



CITY OF DOVER

CONSERVATION COMMISSION MINUTES

Meeting Type: Regular Meeting
Meeting Location: Council Conference Room – 288 Central Ave, Dover, NH
Meeting Date: **Monday, February 5, 2007**
Meeting Time: **5:30 pm**

Members Present: Tom Fargo, Chair; Marcia Colbath, Vice Chair; Britt Schuman, Secretary; Alban Lobdell;
Ed Millman; Bill McCann; Matt Taylor
Members Absent: Chris Hunt –Alt.; Jessica Strauss –Alt.

1. Approval of minutes from January 8, 2007 regular meeting.
Deferred to next meeting as the minutes were not ready.

2. RE: Tax Map K, Lots 19 and 26; and Map M, Lot 4; Consideration of a request by Elliott Rose Company of Dover and Thornwood Holdings, LLC. (agent: Trittech Engineering) for an environmental review for a State of New Hampshire Dredge and Fill permit and a City of Dover Conditional Use Permit to impact 9,841 square feet of wetland and associated wetland setback areas to construct a Mixed Use Development consisting of 48 single family homes and various commercial and residential uses located off Dover Point Road and Middle Road.

Discussion:

Chairman Fargo noted that the Commission had previously reviewed a preliminary plan for this project on December 4, 2006. Robert Stowell, of Trittech Engineering, presented an overview of the project for applicants John O'Neal and Mike Brigham, who were also present. Mr. Stowell explained that this project has already gone before the Planning Board for the overlay district Conditional Use Permit. The Planning Board and Conservation Commission participated in a joint site walk on December 2, 2006. In approving the Mixed-Use Permit, the Planning Board required that the roadway creating the connection between Middle Road and Dover Point Road be constructed and designated a public City street. The wetlands impacts associated with this part of the plan (Impacts # 1, 4, 5, and 6 on the plan) are therefore for general public benefit.

Chairman Fargo reiterated his concern, previously expressed at the December 4th Commission meeting, that the proposed wetlands impact is getting near the 10,000 square foot threshold that would trigger a mitigation requirement from the NHDES Wetland Bureau. Fargo stated that that the newly proposed dam maintenance and reconstruction work, totaling 6,874 square feet of impact, is likely to be regarded by the NHDES as part of the same project. Fargo stated that therefore, he felt it was appropriate to identify mitigation areas in the application. Trittech has met with NHDES once and stated they are prepared to do the mitigation if required.

There was a discussion about the (previous?) site owner, Matthew Williams, having been before the Commission for a NHDES Wetlands Permit to repair the dam in April 2004. Fargo stated that if that permit was issued, the dam maintenance and reconstruction might be done as an amendment to that permit. Doug LaRosa, of Trittech, stated that he felt the dam maintenance and development-related wetlands impacts were separate issues. Doug also stated that he was not able to find a NHDES permit for the 2004 dam repair, and the dam has not received any maintenance in years.

The dam is an area of concern on the property. The main outlet has failed and extensive erosion has occurred on the emergency spillway and causing sedimentation downstream. This erosion has exposed City sewer line in the past that has required backfilling under an emergency permit. Chairman Fargo



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discussed the situation with Dan Peschel and suggested that any emergency wetlands permit the City might have would not encompass the entire dam maintenance and reconstruction in the plan. The emergency permit was meant to recover only the sewer line that became exposed due to erosion.

After reviewing the site plan, the Commission expressed concern over impact #7. Chairman Fargo asked if the road in that area was necessary or if it needed to be as wide as designed. It was explained to be more of a delivery road, rather than a public road. Marcia Colbath suggested that the road width be evaluated relative to the frequency and types of vehicles using this connector between the Bill Dube car service and sales facilities.

Matt Taylor asked about the status of the environmental remediation on the site. He had reviewed the correspondence between the NHDES Waste Management Bureau and the site owners. Mr. Stowell responded that the contaminant removal remedial activities and on-going, but the developer is not an active participant in this process. Site clean up will be completed to the satisfaction of the NHDES.

Chairman Fargo made a motion that the Commission endorse the NHDES application with the following recommendations:

- **The Commission would like to see reduction of or justification for the proposed wetland impact #7.**
- **The Commission suggests that there is connection between the dam maintenance and reconstruction and the development-related wetland impacts for infrastructure improvements. Wetlands impact mitigation would be required if all proposed dredge and fill areas are combined.**
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Ed seconded and all voted in favor.

Regarding the City of Dover Conditional Use Permit, the Commission notes that some wetland setback impacts are necessary for development of upland. The Commission recognizes that only roads and utilities (no residential or commercial structures) have been planned in wetland setback areas.

Chairman Fargo moved that the Commission endorses the Conditional Use Permit for the wetland setback encroachments for project but requests that the buffer impact is to be minimized.

Bill McCann seconded and all voted in favor. .

Finally, the Commission recommends that the dam repairs should be done as soon as possible.

Chairman Fargo moved, Bill seconded and all voted in favor.

3. RE: Tax Map 16, Lots 32, 34, 36, & 36A; Consideration of a request by Donald and Miriam Walker, 38 Mill St., Dover, (agent: Jones & Beach Engineers) for a City of Dover Conditional Use Permit to re-grade 53,300 square feet of upland with slopes greater than 20% to construct two 30-unit residential condominiums between Mill Street and the Spaulding Turnpike at the above-referenced address.

Discussion:

Mike Garrepy of Falls Brook and Joe Coronati of Jones and Beach presented an overview of the application. The proposed development area is between the historic upper and lower Sawyer Mills.



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There are no wetlands on the property, the primary issue needing to be addressed by the Commission is the impacts on the slope.

Since being reviewed by the Technical Review Committee, the site development plan for the project plan changed from two buildings to one. The plan still includes approximately sixty residential units. Chairman Fargo stated that since the plan is changing and evolving, our recommendations would be informational and more of a discussion.

Based on the slope issues the Conservation District regulations require that an erosion control and sediment runoff plan be developed and implemented. It was suggested that there should be no exposed stock piles of soil or areas subject to erosion. There was discussion about the need for bedrock excavation (blasting) and construction of retaining walls. Another issue discussed by the Commission was the management of the stormwater, as the site is next to a tidal river. Also discussed were the issues of pet waste management, since some of the building's residents are likely to own dogs, and recreational improvements. The City's long-term goal of building a canoe-kayak landing at the end of Mill Street was mentioned as a possible off-site improvement. Mr. Garrepy also described roadway improvements being discussed with the City staff.

Chairman Fargo motioned to table the application until the revised development plan is ready for the Commission's further review. Marcia Colbath seconded and all voted in favor.

4. RE: Tax Map L, Lot 58Q; Consideration of a request by Robert and Ann Marie Gregerson, 7 Balsam Court, Bedford, NH, 03110 (agent: MJ Peasley Construction) for a State of New Hampshire Dredge and Fill permit and a City of Dover Conditional Use Permit to expand an existing house located 43-feet from tidal water of the Piscataqua River (within the State Shoreland Zone and Dover Conservation District), located at 25 Cote Drive.

Discussion:

Mr. Peasley of MJ Peasley Construction presented an overview of the application. The applicant's plans include constructing a new foundation under an existing three-season porch, installing an underground propane tank, and expanding the deck on one side of the existing house. The Commission reviewed the application package and discussed the aspects listed above with Mr. Peasley.

Chairman Fargo moved that the Commission endorse the application with the following recommendations:

- 1. The applicant shall develop and implement a plan to manage the excavated soil so that there is no erosion or run off while constructing the new foundation.**
- 2. The Commission requests that the homeowner replace the lawn with native plants with deep roots to improve the stability of the land in the area between the house and the shoreline.**
- 3. Finally, the Commission would like to see the proposed propane tank moved away from the waterfront side of the house.**

Bill seconded, all voted in favor except for Marcia who abstained.



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5. RE: Tax Map M, Lots 96A & 98; Consideration of a request by Six High Street, LLC (agents: McEneaney Survey/Civilworks) for a State of New Hampshire Dredge and Fill permit and a City of Dover Conditional Use Permit to fill 2,735 square feet of wetlands to construct an access road to a 10-unit Open Space residential subdivision located off 340 Back Road.

Discussion:

An overview of the application was presented by Kevin McEneaney and Lenny Lord for owners Gary Densen, Ray Donner, who were also present. Several members of the Commission attended a site walk of the applicant's property the Saturday, February 3, 2007, prior to the meeting. At the site walk and subsequently at the meeting, the Commission discussed the request to the Planning Board for a driveway slope waiver that would decrease the amount of wetlands impact needed to construct the driveway. The Commission also discussed the proposal to keep all residential structures set back at least 250-feet from tidal waters. This is greater than the 100-foot minimum required by the State Shoreland Law and City Conservation District regulations.

Chairman Fargo stated he would endorse the plan but recognized that a Planning Board waiver approval was needed to avoid greater wetlands impacts as proposed. Fargo asked how the open space would be protected and maintained. At the site walk, Paul Connelly suggested that the area would be protected by a deed restriction and with homeowner association covenants. Mr. Connelly suggested that these could possibly include a forestry plan to insure maintenance and prevent the homeowners in the subdivision from clear cutting the area. The applicants indicated that they would be willing to consider formalizing such use limitations.

Fargo asked about the proposal for a single common dock, as described at TRC. Ray Donner stated that he had applied for a dock permit for his own residence, however it has extinguished. The plan is to apply, in the future, for a single dock permit for the development community. Use of that dock would be regulated as part of the homeowner association covenants. Chairman Fargo noted that State Shoreland and City Conservation District permit requirements would apply for alterations of the ground surface and limited tree cutting regulations would need to be followed if an access path to the dock was to include stairs.

Chairman Fargo made a motion to endorse the application with the following recommendations:

- 1. The applicant agrees to the development of a forestry management plan for maintenance of the 250-foot setback area from the tidal shoreline.**
- 2. The Commission understands that water access will be limited to a single dock, approved under a separate application, and regulated as part of the community's homeowner association covenants.**

Marcia seconded, all voted in favor.

6. RE: Tax Map E, Lot 24 and NHDOT Right-of-Way; Consideration of a request by the City of Dover for an environmental review and possible State of New Hampshire Dredge and Fill permit to replace a culvert and stabilize slopes to protect a City sewer line near the Spaulding Turnpike and Cochecho River.



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The work on this project is almost complete. It does not require a permit as it is state property and work. No wetlands permit or Commission action was required.

7. RE: Tax Map I, Lot 18-1, Consideration of a request by Millstone Properties, LLC., (agent: Chris Berry) for an State of New Hampshire Dredge and Fill Permit and City of Dover Conditional Use Permit to fill 2,198 square feet of wetlands to construct an access driveway for a 4-unit multi-family residential building located at 120-130 Durham Road.

Discussion:

An overview of the application was presented by Chris Berry, for Robert Paolini who was also present. The lot had previously gone through Conservation Commission, Zoning Board and Planning Board review for a proposed development by its previous owner, however permits were never obtained. Chairman Fargo provided copies of the Commission's previous review to the applicant.

The lot has since been purchased by the Paolini's who propose to build a 4-unit multi-family residential building on upland at the back of the property. Since this is a lot of record and the 4-unit multi-family residential building is an approved use, the Building Inspector may issue a construction permit once the wetlands permit is approved.

The proposed access road is currently 24' wide with water and sewer utilities buried under the road. The construction of the road will impact approximately 2,198 square feet of wetlands. The area of impact appears to have been previously disturbed by the earlier owner. The Commission discussed the need for the 24-ft wide driveway. The applicant stated that he thought it was due to a possible requirement by the fire department. Marcia Colbath, Planning Board member, suggested that the roadway could be made narrower thereby reducing the wetlands impact. The applicant/developer committed to investigating the opportunity to reduce the width of the access road to decrease the wetlands impact.

Chairman Fargo made a motion to endorse the project with the understanding that the access road would be reduced to the city's minimum requirements. Once these are established, the Chairman will communicate the Commission's favorable review to the NHDES and Planning Board. Bill seconded; all voted in favor.

7. New Business:

Concerns of the Commission (Open Forum for Commission Members)

Chairman Fargo presented the group with information regarding the NH Estuaries Project (NHEP), 2006 State of the Estuaries Report. Fargo also informed the Commission of Senate Bill 68-FN-A to appropriate \$250,000 to the NHEP from the state to make up for reduced federal funding.

Bill moved that the Commission support SB-68-FN-A for the funding of the NH Estuaries Project and provide testimony during the state legislative hearing. Al seconded. All voted unanimously in favor.

8. Adjournment:

Marcia made a motion to adjourn. Al seconded. All voted in favor.