

**Rye City Planning Commission Minutes**  
December 13, 2005

**MEETING ATTENDANCE:**

**Planning Commission Members:**

- Barbara Cummings, Chair
- Martha Monserrate, Vice-Chair
- Nick Everett (arrived late)
- Hugh Greechan
- Peter Larr
- H. Gerry Seitz
- Vacant

**Other:**

- Christian K. Miller, AICP, City Planner
- George Mottarella, P.E., City Engineer
- Chantal Detlefs, City Naturalist
- Joe Murphy, CC/AC Chair
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**I. HEARINGS**

**1. 8-10 School Street**

- Jonathan Kraut (applicant's attorney) provided an overview of the application and noted the additional information provided as requested by the Commission at its previous meeting. Mr. Kraut noted that a pre-construction survey of the property at 6 School Street was completed and submitted to the Commission. He stated that this report was supplemented with an additional letter, which is provided on the record.
- Mr. Kraut stated that the plan had been revised to change the number and type of air conditioning units to address noise concerns. The plan proposed seven outdoor compressors with six high efficiency units, which are quieter. In addition, the plans reflect the Commission's request for acoustical coating (i.e. "popcorn") on the garage ceiling to attenuate noise concerns.
- Mr. Kraut stated that the site plan had been revised as requested by the Commission to field locate the proposed sub-surface drainage measures as far as possible from the 6 School Street property line.
- Mr. Kraut stated that the site plan was revised to include a note to avoid stockpiling in the front corner of the property near the tree located on the adjacent 6 School Street property. Access to the 6 School Street oil fill pipe will also be maintained.
- Mr. Kraut stated that there had been correspondence between him and Ms. Conlon (6 School Street property owner) regarding the professional engineer's pre-construction assessment of her property. Mr. Kraut stated that there was confusion in the engineer's report regarding the additional measures that would be required to protect Ms. Conlon's property in the event

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- 1 the applicant's project included a basement. Mr. Kraut stated that the  
2 applicant in no longer proposing a basement, thereby addressing that  
3 concern.  
4
- 5 • Joan Conlon (6 School Street property owner) stated that the applicant's  
6 November 15, 2005 cover letter to the engineer's report is missing. She  
7 stated that the issue of whether under-pinning of her foundation for her  
8 dormer has not been addressed as recommended in the previous engineer's  
9 letters from December 8 and December 15. Ms. Conlon summarized the  
10 engineer's comments regarding his assessment of her foundation, which  
11 appeared to be in good shape, particularly given its construction in 1885 and  
12 an addition in 1925.  
13
  - 14 • Mr. Kraut responded that Ms. Conlon is correct regarding her assessment of  
15 the need for underpinning. Underpinning of her dormer is no longer required  
16 since a basement is no longer proposed. Mr. Kraut stated that a letter to that  
17 effect was provided by the engineer to the Commission. Mr. Kraut added that  
18 the applicant has voluntarily conducted an inspection of Ms. Conlon's  
19 property and that these measures exceed what is typically required for the  
20 issuance of a building permit. Mr. Kraut added that the applicant would be  
21 required to provide evidence of insurance prior to obtaining a building permit.  
22
  - 23 • The Commission reviewed the December 8<sup>th</sup> and 15<sup>th</sup> letter regarding the  
24 need for underpinning. The Commission noted that the existing footings for  
25 the dormer were wood and may have questionable stability.  
26
  - 27 • Mr. Hirsh (applicant) volunteered to repair or upgrade to concrete or other  
28 appropriate material Ms. Conlon's dormer footing given the Commission's and  
29 Ms. Conlon's concerns.  
30
  - 31 • The Commission discussed with the City Engineer the effectiveness of the  
32 proposed stormwater measures given the presence of high groundwater on  
33 the site. The City Engineer stated that the proposed drainage measures were  
34 acceptable and that an overflow to the City's stormwater system would be  
35 provided to address groundwater concerns.  
36  
37
- 38 **ACTION:** Peter Larr made a motion, seconded by Martha Monserrate, that the  
39 Planning Commission close the public hearing on application number  
40 SP291, which was carried by the following vote:  
41
- |    |                                 |        |
|----|---------------------------------|--------|
| 42 | Barbara Cummings, Chair:        | Aye    |
| 43 | Martha Monserrate, Vice- Chair: | Aye    |
| 44 | Nick Everett:                   | Absent |
| 45 | Hugh Greechan                   | Aye    |

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1 Peter Larr: Aye  
2 H. Gerry Seitz: Aye  
3

4 **2. 17 Elm Place**  
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- 6 • Rex Gedney (applicant’s architect) stated that the application proposes to add  
7 a second-story addition to an existing lawyers office located at 17 Elm Place.  
8 Mr. Gedney stated that there would be no change in the footprint of the  
9 existing building.  
10  
11 • There was no public comment.  
12  
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14 **ACTION:** Peter Larr made a motion, seconded by Gerry Seitz, that the Planning  
15 Commission close the public hearing on application number SP294, which  
16 was carried by the following vote:  
17

18 Barbara Cummings, Chair: Aye  
19 Martha Monserrate, Vice- Chair: Aye  
20 Nick Everett: Absent  
21 Hugh Greechan Aye  
22 Peter Larr: Aye  
23 H. Gerry Seitz: Aye  
24

25 **3. Sollins-Brown Residence**  
26

- 27 • Richard Horsman (applicant’s landscape architect) stated that the site plan  
28 has been revised to remove and address wetland violations. Existing fill on  
29 the property would be redistributed and the existing bamboo and planter  
30 would be removed as requested by the Commission.  
31  
32 • There was no public comment.  
33  
34

35 **ACTION:** Peter Larr made a motion, seconded by Gerry Seitz, that the Planning  
36 Commission close the public hearing on application number WP181,  
37 which was carried by the following vote:  
38

39 Barbara Cummings, Chair: Aye  
40 Martha Monserrate, Vice- Chair: Aye  
41 Nick Everett: Absent  
42 Hugh Greechan Aye  
43 Peter Larr: Aye  
44 H. Gerry Seitz: Aye  
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**II. ITEMS PENDING ACTION**

**1. 8-10 School Street**

- Chair Cummings started the discussion by noting concerns with the application and the precedent that would be set in the Central Business District by allowing a four-story structure where the City Zoning Code provides a maximum story height of three. Ms. Cummings noted concerns with the character impact of the building and was not convinced that the alternative “code-compliant” plans presented by the applicant would be detrimental to the community. Ms. Cummings questioned prior statements of need for “high-end” rental housing, particularly in light of recent reports that Highland Hall is to be sold and converted to more expensive rental housing or condo units. Ms. Cummings stated that Mr. Sellon was recently required to modify his plans for his property located near the applicant’s site to address light and air concerns of an adjacent residential property owner.
- Commission member Nick Everett arrived to the meeting.
- Gerry Seitz questioned whether affordable housing would be provided as discussed previously. Mr. Kraut stated it would not be provided. Mr. Seitz stated that on that basis he would not support the application. He noted that the applicant volunteered the affordable housing unit and that providing additional affordable housing would be a reasonable concession that would benefit the community in light of the applicant’s need for a variance from the City Zoning Code.
- Mr. Kraut responded with an overview of the Commission’s discussion and consensus on the affordable housing issue. Mr. Kraut stated that the applicant re-evaluated his offer to provide an affordable housing unit and concluded that it was not economically feasible for a six-unit development. Mr. Kraut summarized the alternative affordable housing measures previously discussed with the Commission, including providing a \$50,000 contribution to the City or a not-for-profit or the applicant’s alternative to buy a unit in Rye and charge an affordable rent for a limit period of time. The City, the not-for-profit contacted by Mr. Kraut and the Commission agreed that these alternatives were not workable. The Commission agreed that Mr. Kraut’s relocation and summary was accurate.
- The Commission discussed the tree protection measures and requested that the resolution of approval be amended to address Ms. Conlon’s concerns regarding the underpinning of her dormer foundation and not obstructing access to her oil filler.

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1       **ACTION:** Nick Everett made a motion, seconded by Peter Larr, that the Planning  
2                   Commission conditionally approve final site plan application number  
3                   SP291, which was carried by the following vote:

4  
5                   Barbara Cummings, Chair:                   Nay  
6                   Martha Monserrate, Vice- Chair:                Aye  
7                   Nick Everett:                                        Aye  
8                   Hugh Greechan                                     Aye  
9                   Peter Larr:   Aye  
10                  H. Gerry Seitz:                                    Nay

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13    **2.     17 Elm Place**

- 14  
15       • The Commission noted that the City Planner advised that if the applicant was  
16       to provide a sub-surface water quality measure in the rear yard as previously  
17       offered by the applicant, then a wetland permit would be required. The  
18       Commission agreed that requiring the applicant to obtain a wetland permit  
19       was not reasonable given that the project includes no increase in impervious  
20       area.

21  
22       **ACTION:** Gerry Seitz made a motion, seconded by Peter Larr, that the Planning  
23                   Commission conditionally approve final site plan application number  
24                   SP294, which was carried by the following vote:

25  
26                   Barbara Cummings, Chair:                   Aye  
27                   Martha Monserrate, Vice- Chair:                Aye  
28                   Nick Everett:                                       Aye  
29                   Hugh Greechan                                     Aye  
30                   Peter Larr:   Aye  
31                   H. Gerry Seitz:                                    Aye

32  
33    **3.     Sollins-Brown Residence**

- 34  
35       • The Commission found the revised plans acceptable.

36  
37       **ACTION:** Peter Larr made a motion, seconded by Nick Everett, that the Planning  
38                   Commission conditionally approve wetland permit application number  
39                   WP181, which was carried by the following vote:

40  
41                   Barbara Cummings, Chair:                   Aye  
42                   Martha Monserrate, Vice- Chair:                Aye  
43                   Nick Everett:                                       Aye  
44                   Hugh Greechan                                     Aye  
45                   Peter Larr:   Aye

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H. Gerry Seitz:

Aye

**4. Liman Residence**

- The Commission noted that the reconstruction of the deteriorated wall would not be on the applicant's property. The Commission noted that permission of the adjacent property owner (which appeared to be the Kirby Mill Pond Association) would be required. The Commission also questioned the appropriateness of reconstructing a new wall in what appears to be a wetland that over time has expanded to the "upland" side of the wall. The Commission questioned whether such reclaiming of land was appropriate given current wetland laws and whether the project should be modified to locate the wall outside the wetland.
- Richard Horsman (applicant's landscape architect) responded that the applicant is merely reconstructing the wall in its original location and that relocating the wall as suggested by the Commission would likely create additional unwanted disturbance. Mr. Horsman stated that this would be apparent when the Commission visited the property.
- The Commission noted the existing stand of bamboo on the property and whether the removal of this invasive species would be appropriate mitigation. Mr. Horsman responded that the bamboo exists and that it is contained from spreading by existing walls and dense shade on that location.
- The Commission discussed the construction of the wall and whether the excavated soil from the wall footing would compromise the structural integrity of the wall. Mr. Horsman stated that it would not because the tidal effects would balance the pressures on both sides of the wall.
- The Commission questioned the disturbance and tree loss that would be associated with the proposed construction access. Mr. Horsman stated that no trees, including under story trees, would be lost and that would be apparent on the site walk.

**5. Colahan Subdivision**

- The Commission reviewed the applicant's traffic engineer's report, which concluded that both the existing and proposed driveway had adequate sight distance. The report and its findings appeared acceptable, however the Commission noted that the revised plan includes a slightly different location for the proposed driveway than that analyzed by the traffic engineer. The

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- 1 Commission agreed that this slight shift in alignment does not invalidate the  
2 report.  
3
- 4 • The Commission agreed that the revised alignment of the proposed driveway  
5 appeared acceptable and provided improved protection for the beech tree on the  
6 property.  
7
  - 8 • The Commission requested that the dry wells be located outside the canopy of  
9 the beech tree. The Commission also reiterated its previous request to show the  
10 location of the existing drywells on the property.  
11
  - 12 • The Commission requested that the proposed grading plan be corrected and that  
13 a full set of subdivision plans be provided before scheduling a public hearing.  
14
  - 15 • The Commission requested that the subdivision plan more clearly show the  
16 easement area and that the easement language be provided for its review.  
17
  - 18 • The Commission noted that a SEQRA and LWRP determination was required for  
19 this application. The Commission noted the proximity of the site to Rye Town  
20 Park, which may be a historic landmark. Rex Gedney (applicant's architect)  
21 stated that he confirmed that only the building and not the entire park property is  
22 designated as historic. Mr. Kraut (applicant's attorney) stated that he would  
23 provide a legal discussion of what constitutes "substantially contiguous" as  
24 defined by SEQRA.  
25

### 26 **6. MacCarthy Subdivision (Informal Review)**

- 27
- 28 • The Commission noted that it was familiar with the area and property since it  
29 had recently reviewed a subdivision across the street from the property.  
30
  - 31 • The Commission noted the presence of steep slopes in the area and that a  
32 slope analysis should be provided.  
33
  - 34 • The Commission reviewed the proposed driveway access. Rex Gedney  
35 (applicant's architect) reviewed the alternatives considered by the applicant,  
36 including the possible improvement of a portion of Summit Avenue (currently  
37 unimproved). Mr. Gedney stated the proposed plan was zoning compliant  
38 and that the proposed access plan was acceptable.  
39
  - 40 • The City Planner noted a number of concerns with the application including  
41 the obvious gerrymandering of the proposed lot lines. He stated that the  
42 proposed lot line configurations are exactly what the Commission was  
43 seeking to avoid as outlined in its memorandum and draft local law to the City  
44 Council in November. He noted concern with the environmental impact of the

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1 application, which forces development to the more constrained edges of the  
2 property. He reminded the Commission of a recent decision to require a  
3 DEIS under SEQRA for a two-lot subdivision that had significantly less  
4 environmental impacts than the applicant's proposal. He noted that if a  
5 formal application is presented the applicant could expect a similar SEQRA  
6 review process. The City Planner also questioned larger traffic planning  
7 concerns that may need to be addressed given what appears to be potentially  
8 four new lots along the unimproved portion of Summit Avenue.  
9

10 • Mr. MacCarthy responded that he has lived in Rye for 15 years and that he  
11 plans to stay on the property after it is subdivided. He stated that it was in his  
12 best interest to have a responsible application.

13  
14 • The Commission agreed that it would conduct a site walk of the property and  
15 discuss the application again at its next meeting.  
16

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18 **7. Rye Country Day School**

19  
20 • Martha Monserrate noted that she serves on the RCDS board and that she would  
21 recuse herself from the discussion of this matter. Ms. Monserrate left the hearing  
22 room.  
23

24 • Mr. Kraut provided an overview of the revisions to the site plan as requested by  
25 the Commission.  
26

27 • The City Planner requested that the enrollment and employment figures be  
28 provided so that he could confirm the parking compliance of the plan.  
29

30 • The Commission agreed that the application was acceptable for a public hearing  
31 at its next meeting.  
32

33 **ACTION:** Nick Everett made a motion, seconded by Hugh Greechan, that the  
34 Planning Commission set the public hearing for its next meeting  
35 application number SP293 that was carried by the following vote:  
36

37	Barbara Cummings, Chair:	Aye
38	Martha Monserrate, Vice- Chair:	Recuse
39	Nick Everett:	Aye
40	Hugh Greechan	Aye
41	Peter Larr:	Aye
42	H. Gerry Seitz:	Aye

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**8. Minutes**

- The Planning Commission approved with minor revisions minutes of its November 15, 2005 meeting.