

City of Dover Conservation Commission
Minutes for January 9, 2006 Meeting;
5:30 pm, City Hall Auditorium

Commission Members Present: Tom Fargo, Chair; Marcia Colbath, Vice Chair; Alban Lobdell; Ed Millman;
Members Absent: Bill McCann, Secretary; Susan Eisler
Also Present: Dean Peschel, Dover Environmental Program Manager

1. Approval of minutes from September 12, 2005 meeting.
Chairman Fargo stated that he still had some work to complete on the September minutes. He stated that, consistent with Commission's approval at the December meeting, he would e-mail the draft minutes to members in the next day and he would include a date to have comments back. Upon receiving and incorporating comments, he would forward the final September minutes to the City Clerk for posting.
Al Lobdell made a motion to approve this course of action, Ed Millman seconded, the motion was approved.
 2. Approval of minutes from October 3, 2005 meeting.
Commission members noted several minor corrections to the minutes.
Marcia Colbath made a motion to approve as amended, Ed Millman seconded, the motion was approved.
 3. Approval of minutes from November 7, 2005 meeting.
Commission members noted several minor corrections to the minutes.
Marcia Colbath made a motion to approve as amended, Al Lobdell seconded, the motion was approved.
- Ed Millman noted that the minutes from the November 17th Special Meeting had not yet been approved. After a brief discussion about the meeting;
Ed Millman made a motion to approve the minutes from the November 17, 2005 meeting, Marcia Colbath seconded, the motion was approved.
4. Approval of minutes from December 6, 2005 meeting.
Commission members noted no corrections to the minutes.
Marcia Colbath made a motion to approve as presented, Al Lobdell seconded, the motion was approved.
 5. RE: Tax Map E, Lots 49, 50, 51, and 52A; Consideration of an application by The Nye Heirs, 62 Upper Factory Road, Dover, for an environmental review as per Zoning Chapter 170-27 C2 for a City of Dover Conditional Use Permit to impact areas with slope greater than 20% for the construction of eleven single-family homes at the subject parcels.

Discussion:

Barry Gier and Doug LaRosa, of Tritech Engineering were present to give an overview of the project known as Pacific Landing. The proposal is to construct two new cul-de-sac roads off the existing Upper Factory Road. To the west will be the private Pacific Drive that will service six single-family homes in a Open Space Subdivision. To the east, the public Nye Lane is proposed to service five separate approximate one-acre lots. No direct impact to wetlands is proposed. The homes will have individual septic systems and water-supply wells. The project will impact approximately 1,700 square feet of Conservation District that is associated with slopes greater than 20%. The project also proposes to construct a common driveway (to units #5 &6 off Pacific Drive) that would have to impact either the 50-ft. side boundary buffer along property of Brian Stern, to the west, or the 50-foot setback from wetlands. The total distance between the westerly side boundary and the wetland is 108 feet, which leaves only eight feet for the driveway outside of the two 50-foot setbacks. The common driveway would need to impact approximately 8 to 10 feet of either the side setback buffer of the wetlands setback.

Ed Millman asked what would be the total square feet of buffer encroachment for the driveway? The answer was not definitive. Chairman Fargo stated that he had attended the Technical Review Committee (TRC) meeting regarding the Pacific Landing project the previous Thursday (January 5th). Fargo stated that there were several engineering related concerns that the applicant is working to resolve. These include the Nye Lane's cul-de-sac length and grading. Fargo stated that he had concerns about protection of the shoreland buffer area (areas within 100-feet of the river, potential public access to the river west of Upper Factory Road, and delineation of individual landscaping areas around the six

homes in the Open Space Subdivision portion of the project. Fargo expressed concern about landscaping around homes in the delineated Conservation District (>20% slope areas). Fargo stated that he felt the Commission's review might be premature, as many of these issues are still being addressed in response to the TRC's review and changes may be made to the plan.

Regarding the shared driveway and the setback issues, Dean Peschel advised that the Commission should not feel compelled to endorse the Conditional Use Permit just because the applicant requests it. He stated that the development proposal does not represent the only configuration that could be built. Fargo responded that the same issue was discussed at TRC, and the applicant responded that their desire is to provide three high-value home sites near the river. Fargo said that the applicant's reluctance to provide public access along the river west of Upper Factory Road is based on privacy issues associated with these three home sites. It was suggested that Brian Stern would likely oppose the relaxation of the 50-foot OSS setback along the western site boundary, thus resulting in competing interests of boundary buffer encroachment versus wetland setback encroachment for the shared driveway. Chairman Fargo stated that he felt the Commission should review the Conservation District and buffer setback issues on site.

Ed Millman made a motion to table the Commission's review until a site walk is completed; Al Lobdell seconded; the motion was approved.

A site walk was scheduled for Saturday, January 14, 2006 and 9:00 AM. The Commission met on Upper Factory Road. Issues identified during the site walk are attached to these minutes.

6. Consideration of making a recommendation to the NHDOT regarding prioritizing selected wetlands mitigation parcels associated with the Newington-Dover (Little Bay Bridges) Project (NHDOT Project # 11238).

Discussion:

Chairman Fargo explained that the NHDOT is preparing a Draft Environmental Impact Statement for upgrading the Spaulding Turnpike- Little Bay Bridges and associated transportation system improvements between Gosling Road and the Dover Toll Plaza. The project will impact approximately 6.5 acres of wetland in Dover. The NHDOT and engineering consultants VHB have prepared a wetland mitigation plan that calls for the protection of approximately 65 acres of land in Dover comprised of both wetland and upland, per NHDES mitigation requirements. The initial mitigation plan included land in the Blackwater Brook watershed in northwest Dover and possibly additional land adjacent to the Bellamy Wildlife Management Area. The Dover City Council endorsed the initial mitigation plan as part of their resolution regarding the project on November 9th.

Chairman Fargo then introduced Kevin McEneaney, President of the Strafford Rivers Conservancy (SRC), to describe recent developments regarding the mitigation plan. Mr. McEneaney described how SRC and the City have entered into purchase and sales agreements with Mr. Tuttle to purchase a conservation easement on all but approximately five acres of the Tuttle Farm. Mr. McEneaney stated that he was approached by the NHDOT regarding the possibility of using a portion of the Newington-Dover wetlands mitigation funds to assist with SRC's Tuttle Farm project. Mr. McEneaney explained how this would be advantageous for both SRC and NHDOT.

Chairman Fargo stated that Planning Staff had requested input from both the Open Lands Committee and the Conservation Commission regarding our endorsement of the plan to use NHDOT mitigation funds for the Tuttle Farm project, and also our preferences for prioritizing the Tuttle Farm project relative to the previously endorsed Blackwater Brook area mitigation plan. Fargo stated that the OLC had placed the Tuttle Farm project as its highest priority for NHDOT mitigation funds at its January 5, 2006 meeting.

Ed Millman stated that if NHDOT funds were used for the Tuttle Farm project, then there would be less outside funds available for lands in the Blackwater Brook area. Discussion ensued regarding the relative natural resource values of the Tuttle Farm and Blackwater Brook areas. Also discussed was the potential to complete the land protection transactions. Marcia Colbath stated that the Tuttle project was more certain to be completed, there are no purchase and sales agreements on the horizon in the Blackwater Brook area.

Ed Millman made a motion to inform the Planning Department that the Commission considers the Tuttle Farm as its highest priority, however we would like to see any surplus NHDOT mitigation funds applied to protecting

land the Blackwater Brook area. The motion was seconded by Al Lobdell and passed unanimously.

7. Vote on adoption of proposed changes to Commission By-Laws.

Discussion:

Chairman Fargo briefly described the changes proposed at the December 6, 2005 meeting and the By-Law requirement to propose changes at one meeting and accept those changes at the subsequent meeting.

Ed Millman made a motion to adopt the changes to the Commission's By-Laws, seconded by Marcia Colbath, the motion passed unanimously.

8. Election officers for 2006.

Discussion:

There was a discussion regarding several individual's willingness to serve. Chairman Fargo stated that at issue is the City Council's Appointments Committee's pending action on the membership status of existing and potential members. It was decided to postpone formal elections until the Appointments Committee completes its work.

9. Old Business

- Informational presentation and discussion regarding possible amendments to Conservation Easement of Steve & Corrine Vermette (Map A, Lots 36, 36-12, and 36-10)

Discussion:

Chairman Fargo gave a brief update regarding the Commission's previous action on approving proposed changes to the existing Conservation Easement. He introduced Kevin McEaney and James Schulte, surveyor and attorney for Steve & Corrine Vermette, who described the couple's plans to acquire additional land abutting the subject parcel. The plan is to modify the easement agreement to allow access to a new subdivided parcel from the existing cell tower right-of-way. In consideration for this easement change, the Vermette's propose to place additional land on the recently acquired adjoining parcel to the easement area.

Ed Millman made a motion to endorse the proposed changes to the conservation easement, seconded by Marcia Colbath, the motion passed unanimously.

- Update on the Commission's efforts to make recommendations regarding:
 - Revisions to the City's wetlands buffer regulations.

Discussion:

Doug La Rosa, who was present for another application, stated that he was interested in the Commission's activities aimed at revising the wetlands setback restrictions. He stated that he was opposed to making the setbacks more restrictive. Chairman Fargo stated that he didn't anticipate formulating recommendations until after the Commission has an opportunity to more fully evaluate the issues. To that end, Fargo passed out copies of a guidance document prepared by the Audubon Society (Chase et al, "*Buffers for Wetlands and Surface Waters, A Guidebook for New Hampshire Municipalities*", revised edition, May 1997).

Fargo stated that based on his review, scientific literature usually assesses wetland buffers for either wildlife habitat or water quality protection values. Fargo stated that it is his opinion that the Commission should direct their recommendations toward the water quality protection aspects, as they have more bearing on health and general welfare of the public. This is consistent with the goal of land-use zoning principles, the framework of the City's wetlands protection regulations.

10. Adjournment:

Ed Millman made a motion to adjourn, seconded by Al Lobdell, the motion passed unanimously.

To: Conservation Commission & Associates
From: Tom Fargo, Chairman
Date: January 17, 2006

On Saturday, January 14th, the Dover Conservation Commission conducted a site review with representatives of Trittech Engineering and developer Mike Whitcher. The following is a list of follow-up items identified during the site review:

1. The Commission was informed that homes will be serviced by on-site septic and wells, not municipal water as mistakenly noted in the draft minutes from the January 9th meeting.

To do: The applicant is requested to depict on the site plans, the proposed locations for on-site septic facilities and wells with protective radii.

2. The Commission is concerned about preservation of the forested buffer along the Cochecho River, particularly in the area of proposed units #5 and #6 off Pacific Lane. Attendees discussed options for buffer preservation in accord with the State's Shoreland and City's Conservation District, such as developing a forest management plan as was done at Captain's Landing and Mallard Drive. It was decided that adequate buffer protection could be accomplished through protective covenants incorporated in the Homeowners Association documents.

To do: The applicant is requested to depict on the site plans a potential development/landscaping envelope around building sites, incorporate buffer preservation language in the open space documents, and evaluate the possibility of moving unit #6 more than 100-feet from the reference line.

3. The Commission would like to promote the eventual development of a public access trail west of (up-river from) the Upper Factory Road right-of-way to the river. The trail may eventually reach Watson Road across existing rights-of-way and similar agreements under consideration with others.

To do: The applicant is requested to review the public access trail agreement executed between the City and the developer of the Waldron Falls project (SCRD Book 3308, Page 507 - 517). The Commission would like to see a 50-foot wide trail access agreement incorporated into the Open Space Subdivision recreational plan.

4. Under the Conservation District Zoning Ordinance 170-27 C (2), the Commission is obligated to provide "a written review of the environmental effects of the proposed use" upon the areas delineated with slopes 20%. At issue is the preparation and execution of a soil erosion and sediment runoff control plan. The Commission is concerned about the management of soils during construction of both the roads and the homes. The applicant states that total disturbed area is less than the one acre trigger for a EPA Notice of Intent and the 50,000 square foot trigger for development "partially or wholly within the protected shoreland" area (within 250 feet of the river, see RSA 483-B:9 V c 3). The applicant stated that this determination is based on treating the project as two separate projects because they lie on separate lots.

To do: The applicant is requested to depict on the site plan a silt fence line that circumscribes all potentially disturbed areas and then calculate the total potentially disturbed area. The applicant is requested to re-check the regulatory requirements for filing an EPA Notice of Intent and a NHDES Site Specific permit application with regard to the validity of treating both halves of the Pacific Landing project as separate even though they are contiguous and approval is sought concurrently from the City of Dover Planning Board. (See Env Wt. 303.02 (m)). This determination is important to determining compliance with state and federal regulations, including the appropriateness of Natural Heritage Inventory and Archeological Resource assessments.

5. While walking the western boundary near the proposed common driveway for units #5 and #6, an area of potential wetland was noted on land of Brian Stern.

To do: The applicant is requested to delineate any potential wetlands on land of Brian Stern and determine if a 50-ft wetland setback coincides with the 50-ft OSS boundary setback.