

**DOVER PLANNING BOARD  
MINUTES OF MEETING  
MARCH 7, 2006**

**MEMBERS PRESENT:** Ron Cole, Donald Andolina, Anthony McManus, Dean Trefethen, Doug Steele, Marcia Colbath, John Swartzendruber, Frank Torr

**MEMBERS ABSENT:** Bryan Cahoon, Kirt Schoman, Ron Stock, Perry Plummer

**STAFF PRESENT:** Steven Stancel, Planning Director; Chris Parker, City Planner and Jacqueline Freeman, Recording Secretary.

Chairman Cole brought the meeting to order at 7:04 PM.

**ITEM #1: Citizens' Forum**

Karl Heller, 10 Dover Point Road, asked the Board to look around and see what is happening and to ask themselves why they took the positions they are in and what they are doing to help Dover. He asked them to drive down Dover Point Road and look at the 7 unit condo being built near a little ranch house. He said that there is barely room to park cars in the lot. It is a poster child of what shouldn't happen. He said that he is sure that everyone is here for the betterment of Dover but asked the Board to take a look at that mistake. He was concerned with the traffic on Dover Point Rd. and the headlines in Foster's this past week. He said that moratoriums are being looked at in neighboring cities while Dover is still trudging forward and building at will and for some reason hacking away at Dover Point Road. He said that it will be so congested that people will gladly pay the toll to bypass it. He said that he knows that it can't be stopped but asked that the Board slow it down.

Frank Torr suggested that Mr. Heller be notified that we are going to redo the Master Plan and he may want to volunteer.

Ron Cole stated that he will be establishing some community representatives and told Mr. Heller that he would be in touch with him.

**ITEM #2: Discussion and possible vote on proposed amendments to the Dover Zoning Ordinance to add an overlay district encouraging a mixture of residential units for older persons and commercial uses.**

Chris Parker handed out a packet that included a cover memo describing the changes within. He said that the amendment is looking to take some non-residential land and encourage economic development through the allowance of a component of residential homes that are geared toward affordable elderly housing. The amendment will encourage a self-sufficient community as well as a commercial project that would draw from the neighborhood as well regionally. If you were living in this mixed use district, you would

be encouraged to utilize the commercial amenities negating the necessity to drive all over town. There would be grocery stores and retail that could be accessed by the home owners. This amendment will encourage those types of uses to locate in the South end of town or off of Rt. 108. These projects were designed to be compatible with the surrounding zones. The density is consistent with the surrounding R-40 district. The mobile home density is one unit per 10,000 sq. ft. of contiguous upland. This also is consistent with what is allowed for the R-40 zone. If you were living on Middle Rd., Mast Rd., or portions of Littleworth Rd., all of which might be affected by this overlay district, you are in a district that currently allows exactly what is being proposed here. It doesn't allow any density bonuses and it is geared towards commercial development and the elderly residential is to encourage that, which there is a need for in this community, especially affordable residential. They tried to take all of those pieces and put them together.

Ron Cole asked Chris to explain why he used the term mobile home.

Chris Parker said that he used Mobile Home because that is what the City's code calls such housing. Although the preferred term is Manufactured Housing both by the vendors and by the people that live in them, the City's Code still refers to that style of housing as mobile homes. They do stipulate in the table of use regulations that the installation of mobile homes shall be contingent upon the Building Inspector's certification that the units comply with the Dept. of Housing and Urban Development Mobile Home standards and such unit shall be on masonry foundations. If you look at Site Review Regulations we are requiring that all mobile home units have a foundation, a full basement, garage, a peaked roof and have architectural shingles. The idea is to make them look like something that you want to live in. Chris Parker stated that there are three parcels that currently qualify for the overlay district.

Chris Parker said that the cover memo is essentially the same memo that the Board received last week. He listed the issues that the Council brought up and he put potential language change that might be considered to be part of the overlay district. The first one is the request that we clarify that there is a minimum requirement of 40% non-residential usage on the project. He added in the requirement for non-residential as follows: "Non-residential uses must exceed 40% of the original tract, residential uses must not exceed 40% of the original tract, and a minimum of 20% of the original tract shall be open space." The next item is a requirement of 50% upland which the Board had previously endorsed. There was a request that there be 100% upland if you chose to continue with that.

Chris Parker said that there was a desire to see the Site Review regulations accompanying the Zoning Regulations so they are on the same tract and would be approved contingent upon the passing of the Zoning Overlay by the Council. He added that there was a concern with restricting controls on the phasing. They did not alter phasing because he wanted to get some feedback and direction from the Board.

There was a discussion about more definitive language providing age restriction. By saying that it is elderly housing per definition of the State RSA, we are covering what we are intending to cover. There was concern about vehicle usage on the private roads specifically, the only City vehicle allowed on the premises would be for emergency. Chris Parker suggested, "Internal roads shall be private and no municipal services other than emergency services shall be provided."

There was a suggestion that we include site plan regulations within the Zoning Ordinance which was not added because the Planning Department felt that the site regulations should not be within the Zoning Ordinance. There was some concern about Conditional Use Permits so they added some language clarifying what areas of impact would need to be analyzed to demonstrate that there would be no detrimental affects on surrounding properties.

Section E. on page 3, added, Non-residential uses must exceed 40% of the tract, residential uses must not exceed 40% of the tract, and a minimum of 20% of the tract shall be open space. A minimum of 100% of the total open space land must be usable uplands and reasonably accessible to all property owners in the project.

Page 4. under E. 1. included a caveat "All Mobile Homes shall adhere to the standards outlined with Chapter 126 "Mobile Home Parks" unless noted below. Bottom of Page 4, F.1. Internal roads shall be private, and no municipal services other than emergency services shall be provided. Page 5. there was a request from a Planning Board member to enlarge the minimum bike/Segway/golf car path width from 5 feet to 10 feet. Under Dimensional Requirements under iv) Minimum setbacks (1) Front Yard Setback: 20 feet and (2) Distance between buildings: 24 feet.

Chris Parker went over the three maps included in the packet showing the parcels and the amounts of wetlands on the various parcels.

Dean Trefethen felt on page 3, the open space, was worded so a developer could chose to provide more than 20% open space and they would be required to provide all of that as uplands. He thought that wasn't our intent.

Chris Parker said that the way that it is written if you provide any – you have to provide at least 20% of the tract as open and all of that needs to be upland.

Dean Trefethen asked what if they provided 30%, would only 20% have to be upland.

Chris Parker said that it should all be uplands. It was not an acceptable level to only require 50% upland and that the open space should all be upland.

Dean Trefethen said that the reality is all of these parcels have wetlands on them. That wetland will be open space because you can't build in it. He said if all open space has to be uplands; it's an impossible criteria to meet.

Dean Trefethen said that he agrees that we need to have 20% open space that is uplands but if they want to provide more than 20% as open space it shouldn't have to be uplands. He thought that the 100% uplands needs to apply to the minimum 20% open space, which is a reasonable compromise and provides a significant more open space to be usable for passive recreation because it's not wetlands.

Chris Parker felt it could be worded as follows: Of the 20% open space, 100% must be upland and reasonably accessible to all property owners in the project. Above 20% open space may be usable uplands and wetlands.

Dean Trefethen thought that might be much clearer. He said in the same section if you take the wording literally on the mix of uses, he would recommend that we would have a higher percentage on commercial. He likes the wording that was used but non-residential uses must exceed 40% of the tract. He would reduce residential uses to 35% and then there is a 5% buffer in there for people to use for commercial or open space. It would not be available for residential uses but it is available for other uses. He felt that we are trying to foster commercial development in these zones and that should be the emphasis of the ordinance. With regard to phasing, it is a very contentious part of this ordinance and he believes that we need to do something that is fairly specific. He said for purposes of discussion, the commercial development must be 50 or 75% or whatever, but the commercial development must be 50% completed before the residential starts. Dean said that the developers are not going to like that but it is their choice to not do the development.

Tony McManus said that as he reads the ordinance, somebody could come in with 75% commercial and 5% residential under the way this is written. He disagrees with Dean, and doesn't think the purpose of this ordinance is to promote commercial development but to promote a mixed development. Otherwise, just rezone it commercial. The whole idea behind this was that the residential would be a necessary component of the project. Not only is the market there for older people but to provide the people who are living there the ability to go to these stores without having to drive someplace. If you are going to limit it to 20 houses and a major shopping center, then we've lost the purpose of the overlay. He thought that the original breakdown that we had was probably appropriate. Tony said when Atty. McNeill was here he spoke on how this project would be done by two separate developers, a housing developer and a commercial developer. If you leave it open to have 75% commercial, in effect, then it is a commercial development. The whole purpose of the overlay is that we create a situation where a single developer can come in and do a neighborhood project that people will live and shop in.

Marcia Colbath stated that she has a problem with putting residential in an industrial zone. It is just that one piece on Rt. 9. You are taking away an industrial zone, which we have very little of and putting in two non-conforming uses. She would like to see the industrial zone left out. She is totally for the other two parcels but she doesn't want to loose the I zone.

Tony McManus stated that it would make sense to allow a mixed commercial and residential use within the commercial zone. Instead of having a great big plaza with one-story buildings, which is a waste of space, he suggested allowing some residential units within that commercial area. People could live in the second or third story and make it a community.

Chris Parker said that is one of the reasons that they included multi-family dwellings as an allowed use. It was to encourage people to do ground floor retail with apartments above. The apartments would be considered a multi-family allowed use.

Tony McManus asked if the wording in the ordinance would allow that to be done.

Chris Parker stated that he felt that it did. Under the principal uses it says that you can have multi-family dwellings. Nowhere does it say that you have to be on the ground floor. He would be happy to incorporate any language that might be proposed. He felt that it could be added under Procedural Concepts or under Purpose and Intent.

Tony McManus stated that he has seen some of this type of development and this type makes for a better use of the land.

Chris Parker reminded the Board that if the developer chooses to do residential above, it will take away from the overall density count. Everyone would have to understand that because you are not adding to the footprint, it doesn't mean you are not taking away from the density allocation.

Donald Andolina asked about the distribution of 40% non-residential and 20% open space. To him it's an unmanageable approach. He doesn't like the provision that you had to have the entire commercial done before the residential. The phasing of 5 years to him is another thing that has to be addressed.

Chris Parker said that you have to look at the overall project. If it was 100 acre tract, 40 acres (40%) of that 100 acres would need to be the commercial component at minimum.

Donald Andolina said if you had a project of 100% and the first 40% is developed commercial, how would you manage the rest? Would you just keep it open for 5 years and if nothing happens would they then come in for another extension for 5 years.

Chris Parker said his impression would be that when a plan comes before the Planning Department, they would ask to see phase lines demonstrating what would be built when and how it would be built in that order.

Donald Andolina asked if this meant the 50% of non-commercial had to be completed before other construction. Also if the developer has to invest in more than 50 acres of land, he wouldn't know if he would want to get into this venture because the balance of the development may never occur because of economic conditions. He felt that it would be a downer for the developers and for the Board.

Chris Parker stated that originally, 50% of the non-residential had to be completed before the residential could begin. We heard from developers at a public hearing in November and December that was economically unfeasible. He agrees that if they don't like it they won't build but that's not our preview.

Ron Cole said that his focus has always been as Tony said that we are trying is build neighborhoods. If you want to build buildings that are going to be part of a neighborhood from a commercial aspect, without residential, they are not going to make any money and they will fail before the residential gets built. It's a real challenge.

Steve Stancel said they did initially require 50% of the non-residential be constructed first and then they heard from the developers and sat down at a table with them. After much discussion, they sort of compromised because the developers didn't want even the language that is in this paragraph in there because they were concerned about the subjectivity of the Planning Board. They were told that they have to at least allow the Planning Board, on a case by case basis, to be able to establish what those phase lines are. It might be when a specific project comes before the Board when a plan is worked out where they'll have so much commercial before so much residential. It also might be that they'll have so much residential done and the money from that residential goes to cleaning up the non-residential portion and they have to put all their utilities in so that the site is ready for any non-residential user to come along.

Steve Stancel said that the idea is the developers didn't want phase lines and there has to be phase lines in order for the Planning Board to buy this. He heard that the Council was looking for stronger phase language.

Dean Trefethen said that he agrees and he doesn't think that this ordinance would pass if there wasn't a strong statement in there saying that some non-commercial will be built before you build the commercial. He said that when he first made his original statement he didn't think about the aspect of second story residences and maybe the answer is you don't allow occupancy until the non-commercial is built. He does agree that the original intent is to create a village and he doesn't think that either of the proposals that we have seen create a village. They are both strip malls with residential behind them and that is not the intent of the original ordinance. He felt that we should be looking for something that would be a little more mixed and more of a "village" type situation. He said with regard to the Durham Rd. piece, about half of that land is already zoned commercial and could be exactly what they are proposing for their commercial element without the Board passing anything. They could just come in and make their proposal. It's a strange statement that we have to have the residential component of it in order to be able to afford the commercial. Every other town around us is building shopping centers till the cows come home without a single unit of housing in them. All of these developers are planning to make a bundle but, apparently, Dover is different, you have to have residential or you can't afford to put in commercial. It doesn't make sense when you look at the surrounding communities.

Tony McManus said that he thinks that the difference is that the other surrounding communities don't have this type of zoning that allows the mixed use. What we're offering them is the opportunity to make even more money because they will be making a profit on the commercial and the residential area. He felt there is a better guarantee of profit on residential units than there would be on the commercial. He has no problem with that once we decide on the concept. He understood them to say that for them the total amount of their profit is going to be based on how many residential units they will be able to get out of this.

Dean Trefethen said that we are trying to avoid spot zoning by trying to define where you can use this. He defers to Steve Stancel and Chris Parker to put language in there that states that if the land is zoned Industrial, it must abut a commercial or ETP zone, which would eliminate the Littleworth piece.

Chris Parker said his suggestion might be to change the language to say: "Any non-residentially zoned parcel that is greater than 50 acres and 500 feet from a State maintained road and abuts a B zone."

Tony McManus said that he doesn't have a problem with that being spot zoning because these are major sized parcels. We are rezoning but we are doing it with a planning concept that is different.

Ron Cole left the meeting at 8:00 PM.  
Tony McManus took over the meeting.

Chris Parker explained that the I-4 zone includes the gravel pits on Mast Rd. and on the back half of the Torr property. He said that's why he threw out the abutting a B zone because both lots abut a B zone.

Dean Trefethen said that would be fine with him if that accomplishes what we are trying to do.

Dean Trefethen said that on page 4, of the ordinance, at the bottom it says no municipal services other than emergency services shall be provided. He understands the intent is that we are not going to plow the roads or pick up the trash and things of that nature. What the wording here says is that the Police Department could not go in there and do a neighborhood watch program because that would be a municipal service and the Fire Department could not go in there and do safety projects. He said that we need to define what services we are not going to provide. We need to be able to have the Building Inspector drive through these projects. Certainly, we are not trying to eliminate all services.

Doug Steele said that is a good point. He said if they have a complaint about City water, the City would have to get in there to get water samples. He needs to think about it a bit.

Dean Trefethen said that almost every development that we approve these days has a type of retention pond that they have to maintain, and the City needs to inspect. Would that be under regulatory?

Dean Trefethen said whatever wording Chris felt was appropriate to accomplish what he was getting at would be fine. On page 5, he suggested under b) instead of saying maximum 20 ft., it's a very narrow road and non-residential of 30 feet, he felt that we should change both of those maximums to be minimums. Possibly change the feet on the non-residential to have a minimum of 28 which is our normal requirement and it could be larger as we need turning lanes, etc.

Dean Trefethen made the motion to refer this to a public hearing on the 28<sup>th</sup>.  
Doug Steele seconded

Donald Andolina stated that he doesn't see a reason to rush this. If there was a specific purpose for pushing this through he could go along with it. We want to come up with a zoning ordinance change that we can live with. He wanted to see it again as a finished product.

Frank Torr stated that there were two people who didn't want the Route 9 area in the amendment. He personally would like to see it remain and thought that it serves its purpose well. He said if you are narrowing it down to two areas, he's beginning to not go along with either area that is being proposed because he felt that it defeats all the purpose and it needs a broader perspective. He just wanted to bring out a point that he felt needed to be considered. Just because there are developers that have an interest in two of the areas doesn't mean that there isn't potential in the third area.

**VOTE 4 – 3          Opposed - Donald Andolina, John Swartzendruber, Frank Torr**

Steve Stancel said that the changes will be made based on discussions tonight and the Board will get a copy at the next meeting. This will, however, have to be posted before that next meeting. He wanted everyone to be aware that, based on discussions tonight, we are going to make changes. That is not to say that after the public hearing on the 28<sup>th</sup> those changes can't be made.

Dean Trefethen said that maybe there was some confusion.

Tony McManus said that the motion was to refer this to a public hearing on the 28<sup>th</sup>.

Marcia Colbath made the motion to retake that vote.

Donald Andolina

**VOTE U/A**

Tony McManus said that we are back to the original motion to refer this to a public hearing at the meeting of the 28<sup>th</sup> of March.

Tony McManus said that he was confused and didn't understand the problem. We need to refer this to a public hearing.

The vote was 6 - 1

Steve Stancel explained there is a 15 day notice period for posting. The Board will not be able to make changes at the next meeting because we would have had to post the changes based on comments this evening. After the 28<sup>th</sup> you can make changes. If they are significant changes then we'll have to do another public hearing but if they are minor revisions then we don't have to do another public hearing.

Steve Stancel stated that the other process that could be followed would be not to vote for a public hearing tonight and bring back the changes at the next meeting and then if you like them, you would vote to post the public hearing sometime in April. He said that as the Board pushes this down the road it will take another 45 days at the Council level.

Chris Parker said that on January 26 the Board unanimously supported this ordinance. He received feedback from Dean Trefethen tonight and asked if there were any other areas that should be looked at.

Donald Andolina felt that as of tonight, it's been discussed over and over and once the changes are made we have a finished product.

Steve Stancel stated that the only thing left in his mind is the Littleworth Road area. There is a consensus to take that out.

Chris Parker said that he will be adding in the location section on Page 2, C. Location will read Residential – Commercial Mixed use overlay District shall include any parcel located within a non-residential zone (as defined in 170-7), which abuts a B Zone and is greater than fifty (50) acres, and within 500 feet of a State maintained road. He added that this would exclude the Littleworth Road parcel.

Frank Torr asked if we could get a consensus on that Littleworth issue.

Tony asked for a show of hands and stated that it was a clear majority.

Frank Torr asked the Board to take a ride down Dover Point Road and look at what has happened there. He said that there was discussion this evening about putting residential in a B zone. That is a B zone and it sticks out like a sore thumb in its present setting. He said that he is sure that the setting is going to change but the single residential between the condominium and the office complex certainly doesn't fit in now. It may be an issue that we need to look at when we look at the master plan down the road.

Steve Stancel stated that he agrees with that and as we look at the Master Plan again it's the little things like that that we need to look at. The B-3 zone always allowed residential but it used to be that there were no minimum lot size required per unit, so you could put

in as many units as you wanted. The idea behind that was to foster a mixed use concept. Back a few years ago we rezoned B-3 to require at least 5,000 sq. ft. per unit in an effort to reduce the number of multifamily units in the B-3 zone. He said that this Board took some action a few years ago and we may need to take more action. These are things to think about as we redo the master plan.

Tony McManus stated that Ron Cole left a note stated that he would like to have a workshop on March 21, at 7:00 PM, to set up the committees that were outlined in the Planning Board goals and have the workshop for CDBG grant requests.

### **ITEM #3: Old Business**

**Tolend Road Properties, LLC, the 72 unit project off of Tolend Rd.** This Board gave the developer a 90 day extension back on December 14, 2005. The 90 days is up on March 12<sup>th</sup>, which is before our next meeting. He said that he is pleased to announce that it appears that the developer and the property owner have a verbal agreement and they are working tirelessly for a written agreement which they hope to have by March 14<sup>th</sup>. He suggested to them that he would ask tonight for the Board to give a 10 day extension. The developers would come back before the Board on the March 14<sup>th</sup> meeting to ask for a longer extension. They may need additional time to get their finances in order. Between today and next Tuesday night they would finalize their agreement and then next Tuesday we would vote on whether to give them a further extension. The idea for a 10 day extension would be to give them a few more days to pull their act together.

Donald Andolina asked if they are they going to still pursue the sewer line that is coming in from Cambridge Tool or would they use septic.

Steve Stancel stated that this project would utilize the sewer line and extend it. We are still talking to the developer of Cotswold that was just approved under septic if they would be able to utilize the sewer. It boils down to a timing issue which is one reason that we may or may not want to give a full 90 day extension next week.

Frank Torr made the motion to grant Tolend Road Properties a 15 day extension until March 22<sup>nd</sup>.

Donald Andolina seconded.

**VOTE U/A**

### **ITEM #3: New Business**

### **ITEM #4: Adjournment**

Frank Torr made the motion to adjourn.

Dean Trefethen seconded.

**VOTE U/A**