

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

Commission Members Present: Tom Fargo, Chair; Marcia Colbath, Vice Chair; Alban Lobdell; Ed Millman; Aimee Colbath; Bill McCann

Members Absent: Britt Schumann, Secretary. Susan Eisler

Also Present: Dean Peschel, Dover Environmental Program Manager and Staff Liaison

Public Hearing

The public hearing was conducted in accordance with RSA 36-A:5. The purpose of the public hearing was to receive public input on the proposal to expend public funds from the Conservation Fund to purchase a conservation easement on the 14.6 acre portion of a parcel of land owned by Brian T. Stern, located at 201 Tolend Road. The parcel is known as Map E, Lot 47 on the Dover town tax maps. The entire parcel is composed of 47.8 acres. However, the intent is to purchase an easement for only 14.6 acres of the property.

Chairman Fargo opened the Public Hearing at 5:32 PM. Chairman Fargo explained the process for the public hearing and the approval of the expenditure, including City Council approval. Brian Stern was present, and offered to answer any questions the committee or public may have about the land.

Irv Barton of 232 Tolend Road asked about the extent of public use that the conservation easement would allow. Brian Stern responded that there will be a public access trail coming in off of the adjacent Willows conservation area, that would allow access to the trail already present on his property. Chairman Fargo elaborated that in the future the Commission would like to see public access trail extend from Watson Road with continuous access to Old Factory Road. Irv Barton also inquired about the type of public access that would be available. Brian Stern explained the trail would be for foot traffic only.

Noting no further questions, Chairman Fargo closed the public hearing at 5:47 PM.

Regular Meeting

1. Approval of Minutes from March 6, 2006 meeting.
Due to the extensive nature of the March 6, 2006 minutes, Chairman Fargo suggested the Committee members read over the minutes at their leisure and inform him of any changes in the next couple of days.

Marcia Colbath made a motion to approve the minutes with the above stipulation, Bill McCann seconded. The vote was unanimous with Bill McCann abstaining as he was absent from the March 6, 2006 meeting.

2. Considering a request for the expenditure of \$236,250 from the Conservation Fund to purchase a conservation easement on 14.6 acres discussed during the above referenced public hearing.

Discussion:

Chairman Fargo provided maps of the Stern property and explained the "Horne Brook Privilege", a portion of land present within the Stern property that is owned by the State of New Hampshire. The Commission discussed the importance of the access to this land, in order to allow for the continuous

public access trail. Chairman Fargo introduced Anna Boudreau, member of the Open Lands Committee (OLC) and Strafford Rivers Conservancy. Anna explained that the OLC had already recommended approval of the purchase of the conservation easement on the Stern property. She explained that the OLC had conducted a site walk of the property last year. The property in the OLC's opinion contains an existing trail, a valuable riparian zone, and a good variety of habitat. She also explained that Brian Stern accepted a negotiated 25% discount on the appraisal value. In addition, Anna brought to the attention of the committee that OLC already monitors the Willows easement which lies adjacent to Brian Stern's property.

Ed Millman asked how the purchase price was determined. Anna answered by appraisal. Tom also noted that the City Assessor's Office completed a review of the appraisal. Marcia Colbath highlighted that the funds would not come from bonded (borrowed) money, but would come from the Conservation Fund based on Current Use Change penalties paid by developers. Ed Millman asked if there will be other open space included in the conservation easement. Brian Stern noted that there is an open space subdivision on the remaining portion of the former lot. This area would be protected by its own easement restrictions or covenants. Ed also asked about public access trail agreement. Brian Stern noted that not all conservation easements have public access, and in this case he only agreed to public access along the river. Anna noted that the access to the Stern easement would be through and along the existing trail.

Al Lobdel inquired about what the Conservation Commission believes is the future thinking for the portion shown on the map with no trail. Chairman Fargo said the portion is owned by a private resident who is not at this time interested in granting access. Marcia Colbath asked how much space was actually part of the gap in the trail. Chairman Fargo answered he thought it was only approximately 30 feet.

Bill McCann moved to authorize a request for the expenditure of \$236,250 from the Conservation Fund to purchase a conservation easement on 14.6 acres owned by Brian Stern. Chairman Fargo added that the cost associated with closing should be included. Bill McCann revised the motion. Al seconded the motion. The vote was unanimous, with Marcia abstaining because she was involved in negotiating the purchase as OLC Chair.

3. Re: Tax Map 20, Lot 96; Consideration of an application by Northern Utilities Natural Gas (for the Dover Housing Authority) for an environmental review as per Zoning Chapter 170-27 C(1) and (2) for a City of Dover Conditional Use Permit to install a 2-inch gas line along Niles and Union Streets. A portion of the work area is within the Conservation District (50 – feet) of Cricket Brook.

Discussion:

Dave Boyer and Phil Johnson, representing Northern Utilities, were present to describe the project. Chairman Fargo stated that there is lack of clarity as to whether Northern Utilities actually needs a Conditional Use Permit because the project is for a City entity, the Dover Housing Authority. Fargo suggested that the applicant confirm with the Codes Enforcement Officer, Tom Clark.

The proposed pipeline would run along Nile Street, cross Cricket Brook, and run up to the Dover Housing Authority facilities off South Union Street. No wetlands would be disturbed. Dave Boyer and Phil Johnson explained that there would be no excavation through the creek, instead the gas line would be placed on top of the existing culvert. Chairman Fargo asked if enough depth would be available on top of the culvert. Northern Utilities believes the depth to be adequate to cover the pipe being used. Chairman Fargo noted that the applicant may also need to submit a soil erosion and sediment run-off prevention plan to the Planning Board, per Zoning Chapter 170-27 C(1) and (2).

Ed Millman moved to endorse the application for a Conditional Use Permit for Northern Utilities to place the pipeline on top of the culvert as proposed; Bill McCann seconded; the motion passed unanimously.

4. RE: Tax Map D, Lot 18; Consideration of an application by Northeast Federal Credit Union (for Bowden Dover Hospitality, LLC) for a preliminary environmental review as per Zoning Chapter 170-27.1 G (1) for a City of Dover Conditional Use Permit to impact approximately 11,500 square feet of the Dover's 50-foot wetland setback area to construct a hotel and restaurant complex adjacent to Northeast Credit Union on Indian Brook Drive. The proposed development is also located within a City of Dover Secondary Groundwater Protection District (Zoning Chapter 170-28.3) and proposes more than 20% lot coverage with impermeable surface.

Discussion:

Richard Ladd and Robert J. Monihan, representing the Northeast Federal Credit Union for Bowden Dover Hospitality, LLC., described the proposed project. Mr. Ladd provided maps of the proposed site and explained that a driveway new lane would be added to the existing two lanes that provided access to the Credit Union from Member's Way. On the proposed site, Mr. Ladd explained, is a 100 room Residence Inn (3-4 floors), and a 7,000 sq. ft. Margarita's restaurant. The site would include 206 new parking spaces. Mr. Ladd noted the side slopes for the parking lot will encroach on the 50-foot wetlands set back zone. However, he also noted that no wetlands would be directly impacted.

Chairman Fargo highlighted a few issues with the project. First, although previously some encroachment has been allowed on the 50 foot buffer, in this case the proposed Margaritas Restaurant is within the 50 foot setback area. Chairman Fargo also pointed out the project is also within the Secondary Groundwater Protection Zone of the Smith and Cummings wells. Not shown on the plans reviewed by the Commission is the portion of land that may be required to be conserved in compensation for wetland setback encroachments. Mr. Ladd replied that the proposed subdivision attaches 2 acres to the current 5 acres conserved (to North). Marcia Colbath pointed out that the proposed conservation land is wetlands and therefore can not be built on anyway.

Marcia Colbath inquired on the value of protecting the land in this area. Chairman Fargo answered that this particular wetland may be a recharging area for the previously mentioned water supply wells. He then asked what type of storm water management system is proposed.

Robert Monihan outlined the plans to recharge most, if not all the stormwater runoff the groundwater. Mr. Monihan said that the ground water has been tested. He notes that filling will be over the seasonal water table, so it will be possible to create stormwater infiltration/groundwater recharge system (as they must be kept 4 feet above seasonal water table for ground water recharge). Mr. Monihan said the company plans on using catch basins to pipes under only in the North and East parking lot.

Aimee Colbath, referencing the map, asked where the slope that encroaches on the buffer zone actually begins. Mr. Ladd pointed out that it begins right on the edge between the buffer zone and wetlands in some places (bordering right on the wetlands). Chairman Fargo pointed out that a site specific permit will be required from the state and a soil erosion and sediment runoff control plan would be part of that permit.

Bill McCann asked if this project will be going to the TRC. Chairman Fargo added that there are no sketches for where the loading dock or dumpster will be. Therefore, there may be problems with the Technical Review Committee. Marcia Colbath also added that the Fire Department may have problems with the slopes. In addition, Marcia mentioned there may be landscaping requirements, and

building height restrictions. Al Lobdell suggested that maybe Bowden Dover Hospitality, LLC should consider making the building smaller. Chairman Fargo also suggested that the roof drains be kept separate from the parking lot drains.

Al Lobdel inquired as to the nature of the slope shown. Richard Ladd responded 3:1. Marcia Colbath pointed out that the Margaritas is sitting on the property line. In response, Chairman Fargo mentioned that a variance will likely be needed.

In summary, Chairman Fargo noted that the previous discussion gives the applicants things to think about. He noted that the Margaritas being within the 50 ft set-back zone is a big issue – possibly mitigated by preservation of other portions of the lot. The other major issue is the stormwater infiltration system. Al Lobdel responded that the value of mitigation in area of wetlands that can not be built on is unclear.

Dean Peschel informed the Commission that the Transfer of Development Rights (TDR) was originally applied to this area, because the city wanted to see commercial and industrial development, but also wanted wetlands protection. Also, when the TDR was created, there was no buffer zone requirement. In reaction to Dean's comment, Ed questioned whether the great value of this wetland makes the buffer more important.

No motion was made as this item was for information and discussion only.

5. New Business

- Berry Brook Watershed Management Plan Project Meeting June 19th, 6:00 PM, Horne Street School

Dean gave some history of the Berry Brook watershed. Highlighting that Berry Brook has poor water quality near 6th street and that many people in this area were impacted by recent flooding. He explained that on June 19th there would be a watershed management plan meeting. This meeting will be used to work with neighbors on some of the problem areas. He also noted that UNH Stormwater Research Center expertise and the Pet Waste Project would be incorporated into the meeting.

- USGS & NHDES Coastal Program Presentation on the "Effects of Urbanization on Stream Quality at Selected Sites in the Seacoast Region of NH, 2001-2003", at the Hugh Gregg (Sandy Point) Conservation Center, Stratham, June 21st, 5 to 8 PM.

It was noted that this meeting includes information on the Berry Brook watershed.

- Select date for July meeting and possible June workshop.

The next meeting was selected as July 10th due to July 4th holiday.

Finally the Commission was reminded of the Groundbreaking at Liberty Mutual on Friday June 16th.

6. Adjournment

The meeting was adjourned at 7:48 PM by unanimous consent.