

City of Dover Conservation Commission

Minutes of the Monday, October 2, 2006 Meeting;

5:30 pm, City Hall, Council Conference Room

Commission Members In Attendance: Tom Fargo, Chair; Marcia Colbath, Vice Chair; Britt Schuman, Secretary; Alban Lobdell; Ed Millman; Bill McCann

Note: The September 11, 2006 Commission meeting was not held due to lack of quorum.

1. Approval of minutes from August 7, 2006 meeting.
Marcia Colbath moved to accept the minutes, Bill McCann seconded, the motion was approved unanimously.
2. RE: Tax Map A, Lot 28, Considering an application by Long Hill Realty Investments, LLC. (owner Vivian Tsimekles Revocable Trust) for an environmental review for a City of Dover Conditional Use Permit for proposed wetlands setback impacts associated with the construction of a private street for a 23-unit open space residential subdivision near the intersection of Sixth Street and Long Hill Road. The proposed development plan has no direct wetlands impacts and includes 93 acres of protected open space.

Discussion:

The majority of the Commission participated in a site walk of the applicant's project on September 19, 2006 along with the Planning Board. There was a brief discussion of the Commission's and Open Lands Committee's willingness and desire to accept the conservation easement and associated stewardship responsibilities for the protected land along Blackwater Brook. The Commission agreed that the open space within the development area (where drainage easements and external boundary setbacks are located) should not be included in the conservation easement area, but remain the sole responsibility of the Homeowners Association..

Mike Garrepy represented the applicant further discussing the wetlands buffer impacts. The site involves 1100 linear feet of road and 22 lots. There are 5 impact points to wetland buffer areas that require a conditional use permit. The points involve approximately 3,500 sq. ft. for a detention pond, 4,200 sq ft for a right of way, 6,100 sq. ft. for the detention pond grading, 400 sq. ft. for cul-de-sac grading and per the City Planner's request, 860 sq. ft. of grading on lot 6 of the plan. This amounts to approximately 15,050 sq. ft. of buffer impact.

Chairman Fargo stated he had requested the applicant to include a graphic representation of the setback areas on the site plan. The current plans include delineations of these areas. Mark West, the wetlands scientist for this project, stated the majority of the wetlands in the project site are of low functional value. They are primarily old farm swales. Marcia Colbath referenced a comment made on the site walk that the detention areas would be fairly dry. Mark stated this was correct as it will be a dry bottom drainage area. Chairman Fargo asked about the possibility of creating a wetlands area to help enhance the treatment aspects of the drainage area. Mark stated that the issue of wetlands mitigation versus the creation of breeding areas for mosquitoes could create some problems for future residents. For this particular project their focus is on the conservation easement, rather than the creation of wetlands. The conversation continued touching on possibly of relocation and/or modification of the detention basin at the back of lots 4 & 5. The applicant showed that such modification wasn't possible due to the amount of buildable area needed on the lots. Also discussed was the use of a subsurface system. This was also rejected.

Per Chairman Fargo's request at the August 10, 2006 TRC review, Mr. West provided a report of an investigation to determine if the site contained any rare, threatened, or endangered species, or exemplary natural communities listed in the State's Natural Heritage Inventory. There were no NHI listings found on

the development portion of the site.

Chairman Fargo made a motion to endorse the application by Long Hill Realty Investments, LLC for a City of Dover Conditional Use Permit for proposed wetlands setback impacts associated with the construction of a private street for a 23-unit open space residential subdivision near the intersection of Sixth Street and Long Hill Road, with the following recommendations and acknowledgements:

- 1. The applicant should investigate enhancements that may provide better treatment and habitat protection to the drainage and detention areas, particularly at the back of the proposed lots 4 and 5.**
- 2. The Commission recognizes that approximately 90 acres along Blackwater Brook will be placed under a protective conservation easement that the Commission and Open Lands Committee are eager to hold.**
- 3. The Commission recommends that a notation be made on the Homeowner Association's covenants that routine (annual) inspection and maintenance of the detention ponds will be the responsibility of the homeowners association.**

Ed moved to approve as stated by the Chairman, Bill seconded, all voted in favor.

3. RE: Tax Map H, Lot 8B, Considering an application by Paul and Karen O'Brien, 81 Durham Road, Dover, for an Expedited Minimum Impact NHDES Dredge and Fill Permit, and a City of Dover Conditional Use Permit, to fill 395 square feet of wetlands for the construction of a driveway and utilities for single family home located on an existing building lot located at 75(?) Durham Road.

Discussion:

Lenny Lord, the applicant's wetlands scientist, stated that the impact involved a small crossing of wetlands by a new road to access a home to be built on the property. The impacted area currently has a sewer stub that already disturbed the wetlands when it was installed. The total area of the wetlands on the site is approximately one-quarter of an acre.

Chairman Fargo stated that this is a lot of record and therefore it does not need to meet the Conditional Use Permit requirements for the wetlands setback-buffer impact. The house is outside the buffer area, the driveway is not. Mr. Lord stated that the applicant may desire to locate the house footprint so that its setback from Durham Road is the same as the abutting property. Fargo stated that his interpretation of the regulations is that this configuration would not need Commission input because the parcel is a lot of record. Fargo recommended that the applicant confirm this with the Building Inspector.

Chairman Fargo stated that he would entertain a motion to endorse application for the NHDES Permit as submitted. Bill McCann moved and Ed Seconded. All voted in favor. Fargo signed the NHDES application.

4. RE: Tax Map 13, Lot 4, Considering an application by the Dover School District, for an Expedited Minimum Impact NHDES Dredge and Fill Permit to fill 2,900 square feet of wetlands for the construction of a new 24-space parking lot associated with renovations to and expansion of the Woodman Park Elementary School.

The applicant was not available. Chairman Fargo stated that he had suggested the applicant look closely at the necessity of the proposed impact. Some changes in the application are expected. Therefore, this application was not reviewed at the meeting.

5. RE: Tax Map K, Lot 20, Considering an application by Paolini Brothers Development, LLC., 54 Dover Point Road, for an environmental review for a City of Dover Conditional Use Permit to re-grade and existing drainage ditch (w/ slopes > 20%) to provide stormwater detention and erosion control at a proposed commercial development site at the subject address.

Discussion:

Mr. Paolini and Christopher Berry of Berry Engineering presented an overview of the application. Currently there is an existing culvert that crosses the Dover Point Road from St. Mary's cemetery and onto their site. The culvert drainage combine with on-site drainage has created an unstable ditch. The applicant would like to modify the ditch to allow for site development and also create a detention pond to manage increased runoff from the development. This proposed work requires a Conditional Use Permit for filling the current ditch where slopes exceed 20%. The proposed filling of the existing ditch would allow the to move the some parking to the rear of the proposed building. According to the applicant, the detention pond would include overflow systems to handle the water flowing from the cemetery culvert, as well as the water from the proposed parking lot.

Chairman Fargo visited the site with Mr. Paolini and also attended the Technical Review Committee meeting at which the project was reviewed by City staff. Fargo noted that the site development plan has evolved since the TRC meeting. He could also attest to the fact that no wetlands existed within the existing ditch and the site consists of mostly sandy soil with some white pines growing in the ditch. Extensive erosion has been occurring at the site. The reason for the application was the impact to the slopes of greater than 20 percent. Chairman Fargo feels that any improvement to slow down or stop the erosion is an improvement.

Chairman Fargo made a motion to endorse the application for a Conditional Use Permit. Bill seconded, all in favor.

6. RE: Tax Map 13, Lot 4, Considering an application by the Patricia Lewis, 17 Wentworth Terrace, for an Expedited Minimum Impact NHDES Dredge and Fill Permit to replace a deteriorated existing timber retaining wall within the tidal buffer zone of the Piscataqua River with a similar structure, at the subject address.

Discussion:

The applicant was not present, however the application was left with the Chairman. At the Chairman's urging, the Commission agreed to review the application. The Commission reviewed photos and diagrams of the proposed work that were included in the application. Fargo noted that the applicant's agent, Glen Normandeau, (of Pickering Marine) was advised by the NHDES Wetlands Bureau Inspector to submit the Minimum Impact Application and have it reviewed by the Commission. The permit is requested to allow the reconstruction of the deteriorated timber retaining wall with a pressure treated timber structure of the same dimensions. Fargo noted that the only improvement he might suggest would be to improve the plantings at the top of the new retaining wall. Marcia Colbath stated that she had no problem with the proposed reconstruction. Ed Millman asked if there was an issue with toxins leaching out of the pressure treated wood. Fargo remarked that studies suggest that was a minor problem with the older type of arsenic-treated wood, but he hadn't seen data regarding the newer non-arsenic types of wood preservatives.

Chairman Fargo made a motion to endorse the application for an Expedited Minimum Impact NHDES Dredge and Fill Permit. Bill seconded, all in favor. Fargo signed the application.

7. RE: Tax Map E, Lots 27, 27B & 27D, Considering an application for 171 Watson Road Holdings Corp (by T F Moran, Inc.) for an environmental review for a City of Dover Conditional Use Permit for proposed wetlands setback impacts associated with the construction of an 80-space parking lot for Measured Progress located off Education Way.

Chairman's Note: This is a revised plan for a project previously reviewed by the Commission at its July 2006 meeting. At that meeting, the Commission voted to **not** endorse the applications for a Conditional Use Application and the NHDES Dredge and Fill Permit for the following reasons:

1. Concerns related to the efficacy of the existing stormwater management system and its inability to accept additional discharges;
2. Poorly demonstrated need for the proposed wetlands impact. Other non-wetland areas are available and are designated as future parking areas in the overall multi-phase site development Master Plan;
3. Poorly demonstrated need for additional parking. From a planning perspective applicant is requesting double the amount of parking spaces specified in zoning requirements per square foot of office space. The applicant has not expressed a willingness to explore administrative measures to reduce parking demand such as ride share, subsidized bus or enhanced public transit service, staggered shift changes, or other mechanisms.

These recommendations were communicated to the Dover Planning Board on August 7, 2006 and the NHDES Site Specific Bureau relative to application #060725-02, and the NHDES Wetlands Bureau relative to application #2006-01772, on August 8, 2006 . The applicant subsequently met with the Planning Board where that board requested modifications of the plan.

Discussion:

Present to discuss the application were Robert Kmetz of Measured Progress and Jeffrey Kevan, of T.F. Moran, the project manager. Mr. Kevan provided background on previous plans and how they came to the current plan with no direct wetlands impact (previous proposal requested filling of 7,042 square feet of wetlands). The current proposal has only wetlands setback impacts.

Chairman Fargo stated he was pleased to see that the new plans do not involve direct wetlands impact, as the previous plan had. He did find the parking space count to still be high despite the reduction in spaces from previous proposed plans. He stated he still has concerns regarding the efficacy of the existing stormwater management system.

Mr. Kevan stated there will be a retention pond and there is a grass swale before the wetlands. This past spring, despite the heavy rain there were no problems with the pond. The site is not within the shoreline protection area, as none of the proposed new development is within 250 ft of the river.

Chairman Fargo noted that there appears to be no upgrades to the current stormwater management. Mr. Kevan stated that they intend to improve the system, as well as maintain and work on the current system.

There was further discussion about the applicant's need for additional parking and their desire to locate such parking near the office buildings. Fargo reminded the Commission that the Planning Board would be responsible for evaluating the parking needs and justifications for more impervious surface at the site. Fargo attempted to narrow the discussions to the environmental effects of the proposed construction of some of the parking areas within wetlands setback areas. Fargo noted that the Commission had endorsed such encroachments in the past in the ETP zone (reference Churchill Medical on Venture Drive). Mr. Kevan indicated that his main purpose for coming before the Commission again was to get feedback on the proposed new configuration for the expanded parking lot. Mr. Kevan indicated that additional details would be developed relative to stormwater management for the new parking area. He wanted to get the

Commission's buy-in to the proposed wetlands setback/buffer encroachment.

Chairman Fargo made a motion to endorse the concept of constructing portions of the expanded parking area and roadways within wetlands setback areas. Bill seconded, all in favor.

8. New Business

- Concerns of the Commission (Open Forum for Commission Members)

Marcia Colbath stated that she had observed what appears to be excavation and filling in wetland areas along Old Garrison Road, south of Spruce Lane. She stated that she was advised that some of this work was done with the knowledge and approval the Dover Community Services Department. Her stated concern was that the work might have been initiated without appropriate permits from the NHDES and perhaps the City Planning Board.

Bill McCann moved to authorize the Commission Chairman to investigate and take appropriate action to ensure that the construction work conforms with State of NH and City of Dover regulations.

9. Adjournment:

Meeting adjourned by unanimous consent at 7:40 PM.