Minutes

Minutes from the June 2023 REC meeting were not available but the REC quorum present confirmed it had been a meeting held solely to introduce the Manager of Zoning's request that they review the Zoning Alignment Project's DRAFT Generic Environmental Impact Statement DRAFT SCOPE to offer comments at the July 2023 meeting.

Reports

N/A

Old Business

Zoning Alignment Project:

In advance of requesting that the REC members share with him any comments/inputs they had developed since the request to develop same at the last meeting, Manager of Zoning Matthew Simonis discussed the ZAP project. MoZ provided examples of actions the city is taking or plans to take in advance of the new zoning code being adopted. These include ramping up code enforcement, which entails hiring 4 part-time code enforcers to be housed at each neighborhood service center (NSC). The MoZ shared that thus far the initiative to receive public comment on the Zoning Alignment Project's DRAFT Generic Environmental Impact Statement DRAFT SCOPE had elicited a single related comment suggesting the code should consider the impact of smoke upon land use, but that it was unclear whether the commenter meant smoke from fires, industrial and other land uses, or tobacco and cannabis smoke. The MoZ then solicited input on the document that had been distributed to the REC the previous month.

In response, Commissioner Powers posited that water quality and quantity (storm water, flooding etc) is important, and if not sufficiently addressed by SEQR, it should perhaps be considered in the ZAP process. The suggestion was that the city should ensure the ZAP properly considers land use adjacent to water (e.g. maybe lot coverage should be different near bodies of water to help with runoff).

Commissioner Shellinger expressed concern that the proposed increase in density in the South Wedge will have an impact environmentally (or at least that it could, through the production of extra parking, extra roof surfaces, etc.). The MoZ explained that the dwelling conversion standards have an effect of chilling the increase in units in zones where such is permitted because those standards block some projects from being permitted outright or increase costs of doing so to render some projects unprofitable. Commissioner Shellinger suggested it would be ideal if the code could ensure that increased density is "done right" in terms of scale and aesthetics.

Commissioner Primus echoed Commissioner Shellinger's concern, and asked that standards to help preserve the character of the neighborhood be retained/enhanced and also suggested that more explicit direction toward or requirement of green infrastructure such as on-site storm water retention, pervious surfaces, and the like be included in the new code. Commissioner also offered that ADUs should be easier, especially to protect/preserve buildings such as carriage houses and already existing accessory structures. The MoZ indicated costs tend to prevent such projects of being of interest to property owners but that there was currently a path for such a project in the existing code which would remain; Commissioner Primus concurred and offered perhaps some tax incentives might be considered to improve the viability of such projects.

New Business

Rules and Bylaws:

The current bylaws were distributed to the REC and will be discussed at future meetings to prepare for modifications to them, if any, for 2024.

SEQR/Chapter 48 Referrals

118 Petten Street:

Commissioners discussed openly their various concerns, which included whether, and the extent to which if, open soil would be exposed to the elements, whether the site contained sufficient parking for the proposed use, whether the proposed project would create additional environmental impacts, especially in terms of storm water runoff and displacement. Concerns about potential flooding were expressed and consideration of the proximity of the site to Lake Ontario was given (suggesting flooding would be less likely due to that proximity and being at Lake level). Commissioner Powers pointed out a

few items on the applicant's Long EAF that appeared to be inaccurate. Staff will ensure those are reviewed/corrected. Commissioner Powers noted that the NYSDEC's online database says the site is not of significant concern.

Staff pulled from (<https://www.dec.ny.gov/cfmx/extapps/derexternal/haz/details.cfm>):

NYSDEC Site Remediation Search Database:

"The NYSDEC in conjunction with NYSDOH has reviewed the environmental data submitted to date and determined that the site does not pose a significant threat to the general public and the environment."

NYSDEC Site Health Assessment is:

"People may come into direct contact with metals and semi-volatile organic compounds in the soil because contaminated soils are exposed over a large portion of the site. People are not drinking contaminated groundwater associated with the site because the area is served by a public water supply that obtains its water from a different source not affected by this contamination."

Staff informed the REC that:

- NYSDEC had approved the change of use in the building from workshop to restaurant/pub.
- Only 400 square feet were being added to the building and that was occurring within the larger footprint of the building by building out the space within the "L", that ROC DEQ had reviewed and determined the project to be of little, if any, negative impact.

****Staff indicated the change in focus/scope did not represent segmentation and that it was not expected to produce concerns in the future often caused by segmentation of large-scale projects.***

Commissioner Powers indicated her comfort with the project given the determinations of the NYSDEC on the site. Commissioner Perez then motioned that the REC issue a negative declaration for the project. Commissioner Primus seconded the motion, and the REC quorum then unanimously approved the motion.

Meeting was adjourned.

ROCHESTER ENVIRONMENTAL COMMISSION

MEETING MINUTES

8-7-23

Roll Call

A quorum was present as made up by all current REC members in attendance:

- Rosemary Jonientz, Chair
- Kate Powers, Vice Chair
- Carlos Perez
- Bob Schellinger
- Elizabeth Primus

Chair Jonientz led the meeting.

Housekeeping

There were no housekeeping matters.

Agenda Approval

The agenda was approved on a vote of 5-0-0.

Review/Acceptance of Last Minutes

Commissioner Powers requested that the minutes from the July 2023 REC meeting be amended to reflect staff's indication to the REC that the change in scope of the project at 118 Petten Street did not represent a segmentation of the project and was not anticipated to produce concerns about future development sometimes caused by segmented project development; the amended minutes were approved on a vote of 5-0-0.

Review of Correspondence

There was no correspondence for review or to be issued.

Reports

There were no reports for review or to be issued.

Old Business

There was no old business to conduct.

New Business

Rules and Bylaws:

Staff briefly discussed current bylaws, which were distributed prior to the meeting, and commissioners were asked to review and consider what modifications to them, if any, were warranted; discussion of any such potential changes will occur at the next meeting of the REC.

SEQR/Chapter 48 Referrals

- a. PD-11 – Amend CityGate PD-11 concept and code to expand central commercial core sub-area and reduce canal-front sub-area and to change development focus from residential in the canal-front sub-area and focus instead on commercial uses throughout the planned development district.

The members requested that staff explain for the record what led to this case coming before the REC. Staff explained the applicant sought the amendment to the PDD concept and code due to their position that: 1) the current market conditions are significantly different than when the PDD was originally established, 2) that the housing development originally proposed for the PDD had been fulfilled by the Inner Loop East removal and development (and other development), and 3) that because the originally-intended transit center that was expected to support the planned residential development was not built, the planned residential component was compromised.

Commissioners discussed openly their various concerns, which included whether market conditions for commercial development and hotels is as strong, and whether the market for residential development is as weak, as the applicant asserts. Unanimous concern among the commissioners also existed over the proposed concept and code changes being out of step with the originally approved PDD concept and code, and out of alignment with the Rochester 2034 Comprehensive Plan and Place-Making Plan (both in terms of the proposed uses in the PDD and the proposed permitted signage, and architectural design and materials). Several commissioners expressed deep misgivings over the proposed changes' diminishing the oversight/governance processes and powers of governmental and public bodies in deference to 'as-of-right' permissions. The commissioners expressed agreement the proposed changes also promoted increases in auto-dependent uses over the current concept and plan, and indicated that given the broad definition of the environment as promulgated by the SEQRA, the proposed changes represented a negative impact to said environment.

A motion was made and moved to recommend that the Manager of Zoning issue a positive declaration for the proposed action; the motion passed on a 5-0-0 vote. The REC indicated that the record should explicitly articulate some of their reasons for this recommendation, which include, but are not limited to, the following:

- The proposed changes are contrary to the originating intent of the planned development district;
- The proposed changes are not in compliance with the Rochester 2034 comprehensive plan and place making plan;
- The proposed changes promote an increase in permitted auto-dependent uses from those called for/permited in the current PD concept and code;
- The proposed changes promote a decrease in pedestrian-focused and pedestrian-scaled development and uses from those called for/permited in the current PD concept and code;
- The proposed changes promote a decrease in canal-access/visibility from that called for/permited in the current PD concept and code;
- The proposed changes represent a departure from high-quality architectural design and materials requirements called for in the Rochester 2034 comprehensive plan and the current PD concept and code;

- The proposed changes represent a degradation of permitted signage and unifying design standards; and,
 - The proposed changes will permit reduced levels of change approval integrity/standards/requirements.
- b. Rezone 1040, 1044, 1100-1170, 1180, and 1186-1194 University Avenue from MIPD#3 to M-1.

The members requested that staff explain for the record what led to this case coming before the REC. Staff explained that a permit requested for a proposed use revealed that the zoning classification in the city's systems was an out-of-use classification (MIPD#3), which had been eliminated in the 2003 zoning code update. The other parcels in the city previously zoned as MIPD were either rezoned to M-1 (the most similar to the MIPD zoning classification in the 2003 zoning code) or were established as planned development districts. Parcels not having valid zoning classifications cannot have proposed uses permitted or denied, thereby thwarting use by their owners. Because the outdated MIPD#3 zoning classification permitted manufacturing and industrial uses, the applicant was advised to seek a zoning map amendment to rectify the situation. Staff further explained this proposed rezoning would be short-lived, and applicable to the current moment, as the Zoning Alignment Project calls for these parcels to be rezoned to FMU (Flexible Mixed Use) when the zoning code is updated in 2024. Because the problem prevents permitting uses in the present, the amendment was deemed necessary and the best form of relief available to the applicant.

A motion was made and moved to recommend that the Manager of Zoning issue a negative declaration for the proposed action; the motion passed on a 5-0-0 vote.

Meeting was adjourned.