



CITY OF DOVER

DOVER PLANNING BOARD - MINUTES

Meeting Type: Regular Meeting
Meeting Location: Council Chambers - 288 Central Avenue, Dover, NH 03820
Meeting Date: **Tuesday, July 24, 2007**
Meeting Time: **7:00 pm**

MEMBERS PRESENT: Donald Andolina, Marcia Colbath, Ronald Cole, Dean Trefethen, Doug Steele, Ron Stock, Linda Merullo

MEMBERS ABSENT: Kirt Schuman, Tony McManus, Perry Plummer, John Swartzendruber Frank Torr

STAFF PRESENT: Christopher Parker, Planning Director and Jacqueline Pease, Recording Secretary

Chairman Cole brought the meeting to order at 7:03 pm.

Ron Cole announced the changes in the agenda as follows: **Item 5.d for Orchard St. Realty a project on Mill Street (P06-62)** would not be coming before the board at the request of the developer, and under **New Business b. Shaws Plaza restaurant (P05-58)** would also not be heard.

1. Citizens' Forum

There were no speakers.

2. Approval of the minutes.

Donald Andolina made the motion to approve.

Dean Trefethen seconded.

VOTE U/A

3. Consideration and acceptance of a minor lot line adjustment of land for the City of Dover (School District), (Owner Maureen & Arthur Mitchell), Assessor's Map H, Lots 12 & 13A, zoned R-20, located on Bellamy Road.*(P07-40)

Kevin McEneaney represented the applicants. The Mitchells own 3 ½ acres. The City is desirous of having 2 acres added to the High School lot. The Mitchells will end up with ½ acre with their house. The City of Dover has an agreement with the Mitchells that as long as they own the house they live in; they will be able to continue to use the driveway as is. Once they convey out of their ownership, that driveway and pavement will be removed to meet the 5 foot sideline setback. There will be a stipulation on the plan and deed to alert future buyers of the house that the land in the back will be used for school purposes.

Linda Merullo motioned to accept the application.

Marcia Colbath seconded.

VOTE U/A



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Mary Hebbard, 97 Spruce Lane, stated that she spoke at the City Council Meeting in opposition to the purchase of this land. She believes it is not a priority for the School Department given all the other needs. Superintendent O'Connor made a presentation and stated he wasn't sure that it would be used for ball fields but it could be used for parking, storage, additional building structures or whatever they might need. She said that is not what the resolution says. She read the resolution stating that the School Board intends to expand the existing playing fields surrounding Dover High School. She asked the Board to add a condition of approval to the lot line adjustment that the school be required to use it only for the expansion of the existing playing fields. She felt anything else would be contrary to the very limited scope of the resolution passed on July 18th.

The public hearing was closed.

Chris Parker gave the recommended conditions of approval. He said that they did initially ask for the expansion of playing fields. The intent of his notes is to put the future owners of the house on notice that a school is the abutting use. They wanted to allow for some flexibility not knowing what the future use of the school property was. Any use would have to be conforming in nature. He gave examples of accessory uses that could be put on that property.

Donald Andolina said that he has a problem with the revision of the wording. What would prevent the School District putting a parking lot in there? What does that have to do with education? They could put anything they want in there.

Chris Parker said that the parking would be for students or faculty who go to the education facility. The reason that he used accessory use was to prohibit the placement of an additional school building that close to the residents.

Donald Andolina didn't feel comfortable with that. He felt that the Board must use the original wording of "expansion of playing fields." To do otherwise, could cause more problems.

Linda Merullo said that she understood that should the school district expand the parking area or the building, it would be placed closer to the existing building. She got the impression it was not meant to put parking up against that abutting house.

Marcia Colbath indicated her take is the same as Linda's. Her impression was if they expanded the high school in some way and took up some of the parking, it would encroach on the field near the high school but with the land, it would allow them to push everything down. She thought it was very short sighted for the Board to tie the hands of the School Dept. so much, and nobody knows what will be going on in the school district 25 years down the line. The Planning



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Board is supposed to think long range and be flexible. The Board should not put shortsighted stipulations on this application. They will have to come back to the Board if they do anything.

Dean Trefethen said that his recollection of the resolution did not specifically limit the use of this land to playing fields. Parking was mentioned as a possible use and it took on a life of its own. If the parking next to the building is displaced by an addition, it is logical that the parking spaces take over the softball field and then the field is replaced in this new area. It was never insinuated that this land would be used for parking, but no one said that it wouldn't be. When the school decides what they will do with it, they will come to the Board and everyone will have their say.

Doug Steele made the motion to approve the plan with the following conditions:

1. Add the owners' signature to the plat.
2. Provide the Planning Department with a digital version of the plat.
3. The applicant shall revise the plat to add permanent boundary markers at the new rear property corners.
4. The applicant shall revise the plat to indicate the removal of the asphalt driveway within five feet of the proposed property line when the Mitchells convey Map H, Lot 13A.
5. The applicant shall revise the plat by adding a note indicating that the future use of the property to be purchased by the Dover School District is for the expansion of uses accessory to education and that this notice be included in the new deed for Map H, Lot 13A.

Dean Trefethen seconded.

VOTE U/A

4. Consideration and acceptance of a minor lot line adjustment of land for STF Development Corp., Assessor's Map 25, Lots 56-4 & 56-3, zoned RM-10, located on Atlantic Ave./Portland Ave.*(P07-41)

Christopher Berry, Berry Surveying, represented the applicant. They received approval for a site plan on this property where they needed a Special Exception and a Variance to allow for the oddly shaped lots with no frontage, in the RM-10 zone. It was discovered during development that the lot lines they created did not allow for decks on the rear. The foundations are now in the ground. They want to do a land swap, which will allow for moderately sized decks. They are transferring land areas equal in size. This will not affect any of the conditions or uses of the land.

Linda Merullo made the motion to accept.

Marcia Colbath seconded.

VOTE U/A

The public hearing was opened.

There were no comments.



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The public hearing was closed.

Donald Andolina made the motion to approve with the following conditions:

1. Add the owners' signature to the plat.
2. Provide the Planning Department with a digital version of the plat.
3. Add the Surveyor's signature and seal to the plat.
4. The applicant shall revise the plat to amend plan intent note to indicate that the lot line adjustment is being done to allow decks to be built on the buildings on lots # 3 & 4.
5. The applicant shall revise the plat to revise the title of Sheet 2, from Revised Site Plan to Existing Foundation Location plan.

Dean Trefethen seconded.

VOTE U/A

a. Discussion and possible vote on a an Open Space Subdivision of land for Long Hill Realty Investments, LLC, (Owner Vivian Tsemekles) Assessor's Map A, Lot 28, zoned R-40, located on Sixth Street.(P06-40)(20 lots)

Mike Garepy, Long Hill Realty, LLC., explained that this plan was before the Board in September of last year. They originally presented a 23 lot subdivision with municipal water and sewer. Since the site walk in September of 2006, they've been back with this alternative of a 20 lot subdivision, using no density bonus. Under the ordinance, the yield plan supports 20 lots. There is a bit less infrastructure relative to drainage and roadway improvements. They will utilize on site wells and septics. There will be a 1,000 foot City street at the same location, with the same wetland impact buffers as before. They went before the Conservation Commission in October, of 2006 and again on July 2, and have received unanimous approval of the new layout. They have one minor impact for a driveway for lots 4, 5 and 20. The other significant change is the open space. Sheet A-1 shows they have created a twentieth lot in the woodland of the property that would encompass the entirety of the remaining balance of the land, about 81 acres. The open space that they are proposing is denoted on Sheet A-1 and on Sheet A-2. The Open Spaces A, B, C and D will be owned in common. There will be no homes for the first 200 feet of subdivision road. He pointed out the uplands and the drainage. He indicated that the balance of the wetlands is in the woodland area, which is poorly drained soil and can be walked on this time of year. Of the 10 acres of open space, half is uplands. The house on lot 4 will be relocated because it does not meet the setbacks. The 20th lot is an estate lot and will not be subject to the conservation easement and can not be further subdivided. Work is in progress on trying to put the majority of this property under a conservation easement, with the help of NH DOT and City funding if approved by the City Council. They are moving with this subdivision process in the event that the conservation effort is not achievable.



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Linda Merullo asked where the driveway would be located. She was concerned that there is a very blind curve where cars coming over the hill can not be seen. She asked how many feet the driveway was from the Long Hill Road intersection.

Mike Garepy stated that they did not do a traffic impact study because the project is small enough and was not needed. They are 500 feet away from the Long Hill intersection. They have done a sight analysis and will be cutting back vegetation to achieve the site distance.

Ron Stock asked about lot 20 being purchased by the Conservation Commission.

Mike Garepy stated that they have been working with the Conservation Commission to put about 100 acres into open space, which is the majority of the field.

Ron Stock asked if in the event that the Council does not approve the purchase, would there be a shared driveway for lot 20.

Marcia Colbath explained that they are waiting for a second appraisal, which is needed before they can get into serious discussions about dollars.

Christopher Parker wanted it clarified that lot 20 would be part of the homeowners association and the maintenance of the open space, etc.

Mike Garepy stated it would own 1/20th share of the open space and would be responsible for maintenance, and management, etc.

Dean Trefethen said that the issue has been raised that the approval of the 20 lot plan would or could give the developer some sort of advantage over the City with regard to the conservation easement. He asked Mr. Garepy to address that issue. He said that he assumes there must be some dollar amounts thrown around and he asked if he would be using this potential approval to seek more money.

Mike Garepy said absolutely not. Their appraiser did not appraise the lot based on the 20 lot subdivision plan. He determined that the 20 lot subdivision was a viable subdivision that would be approved. The City hired an appraiser and he met with him on the site to show him the property. In their report it is an assumed approved project and that is how they value the property. Getting this approved does not change anything.

Ron Stock asked why they did not use the original plan that was approved.



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Mike Garepy explained that the original plan was accepted and a site walk was held but the plan was never approved. They have now modified the plan. He does not expect approval this evening. He went over the differences between the first plan and the new one.

Dean Trefethen asked if they would simply cut the vegetation or would they dig it out so that it doesn't grow back. He said the roots need to be removed and ground cover put in.

Mike Garepy said he would be willing to do whatever it takes.

Christopher Parker stated one of the issues preventing this project from being approved is the determination of where the cutback needs to be. Whether it is all on the right-of-way or how much is in the 100 foot buffer is still outstanding at this point.

Doug Steele said that Engineering has a problem with the hammerhead and would like to see the City work toward eliminating their use for City accepted streets. He felt they would be fine in private subdivisions but they make snow plowing and stacking snow more difficult. He asked if they would have a problem in changing it to a cul-de-sac.

Chris Parker said his personal opinion is that there should be through roads as much as possible.

Mike Garepy stated that they can not do a cul-de-sac because the radius that is required to actually configure the cul-de-sac would take up too much land space, causing the elimination of one or more lots. They've been a year in this process and they have had the hammerhead design the whole time. He said that he would be happy to work with Public Works to locate the driveways off the hammerhead so folks don't get buried with snow.

The public hearing was opened.

Paul Butler, 606 Sixth Street, diagonal from the project, was concerned with cutting the vegetation along Sixth Street. The diagram doesn't show the curvature of the hill which creates a blind spot. There is an accident every winter. He would like to see the hill graded, along with the vegetation cut to be sure there is a good line of sight. The City of Dover is testing a well not very far down Sixth St. He asked the status of that well.

Doug Steele stated the well is still being tested to see if it is a viable well.

Paul Butler stated he applauds Mrs. Tsemekles for considering putting the land into Open Space. It is a win-win situation for the City of Dover.

The public hearing was closed.



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Christopher Parker said that the Planning staff recommends tabling the application so the applicant can finalize any outstanding issues.

Linda Merullo asked if it would be possible grade the road so it's not as steep and possibly widening the entrance to Long Hill Road so that it is not as sharp a curve when going from Sixth St. to Long Hill Road. She asked if it was an unreasonable request to ask the developer.

Chris Parker suggested going to the site with Mike Garepy to look at the different grades and come back with more information.

Mike Garepy said the vegetation on the bank would be cut down, along with the side slopes. They would work with Jones & Beach and the Planning Dept. to be sure it meets the safe sight distance.

Ron Stock made the motion to table.

Donald Andolina seconded.

VOTE U/A

Mike asked for a date certain to come back in August.

Chris Parker said that it was premature.

6. New Business

d. Discussion on a site plan of land and Conditional Use Permit for Orchard Street Realty Investments, LLC, Assessor's Map 16, Lots 32, 34 & 36A, zoned UMUD, located at 38 Mill St.(P06-62)(64 units)

Chairman Ron Cole announced item would not be discussed this evening.

a. Request for rezoning premises located on the westerly side of Locust Street, Northeastly of Rutland Street, and on the southerly side of Fisher St., from I-1 to B-3 and R-12.

Atty. Malcolm McNeill, 180 Locust St., stated that he represents the proponent of this zoning change. His office is on the street that is part of the proposal. Chad Kageleiry has been working with the City for an extended period of time. He handed out extracts showing the differences between the I-1 zone and the B-3. The property in question consists of 21 acres, of which 16 acres are owned by Mr. Kadgeleiry and those 16 acres are being proposed for rezoning from I-1 to B-3. B-3 zoning is characterized as thoroughfare business zone, which accurately describes the nature of Locust St. The second parcel is being proposed from I-1 to R-12 and consists of approximately 5 acres. The R-12 is compatible with the contiguous properties to the west. That



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property is not owned by Mr. Kageleiry but the City asked them to consider that piece as part of the rezoning. Presently, the property consists of a mix of business, professional and residential uses. He went over the varied uses, along with the Moore Business Forms property, which had been an industrial use for many years. There are a number of houses abutting this site that may have been used in the past for workers. There is a parcel across from the Moore Business Forms property zoned Office, which was done approximately 3 years ago. Historically, it was used for a parking lot for the Moore building. It is important to note on locust St. that across from an opening is a dental office and directly next to that is a B-1 zone which is where the Care Pharmacy and other commercial uses are located. Moore Business Forms, formerly Kidder Press, was a heavy duty manufacturing facility for many years and employed a lot of people. Between the proposed rezoning to R-12 and the rezoning to B-3 there is a kind of a long narrow piece which is an abandoned railroad line. Moore left their property about 4 years ago and it has been empty ever since. Remediation measures are needed to bring this site into conformance. Presently, the entire property is zoned industrial. If Mr. Kageleiry were forced to proceed with I-1 zoning, he could put in a trucking terminal, commercial warehouse, light industry facility, gas storage farm, and other permitted uses on this property that is close to the Spaulding Turnpike.

Atty. McNeill stated that Mr. Kageleiry has been trying to obtain mixed use zoning of this property for two years, to permit a broad variety of business and residential uses. It would be very similar to the mixed use project on Mast Road and Dover Point Road. There is a real need to develop this property, which in the absence of the zoning change, would put the property in uses which would be inconsistent with the way locust St. has developed. This property is not appropriately zoned. They have attempted to work within the existing zoning classifications to accomplish what they seek and that would be a thoroughfare B-3 zone. Under this classification, Office, Retail, Banking, Restaurants, multi-family housing of significant density are permitted. An interconnected type of village type system would be utilized for this zone. That type of development is not permitted under the I-1 or Office zoning. They believe that this is an area of transitional change because of the traffic pattern, the value of the property, the proximity to highways. He suggested if Dover had contract zoning or if the Board was comfortable with contract zoning, they would proposed mixed use residential and commercial. He showed an architectural rendering of the Moore Building containing offices, restaurants, small retail with appropriate parking. Chad Kageleiry and his team would like the ability to have mixed use business within the building and housing on the site that would be closest to the existing housing. It would be at a density that would support the risk of going forward with this project. The access to commercial uses would be from Locust St. and Fisher St. would be access to the residential. They feel this will lead to reasonable development very close to a state highway. This project will expand the tax base, fills a building that is going no place, and make reasonable use of the land. They are asking to start the process.

Dean Trefethen asked how the rezoning proposal would affect the old railroad bed that has been discussed for the community trail.



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Malcolm McNeill answered that the trail has already been discussed and it would depend on the plan that ultimately got approved. Mr. Kageleiry has already spoken to Bruce Woodruff about the possibility of extending the system.

Ron Stock said that he is generally in favor of this proposal. He is concerned with the traffic congestion, coupling it with the Elliott Rose property, the proposed traffic improvements for the Stark Ave. and Route 108 area don't seem adequate and this would add to that. He asked if there was consideration to creating a better intersection as part of the rezoning of this property.

Malcolm McNeill stated it would be looked at. There has been a historic use of this area for intense commercial activity in the past. He said that any consideration would have to include traffic. The street is in fairly decent shape and reasonably handles the traffic. He said that it is a legitimate question.

Chad Kageleriry stated that the utilization of the northerly part of the property, by proposing some residential is a smaller traffic impact than if it were used as a factory or an office use with huge peak hour traffic. Multi-family residential is one of the smallest traffic generators. This type of development would take away traffic issues in that area.

Ron Cole stated that he once referred to Dover as a still growing community and alluded to the fact that Dover would be growing differently over the next 10 to 15 years because all the good portions of land have been developed. The City will have to do more creative things. He said that the intersection is a D for about 15 minutes in the morning because of the confluence of traffic. It is one of the curses of having a vibrant community. He believes this project is what the City should be doing.

Chris Parker said that they are on the cusp of coming to the Board with a draft recommendation. They have a few I-1 zones in the City. A lot of what we see as I-1 zones is factories and industrial uses that were in place prior to zoning, which came into Dover in 1949. It was reverse spot zoning. The City spot zoned around those industrial uses because they were there, and wanted them to continue. This is an area where the shift has moved from industrial to a more appropriate use to be determined. They are looking at probably the 2nd Planning Board meeting in August with the recommendations from the Master Plan Committee.

Malcom McNeill went over the history of the area. He said that they tried to negotiate with Steve Stancel for a long time about including this area in the other rezoning and were not successful. They were told that the Master Planning process needs to be followed through. They have spoken with the present administration which has been very helpful and understanding in recognizing that this property is inappropriately zoned. They would like to proceed with the property and they feel it cries out for a remedy.



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Donald Andolina stated that he likes the conceptual plan very much. He's been on the Rails to Trails Committee and this land is very important to the trail system.

Malcom McNeill stated that they fully anticipate working with the committee cooperatively.

Christopher Parker said that the public hearing portion requires a 15 day notice. He suggested that they look to that on the 28th and have a workshop on the 14th to get more hands on with the applicant. The alternative would be the 1st meeting in September. He felt it was important to have a workshop before the abutters are notified. They would become involved during the public hearing process. There is some property not owned by Mr. Kageleiry.

Malcolm McNeill said that they will do what they have done before in reaching out to the community.

Linda Merullo stated she is for changing I-1 zone into a B-3 zone. She asked if the project would be phased and if he would renovate the Moore Building first and then do the residential. She asked what time frame he would be looking at if this should go forward.

Chad Kageleiry stated that most of the architectural plans are done for the building. There is plenty of parking. It is important that they come back with an expanded site plan showing the expanded parking and drive around capability. Having the zoning in place would allow them to more confidently speculate on the building construction because they would be looking at some of the residential to inject the needed funds to carry the renovation costs to the building. The first step would be to launch the site design and with that approval they would develop the residential and put that money into the building.

Dean Trefethen counted eight residential properties plus the Dover Children's Home that are encompassed in the area that you are proposing to change to B-3. Have you talked to any of the land owners about this proposal?

Dean Tefethen asked if the B-3 gives them some slightly different options.

Malcolm McNeill said they would tell them in all sincerity what they plan to do. There are people who would object to any kind of change. Chad Kageleiry has to do something pretty soon. If he's left with the industrial zoning, he will use the industrial zoning but this is a better alternative. Properties that are nonconforming, single family and duplex uses, are not permitted in an industrial zone. These properties can not even be expanded.

Ron Stock asked if there would be any consideration of giving more density allotment to having a portion of this become affordable housing.



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Chad Kageleiry said that affordable would have to be defined. By having some rights under B-3 zoning, and not be tied to some age restricted type of housing opens this up to an different segment of the market. The location is within walking to schools and may attract families. With increased density they probably could do something different with the unit count and then they would have some idea on price levels. To have the zoning in place so they can develop it as a mater of right is important. They will fine tune the plan to develop the most attractive product to the market and to the City.

Malcom McNeill said that affordable housing in most communities doesn't exist despite the inspirational goals in planning. If the question is asked, why there isn't more affordable housing, he tells people to go to a Planning Board meeting. Because of the degree of control limitations of density, nimbyism and the ability to make the land be affordable, it is found when affordable housing if proposed; frequently the people who are most vociferous against it are the people who live around it, presuming that the affordable housing will adversely affect their property. The incentive for the developer is entirely density based. The applicant is desirous to build a project that the community wishes to have and would be happy to look at an affordable component on a density basis. He said it may complicate the zoning issue but he doesn't want to close that door.

Ron Cole said the majority of the Board is on board with this proposed rezoning and got a consensus to have a workshop on the 14th at 6:00 pm.

Chris Parker asked for an indication on if they want have a public hearing on August 28th because of the mandatory 15 day posting period.

Malcolm McNeill said they were willing to proceed with August 28, 2007.

Dean Trefethen stated as long as there is some indication that this type of activity is in agreement with what is being proposed in the new Master Plan, he doesn't see any reason to not go ahead.

7. Committee Reports

None

Ron Cole brought up what has transpired with regard to the apartment in the Masonic Building and asked Dean Trefethen to fill the Board in on what would transpire at the City Council meeting tomorrow night.

Dean Trefethen said with regard to the letter asking for reconsiderations, he didn't think the Council would take any action.



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Chris Parker said his understanding is that it is just an acceptance of the letter to the Council. He indicated that one area of relief would be to come back to the Board and ask for an amendment to their approval.

Ron Cole stated that it is not the purview of the Planning Board to inject itself into a financial discussion.

Dean Trefethen said that it was the Board's requirement of approval that they have parking. Right now they don't have parking. The Planning Board may have to do something.

Ron Stock asked if it was rejected because they couldn't agree on a price.

Dean Trefethen said that the Council did not approve the proposed contract. He felt that the majority of the Council did not agree with the current prices for parking spaces. These people are right in the middle of the crosshairs and they are on the losing side of that. The issue is primarily the current price of parking spaces. It is very low but it is not like we have a shortage of parking to rent out. He said if we had a shortage of spaces, the City could think about raising its rates but if there is no shortage, maybe the rates are priced appropriately. The purpose of the permit parking is to get people off the street, and not to make a lot of money.

8. Adjournment

Donald Andolina made the motion to adjourn.

Dean Trefethen seconded.

VOTE U/A