



CITY OF DOVER

DOVER PLANNING BOARD - MINUTES

Meeting Type: Regular Meeting
Meeting Location: Council Chambers - 288 Central Avenue, Dover, NH 03820
Meeting Date: **Tuesday, August 28, 2007**
Meeting Time: **7:00 pm**

MEMBERS PRESENT: Donald Andolina, Marcia Colbath, Ronald Cole, Dean Trefethen, Doug Steele, Linda Merullo Kirt Schuman, Tony McManus, Perry Plummer Frank Torr John Swartzendruber

MEMBERS ABSENT: Ron Stock

STAFF PRESENT: Christopher Parker, Planning Director; Bruce Woodruff, City Planner and Jacqueline Pease, Recording Secretary

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

1. Citizens' Forum

Chairman Cole announced that the Mill St. project would not be coming before the Board and would remain on the table.

Patrick Small, 50 Mill St, was concerned that a traffic study was done for Mills Street but not for Charles St., there is a very dangerous bottle neck by Sawyer Mills. Nobody is plowing the sidewalk, especially during the heavy construction. He was concerned with the proximity of the proposed building to the Bellamy Mills guest parking because a lot people will be using it for themselves and their guests because it is so close. Concerned with the lack of a play area for their children, as they will come to their play area. Concerned with drainage for the road as a part of the road was washed out last spring. Concerned with the blasting. He looked into the company's safety record and found incidents of accidents. Concerned that the blasting would affect the watershed. Concerned with the wild turkeys, traffic and the overdevelopment of that area.

2. Approval of the minutes.

Frank Torr made the motion to approve.

Perry Plummer seconded.

VOTE U/A

3. Consideration and acceptance of a lot line adjustment of land for Gary Goodspeed (Owner, Daniel Scammon), Assessor's Map G, Lots 15 & 18A, zoned R-12, located on Washington Street.*(P07-45)

This application was removed from the agenda.

4. Consideration and acceptance of a major subdivision of land for Dover Point Properties Development, LLC, Assessor's Map L, Lot 89G, zoned R-20, located at 202 Dover Point Road.*(P07-39)(14 lots)



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Bob Stowell stated this project is located pretty much across from St. Thomas Aquinas High School. They have been to TRC twice. It's a 14 lot subdivision including the existing home with frontage on the Piscataqua River. Two new lots will also have frontage on the river. The 11 other lots will not have access to the river. It is a long narrow parcel that has a cul-de-sac at the end of a 960 foot street, with lots on either side of it. There are 3 waterfront lots that are significantly larger to meet the requirements of the Riverfront Overlay District.

Frank Torr asked to hear Chris' response on item #14 in the TRC notes. He said that he doesn't see a definitive entrance to St. Thomas on the plan. He asked Doug Steele about the grade.

Chris Parker said they are working with the applicant and can't address that one right now but they will before the final approval. His concern is that there are 4 waiver requests. Each request needs to be looked at individually.

Bob Stowell stated Sheet T-2 will demonstrate what the street will look like when it is constructed. They are in the process of receiving their State Driveway Permit from District 6 and the State wants to see an overlay of St. Thomas' improvements in conjunction with their plan. As for #14, staff indicated that they were supportive of a waiver. Because the proposed exit from St. Thomas is an exit only from the south, it has no impact on their driveway. The distinction is the St. Thomas exit is a driveway and not a street.

Doug Steele said they have allowed 8% slopes in the past. They don't have a problem with it.

Chris Parker said that he has a problem with the length of the 8% slope and will look into it.

Tony McManus said that the house locations on the southerly side of the street seem to have a uniform setback and on the other side they are staggered. Sheet C-1.

Bob Stowell said that there is a large drop in topo and the houses are designed to be staggered so each resident can take in a view of the river. The houses on the southerly side could be staggered to take advantage of the view, as well.

Tony McManus felt the design puts a house in the house next door's backyard, leaving no privacy for the front house.

Bob Stowell explained it is a balancing act to allow each house to have a view of the river.

Ron Cole asked how the proposed driveway will relate to the entrance or exit to St. Thomas.

Doug LaRosa said that the St. Thomas exit only driveway, that is proposed (towards Rt. 16), is exactly that, an exit only. They see minimal problems with traffic.



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Marcia Colbath made the motion to accept the application.

John Swartzendruber seconded.

VOTE U/A

The public hearing was opened.

Paul Connolly, Civilworks, spoke on behalf of St. Thomas Aquinas High School. He is concerned with the proposed right-of-way, which is 50 feet wide and the width of the Calderwood property, on Dover Point Road. It is a residential house lot right now and with this proposal, it is a Change of Use. It is now going to be used as a public road. The setback with the Loch house is roughly 9 feet, which is not conforming to the Zoning Ordinance. A side lot line requirement is 20 feet in the R-20 zone. He said that with a Change of Use the setback goes to 35 feet, as it now abuts a City street.

Paul Connolly stated that they are concerned with the intersection of the proposed City street with Dover Point Road. He requested that the applicant and their engineer provide a blow up of that area so that St. Thomas can see how the new street will interface with their proposal. Their more serious concern is the introduction of a roadway where presently a driveway exists. For a single family driveway they can expect 10 trips per day. They are not concerned with peak hours because their peak hour is between 2 and 3 in the afternoon but the morning am peak hour coincides with the student and staff arrival at the school. With the possibility of 14 trips in or out of the subdivision interfacing with the turning traffic in and out of St. Thomas in its existing condition, leads them to have a grave concern. The applicant is asking for a waiver for the minimum amount of separation required by the ordinance. He said that the driveway out of St. Thomas will look like a roadway with the amount of traffic that leaves there in the afternoon. He was concerned that 14 trips per day are anticipated in the AM & PM peak hours and 140 trips per day on a daily basis, there is no deceleration lane proposed on Dover Point Road to allow for traffic turning into Harbor Hill Rd. He said he is probably biased with regard to the granting of waivers following the application of the Community Bank a number of weeks ago, where there was a similar situation and the Board did not grant that waiver. The 8% grade over a distance of 700 feet, almost to the cul-de-sac, would result in the street being built in a fashion that would form a ridge going right down through the middle of the Calderwood property. He understands the need for the waiver but he isn't sure it is the proper waiver to ask for. He understands that the Engineering Department was against a 10 % grade waiver. It will result in a displeasing look to the subdivision. The road will be 8 feet up and the houses will be 8 feet down. If the project can come to a compromise with the lack of need for a Variance, the applicant could perhaps put in a bend in the road to take the curse out of the look. The end product is 14 lots that are packed in.



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Brian Pearson, 200 Dover Point Road, stated that he is probably most affected by these plans. He has nothing to add except that the grade is a problem and pulling out and into his driveway is difficult. He is not against any of these plans but he has an adjacent lot that he would like the value to be retained. He will be watching to be sure everything is above board.

Paul Butler, 196 A Dover Point Road, stated that he is not in favor of this project. The appearance of that part of Dover is very lovely and 13 more houses will change the character. There are other people that own quite a bit of land and they will see their land as more valuable, which will add more houses on that beautiful river. Many are here in NH having been dislocated from MA, himself included, because of the beautiful open spaces. He feels a bit hypocritical because he is here and wants to shut the door on others. He would like to see that open land preserved.

The public hearing was recessed.

Christopher Parker commented on the question on the non-conforming lot. What Mr. Connolly was referring to is Chapter 170-14 Non Conforming Lots. It says that lots with a width of 110 feet or less and greater than 75 feet, which is the Loch property, shall have a minimum side setback of 10 feet. He said that the lot is non-conforming. Their interpretation is that whether there is an abutting parcel or whether there is an abutting street, the frontage remains on Dover Point Road. Mr. Connolly is correct that, normally, it would be a 20 foot side setback but in this case, 10 feet is allowed by the code.

Donald Andolina stated that this is an area that has severe traffic problems. It will get a lot worse when you consider Royer Lane and the new St. Thomas Aquinas driveway. He sees a nightmare. He asked if the staff will ask for a traffic study.

Chris Parker stated they want to see the blowup of the proposed roadway and the St. Thomas driveway before determining if they need a traffic study.

Site walk was set for **Tuesday, September 4, at 5:30 pm.** Parking on site.

Christopher Parker asked that the center line and grade of the road be marked.

Ron Cole asked that the property at 196 A be marked in conjunction to the two lots. He wants to know where the exit road for St. Thomas will be so they can see where the cars will be coming out of when they are standing on Dover Point Road.

Frank Torr made the motion to table.

Perry Plummer seconded.

VOTE U/A



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5. Public hearing to rezone premises located on the westerly side of Locust Street, Northeasterly of Rutland Street and on the southerly side of Fisher St., from I-1, (Restricted Industrial District) to B-3 (Thoroughfare Business District), and Lot #15-62 formerly I-1 rezoned to R-12 (Medium-Density Residential District).

Atty. Malcolm McNeill, 180 Locust St., introduced Chad Kageleiry as the owner. The property consists of 21 acres, of which 16 is owned by Mr. Kageleiry's LLC entities. There is a large industrially used building with parking lots on either side on the site. There is another parking lot across the street. There are a number of residential duplexes in the area. There is an opening that is forested over that can provide access to a proposed residential use on this site. The Dover Children's Home is further down the street. There is an access off this site off of Fisher St. The two residential uses are separated by wetlands, which is of significance in terms of looping roads. There is an abandoned railroad line that is owned by the applicant where there has been discussion of a possible connection to a walking trail. There are 5 acres of land on the other side of the tracks that, at the request of the City, they are proposing to rezone to R-12 to be consistent with the zoning along Rutland St. That property is not under the control of the applicant but after consultations with the City, it is proposed to provide some uniformity with the zoning along Rutland St. Many people remember Moore Business Forms. For many years it was operated as an industrial facility and has been abandoned for about 3 years. Mr. Kageleiry purchased it and wishes to make the uses of the property consistent with appropriate uses in this area. Locust Street provides access to downtown Dover. There are business uses at the intersection of Locust St. such as gas stations, Burger King, etc. Further down Locust there is a small shopping center anchored by Care Pharmacy. Further towards the City there are multi-family properties. The applicant is seeking to change the Industrial zoning for this entire piece. Many residential uses are zoned Industrial and cannot be readily expanded and are not permitted uses in the I-1 zone. They chose B-3 because it is defined as a thoroughfare zone. It provides for business uses and residential uses. This applicant has the right to develop this property for industrial uses, but that is not the intent. They tried to utilize a zone classification that incorporates both uses. There are uses such as banks, beauty salons and retail uses, perhaps, convenience stores. They are proposing 50 to 75 proposed residential structures, which would be located in the areas that are compatible with other residential uses. This is not an attempt to move industry or business or retail into what some might consider residential zones. They brought this forward and indicated that if the zoning stayed industrial as it is, the applicant could put in fuel storage, a trucking terminal, warehousing, light industry, etc. The City came up with a better idea attributed to the new Planning Director, which is from I-1 to B-5, which permits most of the uses that B-3 permits but excludes what some might consider objectionable uses such as adult type stores, etc. In discussion with the City, there is a line drawn so that businesses can't creep into the residential zone. The B-5 would be limited to residential uses with many desirable features as opposed to B-3 which only permitted large multi-family buildings. The other RM-8 classification would permit singles, duplexes and multi-family uses, which is more compatible with the surrounding properties and is supportive of and necessary to the commercial development of the remainder of



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the site. The principal is basically the same as the Mixed Use Zoning but is less impacting. This area of town is an area that needs rezoning as it relates to the industrial components and provides for a variety of housing in a downtown urban setting that would be appropriate and subject to all of the protection that exists under Site Review regulations. The access points will be in the location of Locust St. and a smaller component off of Fisher Street. They feel this is a reasonable approach to a changing area of the community. They started by making a proposal and in the discussions from the Director, he felt that the City came up with a better idea that they are willing to espouse.

The public hearing was opened.

Chuck Mone, Fisher St., was concerned that the entrance of lot 15-40A will become a proposed street that will dump onto Fisher Street.

Chris Parker said that this is a rezoning idea. Should a road go in, it would come back before the Board at the site plan approval stage. The concept shows an egress and exit off of Fisher St.,. At this point the Board should consider the potential uses, not the potential design. When the site plan comes before the Board, the egress points will all be looked at, as well as the capacity of Fisher and the tolerance of the neighborhood.

Matt Cox, resident of Fisher St., asked if there would be a vote on this tonight.

Ron Cole stated it is for information and would come for a vote on September 25 or October 11.

Matt Cox had concerns on what would be proposed down the road. It's a very pristine urban setting. The homes date from the 1850's to 1890's. He thought packing some condos into that little square of, of Fisher St., might make a lot of money for the developer and that may support the use of the rest of the property but it would be a major downer for those who live in the neighborhood. It would be out of character.

Stephen Hughes, spoke on behalf of his mother's property, saying that the traffic cuts through Care Pharmacy. He asked if they are talking about a road going through Care Pharmacy. There are many traffic accidents in that area. The area is too congested to have 30 houses and 500 apts. He lives on Dover Point Road and taking his daughters to Garrison School takes 20 minutes or more. This will add to the congestion of that area.

Chris Parker stated the approximate Locust St. access is in the vicinity of Care Pharmacy.

Bill McCann, 20 Fisher St., came opposed to B-3. He understands the B-5 and RM-8 zoning. Conceptually, it makes sense. The abutters would like more details before taking a vote. The change sounds good but those who couldn't make it tonight should see new plans before the



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public hearing is closed. He was concerned about any dumping of traffic onto Fisher St. Fisher St. is an older residential area. His family has been there for 58 years and he would hate to see it change dramatically because of traffic.

Chris Parker said he would work with the applicant to redraft his petition. At the meeting of September 11, the Planning Board will vote on posting the change. Prior to September 11, the public will be re-notified of a public hearing on Sept. 25th and a vote.

Melissa Glidden, was concerned with the wetlands and how this proposal will affect general drainage. She asked if that information will be provided as the plan goes forward. She will be abutting a proposed road and was concerned with the dramatic changes for her neighborhood, children and foot traffic, etc

Chris Parker said he is not sure if the wetlands delineation has been provided. There is evidence of a stream and wetlands in the area. Before the final density and use count is devised, that information will have to be determined.

Gentleman at 62 Rutland Street, was not in favor of any type of industrial expansion. It needs to be considered with taste. Need to consider what the long term plan is rather than short term revenue and getting more industrial use out of the land.

Chris explained that currently it is an industrial zone and the goal with the rezoning is to make zone behind his property a residential.

Gentleman, said he is looking at this from a long-term perspective. People move to cities because of the area, the environment and the schools.

Don Mullen, 44 Elm Street, concerned about making Elm Street a thru street into some sort of residential development. People walk their babies, teach their kids how to ride their bicycles, walk their dogs, etc. Even now people go too fast. If you make that a four-way corner with Fisher and Elm you are asking for trouble. Would like to see it stay just as it is.

Richard Jones, Locust St., has been there for 14 years and it takes him 10 to 15 minutes to get out of his driveway. He is two doors down from Care Pharmacy. This will bring more traffic. Locust St. is a speedway. His suggestion is not to do anything like this. He said residential is ok, but small businesses will promote more and more traffic.

Mark Visciano, 185 Locust St., is supportive of everyone who spoke about having a driveway come out on Fischer St. He was concerned with the impact on the already overcrowded school district and the impact on the neighborhood.



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Chris Parker said there will be another public hearing when they have a final product.

The public hearing was closed.

Chairman Cole called a 2 minute recess.

Chairman Cole brought the meeting to order at 8:25 pm.

6. Consideration and acceptance of a site plan of land for the City of Dover, for a North End Fire Station, Assessor's Map E, Lot 24, zoned ETP, located on Sixth St.

Perry Plummer stepped down and Linda Merullo took his seat.

Perry Plummer, Fire Chief, explained that it is a 3 acres site on the edge of Liberty Mutual land. The parcel was donated by Liberty Mutual and is directly across from Glenwood Avenue. From the site you can go into the City and the North End. The building will be 14,800 sq. ft. with 5,000 sq. ft of living space and 5,000 sq. ft. of office space and a three bay station. This will allow for quick response. He explained the entrance and return for the fire apparatus and how they will be marked Do Not Enter. The signage & design will keep away any normal every-day traffic. 16,000 sq. ft. of wetland will be mitigated through land conservation near the river, as a tradeoff. The sewer line will come from the printing facility. He said that the apparatus bay will allow the trucks to come and go without shining any lights into the homes.

Dennis Ciotti asked for the square footage of Broadway vs. the square footage of the new station.

Perry Plummer said that 5,000 sq. ft. will hold 4 vehicles and it could hold 6 vehicles, if needed. The Broadway station holds 5 vehicles.

Linda Merullo asked about the time frame.

Perry Plummer stated that the proposed opening is September of 2008.

Tony McManus asked about how many people would be parking in the 16 spaces.

Perry Plummer said that there are 4 people 24/7 and that the shifts overlap.

Donald Andolina made the motion to table.

Dennis Ciotti seconded.

VOTE U/A

Chief Plummer said that the site walk is scheduled on September 6, at 5:30 pm and there is parking along the site.



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Perry Plummer took his seat and Linda Merullo went back to the audience.

7. Consideration and acceptance of a site plan for the State of NH for a Park & Ride, located on the easterly side of Indian Brook Drive, opposite Member's Way, Assessor's Map E, Lots 18-4 & 17-A, zoned R-12, as per RSA 674:54.

Bruce Woodruff, City Planner, gave a history of the site. He explained that the homes located on the Liberty Mutual site were moved to land across the street. A subdivision was created to put the homes on and the CDBG program created a lottery for the purchase of the homes by low and medium income families. This subdivision left a 3.6 acre parcel that was earmarked for the North End Fire Station. They found later that it did not fit their needs. In 2000, they were in search for a Park & Ride site and it became apparent that this site would be perfect. He said there would be 400 parking spaces and a small bus terminal building. As many trees as possible will be retained. There will be plantings to the satisfaction of the neighbors and fencing. Special lighting is considered. The driveway will be opposite Members Way. There will be a signal at this location. The time frame for construction has begun and there is a building permit pending to build the bus building. The completion date is 2008.

Donald Andolina asked if C & J would be running the bus station.

Bruce Woodruff stated that he believes that is true. It won't be just C & J but COAST also. The timeframe to get you from here to your work place will be almost the same as using your car.

Tony McManus asked if a lot merger, as part of this application, has been recorded at the Registry of Deeds.

Bruce Woodruff said the ownership of the land has been transferred. There is still the opportunity to appeal so that the former land owner could get more money at some point.

Linda Merullo had a traffic question concerning the existing light coming off the turnpike and the proposed new light at the Park & Ride. She was concerned with the Spaulding Turnpike being backed up at the 5:00 pm rush hour. There is an incredible amount of building going on in the area and she anticipates 1000 to 1,200 parking spaces between hotels, office parks, etc. Can we handle the traffic with busses coming and going every 30 minutes? Her concern is the traffic and what will happen at the peak hours.

Bruce Woodruff said with each large development coming before the Board, beginning with Measured Progress and Liberty Mutual traffic, studies were required. The end product of that was the widening Sixth St., Indian Brook Drive and the signal at Members Way at the Park & Ride, the southbound ramp light, increasing lanes, reworking the timing and the phasing. What



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it doesn't include is the northbound light, which is not part of that project and will be an issue at certain times of the day. The light will require re-timing and optimization. Indian Brook drive will have enough capacity to handle all of the traffic.

Dennis Ciotti asked where the drainage for this lot will go and if any of it was going back toward the abutting property owners.

Bruce Woodruff stated that the drainage is being directed to an existing swale off of Indian Brook Drive and the other part goes to drainage areas that tie into the street drainage system. There are infiltration basins.

Donald Andolina asked if the State plans to surface the lot area with pervious material.

Bruce Woodruff said not to his knowledge but it would be a good idea.

Tony McManus wanted to make sure that everyone understands that the drainage off this parcel will not be treated on the lot in any way and will completely run off and go into the swales with the hope there will be natural treatment. Oil slicks will roll off the lot into the swale.

Frank Torr said there are catch basins throughout the parking lot. He is a neighbor of a State area that has two catch basins that go to nowhere. In a heavy rain, he is the recipient of the heavy rain. He wondered if it is serviced by enough catch basins.

Bruce Woodruff stated that drainage only runs on the surface for a short way and after that it goes into a storm drain that is either existing or being constructed as part of the Liberty Mutual/Indian Brook Drive improvements. He is aware that the storm drains that are in the parking lot do have a vortex system that separates out solids. It has to be cleaned on a regular basis.

Donald Andolina made the motion to approve the site plan and recommend that a merger form be completed and filed with the Strafford County Registry of Deeds..

Dennis Ciotti seconded.

VOTE U/A

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

Perry Plummer made the motion to take this item off the table.

Marcia Colbath seconded.

VOTE U/A



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Mike Garepy, Long Hill Realty Investments, LLC, stated that the outstanding issue before the Board is the issue of lot 20, and public access and conservation easement on the lot. He met with the Conservation Commission, Open Lands Committee and staff last week discussing time tables and appraisal values. After that meeting he met with the investment group where it was determined that the timing, coupled with the discrepancies in the difference in easement and appraisal values, was not going to be conducive to their contractual obligations with the property owner. They have since ceased with the discussions with the conservation group. He regrets having to do this but the timing is beyond his control. They are now moving forward with Plan B. He has reviewed the conditions proposed by Chris Parker. He has no issues with any of the conditions but for #8. which is back to this passive public recreational benefit that would be encumbered on lot 20. He would like to suggest an alternative that will be more conducive to their needs. He read as follow: **# 8. The applicant shall provide on site passive recreation for the subdivision lots such as pedestrian trails, in open space areas A, B, C & D as shown on the plat. Additionally, the applicant shall pay a \$4,000 recreation fee to the City for offsite recreation elsewhere in the City. With that there will be no encumbrance of any easements on lot 20.** He reminded the Board that they did not apply for any density bonuses under the Open Space Ordinance. In the recent history of conservation easements that have been obtained through negotiations with the land owners, the Holly property next door does not have public access. The Tuttle and the Hunt properties do not have public access components of their easements. In this case, they don't feel it is appropriate for this lot. They have interested parties in purchasing the lot that don't wish to have public conflicting uses there. They have approximately 10 acres of open space that would be owned in common by the homeowners association. Having that area available for passive recreational makes more sense to him. They proposed to have the association have the ability to create some low impact trails or construct a gazebo. They prefer not to have public access and they are opposed to a conservation easement

Chris Parker asked why open space B and A are not contiguous.

Mike Garepy said they are not contiguous, primarily, because of the driveway that accesses lot 20.

Chris Parker explained that during the last meeting, Mr. Garepy was asked to consider putting and an easement along the trails that border Blackwater Brook and he said yes. And condition #8. was based on that meeting. Subsequent to that, Mr. Garepy stated that he no longer wishes to comply with that and doesn't want to give any easement at all on that property. In lieu of that, he is suggesting that he would put some sort of passive recreation, such as gazebo and some trails that wouldn't be able to be used in conjunction with each other but would create 4 small areas.



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Mike Garepy said it is in the record that he would consider an easement as a possibility. In the interim, he spoke to his team and that is something that they prefer not to have as a component of this approval. They don't feel they are required to provide that. The passive component will be provided in the 10 acres of open space and they are willing to contribute a \$4,000 recreation fee.

Dennis Ciotti asked if there are adjoining lots with trail systems that this could interrupt or block the flow of.

Marcia Colbath said that Mrs. Holly has the option of letting people use her land. They don't have public access but they didn't build any houses on that property either. She asked if they are talking an easement on lot 20 or not.

Mike Garepy said at this point, no. They will have open spaces A, B, C & D that is about 10 acres that will be available for passive recreational use and is in the proximity to the residences. He said they are willing to look at those additional parking spaces along Sixth Street, in close proximity to the brook, to be determined by staff, for the possibility of access in the future to the Holly property or this property, should the future landowner of Lot 20 decide it would be appropriate to have access to a limited portion of their property.

Marcia Colbath said that they do have trails in that area. They are in negotiations with other land owners who will allow access to their property to the trails that exists off of County Farm Cross Rd. Her second issue is that she doesn't like lot 20. She isn't sure that it will have septic approval where it is located 400 feet from the house. The open space public access is really land that would not benefit the general public. It is land that would be used by people in those homes because they own it. She doesn't see that as a plus. Would she vote for this if Lot 20 had no conservation easement, absolutely not. She said that it is a valuable area environmentally and it is worth having a conservation easement on it. It would not impact the land owner at all. This is a brook area that eventually goes into the Cocheco River and it is fragile. They are very limited to what they can do on lot 20 including construction.

Mike Garepy said that it is not the right move to put an easement on lot 20. They don't think that it is a marketable situation and it is not required. He didn't think it would be a part of tonight's discussion and had been dealt with at the last meeting. He thought that he had stressed the point enough that they don't want a Conservation Easement on that property.

Chris Parker asked Marcia when she says a conservation easement, she was not saying in lieu of a buildable lot, but that a house could be built, but that there would be an easement

Marcia Colbath said if he puts in Lot 20, an area within lot 20 would be under a conservation easement. There is very limit space that can be built on, so putting a conservation easement will not negatively impact that property. It would protect it from a future landowner doing something



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that would negatively impact that property. It would allow the land to be monitored on a yearly basis to check that nothing was going on that could impact anyone living beyond that brook and that watershed.

Chris Parker said there are two different discussions here. A conservation easement on the property and a public access easement over the brook. He wants to be sure the Board is separating the two.

Marcia Colbath clarified she would like to see public access and more than that she would like to see the land monitored because what you do on your property impacts a large area, especially when you are dealing with water and water moves.

Tony McManus said that he agrees that they are two different things. His understanding is that the developer is saying no to both.

Frank Torr was concerned that the Board is basically asking someone to give up some property rights and he didn't hear anyone talking about money. If a person was asked to give a conservation easement on their property, they would expect compensation for it. That land is valuable. He came to the Board with a plan that meets our standards and all the obligations that is being asked by the Planning Department.

Dennis Ciotti thought that hammerheads were taboo because they are a nuisance to maintain.

Doug Steel said that they are accepted in the Site Review Regulations. He doesn't care for them and will work with Chris Parker to try to have them removed from the regulations in the future.

Dennis Ciotti said that lot 20 is no longer accessible so condition #12 should be stricken. He said that the street is going to be a City street and should have sidewalks. He will not vote for a waiver for a 24 foot street.

Doug Steele stated that the Planning Board has no right to force this developer to do any of these things that we are asking him to do.

Chris Parker said that you can not force him to put in a conservation easement. He said we have had this discussion before that the applicant is not interested in putting that lot into conservation. It's important, while we remain interested in promoting conservation; we have to deal with property rights. He asked for some direction on #8 whether the Board is going to keep the original condition of approval or revamp it as Mike did tonight.

Perry Plummer asked why we are not requiring sidewalks.



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Chris Parker said that normally we do. There is no plan for a sidewalk in the Sixth Street area and it would be a sidewalk that would be self-contained. It would be a maintenance issue to get the sidewalk tractor out there. It seemed like a logical request to accommodate.

Perry Plummer asked why we are not requiring the normal road width.

Chris Parker said that he feels that 24 feet is too wide. He is in favor of 20 to 18 feet wide, as they tend to make people go slower. The regulations say if your development is 100 feet back from the main road, the Planning Board has the option of approving a 20 foot wide roadway. Normally, what we do with the granting of this waiver is to restrict the parking.

Perry Plummer stated that it is difficult to monitor.

Mike Garepy stated that condition #11 is no parking on one side of the street. There is a note that was added to the plan that addresses that requirement.

Dennis Ciotti said that we always requested sidewalks and lately it was for connectivity to other neighbors. He lives in Alden Woods and there are sidewalks. The City does not plow the sidewalks but they are there for the residents. He said that some day they may walk out to Sixth St. The 24 feet with no parking he could be swayed but the sidewalks would have to be part of it. He asked if the fire apparatus could operate in the hammerhead.

Perry Plummer said that it is not that big a deal because it is not a safety issue.

Doug Steele asked if the Planning Board ever put a requirement on a subdivision with hammerheads to have language in the deeds, for the properties on the hammerhead that states that the City has the right to place snow on their properties. He said after a horrendous winter, he will have the owners screaming at him because they have more snow than their neighbors.

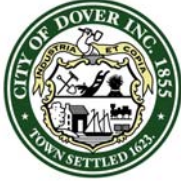
Chris Parker said that Sheet A-3 you are asking for 14, 15, 16 have some sort of easement for snow storage.

Doug Steele said that you would want to move the snow back at least a minimum of 8 feet.

Mike Garepy said on the plan they do depict a 10 foot easement along the entire roadway that is in favor of the City for grading, drainage and it can be added for snow storage as well.

Chris Parker said that on lots 12 through 16 we would make that a 15 foot easement.

Marcia Colbath said that the septic is up to the State but she has concerns with the 400 foot pipe for the septic going underground.



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Dennis Ciotti said that he would like to change the snow maintenance to snow storage.

Tony McManus stated that he has a problem with a number of things. His objections are the waiver of the road width and the configuration of the hammerhead. He agrees that there should be sidewalks on one side of the street. He thought that the access of lot 20 will create all kinds of problems the way it's designed. From a pure planning standpoint, everything fits in but it barely fits in. He thought it is poor planning and not serving the people. As it stands, he would vote against it. The section adding 4 parking spaces is like the bridge to nowhere.

Ron Cole said pull the parking spaces and revert back to the sidewalks.

Linda Merullo was concerned with the septic system and why it was 400 feet from the house. She said that the land is fragile and we are putting in a driveway that is extremely long and hard to get into if there is an emergency. We are trying to create a neighborhood, yet we have this house is miles away. We are doing major construction through major conservation land to develop this lot 20. She has a problem with the hammerhead, the sidewalks and the slope on Sixth Street where you can't see. There are many issues with this development. They Board should have the developer work on this further, delete lot 20 and reconfigure the whole thing so that it is safer for everyone on Sixth St. She hears that everyone has issues with this. One of her issues is the destruction of trees going into Lot 20. She will vote no on this unless the developer can come back with something logical and reasonable.

Chris Parker explained that this project came in about a year ago as a water and sewer project with 23 lots. Through different iterations, the applicant determined that bringing in water and sewer up Sixth St. was cost prohibitive and reconfigured the plan with wells and septic.

Mike Garepy said that this went before the Conservation Commission three times. He explained that there is a state requirement of a 4,000 sq. ft. reserve area for septic systems. That was the most suitable place to locate that on Lot 20. In reality, there will be a system that will be designed much closer to the house. They went for a temporary impact as a worse case scenario. There is suitable soil near the house.

Perry Plummer said for public safety, they meet the conditions of the codes with the driveway or sprinkler the building.

Doug Steele said the hammerhead is allowed in the subdivision regulations so he can't see where the Board can deny it. He would vote in favor of this tonight with the hammerhead. He said he would personally prefer there not be a sidewalk. It would give the homeowners a false sense that it will be plowed. We have given that road waiver before and for the size of the subdivision, he doesn't have a problem with it.



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Discussion ensued with regard to the sidewalk.

Tony McManus said his issue is that we have insisted that sidewalks be put in. If we treat one developer different, the next one will say he doesn't want sidewalks and others have none. We will be painting ourselves in a corner by continuing to grant waivers.

Kirt Schuman said that he agrees with Tony and Dennis. We are here to be creating neighborhoods and not enclaves for single houses. If the regulations say sidewalks, there should be sidewalks. It's a neighborhood and creates community. Even though they don't take you anywhere they take you around the community. He feels that 24 feet is too wide but it is fine if the sidewalk is staying.

Mike Garepy said he disagrees that a sidewalk is needed, but if it is the Board's pleasure, they can install a sidewalk on one side of the street. He stressed that he has to agree with Chris that 28 feet of pavement is far in excess of what is needed. They would be happy to have 20 feet road width and 24 feet is acceptable.

Ron Cole said that he thinks that conditions # 8. and #12 will need some sort of adjusting.

Chris Parker said that #1 through 7 have remained the same. #8 has the applicant's alternative. 9, 10 and 11 are the same. #12 has been removed. Numbers 13 through 16 are the same. #17 has been added: Provide documentation of the State Septic Approval for Lot 20 prior to the first Building Permit. #18 has been added: The applicant shall amend Sheet A-3 to adjust the easements along Lots 12, 13, 14, 15, 16, to be 15 feet where 10 is shown. Additionally, Note 3 shall be amended with the words snow storage added. Chris Parker said that the goal of the outside recreation is addressed with his compromise. He doesn't think that the onsite recreation will be high quality.

Mike Garepy said that some crushed gravel paths that lead to a gazebo may be desirable for people who live in this development.

Chris Parker said that open space A is 5 acres and there is a potential for trails in there and it would be accessible from every lot. Open Space B is useful only to Lot #20. If we are going this way Open Space A is the way to go.

Tony McManus said that he understands what Frank is saying if we made a requirement that the whole back lot had to be a conservation easement, he could see taking issue there. Our ordinance says that you can't build within 50 feet of a brook. We have the right to say you will have to eliminate one of those lots or you will have to find a place for a playground. What we



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are doing is substituting for a playground. To say that within the 50 foot buffer there has to be a walkway that is available to the public, he doesn't see where that is compensable taking.

Mike Garapy said he recognizes that the Board may not be happy with just 10 acres of open space for recreation but they think it is. They have also providing a \$4,000 recreation fee for the City to do whatever it pleases to build a park, trails, etc. They are complying to what has been done in the past. They agree that there will be no construction within 50 feet of the wetlands but they don't feel that it is appropriate that there be a conservation easement on it.

Chris Parker said that one thing that Tony alludes to is that the Planning Board has the discretion to choose where the open space is. If you look at 155:23A, it says that the location configuration of the open space shall at the discretion of the Planning Board. The open space counts are correct.

Mike Garepy said he suggested language for #8. **The applicant shall provide on site passive recreation for the subdivision lots such as pedestrian trails in open space areas A, B, C and D as shown on the plan. Additionally, the applicant shall pay a \$4,000 recreation fee to the City for offsite recreation the City determines appropriate.**

Ron Cole explained that the Board has to decide whether it wishes to attempt to force the applicant to put a public access easement for the use of the trails on lot 20.

Christopher Parker stated the Planning Department recommends approval of the subdivision plat and Conditional Use Permit with the following conditions:

1. Add the owners' signatures to the plat.
2. Add the Surveyor and engineer's stamps and signatures to applicable sheets.
3. Approval includes the granting of waivers for a road width of 24 feet.
4. The applicant shall provide the Planning Department with a copy of the NH Department of Environmental Services Subdivision Permit and add the permit number to the plat, prior to signing the plat.
5. The applicant shall provide the Planning Department with a copy of the NH Department of Environmental Services Wetlands Permit for the driveway crossings and add the permit number to the plat, prior to signing the plat.
6. The applicant shall provide the Planning Department with proof that the Environmental Protection Agency Notice of Intent Permit has been filed, prior to signing the plat.
7. The applicant shall submit proposed Homeowner's Association Documents, addressing detention pond maintenance, open space preservation and maintenance, and 50-foot and 100-foot buffers remaining in their natural state. These documents shall be reviewed by the Planning Department, with consultation by the City Attorney on the proper form of the documents, prior to the signing of the plat.



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8. The applicant shall provide (language in the Homeowners Association Documents to allow) for passive on-site recreation opportunities such as pedestrian trails for the subdivision lots in open space areas A, B, C & D as shown on the plat. Additionally, the applicant shall pay a \$4,000 recreation fee to the City for off-site recreational uses as determined by the City.
9. The applicant shall revise the plat by adding the 50-foot buffer to lot #4 and relocating the proposed house and driveway on Sheet # C1.
10. The applicant shall revise Sheet # D1 to delete the word “private” from the road detail.
11. The applicant shall revise the plat to add a note restricting parking on the inside curve side of the road and to add no parking signs on the hammer head.
12. The applicant shall revise the plat to address the drainage and grading issues at the intersection of Sixth Street and Gladiola Lane to the satisfaction of the City Engineer.
13. The applicant shall revise the title sheet to remove the words “sheet 1” from the Tax Map designation.
14. The applicant shall revise Sheet # A1 of the plat to add a note requiring the existing vegetation to remain as shown along the common boundary with lots 39-15, 39-16, 39-17, 39-18, 27, 28C, 28B, 39F, and 39D of Map A. Additionally, no disturbance shall be made within the Open Space lots. This vegetative buffer shall be staked in the field by the surveyor, checked and approved by staff prior to any road or land clearing.
15. Each new dwelling unit shall be subject to the Impact Fee Ordinance (Chapter 170-28.7) and the school impact fee shall be assessed prior to the issuance of a building permit.
16. The applicant shall provide the Planning Department with documentation that a State Septic approval has been granted for lot 20, prior to the issuance of the first building permit.
17. Applicant shall amend sheet A3 to adjust the easement along lots 12, 13, 14, 15, 16 to be 15’ where 10’ is shown. Additionally, Note 3 on same said sheet shall be amended with the words “snow storage” added.

Frank Torr made the motion to approve with the recommended conditions of approval.

Doug Steel seconded.

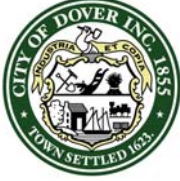
VOTE 5 – 4 Opposed – Marcia Colbath, Dennis Ciotti, Tony McManus, Donald Andolina

c. Review of architectural design for site plan of land for a restaurant at Assessor’s Map 38, Lot 6A-4 & 6A-2, zoned B-3, located at Shaw’s Plaza, Central Avenue. (Owner: NP Dover, LLC)(P05-58)

Dennis Ciotti made the motion to take this off the table.

Tony McManus seconded.

VOTE U/A



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Discussion ensued with the colors of the Panara Bread Restaurant.

Frank Torr made the motion to approve.

Dennis Ciotti seconded.

VOTE 7 – 1 Opposed – Tony McManus

Christopher Parker reminded the Board that, there will be a workshop on September 25, where SRPC will demonstrate what the City gets for its money. He suggested that it be an hour workshop. One hour will be spent with SRPC and the other will be on Willand Pond.

He said that the memo that is put in the packets will be put on line also. He said that we will be getting pdf's of the plans and will be putting them on line also.

10. Adjournment

Frank Torr made the motion to adjourn.

Perry Plummer seconded.

VOTE U/A