

May 23, 2024

Dover Planning Board
Dover City Hall
288 Central Ave.
Dover, NH 03820

Subject: Ambrose Woods TDR Purchase Request (TRAN-2024-0003)

Dear Planning Board Members:

The neighbors of the Ambrose property (located at 210 Tolend Rd.) held a meeting on May 7, 2024, in order to: 1) review the Ambrose Woods TDR Purchase Request (TRAN-2024-0003), 2) review the Dover TDR Policy and Fact Sheet, and 3) discuss the probable impacts of the proposed Ambrose Woods Development on the existing wildlife habitat areas on the property. This letter summarizes our main discussion points.

Until now, the Ambrose property has been a standout example of land stewardship and conservation. In 2015, the Ambrose Family received a federal grant from NRCS to restore the shrubby forest habitat on their property, protecting the endangered New England cottontail and other diverse wildlife (including woodcocks, prairie warblers, eastern towhees, catbirds, bobcats, and box turtles).

On September 15, 2015 at the Ambrose property, US Senator Jean Shaheen, US Secretary of the Interior, Sally Jewell, US Director of the Fish and Wildlife Service, Dan Ashe, and Jason Weller, the Chief of the USDA National Resources Conservation Service (NRCS) attended a "New England Cottontail Celebration" event (see Attachment A). They spoke at length about the importance of public-private partnerships in land stewardship and conservation, and the critical need to sustain these efforts into the future.

The Ambrose Woods property is situated amongst numerous Conservation Easements (see Attachment B). These Conservation Easements are a shining testament to the hard work and foresight of the Dover Open Lands Committee, the Dover Conservation Commission, and the Dover Planning Board, working hand-in-hand with landowners to protect (and connect) Dover's natural resources.

A significant portion of the Ambrose Woods property includes land identified as "Highest Ranked Habitat of the State" (in Tier-1, which includes the top 15% of critical habitat areas in NH), as established by the NH Fish and Game Department. These qualities

have led this site to be further designated as a "Prioritized Habitat Block" for protection against development, as it provides vitally important habitat as well as connectivity to hundreds of acres on adjoining properties through its broader "NH Wildlife Corridor" (see Attachment C).

It is our understanding that the purpose of the Dover TDR Policy is to allow increased density and promote intensive development on the developable land possessing the least conservation value, and to direct funds generated from TDR sales to permanently protect lands possessing significant conservation features. Based on the summary paragraphs above, it is clear that the Ambrose Woods property unequivocally qualifies as "possessing significant conservation features", and therefore should not be approved for increased density, but should instead be protected against "intensive development".

In order to minimize the net environmental impact of the Ambrose Woods Development, we strongly urge the Board to consider the following questions:

- 1) Would you consider approving a much lesser number of units than requested and to make the permanent conservation of Land Unit "B" (as shown in Attachment D), a condition of approval?
- 2) Has anyone spoken to the property owner about the possibility of selling a Conservation Easement to the Conservation Commission, on all or a portion of the property, in order to protect the NRCS-funded Ambrose Habitat Restoration Area (established in 2015), resulting in a lower number of homes being built?

We greatly appreciate the Planning Board's consideration of this important matter. The Ambrose property stewardship (and the associated public-private partnership) has been a great conservation success story so far: nobody wants to see this story end sadly...

Respectfully,

Kenneth Herd and Leslie Wiedmann-Herd
Luke and Kristina Paradis
David Barnes and Debbie Hardy
Lauren Jacoby
Daniel Milton and Sherri Watson
Natalie Carr and Rachel Carr
Pamela Francisco
Gordon Carroll
Steve and Laura Brown

201 Tolend Rd.
180 Tolend Rd.
232 Tolend Rd.
211 Tolend Rd.
212 Tolend Rd.
220 Tolend Rd.
226 Tolend Rd.
254 Tolend Rd.
229 Tolend Rd.

John G. Herd
Leslie Wiedmann-Herd
Luke Paradis
Debbie Hardy
Lauren Jacoby
Sherri Watson
Natalie Carr
Pamela Francisco
Gordon Carroll
Steve Brown
Laura Brown

ATTACHMENT A

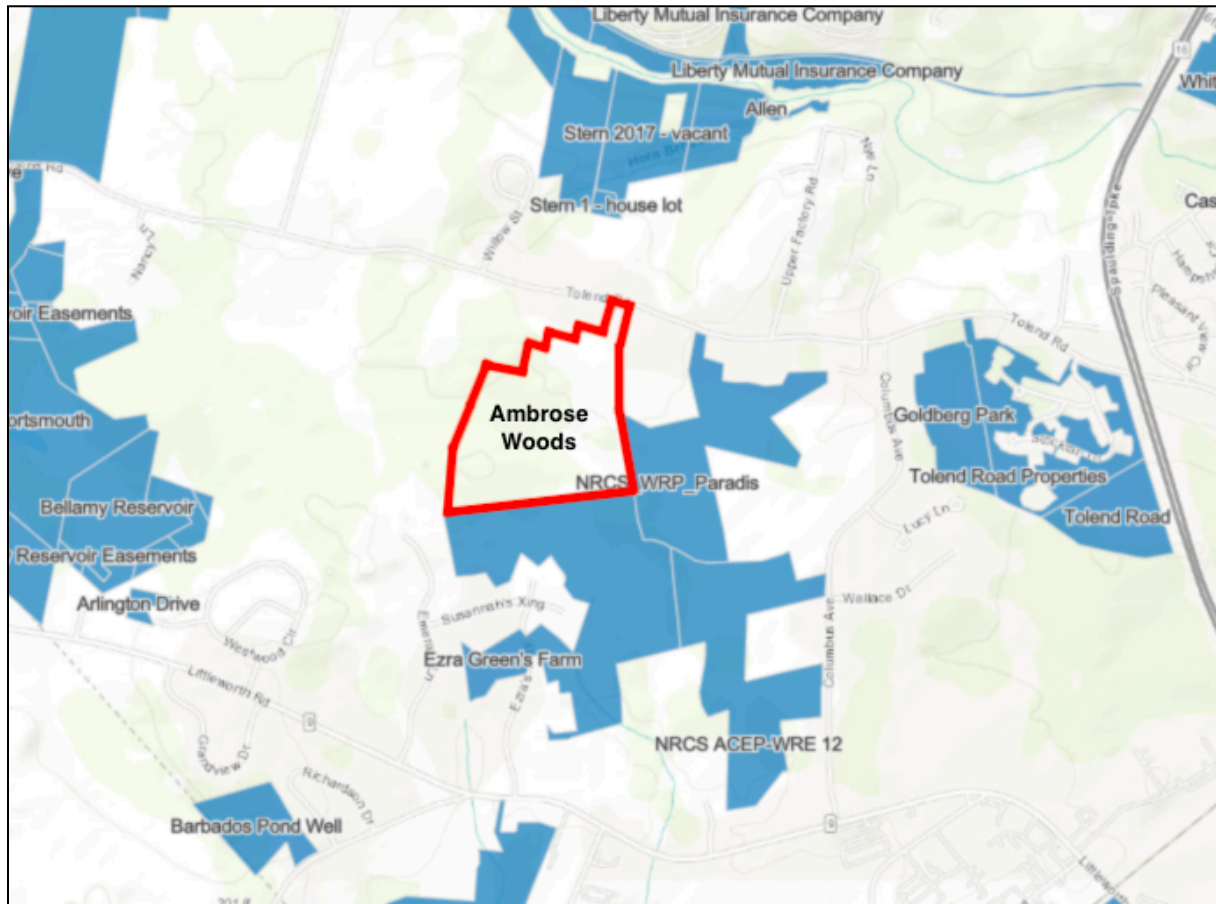
New England Cottontail Celebration Day at the Ambrose Property, 9/11/15



Source: 9/11/15 Conservation Celebration Day Photo Album

ATTACHMENT B

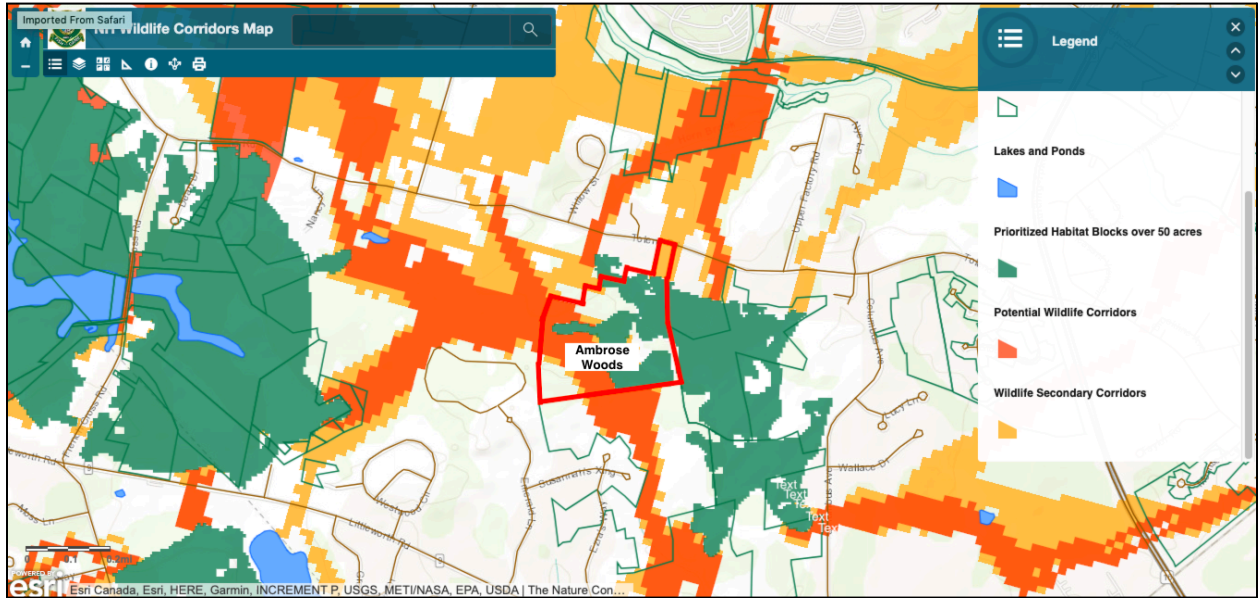
Conservation Easements Near Ambrose Woods



Source: NHDES Database

ATTACHMENT C

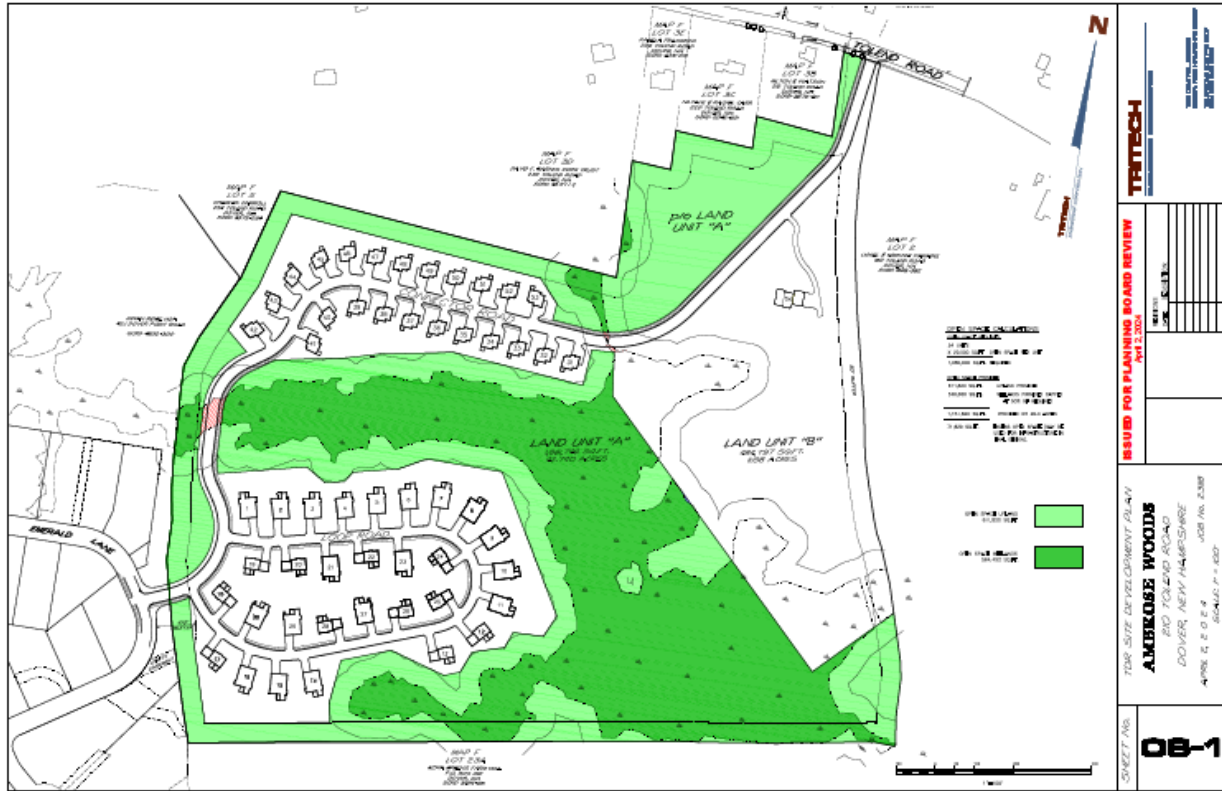
Ambrose Woods - Prioritized Habitat Block and Wildlife Corridors



Source: NH Fish and Game Database

ATTACHMENT D

Ambrose Woods Site Development Plan, OS-1



PLANNING BOARD - ABUTTER MEETING

Dover City Hall, Council Chambers

Tuesday, May 28, 2024

AMBROSE WOODS

210 Tolend Road, Dover, NH 03820

RE: Comments on proposed new road connecting to Emerald Lane

There should be no road access to Emerald Lane. The map of Ambrose Woods shows at this time two housing clusters, one with possibly 30 units and the other 23 units. The potential number of vehicles driving through Emerald Lane to Littleworth Road will be overwhelming. There are safety considerations with more vehicles on Emerald Lane. With the increase of traffic, it will affect the children on bikes, scooters and skate boards. Also, to create a road connecting to Emerald Lane will require removal of trees and bushes and wildlife habitats negatively impacting the area. Another impact will be on the stormwater runoff requiring a Bio Pond and Steep Slope mediation.

Gail McCabe

Bernard H. McClure

92 Emerald Ln.

To Whom It May Concern,

I am writing to express my concerns regarding the proposed transfer of development rights, which I do not support. My primary concern is for the well-being of my children and the other children living in this quiet neighborhood. The current road infrastructure is not equipped to handle the additional traffic this development would generate. The fact that the road is not wide enough to accommodate increased traffic should make this decision straightforward.

Children in our neighborhood enjoy riding bikes and playing street hockey in the streets, activities that are integral to the character of our community and a significant reason why we chose to live here. We moved to Dover five years ago from Boston, seeking the tranquility and safety of this area. We did not anticipate our quiet street becoming a through road or a shortcut for vehicles.

From my conversations with other HOA members and our own experience before the city took over maintenance of the road, I understand the significant costs associated with maintaining a private road. I am concerned about how affordable housing developments will manage these expenses.

A vote in favor of this proposal would suggest a disregard for the safety and well-being of our children.

Sincerely,

Ben Brunt
SR UI/UX Designer

96 Emerald Ln
Dover, NH 03820

802-238-8572 (Cell)
<http://www.benbrunt.com/>

Members of the Planning Board,

My name is Joan Roberge and I live at 136 Emerald Lane. I am writing because I am concerned about the proposed TDR development on 210 Tolend Road. Our home is located near the intersection of Emerald Lane and the proposed private road that is intended to service the TDR multifamily development.

My husband, Conrad, and I built an age in place home here believing it would be a quiet circle. Conrad has advanced Parkinson's Disease and cannot walk very far even with the aid of a walker. His Mass General Brigham physician recommends using a recumbent bike, which Conrad enjoys and benefits from riding it around our quiet cul de sac. If the development proceeds as currently proposed, he will simply no longer be safe on his bike when this high density development connects to our circle. That will be devastating to him and to us. I see no reason why this development's road needs to attach to Emerald Lane. Surely, water and sewer lines for this development do not require a street attached to our cul de sac.

Thank you,

Joan Roberge

136 Emerald Lane

978-697-5143

Re: TRAN-2024-0003

To whom it may concern:

I am writing this as a concerned citizen and to provide comment regarding the above-captioned Transfer of Development Rights. Unfortunately, I will not be able to attend personally as I will be out of town. I would otherwise request to speak on the matter at the meeting.

I do not believe that this requested Transfer of Development Rights should be granted for a number of reasons:

-Although the proposed road into Emerald Lane might be able to accommodate some limited additional traffic, the number of additional units proposed would clearly overwhelm Emerald Lane as it currently exists. The road is narrow and at the present time drivers have to be quite cautious in navigating Emerald Lane.

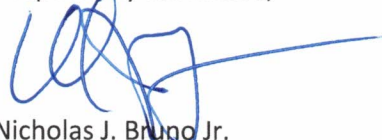
-The proposed road into Emerald Lane is within a short distance of the children's playground, referred to as the "Tot Lot". The playground is used frequently by many neighborhood children under the age of ten. When my 8 year old granddaughter visits, she often asks to play on the playground. I strongly believe that there is not enough distance between the proposed road and the playground to ensure safety for our small children. You should understand that our development is a nice mix of retirees like myself and young families with small children. There are quite a few young children that I see on the playground during nice weather along with their parents.

-The proposed road would enter the current Emerald Lane at a point where there is a huge blindspot for oncoming traffic heading towards "old" Emerald Lane. I strongly believe that increased traffic would result in an increase in traffic accidents as traffic on the proposed road would only be able to have limited sight to oncoming cars coming from both the right and left.

-I have also travelled along Tolend Road and have seen that there is not a really good line of sight where the proposed road would enter Tolend Road, although not as limited as where it enters Emerald Lane. However, where traffic usually proceeds at 20-25mph on our portion of Emerald Lane, traffic proceeds at a minimum of the posted 30mph on Tolend Road, so the danger might be even greater.

I understand that any acceptance is at the discretion of the Planning Board. I would urge the Planning Board not to accept the Transfer of Development Rights as currently proposed. Safety of its citizens should be more important than blind and inadequately planned expansion.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Nicholas J. Bruno Jr.", with a long horizontal line extending to the right.

Nicholas J. Bruno Jr.
144 Emerald Lane, Dover, NH

Cc: Dennis Shanahan, Council Member Ward 5

Dover Planning Board

Ladies and Gentlemen,

I am writing to object to the TDR proposal that is scheduled for a hearing at the Planning Board's May 28 regular meeting. My understanding is that the TDR project, if granted, would create 76 dwelling units (53 base units plus 23 Accessory Dwelling Units), with the possibility of further development of other units on Parcel "B". This is outrageous! That many dwelling units in what we all thought was an area that is zoned as R-40 with limited development potential. I intend to go to the meeting and will insist on a "NO" vote by the Planning Board.

I want to first mention that we're all for affordable, attainable housing in our community. We were young once and were there ourselves. But the units being created will not really be affordable. The condo fees that will need to be paid by the residents of these units will be overwhelming. They will need to support a private road, a private bridge, a management company, private trash, private snow plowing, sanding and salting, street sweeping, landscaping, insurance, and a storm water system like we have at Indian Ridge which will surely be required by the city. Not to mention sky high Dover taxes, water and sewer and whatever mortgage payments they will have. Lastly, these units are nowhere near public transportation so every resident will have to have a dependable motor vehicle with gas, maintenance and insurance costs. Calling these units affordable or attainable is absurd. It all boils down to the fact that THIS IS NOT AFFORDABLE HOUSING but is instead deceptive and misleading to the public.

That said, my main reason for writing is to advocate for our residents by strongly emphasizing that this plan as proposed is EXTREMELY DANGEROUS to the health, welfare, and safety of all our residents but particularly those very vulnerable like our elders and children. The city Tot Lot is within a few feet of the proposed cut through onto Emerald Lane and kids are constantly coming and going in that area. This particular part of our circle is blind because it's narrow and it curves tightly and is on a steep incline/decline. Also, service vehicles and delivery trucks frequently park on the street which further narrows passageways. Emerald Lane was never intended to be a through road. We've already experienced a serious incident on the decline when a neighborhood child suffered a traumatic brain injury and landed at Maine Medical in Portland. If you've never been to our subdivision, I strongly encourage you to see it for yourselves.

My big question is WHY does the new road have to cut through Emerald Lane to connect Tolend Road to Littleworth Road? If it's to run water and sewer lines, couldn't that be accomplished underground? Why expose Emerald Lane to through traffic?

In closing, I urge you to vote "No" on this project!

Thank you for your time.

Sincerely,

Susan Lapierre
159 Emerald Lane

Cathy Bruno
144 Emeral Lane
Dover, NH 03820

Re: Planning Board Meeting 5/28/24
TDR Stonearch Development
Trans-2024-0003
Assessor's Map F, Lot3, Zoned R-40

I am writing to speak against the application for a TDR by Stonearch Development. I would have attended the meeting and asked to speak but I will be out of town.

I moved to NH 5 years ago from upstate NY. The reasons I chose to spend my retirement years here are many but they included escaping the NYS tax burden and the overreaching regulations and policies of NY politicians and bureaucrats. NH is a beautiful state. I appreciated its "live free or die" spirit and Dover seemed to be a good fit. Based on that initial assessment, I found the Indian Ridge development, built by the same developers that are now applying for this TDR. But before I invested in my retirement vision, I did some further research. The development had an HOA whose bylaws and protective covenants I reviewed. There was a curb cut out I assumed for possible future development but the land was zoned R-40, the same as the Indian Ridge development. So, if and when this land was developed, I concluded, based on the zoning, that the development would look just like ours, 20-22 single family homes of similar size and value. (The assessed value of Indian Ridge properties ranges from \$597,000 to \$903,000.) Therefore, I felt confident enough to invest a large sum of money in Dover. Now I am discovering that my due diligence was pointless. This TDR application is for 53 units some of which are multi-family affordable housing. I feel a lot like Charlie Brown. I've just had the football pulled from me after I have irrevocably committed to kicking.

Every city has a master plan. The zoning is an outgrowth of that plan. It allows growth to proceed in an orderly manner and with the nature of the future growth known to all. The citizenry proceeds to invest in the city based upon the promises made in the master plan and the zoning regulations. The TDR concept appears to allow the city to break those promises and override all zoning regulations for a fee. The city is free to do this whenever it's convenient to solve the crisis of the moment with little regard to the tax paying citizens who have already invested based on the zoning promises made.

Additional reasons for objecting to this application are:

1. The curb cutout on Emerald Lane is in an unsafe location. It is next to the "tot lot" owned by the city. The lot is used by resident families. Children ride their bikes and skate boards around the circle as it is a natural "track". At the curb cut point on Emerald Lane there is both a curve and a rise in the road. It is already a dicey proposition coming around that corner in either direction

because of site limitations. The road is only 28 feet wide. Throw in a few garbage pails at the end of the driveways on garbage day or a line of lawn mowing service trucks during the warm months or anybody parking legally on one side of the road, or kids on bikes/skate boards and our 2 lane road becomes a single lane road with cars having to stop to let another car pass. It happens now. There have been a lot of near misses with 2 lane traffic when this happens. Now add 75 to 125 more cars pulling out at that dangerous spot and the near misses will become actual accidents. The same goes for the initial older stretch of Emerald Lane in the Emerald Woods development.

2. The cut out on Tolend Road has the same issue as Emerald Lane. It is at the top of a rise in the road. People pulling out of the proposed development cannot see cars coming from Route 125 and cars coming from 125 won't be able to see cars pulling out on to Tolend from the development.
3. Indian Ridge's HOA, its residents, are responsible for the maintenance, repair and eventual replacement of the 6-stormwater management bio-ponds in our development. Based on the proposed map of the development, some buildings on Loop Road may be less than 75 feet from our bio-pond #1. Removing trees to accommodate the houses in this loop will compromise the natural stormwater absorption provided by nature and put a larger burden on this bio-pond, a burden it was not designed to handle. As a result, the cost to maintain the bio-pond will increase and place an additional financial burden on our home owners.
4. The last building closest to Emerald Lane in the second grouping of building is about 150 feet from our bio-pond #2. I have the same concerns for this bio-pond as stated in #3
5. It appears Dover has found a favored format for new residential development, one where the builder has to create an HOA and after the development is complete, hands the HOA to the residents who assume the burden of several services that used to be part of the core mission of a city. In this proposed development, the HOA will not only be responsible for stormwater management but will also be responsible for the repair, maintenance and eventual replacement of the roads. This development will have a private road. It seems the only core duty the city is retaining in these types of developments is the collection of property taxes. My specific concerns with this arrangement are:
 - a. Will school buses be allowed on this private road? If not, where will the children get the bus? See #1 about road safety concerns/congestion.
 - b. Will police and fire be allowed on this private road? Will the police be able to routinely patrol this road?
 - c. Part of this development is reserved for affordable housing. How affordable will it be when the HOA (residents) are burdened with road costs? Our HOA was almost responsible for snow plowing in 2021-22 so I know what private snow removal costs as we had to make contingent plans for snow removal.
 - d. Given the size of the development, they may have to hire a property management company to handle HOA dues billing and collection and management of protective covenants. Add these costs to stormwater management, road maintenance and replacement and insurance needed to cover liability and the HOA dues will be costly.
 - e. Developers build. They are not property managers. Creating and managing an HOA is something they are obligated to do to get a permit, an afterthought. Since our development was a similar model, though smaller, whose HOA was established and

maintained by these same developers, Stonearch, for the first 5 years of its existence with no oversight by the city, Indian Ridge residents are all too familiar with the end result. We were fortunate to have within our neighborhood several lawyers and an accountant that were willing to take on the challenge of straightening out what we were handed. The HOA would be happy to share our experiences with you but my initial concerns are how this will be marketed. Assuming Stonearch will act in a similar manner as they did for Indian Ridge potential buyers, the existence of an HOA will either not be mentioned or downplayed. The dues will be set artificially low to make the properties look attractive. Anyone inquiring about the HOA will be told either “not to worry” or “it can be disbanded once it’s turned over to the homeowners or the dues will never go up. Unless mandated, they won’t set up capital reserves. Not once was the full measure of the nature, permanence and responsibilities of the HOA clearly spelled out to prospective buyers. Affordable housing buyers tend to be first time home owners. Based on our experience with the developers, these home buyers won’t realize what they are getting into.

- f. If the HOA, when turned over to its residents, does not live up to its responsibilities, then what? The roads and stormwater ponds will deteriorate affecting the value of their development and ours. This setup is not what you create in the name of affordable housing. How much oversight will the city have? During the time the developers were running our HOA, they were supposed to file annual reports with the city on health of the bio-ponds. They never did and the city never followed up.

In closing, I am disappointed in Dover. I have the impression that the city is hoping that its residents are too busy with their own lives to read a “Dover Download” or search the city’s web site for upcoming meeting agendas and therefore, is all too ready to pull a bait and switch like what is being proposed with this TDR. I understand the need for affordable housing but its remedy cannot be at the expense of citizens who bought into a neighborhood of what was supposed to be surrounded by single family homes of similar size and value to what has been already built. I have come to the sad conclusion that I must constantly be on alert to protect my investment in Dover.

Dover Planning Board

Dover City Hall, 288 Central Ave.

Dover, NH 03820

Dear Members of the Dover Planning Board,

I am writing to express my concerns regarding the proposed development project at 210 Tolend Road, which abuts my property at 112 Emerald Lane in Dover, NH. As a resident and abutter to this proposed development, I am deeply invested in ensuring that any changes to our neighborhood are thoughtfully considered and align with the best interests of our residents.

First and foremost, I appreciate the opportunity to provide feedback on this project as well as the Planning Board's dedication to preserving the quality of life in Dover. However, I must express my serious reservations about the recent proposal to waive the R-40 Zoning restrictions and replace the initially proposed 21 single family residences with 53 condo-style units.

My concerns with this proposed change are multifaceted and have been amplified by the introduction of a private road that would be constructed directly across from my residence. Specifically, I am concerned about:

Traffic Congestion and Safety: The addition of 53 condo units (plus several basement accessory dwelling units) will undoubtedly lead to increased traffic on our roads. Furthermore, the construction of a new connecting road directly across from my home and adjacent to our neighborhood playground raises serious safety concerns. This beloved community amenity could become less accessible and enjoyable for our residents due to safety concerns and disturbances caused by the heightened traffic volume.

The new road would also introduce the issue of car headlights shining directly into the front of our home. This not only poses a significant risk to the safety of my 3-year-old and new-born daughters but could also diminish the overall quality of life in our neighborhood.

Impact on Neighborhood Aesthetics: The introduction of a large-scale condo development could fundamentally alter the character and appeal of our neighborhood, detracting from the charm and appeal that drew residents here in the first place.

The construction of a new road, particularly one that necessitates significant tree removal, will dramatically alter the aesthetic of our neighborhood. When we purchased our home, we were told that the land across from us was conservation land. We never imagined that it would be transformed into a new road, fundamentally changing the character of our front yard, and diminishing the natural beauty of our surroundings.

Potential Decrease in Property Values: There is a legitimate concern among current homeowners that the presence of a high-density condo development in close proximity to our neighborhood would lead to a decrease in property values. This would negatively impact our financial well-being as well as the long-term investment in our homes.

While I understand the need for responsible development and growth within the city of Dover, I believe it is imperative that any proposed changes are thoroughly vetted and consider the concerns of existing residents. With this in mind, I respectfully urge the Planning Board to reject the current proposal or, alternatively, to request revisions from the developer that address the aforementioned concerns.

I propose that the Planning Board explore alternative solutions that minimize the impact on existing residents and preserve the character and integrity of our neighborhood. This might include reconsidering the layout of the development to minimize the need for a new connecting road, preserving green space, and implementing measures to mitigate the impact of increased traffic on local amenities.

In closing, I want to express my sincere appreciation for the Planning Board's attention to this matter and for considering the input of myself and other concerned residents. I am hopeful that together, we can work towards a solution that benefits all stakeholders and maintains the safety, beauty, and livability of our neighborhood.

Thank you for your time and consideration.

Sincerely,

Stephen Kefalas

Brian T Stern
Tolend Rd
Dover, New Hampshire

May 28, 2024

To the Planning Board, Planning Department, and all other bodies that this proposal may be considered by as part of the approval process.

Regarding: TDR Site Development Plan, "Ambrose Woods"

My name is Brian Stern. I own 45 acres across Tolend Rd from the Ambrose property.

I remember when the rules for transfer of development rights were being proposed and written. This was a novel approach. The purpose was to push development from the rural areas to the city core. This was to protect rural areas from residential development and to create or vibrant downtown with residential premises. There was a trend against residential development. This was not just to as to the location of residential development, but to slow down and restrict residential development generally.

When the certified mail of this proposal came to me, I thought something must be wrong. So, I read current regulations for the transfer of development rights. It reads exactly as I remembered as to its purpose.

170-27.2. TRANSFER OF DEVELOPMENT RIGHTS.

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*B. Purpose and Intent. Within the City of Dover there are certain lands that possess significant conservation features, including but not limited to unsuitable development areas, groundwater recharge zones, forested areas, wildlife habitat, farmland, scenic viewsheds, historic landmarks, and **linkages** to other such areas. Because of their unique assemblages of flora and fauna and their significant contribution to the **ecological system** and/or the **cultural identity of our community**, these lands are worthy of special protection. The City of Dover furthermore, has a limited supply of land suitable for development. The purpose of this overriding district is to **promote intensive development on the developable land possessing the least conservation value and to permanently protect lands possessing significant conservation features that provide unique values in their undisturbed condition.***

The justification or basis of authority for the rules is: to protect environmentally sensitive areas. The entire scheme is to move development from environmentally important areas to areas of least conservation value. Not just environmentally sensitive areas: the rules talk about linkage of environmental areas and ecological systems.

Additionally, the Rules governing overriding districts specifically provide that:

170-7. Establishment of Districts.

*(4) Overriding districts. The purpose of the overriding districts is to provide **an additional layer of land use regulation or protection in certain sensitive areas** of the City.... Most of the districts are intended to protect environmentally sensitive areas.*

So you have the overall purpose of overriding districts to protect the environment and the rules governing the transfer of development rights written specifically for the protection of land possessing the most significant conservation features towards developmental lands with the least conservation value.

There are some others who are going to speak to the high conservation value of this property. I want to say something personal about this property, I've known Rick and Donna Ambrose. We frequently talked of the work we were both doing on improving our woodlots, improving our brushy habitats and open space. We shared an interest in tackling non-native invasive species. The conservation value is more than just what's on paper. Rick shared with me his wildlife sightings, including moose multiple times indicating more than just a random event on this property, bear multiple times, all of the deer, turkeys and birds, as well as importantly, creating habitat for New England Cottontail. As much as my property across the street is unbelievably unique, he has more indication of New England cottontail activity on his property than I do. As a matter of fact, this was a property of interest to the Open Lands Committee. This property fits the criteria of the Open Lands Committee as to having environmentally sensitive and worthy features and being adjoining to other conservation easements.

Allow me to just plainly state that this parcel is of high environmental value, and linked with others ecological systems of the area. This project fails for this reason alone.

The transfer of development rights has such limited applicability, that it is not available as a right, but only with permission, to be granted solely with the discretion of the planning board. Section C states:

*C. Applicability. Upon request by an APPLICANT for development approval and at the **discretion of the PLANNING BOARD**, the provisions of this **subsection may apply** ...*

That TDR is not available to matter of right is stated twice in this one sentence. Approval of TDR is discretionary and in the use of the word "may." The rules "may apply"; it does not say shall apply. Accordingly, granting the right to transfer development rights is completely at the discretion of the Planning Board and non-appealable.

The code explicitly acknowledges the effort of the Open Lands Committee. Section (B) reads:

Additionally, it is recognized that the City of Dover has an Open Lands Committee and Conservation Commission who are active in protecting and preserving OPEN SPACE.

The open land committee was at the time a new governmental body. I was chairman of the Open Lands Committee during these formative years. The catchphrase was that conservation pays. Taxes from residential properties do not cover their costs to the City. The push was towards commercial and industrial development and limit residential growth. This is significant because there may be some inclination to try to reinterpret and fit the transfer of development rights, with the intent behind them when they written, into a different sentiment today- to expand residential growth. This would be improper. The rules must continue to be read and interpreted in the context of restricting residential development in the rural areas, as was the purpose and intent of legislation.

It is worthwhile to know that no use of the TDR provisions, in the manner being attempted here, has ever ever before been attempted. The applicant cannot be coming before you with confidence in obtaining the right to transfer development rights. This is significant for the Board to not think it would be negotiating some great sacrifice or compromise for the developer to simply go back to a standard open space subdivision.

If all this isn't enough, this project is not even in the receiving area.

The regulations state:

*D(2) The RECEIVING AREA is defined to be all **nonR-40 or R-20 zoning districts east of the Spaulding Turnpike** which allow residential development*

a. If the units created are purchased, the receiving area may be any zoning district that allows residential development.

The receiving districts have two requirements, that it be in a non-R-40 or R-20 District and be East of the Spaulding Turnpike. When purchasing the transfer of development rights, the restriction to non-R-40 or R-20 Districts is lifted. Section (a) did not remove the restriction to a receiving area being East of the Turnpike, to anywhere in the City. Section (a) remains a subsection of section (2) and does not stand on its own; and cannot on its own eliminate the main provision limiting receiving areas to East of the Turnpike. If the drafters of the regulations wanted to lift this restriction, they knew how to do that. If there is any ambiguity or dispute in the interpretation of this: it must be resolved in favor of the intent and purpose of the TDR program to move development from rural areas to the core and to protect environmentally worthwhile areas.

There is another attempt at an extreme application of the Zoning Rules. I always thought the allowance for Accessory Dwelling Unit was for the occasional homeowner, not a wholesale development. This application would create numerous ADU on this one parcel. This is an attempt by a developer to simply double the density of units allowed and exceed all other aspects of the zoning rules. It is certainly an attempt to take advantage of the provisions, distort them and create as high a density as possible- as high a density as possible without regard to anything else.

When you look at the residential performance standards and the calculation of the yield, it is a bit complicated. I see both the restrictions of the open space subdivision regulations, and the restrictions of the transfer development regulations, both being imposed as a double overlay. I do not see how the wetlands in this project can be used to benefit this development. There is also a conditional use permit required for the impact of 5000 ft.² of wetlands. This is an addition to the wetlands impact the developer caused on his adjoining parcel. This project would create a thoroughfare from Littleworth Road to Tolend Rd. The traffic impact will be from any of all development happening on the Ambrose property, along with all of the homes currently served from Littleworth Road, and anyone else who cares to drive through in either direction. This traffic will impact Tolend Rd, Littleworth Rd and property owners in this new development. The sight line on Tolend Rd., Westerly is horrendous.

If this somehow proceeds, I respectfully request that the planning board take a look at the annual cost per acre that has been calculated as the price to purchase development rights. This developer is proposing payment of \$15,000 per acre. This sounds low. You know the story about statistics, so I would like this calculation verified and the document supporting this calculation to be part of this record. If this developer would be willing to sell this area for \$15,000 per acre I will buy it and I'm sure the Conservation Commission and Open Lands Committee would evaluate this.

I want to finish with a look at the character of the area. This is not an idle exercise or an ideal wish of the community.

The final section of the legislation section 8 that states,

G. Residential Performance Standards.

(8) Regardless of the method utilized, any other provision in this Chapter to the contrary, the density or intensity of development of a receiving parcel may be increased by the TRANSFER OF DEVELOPMENT RIGHTS so long as the increase in density or intensity:

(b) Is not incompatible with the land uses on neighboring LOTS

I submit to you that this proposed project fails as being incompatible with the neighboring lots. The great thing about the volunteer boards of the City of Dover is how well you all know the community. You know the feeling as you cross the Turnpike and head out Tolend Rd. As to the neighboring lots, I have 44 acres of which the vast majority is under a conservation easement owned by the City of Dover and is of high environmental value. The house and 6 acres I sold to Ken and Leslie Herd is also partially under the same conservation easement and is also an active agricultural area. They can tell you more. Adjoining me Westerly is the Willows subdivision with a large amount of conservation land. Easterly is 20 acres with four houses, restricted so that nothing more will ever be developed. Adjoining the Ambrose property to the East is the Paradis property, of I think 60 acres. It is an active farm, with no development, also under some conservation easement. The Ambrose property, with 54 acres, is a single

home that nobody ever expected to see developed. While the full length of Tolend Rd, is of rural character, within the Tolend Rd corridor, this is a unique and special piece. It must be taken in the context of this large continuous block of minimal development.

The Ambrose property is in the R-40 District. The Zoning Rules District Purpose statement reads:

B. District purpose statements.

*(1) Residential districts. The residential districts are intended to provide a wide range of residential units to provide the citizens of Dover with a balance of housing choices, with varying housing types, densities and costs. The goal is to preserve and create City neighborhoods that are safe and **promote harmonious development**.*

(a) Rural Residential District (R-40). The purpose of this residential district is to provide for conventional single-family neighborhoods in the more rural areas of the City. These areas have larger lot sizes (one or more acres)

The wide range of residential units with a balance of housing choices occurs across different zones, not within a zone. And the rural residential R- 40 is to provide for conventional single-family neighborhoods in the more rural setting. The proposed type of development is not for this area.

Accordingly, this property fails to qualify for TDR under the prohibition when incompatible with the neighboring land uses. It fails for not being in the receiving district East of the Turnpike. It fails because it would be contrary to the intent to protect environmentally sensitive areas. It fails because it is concentrating development in the rural areas intended to be protected and for traditional single family homes on large lots. TDR are for specific and limited purposes; only when it fits the intention and design behind the regulations.

I respectfully request that if you are inclined towards considering a TDR for this property, that you require a full ecological assessment of this property and this property in the context of the ecological systems and linkages it is part of.

Thank you for the opportunity to present my input on this matter and your consideration of my thoughts on this.

With best regards,

Brian T Stern

To the Dover Planning Board Members

Subject: Ambrose Woods TDR Application, 210 Tolend Road Project

I wish to make several observations about the consideration to approve the TDR application for the 210 Tolend Road Development.

Although there may be a need for more low-cost housing in Dover this TDR request does not show how this need will be met. There are several issues that show that this development will not provide affordable long-term housing.

1. 53 new homes with 33 TDR's. 22 of the 33 TDR houses will be small 1,400 sq ft units with a rental ADU on the property. This will all be managed by an owner-run HOA.
2. How the HOA will be managed needs to be addressed before any project should be approved. If the HOA is not functioning properly (this needs to be defined by the City) then professional management will need to be hired.
3. Unaddressed is the need for a Surface Water Collection and Treatment system that will need yearly maintenance and future replacement.
4. The intention is to leave the roads as private, possibly unpaved gravel requiring the HOA to maintain the road and the infrastructure.
 - a. Will the school bus be able/allowed to have access?
 - b. Will City services be able to provide fire protection?
 - c. Future repairs and maintenance will be required.
5. The HOA will have to arrange and pay for snow removal and garbage pick-up.

Although the builders may be able to build and sell the houses cheaply the full costs to the new owners will not be explained, it is not in the interest of the builders to do so. The idea that this project will provide low-cost housing is a fallacy.

I am concerned that this high-density, low-cost housing project is poorly conceived and will not have happy residents in the end. The TDR should not be considered until additional information is provided and the impact on surrounding communities is understood.

Sincerely,

Robert Leopold
165 Emerald Ln, Dover NH 03820

Cc: Dennis Shanahan, Ward 5

May 28 2024

Andrew & Michelinne Dorais

81 Emerald Lane

Dover, NH 03820

Dear Planning Board Members,

First, our apologies for missing the meeting in person. Unfortunately, we had family commitments we could not otherwise reschedule.

The purpose of this letter is to note some areas of concern, and to ask the Planning Board to require some reasonable and appropriate actions. While we are not against any property owner rightfully developing their property within the bounds of the specific zoning regulations, it is our expectation that the Planning Board address issues that substantially change the character of surrounding property and neighborhoods.

Of pertinent point, the proposed development is located within the city's R-40 Development Zone. Based on the current Zoning guidelines, approximately 21 single family homes/ property units would be allowed within the parcel of land proposed for development. The last plans available for public review, included plans for 53 condo style units, which would include, but not be limited to accessory dwelling units/ rental properties. The total number of dwelling units is more than triple the amount set forth in the R-40 zoning regulations. This does not include the areas reserved for future development on the property. By effectively waiving the R-40 Zoning regulations now, or at the very least knowingly accepting a "loophole" that allows far more dwelling units than zoned, a precedent is set that cannot be reversed. It has broad reaching impact to not only the immediate neighbors of the planned development, but also the city residents as a whole. How can residents, current and future be confident in a property purchase where there is so much ambiguity and as needed adjustments to the zoning regulations?

The plans provided to abutters details a road that connects Tolend Road to the Indian Ridge portion of Emerald Lane. The proposed road will bridge several parcels of wetland, and upon its completion, will connect Littleworth Road, and Tolend road via three R-40 residential neighborhoods.

Of initial concern, when considering the completed project, is the increased traffic flow through the existing R-40 neighborhoods. It is unclear why the 210 Tolend Road neighborhood needs to connect at all. Both Ezras Way, and Emerald Lane have access from Littleworth road with no outlets, as does the adjacent neighborhood of Westwood Circle. As properly designed

neighborhoods, there are no issues with city or private vehicles, nor are there any issues with access for emergency vehicles. This would seem to hold true for 210 Tolend Road. Could the Planning Board please consider if this “through access” is really necessary.

Within the context of the increased traffic, there is a legitimate concern about the construction phase of the project as well. All residents, not just the property abutters, have the right to quiet enjoyment of their Dover properties. Given the scope of the 210 Tolend Road project, the land development and construction phase will last for years. It is not reasonable to ask the property owners of the Emerald Lane and Indian Ridge neighborhoods to endure years of increased construction traffic from site developers contractors, construction vehicles, delivery vehicles, etc., when the 210 Tolend Road project will have access from Tolend Road. With respect to our Tolend Road neighbors, the road is already heavily trafficked with light vehicles accessing both Rt. 125 and Downtown on its respective ends. It is also used by Waste Management to access its massive facility. Given the existing volume of traffic already on Tolend Road, and the comparatively limited amount of traffic in and out of the Emerald Lane and Indian Ridge Neighborhoods, it is reasonable and of minimal impact and/or expense to require all construction traffic to access the project from the Tolend Road side. Perhaps consideration may be given to adding gated “through access” for emergency vehicles only. This would eliminate both construction traffic and future public traffic from using the R-40 neighborhoods as a cut through to access Littleworth Road and Tolend Road on its respective ends. Perhaps a detailed assessment of the Traffic Study completed as part of the Indian Ridge Development compared to the actual traffic on Emerald Lane after completion would offer some greater insight as to the true impact of adding an additional 70+ dwelling units. Consideration should be given to morning and evening school bus drop off and pick up locations on Emerald Lane, as well as the potential of increased traffic in the neighborhoods as a result of vehicles accessing Rt 9/ Littleworth road as a cut through.

In the interest of the future residents of the 210 Tolend Road project, the Planning Board may take inspiration from the Ezras Way and Emerald Lane traffic features. During the initial construction phase, there is little added expense to add features such as stop signs, speed bumps and traffic circles to slow the pace of traffic, provide opportunities for decorative landscaping, signage and to block direct sightlines into properties, while adding a classy and upscale appearance to an otherwise straight and no doubt, speedy access road. While this would not impact the Emerald Lane neighborhoods, I can personally speak to the success and benefits of such traffic measures.

While it does not directly impact us as abutters, one questions why the future residents would be burdened with the costs to maintain a very long road that contains two bridges over wetlands, required environmental standards, winter maintenance, etc. Further, and more directly impactful to downstream abutters, is the concern over the increased stormwater runoff. One need only

walk the Ezras' Green Community Trail to see the impact of the increased water from Indian Ridge, and its impact on the environment.

Of additional concern is the impact of such a sizable neighborhood on the schools, city water and sewer, emergency services, and the list could continue.

Thank you for entertaining my lengthy letter. It is clear that I share my neighbors' concerns with the proposed development as it exists at this time. Given the exceptional growth of our beloved city, this project rings of too much, too fast. It begs the question, who sticks up for the current residents of the city, and the interests they (we) bought. We are not against the development of the property, but at this time, in its current form, we would request emphatically that the Planning Board vote "NO" to the current plans and address many areas of concern before accepting and allowing the project to proceed.

Respectfully Submitted,

Andrew and Michelinne Dorais

Dear Planning Board Members,

This is a letter concerning the new Ambrose Woods building proposal for the dwellings to be built between the Indian Ridge part of Emerald Lane and Toland Road.

In 2019 my husband and I moved into our new home with our daughter and her young son because it was a new development on a quiet cul de sac and included a tot-lot. The idea that a road is being built adjacent to the tot lot that many construction vehicles will use and will later be a shortcut for traffic back and forth from the Toland road is a dangerous proposal. This is a quiet development with children riding bicycles and scooters, many dog walkers, and people just enjoying their neighborhood. The tot lot, which many children use sits at the top of a hill on a blind curve that winds down to a circle. The circle is where the young children are picked up and dropped off by the public school bus. This is already a dangerous scenario without adding more traffic. Our roads are very narrow and a problem when there are cars or trucks parked on either side of the road, more traffic will increase the danger.

I am also concerned that the new private road that is proposed will not allow for school bus traffic. So where will the children get school bus transportation and has the school board been notified that this area will be having an influx of many more students to their already crowded system? Who will maintain this private road, plowing, garbage collection, potholes, and water runoff? Will there be bio-ponds added to this new development and who will maintain them? Will the builders clarify all the costs to the new buyers or blindside them?

We also have conservation wetlands surrounding many of the properties in Indian Ridge and we live with a great diversity of wildlife. There is a balance of nature already established in our community and this building project will probably create negative results for the wildlife in this region.

I understand the need for affordable housing but I believe the plan for this project will not benefit the people of Dover. I strongly urge a no vote for the Ambrose Woods project.

Karen Leopold
165 Emerald Lane, Dover NH 03820

Re: TRAN-2024-0003

To whom it may concern:

I am writing this as a concerned citizen and to provide comment regarding the above-captioned Transfer of Development Rights. Unfortunately, I will not be able to attend personally as I will be out of town. I would otherwise request to speak on the matter at the meeting.

I do not believe that this requested Transfer of Development Rights should be granted for a number of reasons:

-Although the proposed road into Emerald Lane might be able to accommodate some limited additional traffic, the number of additional units proposed would clearly overwhelm Emerald Lane as it currently exists. The road is narrow and at the present time drivers have to be quite cautious in navigating Emerald Lane.

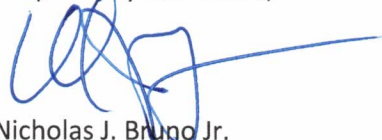
-The proposed road into Emerald Lane is within a short distance of the children's playground, referred to as the "Tot Lot". The playground is used frequently by many neighborhood children under the age of ten. When my 8 year old granddaughter visits, she often asks to play on the playground. I strongly believe that there is not enough distance between the proposed road and the playground to ensure safety for our small children. You should understand that our development is a nice mix of retirees like myself and young families with small children. There are quite a few young children that I see on the playground during nice weather along with their parents.

-The proposed road would enter the current Emerald Lane at a point where there is a huge blindspot for oncoming traffic heading towards "old" Emerald Lane. I strongly believe that increased traffic would result in an increase in traffic accidents as traffic on the proposed road would only be able to have limited sight to oncoming cars coming from both the right and left.

-I have also travelled along Tolend Road and have seen that there is not a really good line of sight where the proposed road would enter Tolend Road, although not as limited as where it enters Emerald Lane. However, where traffic usually proceeds at 20-25mph on our portion of Emerald Lane, traffic proceeds at a minimum of the posted 30mph on Tolend Road, so the danger might be even greater.

I understand that any acceptance is at the discretion of the Planning Board. I would urge the Planning Board not to accept the Transfer of Development Rights as currently proposed. Safety of its citizens should be more important than blind and inadequately planned expansion.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'Nicholas J. Bruno Jr.', with a long horizontal line extending to the right.

Nicholas J. Bruno Jr.
144 Emerald Lane, Dover, NH

Cc: Dennis Shanahan, Council Member Ward 5

Garry R. Lane
130 Emerald Lane
Dover, NH 03820
May 27, 2024

Dover Planning Board
Dover City Hall
288 Central Avenue
Dover, NH 03820

Ambrose Woods TDR Purchase Request (TRAN-2024-0003)

Dear Planning Board Members:

I write to you to oppose the application for a TDR by Stonearch Development and against the development as proposed. I will focus this letter on certain of my concerns about the development, specifically, (1) the safety of persons, especially children, in the Indian Ridge and Emerald Woods developments and in the new proposed development; and (2) harm to the value and desirability of our development. However, I will also address some other concerns.

Safety

Indian Ridge development presently is a loop development. There are no through streets. While a few people sometimes drive a little too fast in the development, most people care about the safety of each other (including of the children) and they drive slowly and safely. And if someone who lives in the development were generally driving unsafely, people will know who the driver is and can speak to that person. That happened once to my wife and me when we were turning our car from the street into our driveway, a resident driving his truck too fast nearly broadsided us. I knew who he was and we resolved the issue with pleasant communication. I have not seen him driving so fast since that event.

If the proposed development with its needless through-street is approved, the new private street will dump not only traffic onto Emerald Lane in our development but over time, drivers looking for short-cuts will cut through the private street and into our development. Those anonymous drivers will not know the residents or be known by them. These drivers will be less focused on the safety of children who might be riding their bikes or scooters in the street or fetching a mis-thrown ball and these drivers will be more focused on how quickly they can get to their destination.

The allowed speed limit in our development is 30 mph. Even that is too fast, and I personally rarely drive faster than 20 mph in the development. If I see children on bikes, scooters or even playing in their own yard, I make the assumption that one of those children will turn their scooter in front of my car or run into the street to catch a ball. So, if I see children anywhere near my car I slow well below 20 mph, often down to five mph. If additional vehicles are allowed to access Emerald Lane either from or through the proposed new development, having more cars on the street will put our children at greater risk. By allowing a through street from Tolend Road to Emerald Lane, there will certainly be more drivers and many of them will be going faster. At some point, one of those drivers, driving too fast, will collide with a child and in some instance, a child will be maimed or killed. And this will flow directly from your decision if you approve this development and allow a through-street.

My safety concern is not limited to the children, though I care about all of them. One of our neighbors who is disabled rides a recumbent bicycle in the street as part of his therapy. His safety is another reason that I drive slowly through the neighborhood. While I do not see him on his bike every time I drive in the development, I make the assumption, every time I drive my car, that he is just around the corner and if I'm going too fast, I might hit him. People not from the neighborhood, will not know about that gentlemen and your decision, if you approve it, to allow more traffic onto Emerald Lane and especially through traffic from Tolend. A decision to allow the proposed development could put his life at risk And, if, for safety reasons, he has to give up his bike, you probably will contribute to a decline in his health.

Beyond the safety of the children in the neighborhood and of that one resident, I'm concerned about the safety of other adults including my wife and me. I have a bicycle and I presently feel safe driving it in the neighborhood. If more traffic from a new development is added I may have to rethink whether I feel safe using my bike any longer. And, if you allow a new development where through traffic can pass on the private road from Tolend Road to Emerald Lane, I am almost certain that the combination of more vehicles and higher driving speeds will likely force me, and other adults and children, to stop using our bikes.

Many people in our neighborhood have dogs and take them for walks on the sidewalk. As a regular event, when two dog owners walking their dogs approach one another, one owner will step into the street to keep the dogs apart. Now, add more cars driving on Emerald Lane and driving faster, those dog owners stepping into the street will be at greater risk. Similarly, most people in the development are friendly and, when out for a walk, will often cross the street to talk with a neighbor. With the limited traffic we presently have on Emerald Lane, that is a relatively safe thing to do. If you approve this development with a needless through street, you will be making Emerald Lane less safe for the kids, the adults, persons on bikes (whether children or 70-year-olds like me) and pedestrians.

Now, let's talk about the safety of the children in the new development. Are you going to require sidewalks? If not, that decision will put children and adults at greater safety risk especially if the street is built as a through street from Tolend to Emerald. But, even if you require sidewalks, since you are being asked to approve a development with only private streets, buses will not pick up children in the new development. Those children will have to either walk to a bus stop on Tolend or to one on Emerald. That means more children walking along or in the streets. Are there safe places on Tolend for the children from that side of the new development to safely wait for buses? Many parents in Indian Ridge, drive their children to the nearest bus stop and park their cars until the bus arrives. While I am not bothered

by parents doing that, those cars can clog the street somewhat. Now, add more cars from the new development doing the same thing.

If it were critical for some reason that the street in the proposed development be a through street from Tolend to Emerald, perhaps you could justify the added safety risks that will certainly follow from your decision. But, there is no justifiable reason I can discern for why the street from Tolend does not end before the wetlands in a cul-de-sac. When I emailed Donna Benton to ask her the justification for making the street a through street and adding a bridge through the wetlands, she responded "In general, the city is looking to get as many people off of private septs and onto public sewer to help with these environmental concerns." If that is the reason and if the city water and sewer lines need to come from Emerald, those pipes could be run above the wetlands without a bridge and without turning the private street into a throughway.

If you focus on any arguments or concerns I raise in this letter, please, don't allow the street in the new development to be a through street. One street from Emerald and one from Tolend but don't allow them to meet. If you allow the street to be a through street, you will be endangering the public including young children. There is no justification for that added risk.

It's possible that the developer wants the through street because adding a cul-de-sac on the street coming in from Tolend might cost a house lot. I'm not sure if that's the reason but please don't, for the sake of the developer's additional profit, trade the profit of one lot for the safety of children and adults in Indian Ridge, Emerald Woods and in the new development.

Finally, on the safety side of this, I have heard that at some point in time, the new developer (when he was the developer for Indian Ridge) may have obtained a curb-cut approval for some future development on the Ambrose property. There presently is no actual curb cut and no connection from Emerald Lane to the new development. I was unaware of this so-called curb-cut approval until very recently. But, assuming one was granted, who approved it, on what basis? Was a sight-line study done? Does it have the 400-foot sight line that the city's regulations insist on when a homeowner wants to add a new driveway curb cut? The proposed curb-cut certainly would not meet that 400-foot standard. Is there a similar standard for adding new streets/intersections? Was the curb cut approval granted on the assumption of a handful of houses instead of the now over 70 units being proposed? Is the approval still valid? Shouldn't a new curb cut application, with full line of sight analysis be required? I'm a bit puzzled how the original curb cut application was ever approved for that location. I'm not a street expert but I know that the curved corner on a hill already presents a safety problem. Drivers coming up to the proposed curb cut location from either direction on Emerald have limited sight distance. It's potentially dangerous even as it is, especially if someone parks on the side of the street in that location as sometimes occurs. Add a new street entering Emerald (especially if that street is a through street from Tolend with heavy non-local traffic), and it seems inevitable to me that there will be accidents. Hopefully, they will be between two cars at slow speed and not between a car and a child on a bike or scooter, but can you be sure that allowing that street intersection at that point won't cost someone serious injury? Is the so-called justification for a through street worth a child's health or perhaps life?

Lowering our property values

When my wife and I chose to build a house in the Indian Ridge subdivision, a critical factor in wherever we chose to buy or build, was that any development would not have through streets. The development had to have either a dead-end or a loop ending. Without that, we would never have considered the Indian Ridge development on Emerald Lane. Our concern is both for the safety reasons discussed above but also for property values. Any development with greater safety, as ones with dead-end roads and loop endings, are more pleasant to live in with fewer cars and trucks passing through and with greater safety. The properties will be more sought after and that keeps up values. If the Planning Board permits this development as proposed with far more housing units than would be allowed in an open space subdivision and with a through street, Indian Ridge and Emerald Woods will be less desirable and less valuable. It will become a development that my wife and I never would have moved into and may seriously consider moving from. I know that is also true with others in our development, both people with children and those without.

I appreciate the need for “affordable housing” or “attainable housing” and the desire of the Planning Board to try to accomplish that. However, I believe that a Planning Board (and the City) also has some obligation to its existing residents, to protect their safety and to protect their land values. I hope you will deny approval of this over-development in an environmentally important and sensitive area and that you will consider the safety of persons in existing developments.

Honest and complete disclosure by the developer and the City to new home buyers

Many of the buyers in the proposed new development may be young, inexperienced, first-time home buyers. They will not likely appreciate the hidden costs that will certainly hit them down the road with the proposed development. I doubt that, other than perhaps for the renters of the HUD-approved basement apartments (are those things safe?), that any unit in the proposed development will be affordable in any sense. But, at the very least, unlike what happened with the developer, the City and the buyers at Indian Ridge, I hope that the City and the developer will be forced to be honest with prospective buyers about what they are getting into. These units will not be inexpensive up front and they will be even more costly with hidden costs.

First, as a lawyer, I often focus on potential liability. If the City is not assuming responsibility for the roads or, if they are required, for sidewalks, not only will the cost of maintaining and periodically repaving almost a mile of roadway be expensive, but the homeowners will have significant liability exposure. Unlike the City which would have limited liability for its streets, roads and sidewalks, private landowners would have no immunity and no limited liability. If the City does not mandate sidewalks and a pedestrian is killed in the street, the estate of that person will look for people to sue. Certainly, the driver, if that person stayed around and has insurance, and almost as certainly, the individual homeowners and the homeowners association. Why didn't the homeowners and their association insist on a sidewalk, install speed bumps, more signs etc.? When two cars collide on the new street, the HOA and homeowners may, again, find themselves being sued as defendants. Win or lose such lawsuits, they will be expensive. Insurance companies will recognize that liability up front and will charge accordingly for an HOA and homeowners who have responsibility for streets and sidewalks – and no municipal immunity. As the developer will likely not incur such expensive insurance until after the developer turns

the HOA over to the property owners, the developer could easily mislead buyers into thinking that HOA fees will be insignificant. Representatives of this same developer (when constructing the Indian Ridge development) told some people not to worry about the HOA as they could dissolve it as soon as the property owners took responsibility for the HOA from the developer. Will the City and the developer educate these likely first-time homebuyers of the cost of maintaining and replacing almost a mile of road or of paying for snow removal, salting, sanding streets and sidewalks?

Will the City and the developer inform these new homebuyers of the annual costs of maintaining bioponds that certainly must be required for this development? When we were considering buying a lot in Indian Ridge, the developer's realtor told us of the "rain gardens" as though those were some positive feature of the development. We were not told that there was a network of piping leading to the bioponds that the homeowners would be responsible for maintaining and were not told that the so-called "rain gardens" required an annual engineering inspection and report to the City and that annual maintenance would be required. One of our bio-ponds actually failed before the property owners assumed responsibility for the HOA but I was never made aware of that fact by the developer or its representatives. Thus, we were not on alert that while the bioponds might have a good environmental purpose, they would be costly to maintain. Just recently, in addition to our annual engineering inspection and reporting costs, a large tree uprooted and fell into one of our bioponds. That cost our HOA around \$1300 to remove.

Will the City and the developer inform the homebuyers of their liability for the cost of maintaining a bridge? For the liability of roads and sidewalks?

Will the City and the developers inform the potential homebuyers that the City will not provide plowing and that the residents will have to incur that cost (and potential liability if any of those plow trucks injure someone or something)?

Will the City not only require the developer to establish an HOA with bylaws but also have those analyzed for appropriateness? In the case of Indian Ridge, the developer appears to have acquired or found some old, out-of-date bylaws and covenants perhaps written for a condo association (which we are not). There were two lawyers on the HOA board, including me, and we realized that the bylaws and regulations were inappropriate for the development and many houses were in violation of various rules even before the property owners took over the HOA. We also had an experienced accountant on the board who discovered that the developer had charged expenses to the HOA for work unrelated to the development. Getting that money back and rewriting all the bylaws and rules and getting those approved by the homeowners required hundreds of hours of volunteer time. Had we not had a diligent accountant on the board, we would probably have lost the mis-charged money taken from the HOA. The amount of volunteer lawyer time alone probably would have added up well over \$50,000 if we had had to hire attorneys.

What happens if the HOA in the new development has no volunteer lawyers and an accountant?

Will the new homeowners face the same situation we did but not have the benefit of volunteer lawyers and accountants? Will they be forced to hire outside expertise because the City did not care enough to protect the young, inexperienced homebuyers?

As a lawyer, I'm trained to look for problems. I see the potential for a group of probably-young, probably-experienced homebuyers coming in, not having the ability to run an HOA and then either having the HOA fail (likely) or being forced to hire an outside company at a cost of tens of thousands of dollars annually to run one.

Even in our development, we have had problems with one or more landowners refusing to pay their association fees and having to hire lawyers to assert liens etc. In the case of the proposed development, which will have responsibility and liability for streets and sidewalks, I can see the possibility of internal disputes. One group of homeowners in one part of the development wanting street repairs and homeowners at the other end not wanting to contribute to that expense.

The homeowners association for the new development will have far more significant duties than our HOA board faces. Will the new development be able to find volunteers to take that responsibility and potentially personal liability risk? Will the homeowners' association fail? I don't know but I suspect the risk is high.

As for affordable housing, none of the condominiums most closely located to Indian Ridge will be low income or affordable housing. I assume those will be full market price. The homes in our development sell for about \$800,000 to probably over a million dollars. Those town houses are likely to sell for well over \$500,000. As for the homes closer to Tolend with basement apartments, the developer is certainly going to sell those at market rate. In setting that price, the developer will likely factor in that those units will have rental income and that will increase the cost to those homebuyers.

So, the only persons who may obtain affordable housing will be, perhaps, the renters of the HUD-approved, rent-restricted apartments. But, this development, unlike where other HUD units are located will require those tenants to have cars. They will not be able to work downtown without cars and then they will have to pay for parking rental to keep their cars downtown.

So, who are the winners and losers of this project? The only winner is the developer who the City may assist to build more units on this environmentally sensitive and valuable property than should ever be allowed. Who are the losers? All the residents of the Indian Ridge and Emerald Woods developments both as to their and their children's safety and as to the value of the investments they have made in their homes. None of the buildings will likely be affordable in any sense of the word. Thus, the buyers may benefit in that they are finding a home to buy but they are likely to be misled on the costs and liabilities that will flow from their home purchase. As for the apartment renters, yes, they may find some lower cost housing, but wouldn't that housing be better for them if located downtown closer to places of employment or bus routes? Will the City benefit? The City will certainly collect more of its high property taxes but what additional services will those new residents require from the City?

For all of the above reasons and for the reasons that other city residents may additionally raise, I encourage you to deny the proposed project outright and, at the very least, if you approve it in some fashion, that you disapprove the construction of a bridge over the wetlands and disapprove the construction of a road from Tolend to Emerald Lane. I encourage you to require sidewalks as a matter of

safety and that you require a new application for any curb-cut onto Emerald Lane and a full line of sight study and safety evaluation. I also encourage you to require the City and the developer to make full disclosures to potential purchasers of future potential costs and liability exposure and require the City to hire counsel to review the appropriateness of any bylaws and other association documents. Finally, the City's own regulations require the City, whenever possible, to protect existing stands of trees. The City violated its own obligation and that has resulted in needless tree destruction in our neighborhood and even litigation (still pending with the City at the NH Supreme Court over set-back violations that never would have occurred if the City had protected the trees as required). Please don't hang the new homebuyers out to dry and please don't destroy our neighborhood.

Respectfully submitted,

Garry R. Lane

Garry R. Lane

Dover Planning Board
Dover City Hall
288 Central Avenue
Dover, NH 03820

VIA EMAIL AND HAND DELIVERY

May 28, 2024

RE: Proposed Transfer of Development Rights / Trittech Engineering and Stonearch Development, LLC /
210 Tolend Road / Assessor's Map F, Lot 3, Zoned R-40 / TRAN-2024-0003

Dear Planning Board Members:

I am writing to comment on the referenced Application and Proposal that is scheduled for a public hearing before the Dover Planning Board on May 28, 2024 at 7:00pm. My name is Lee Lapierre and I reside at 159 Emerald Lane in Dover. I am also President of the Indian Ridge Homeowners Association which consists of 49 single family homes on Emerald Lane. The Association's Open Space land directly abuts the development parcel.

Before commenting on the specifics of the Applicant's Transfer of Development Rights proposal, I would first like to point out that among the mandated procedures contained in the City of Dover's Transfer of Development Rights Ordinance is the express requirement that the Conservation Commission first review and endorse projects which require an environmental Conditional Use Permit before the Planning Board's review. "If the sketch plan requires an environmental Conditional Use Permit to develop homes, the applicant must appear before the Conservation Commission for review and endorsement prior to the Planning Board's review." Dover Code Section 170-27.2.E.(4)b. (*emphasis added*).

The Planning Department's file for this matter includes a letter dated April 2, 2024 from TriTech Engineering to Donna Benton, Director of Planning & Community Development, in which the applicant's Engineering firm advises Ms. Benton that "[t]he construction of the connector road will require a Conditional Use Permit (CUP) from the City of Dover as well as a Wetland Impact Permit for the State of New Hampshire Department of Environmental Services (NHDES) for impact of approximately 5,000 square feet of wetlands as well associated buffers." The Staff Memo acknowledges the application's deficiency in regard to a CUP, but softens the express mandate contained in the Ordinance by stating that "the Planning Board likely cannot vote on the TDR request without the Conservation Commission endorsement first." I would respectfully point out that the language in the Ordinance is mandatory. The Planning Board not only cannot vote or take any other action on this application at this time but I also question if the matter may even be included on the Agenda for the meeting. I believe that the Planning Board should give consideration to simply deleting or tabling Item 4.B. of the Agenda for the May 28, 2024 meeting due to the lack of compliance with Dover Code Section 170-27.2.E.(4)b. I would further urge the Planning Board to consult with the City Attorney about this important matter prior to the scheduled meeting.

As a footnote, I do recognize that many citizens will be taking time out of their day to appear at the meeting in order to comment on this controversial development proposal. I have no objection to allowing folks to speak during the Citizen's Forum portion of the meeting. My objection lies solely with any Planning Board action during the meeting that is related to Section 4.B. of the Agenda – Consideration and Acceptance of a Transfer of Development Rights.

If this matter is allowed to proceed despite the objections noted above, I must respectfully object to the proposal and urge the Planning Board members to vote against acceptance. Based upon a review of the materials submitted by the Applicant and posted to the Planning Board site, I believe that granting this request as it is currently constituted will do irreparable harm to our neighborhood and to the surrounding woodlands. It is likely that it will also place an additional financial burden on our HOA. My specific comments are as follows:

1. Safety. The proposal includes a new private road that will run from Tolend Road to Emerald Lane. The intersection of the new private road with Emerald Lane will be situated within a few feet of the City owned playground or "Tot Lot" that has existed on Emerald Lane since its buildout over five years ago. In that brief time period, the Tot Lot area has become a magnet for young neighborhood children and is a prized amenity for the many young families who live in our subdivision. In addition to toddlers and their parents, the area also attracts older children who ride their bicycles and scooters nearby. Unfortunately, the curb cut for the proposed new road is located on a section of Emerald Lane that is in a blind spot for drivers approaching from lower Emerald Lane due to an elevation change (an approximate 25-foot ascent over roughly 400 feet of road) and a 90 degree turn in the road. Further complicating traffic flow is the narrow width of the road itself which is only slightly more than 24 feet.

Emerald Lane was designed to support a residential low-density subdivision and not as a through road connecting two main thoroughfares - Littleworth Road (State Route 9) and Tolend Road. The proposed private road would significantly increase the amount of motor vehicle traffic in and around the Tot Lot and on portions of Emerald Lane that are ill suited to manage it. That increased traffic, when combined with the physical limitations of the road and the blind spot resulting from the turn in the road and elevation change, will create an unsafe and hazardous condition that will place the safety of neighborhood children at considerable risk. In my opinion, the unsuitability of Emerald Lane as a connecting road is a sufficient reason to vote no on this proposal. City housing policy should not place the lives of children at risk.

The Staff Memo for this matter cites the lack of a traffic study and a sight distance study as one of the deficiencies that prevent staff from recommending the project as currently designed. I fully concur with that assessment, and I would hope that the issues that I have noted above will be fully addressed in such studies and necessary changes to the proposal will be made to address these serious safety concerns.

2. Stormwater.

- a. Indian Ridge Stormwater Management Maintenance & Inspection Plan. The proposed development includes road infrastructure, parking areas, and buildings that will be within one hundred feet of wetlands, wetland buffers and two bio retention ponds that support the Indian Ridge subdivision. Large growth forest will be replaced by large swaths of impervious surface area which will undoubtedly increase runoff rates into the surrounding wetlands and into the nearby Indian Ridge Stormwater system. Our Homeowner's Association is charged with managing and maintaining that system pursuant to a Stormwater Management Plan mandated by the City and enforced through annual monitoring and reporting to the City's Engineering Department. Our system is designed to treat runoff primarily from Emerald Lane through a system of drains, pipes and culverts which funnel stormwater from the city street into six bio retention ponds. Two of those ponds are in close proximity to the proposed development and the catch basins that feed one of those ponds are located at the bottom of a steep downslope that

runs along Emerald Lane. Runoff from the new road would likely flow down Emerald, into those drains and then into one of the Indian Ridge bio ponds. The additional runoff will eventually find its way into the areas surrounding the bio retention ponds and will saturate the ground in those areas. That saturation will in turn lead to the uprooting of large trees during the ever more frequent periods of high wind. With the recent heavy rains this has already occurred as a large tree fell into and across one of our ponds. The removal costs for that one tree came to \$1,300. The concern is that with the addition of more runoff and the removal of the large growth forest areas that would otherwise absorb this runoff, the blowdown rate for large canopy trees will accelerate. Some of those blowdowns will fall into our ponds and their removal costs will then place an added financial burden on our residents. We should not have to bear that burden.

- b. Nitrogen Permit, etc. With the City's management of storm water runoff likely to come under increasing scrutiny from the EPA and DES over the next few years as a result of issues involving the Great Bay estuary, I question why the City would want to allow this development to go forward. This project will greatly expand the amount of impervious surface area near sensitive wetlands well beyond what would have been allowed under the existing R-40 zoning regulation. Why would the city want to go out of its way to increase storm water runoff? Particularly when the stated purpose of the Transfer of Development Rights Ordinance is to "permanently protect lands possessing significant conservation features that provide unique values in their undisturbed condition." A yes vote in favor of this development as it is currently structured turns the ordinance on its head and will open the City up to criticism by the EPA and DES in a few short years.
3. Housing Attainability. There is an assumption that the proposed development will enhance attainable housing availability in the City of Dover. I question that assumption. Other than the ADU's which will be rent restricted, the remaining units will need to support the private road, the private bridging or causeway and culvert system that will go through the wetlands and an expansive stormwater system (one of the knock-on effects of higher density housing is the need for expanded parking areas which add more impervious surface area and complicate stormwater management). All of this infrastructure will need to be maintained and repaired and appropriate reserves will need to be established for future replacement. Other costs will include a private management company to administer the association, a private trash service, landscaping costs which will necessarily include lawnmowing, snowplowing, sanding, salting and street sweeping and insurance for the private road and common and open space areas. The liability insurance costs for our HOA have increased markedly over the last couple of years and we are not responsible for a private road and bridge. We did cost out some of these expenses a couple of years ago before Emerald Lane was accepted as a city street and our Board was shocked at the costs associated with these functions. The bottom line is that when all of these costs are added to real property taxes and mortgage payments these units will not be affordable or attainable.

Even the ADU's will present affordability issues since unlike a traditional TDR project where multi family units are located in or near the transportation hub located downtown, this project due to its rural nature will be entirely automobile dependent. Every occupant of an ADU will require an operable motor vehicle. Again, less affordable than an ADU located in or near downtown where there is easy access to public transportation.

4. Wildlife Habitat. As noted in the letter to the Planning Board dated May 23, 2024 from 15 of our neighbors on Tolend Road, the development parcel has been "designated as a Prioritized Habitat Block for protection against development, as it provides vitally important habitat as

well as connectivity to hundreds of acres on adjoining properties through its broader NH Wildlife Corridor”

Our HOA’s Open Space land is part of this corridor which runs from French Cross Road and the reservoir area to the west and then through our Open Space land and the Ambrose Woods development parcel and then into multiple conservation easement protected parcels to the east and south. The proposed high density TDR development with its connecting road will sever this corridor and separate the conservation easement protected parcels to the south and east from our Open Space land and the reservoir areas to the west. In many ways it will nullify the prior conservation efforts of numerous landowners in the area and will have a direct negative impact on Dover’s natural resources.

5. The TDR Process is Discretionary. The Transfer of Development Rights Ordinance at Section 170-27.2.C provides that the overlay provisions of the TDR district may apply at the discretion of the PLANNING BOARD. The provision reads as follows:

C. Applicability. Upon request by an APPLICANT for development approval and at the discretion of the PLANNING BOARD, the provisions of this subsection may apply to the district(s) defined in subsection E below. (*emphasis added*)

The discretionary nature of the TDR process is amplified in the Department of Planning and Community Development’s summary page from November 2022 which is published online on the City of Dover’s website. Under a section entitled Facts About Dover’s TDR Policy, the first bullet point reads “ The TDR process is a discretionary process and the Planning Board is not obligated to sell units.”

6. Conclusion and Recommendations. For the reasons cited above, the Ambrose parcel is particularly ill suited for the TDR process and I urge the members of the Planning Board to vote NO on this proposal. It is within your discretion to do so; you are not in any way obligated to sell units and add density to the R-40 zone that otherwise applies to this parcel.

Please send a message to this developer that he needs to go back to the drawing board and come up with a plan that complies with the existing R-40 zoning regulations. A plan which will be compatible with the land uses on neighboring lots, a plan that will not run a road through a sensitive wetlands area, a plan that will not create dangerous conditions for the children in our neighborhood, and a plan that will not destroy perhaps the most important wildlife habitat zone in the City of Dover.

Thank you very much for your time and consideration.

Respectfully,


Lee Lapierre