



CITY OF DOVER

DOVER PLANNING BOARD - MINUTES

Meeting Type: Regular Meeting
Meeting Location: Council Chambers – 288 Central Avenue, Dover, NH 03820
Meeting Date: Tuesday, October 23, 2007
Meeting Time: 7:00 pm

MEMBERS PRESENT: Marcia Colbath, Dean Trefethen, Linda Merullo, Kirt Schuman, Tony Perry McManus, Ron Stock, Frank Torr, Donald Andolina, Doug Steele, Plummer, Kirt Schuman

MEMBERS ABSENT: John Swartzendruber, Ronald Cole

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

Tony McManus, Acting Chair, brought the meeting to order at 7:00 pm. He announced that **3. c. for Goodspeed** has been withdrawn and will not be heard and would be re-noticed.

1. Citizens' Forum

Mary Hebbard, 97 Spruce Lane, asked if item **4.b. Temple Assoc.** was recessed. She asked to speak as she would not be present when it comes up later. Temple stated that they were negotiating for spaces with a nearby property owner. The spaces would be available from 6:30 pm to 7:00 am. The vehicles must be out of the lot at 7:00 am and would have to be move to other spaces in municipal lots, creating a shuffling effect. Has the lot owner been revealed? It would create snow plowing issues. She asked for the reasons for the reduction in spaces and the vote.

Chris Parker stated that the lot is the Shaheen & Gordon Lot. The applicant had asked to have the Conditional Use and the site plan on the same agenda. They split the two to give the Board the opportunity to know where the lot was and the cross use. The vote was 6 – 2 with Doug Steele and Marcia Colbath opposed. He said that the staff recommended the reduction of spaces based on the unit count and the items addressed in the Conditional Use requests. Deed restrictions will be place on the leases. The Transportation Master Plan speaks to shared parking and infill. The reduction was based upon the shared and reduced parking need for studio and 1 bedroom apts. If they need more than 1 parking space they must lease somewhere else.

Mary Hebbard felt without a parking garage, the City will be running into a problem. For 2 years the developer said they couldn't find parking and all of a sudden, they have parking. That is an issue.

2. Approval of minutes

Chris Parker stated that there needs to be a correction on page 3, as part of the discussion for the Moore Business forms rezoning. The Chairman read off names of people who submitted letters. On the second to last paragraph Jessica Smith is listed as someone who has concerns. Ms. Smith wrote a letter in support. He wanted it to be clarified that she supported the project. Lee



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Ann Burns and Jessica Smith both submitted letters of support. Ms. Smith contacted the Planning Department to reflect her feelings.

Linda Merullo stated on page 9., a sentence in the middle of the paragraph should read “It would be so helpful,” and not, “I would be so helpful.” She asked that an end time be reflected in the minutes.

Dean Trefethen seconded.

VOTE U/A

- a. Public Hearing for 2007 Update to the Land Use Analysis Chapter of the City of Dover Master Plan. The chapter is available for viewing on the City’s web site.**
www.ci.dover.nh.us

Tom Fargo, 14 Cobble Hill Dr. and Chair of the Conservation Commission stated there is a small portion regarding natural vacant land on Page 41 and 42. On the bottom of page 42 that said, as of August 1, 2007, 4,346 acres have been permanently protected. It is more on the line of 634 acres. With regard to the discussion of the shoreland protection and stormwater management aspects, Mr. Schuman reported that the Master Plan said that it calls for permeable pavement. It should be clear that it may not be the appropriate stormwater management strategy. There are places where the underlying soils are not permeable and would not accept the water so it doesn’t make sense to require the developers to use permeable pavement. He would like to see discussion of performance standards for treatment of stormwater. The Master Plan should say something about performance standards for stormwater treatment and not just use pervious surfaces or permeable paving. The Master Plan page 42 talks about the UNH Stormwater Center being leading edge. Some of those performance standards could be based on data from that stormwater center. They have a category in their evaluation of low impact development stormwater management systems and those, as a group, have the highest level of treatment and highest level of peak reduction, peak runoff reduction, etc. He wanted to see that bolstered a bit more.

The public hearing was closed.

- b. Consideration and acceptance of a minor lot line adjustment of land for Daniel Ayer Revocable Trust, Assessor’s Map N, Lots 19 and 19-3, zoned R-40, located off Falcon Drive.*(P07-51)**

Dan Ayer, 168 Back Road, explained the minor lot line adjustment plan addresses lot 3 in an open space subdivision that was approved in 2004.

Frank Torr made the motion to accept the application.

Doug Steele seconded.



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VOTE U/A

The public hearing was opened.
 There were no comments.
 The public hearing was closed.

Dean Trefethen 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 to the plat.
4. The applicant shall revise the plat by correcting the date of the flood maps in note #6.

Linda Merullo seconded.

VOTE U/A

- c. Consideration and acceptance of a minor lot line adjustment of land for Gary Goodspeed and John Penaskovic and Diane Dewyngaert, Assessor's Map G, Lots 15 & 14A, zoned R-12, located on Washington St.*(P07-45)**

This item was withdrawn.

4. Old Business

- a. Discussion and possible vote on an Open Space Subdivision and Conditional Use Permit for Woodwind Farms, LLC, Assessor's Map N, Lot 8-1, zoned R-40, located on Gulf Road.(P07-43)(9 lots)**

Chris Boldt, Donahue, Tucker and Ciandella, there was an issue as whether or not they should have a sheet in the plan for phase II. Rather than wrestle that issue, they have solved it by withdrawing it.

Linda Merullo, asked about the letter regarding retaining any development rights in the area. Those rights will be exercised in the future. Is this pertaining to Phase II?

Chri Boldt stated if you continue reading, it says they will use it, if at all, pursuant to the zoning ordinance and subdivision regulations of the City. They don't know what will happen on Lot 10 but they are retaining the right. Whatever they do they will have to come in before the Board. They didn't want to have to go to the expense of engineering for something that they didn't think would occur.

Frank Torr made the motion to remove from the table.



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Marcia Colbath seconded.

VOTE U/A

The public hearing was reopened.

There were no comments.

The public hearing was closed.

Chris Parker explained that the Planning Board accepted the application on September 11, 2007 and held a site walk on September 15, 2007. The applicant appeared before the Conservation Commission on September 10, 2007. The applicant has requested four waivers to the Subdivision Regulations related to the road design, involving the angle of intersection (90 degrees for 20 feet instead of 90 degrees for 100 feet), road grade (7% instead of 6%), length of cul-de-sac (1,876 feet instead of 1,000 feet), and the width of pavement (20 feet instead of 24-32 feet). Based on the justification given by the applicant, the fact that the road will be private and the results from the site walk, the Planning Department supports the waiver requests. In response to the concerns raised by the Planning Board at the previous meeting, the applicant has eliminated phase 2 and removed sheet 4 of 4 from the plan set. The Planning Department recommends approval of the subdivision plat and Conditional Use. He went over the recommended conditions of approval.

Frank Torr made the motion to approve with the following conditions:

1. Add the owners' signatures to the plat.
2. Approval includes the granting of the four requested waivers.
3. Approval includes the granting of the Conditional Use Permit.
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 proof that the Environmental Protection Agency Notice of Intent Permit has been filed, prior to signing the plat.
6. The applicant shall submit proposed Homeowner's Association Documents, addressing road maintenance, drainage easement 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.
7. The applicant shall provide the Planning Department with proposed easement documents for the access easement over Tax Map N, Lot 8, the septic system easement in favor of Tax Map N, Lot 8, and the driveway easement in favor of lot #8. 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 amend the plat by revising all applicable sheets to specify that this is an open space subdivision with a commercial component.
9. The new dwelling units shall be subject to any impact fees or water and sewer investment fees in place at the time of building permit application.

Doug Steele seconded.

VOTE U/A

b. Discussion and possible vote on a site plan of land for Temple Associates, Assessor's Map 2, Lot 14, zoned B-2, located at 90 Washington St.(P06-03)

Samir Khanna explained that this site plan was previously approved last year on September 12 and they are here to have it re-approved.

Frank Torr made the motion to take this item off the table.

Perry Plummer seconded.

VOTE U/A

The public hearing was opened.

There were no comments.

The public hearing was closed.

Chris Parker stated that the Planning Board approved a Conditional Use Permit for a reduction in the number of parking spaces on October 9, 2007. The Planning Department recommends that the site plan be approved with the following conditions:

1. The applicant shall supply the Planning Department with a sample apartment lease that covers the assignment of parking spaces, prior to the issuance of a building permit.
2. In conformity with the Transportation Master Plan, which addresses the need for a downtown parking garage, the applicant shall contribute \$1,500 to the City to help pay for the parking garage study. Said payment shall be made prior to the issuance of the first certificate of occupancy.
3. The applicant shall work with the City to consolidate and screen the existing dumpsters located in the City's Belknap lot, prior to the issuance of a building permit. Any costs associated with the solution shall be paid by the applicant.
4. The new dwelling units shall be subject to any impact fees or water and sewer investment fees in place at the time of building permit application.

Dean Trefethen stated he hoped as part of the approval that there be a condition that they contribute to the parking garage study and when the garage is built, they be required to use the parking garage at the applicable rate at that time.



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Chris Parker stated that they thought of that but when they came in with a lease for 5 years and renewable after that, he didn't feel they could tell an applicant they would have to park in the City garage when they have an alternative somewhere else. They are paying into the study.

Dean Trefethen asked the applicant if it would be advantageous to him to move to the parking garage even if it was more money.

Samir Khanna answered that he would, unless he was under a lease obligation at that time.

Linda Merullo made the motion to approve with the above referenced conditions.
Donald Andolina seconded.

Doug Steele stated he would be voting in opposition because of a concern with the parking.

VOTE 6 – 2 Opposed – Marcia Colbath, Doug Steele

c. Discussion and possible vote on a major subdivision of land for Dover Point Properties Development, LLC, Assessor's Map L, Lot 89G, located at 202 Dover Point Road.(P07-39)(14 lots)

Frank Torr made the motion to remove from the table.

Linda Merullo seconded.

VOTE U/A

Bob Stowell, Tritech Engineering, represented the applicant. They started this project the first of July. They have had 2 TRC meetings. They have been here in August and on a site walk in early September. They were here at the end of September. They submitted a traffic study prepared by TEP LLC. In this study the traffic engineer has outlined that peak am and it is showing that there are 7 trips leaving this site between 7:00 and 8:00 am. They did a count at Riverside Drive, which is just to the south of them that has a few more residents. Between 7:00 and 9:00 am on a Thursday morning, it showed that the numbers were a bit lower for an existing use. One thing they got out of Riverside Drive is the split on which direction - north or south. 70 % was going into Dover and smaller amount was heading to the south. Out of the 7 vehicles leaving the site in the peak am, 2 would be trying to make a left turn, towards Portsmouth and 5 would be making a right turn towards Dover. They discussed the left turn out and whether it was appropriate to try to take the left turn out of this subdivision and the conflict that may exist with the traffic volume. They did a gap count. What is recommended is 7.1 seconds in order to make a left turn out. They had 66 opportunities that had a 7 second gap, and 46 opportunities that represented an 8 second gap. They have an adequate number of gaps that meet the required recommended gap time for the 2 cars that will want to take a left hand turn out of the site. Also discussed was the stacking lane in front of St. Thomas and how that might impact the sight distance. The sight distance data shows that they had adequate sight distance in both directions. There was concern that at the peak hour in the am, with cars waiting to take the left turn into St. Thomas and what the impact would be on their sight distance. It is discussed in the study under the queuing length. During the 7 to 9 period, it was recorded what types of queues were out at St. Thomas. It is a different location and further to the south now but, ultimately that location will be moved to the north and they could expect some more cars sitting in the queues at the new



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entrance. Those numbers are outlined in the traffic study. There was a concern at the busy time of the morning but it is fairly calm the rest of the time. The traffic study, based on the queuing, looks at the 85% as the design queue and says that 85% that a 6 car queue is the design and there will be 15% of the time when it will be slightly higher. If you put the 6 cars in the turning lane, it leaves them with 230 feet of sight distance, which is still significant. The traffic study points out a 200 foot sight distance for a 35 mph zone and they have 230 feet. He said at that time of the day the cars are traveling much slower. There will be a couple of moments at 7:45 am when people will want to be very careful. The report shows that it is acceptable.

Donald Andolina asked about the statement in Bruce Woodruff's memo that states that there may be a need to cut back some vegetative growth at the proposed intersection with Dover Point Rd.

Chris Parker said he was impressed with the depth and the information provided by the study. Staff will use it as a model for all the projects that Tritech submits because it had a lot of good information and was well laid out. If you look in the memo that the staff drafted, condition #8 stated that the applicant shall identify and remove any vegetation located within the right-of-way of Dover Point Rd. that is impeding sight distance, prior to a building permit. Sheet C-1, note 23, indicates that 2 utility poles will be removed. When exiting the property, there is a utility pole on the right and on the left, coupled with the vegetation which they felt is a sight distance concern. The applicant is willing to remove both poles.

Doug LaRosa explained that they have reviewed the drainage plan with the City Engineer and have found this plan acceptable. The plan is basic. It will collect the drainage along the roadway in catch basins and curbing to a water quality structure. There is a series of catch basins every 300 feet. All that drainage runs into a 40' X 36" water quality structure that removes sediment and silt from stormwater. From there it is piped from that structure into a rip rap apron that has a level spreader at the end that goes into an existing drainage channel, that exits the site via an existing oval and flat flow, so it will receive additional treatment and then it goes into the river. They did a separate drainage analysis for the Hobbs parcel. The Hobbs home is at the bottom of a steep ravine, and is about 1 foot off the property line. The Hobbs are concerned that they will get additional water to their home. By bisecting the property with the roadway, they are reducing the area that is flowing to that property. In the pre-construction flow, they have about 4.6 acres flowing down towards their property and post-construction, they have about 3.3 acres. This is a benefit as it reduces the rate of stormwater runoff. He pointed to where the existing water runs down into the ravine and runs right by their property. Water runs there now and will run there in the future but at a slower rate. He said that the overall drainage report showed that there is a decrease in the peak rate of runoff across that whole boundary line, if you are using the river as the boundary.

The public hearing was opened.

Tom Fargo, 14 Cobble Hill Road, and Conservation Commission Chair, asked Mr. LaRosa what type of water quality structure was proposed.

Doug LaRosa said it is an ADS Water Quality Structure. It is about 40 feet long, 36 inches in diameter, and has sieve plates in it. He explained that it is primarily for the first flush design, which is when all the sediment goes into the system.



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Tom Fargo stated that this has nothing to do with Conservation Commission but the tolls went up on Monday, which will create a lot of traffic onto Dover Point Road. Their traffic analysis may not reflect current conditions. The Conservation Commission had not reviewed this project because it was designed so that it didn't impact the Conservation District. There are no wetlands on site. He received a number of questions from the abutters asking him if he has any concerns about the project. It is because he has concerns that he is here. His concerns are primarily concerning stormwater. He spoke earlier about increasing the amount of regulations and scrutiny in managing stormwater and this is where it would be apropos. The applicant has developed a drainage plan that treats stormwater and it's efficacy in reducing pollutant load. He has not reviewed it. There are good water treatment systems and some that are not so good. His concern is that the Engineering Department reviewed this project and dealt mainly in the reduction of peak runoff. There is no review on the performance of stormwater management systems in removing pollutants. He wanted to start with where do the pollutants come from and that comes back to the density of development. This is an R-20 zone that was established, possibly in 1964. Stormwater management was not an issue then but it is now. It is addressed in the Master Plan update. This development is fairly intense and that is running counter to that goal. He stated the Board has an obligation to protect the citizens that abut this property. He said Chairman Cole has often said "If the development plan meets the regulation, the Board is obligated to approve it." He read a NH Court decision that contradicts that advice. He said the NH Supreme Court Justices said that a planning board must look beyond the issues of zoning compliance and consider the communities' future needs, as well as the current and future fitness to the property subdivided. He's not an attorney, but he has had people tell him that there are 3 types of law, common law, statutory law and case law. He said that statutory law trumps common law and says that you can do what you want with your property, as long as you are not negatively impacting those around you. If this goes to court, it offers those abutters another chance to bring things forward that perhaps, would not be allowed in this venue.

Kate Hobbs, owner of the McIntosh property, passed out a review from their engineer that they personally hired to look at the drainage plan. Not one person from the neighborhood said that they are completely opposed to this project but they are concerned with the number of houses and the impact it will have on the property. A comment was made that they are lucky that they are not next to a commercial development. She didn't buy a property next to a commercial land. She bought a parcel on the water, a valuable piece of property that she is justifiably concerned about. She is concerned with runoff that could impact them. If somebody buys a plot next to them and they cut down the no cut zone, which just happened in another community, they could have a complete landslide, which is a valid concern. They didn't want to pay the \$5,000 to have an engineer privately go over the drainage plan but this study does conflict with some of the things that were said tonight.

Brian Whitehouse, 8 Riverside Drive, brought to mind 3 letters from people that were written to the Board. He said Riverside Drive was developed in early 1950s, the width of his street is 41 feet. The width of this proposed street is 24 feet, providing they get a waiver. He said they have a great neighborhood and have many neighborhood activities and cars are parked on both sides of the street and not on anybody's lawn. Shore Lane doesn't fit. The grade on Shore Lane is 8%, the maxim is 6% - another waiver. By allowing the 8% grade you are creating water problems in the cellars of Riverside dwellers. Changes in topo will create runoff, making the pooling effect on Riverside Drive already worse than it is. Cutting vegetation in the easement will affect the drainage. There is an assumption by some City officials that all the drainage problems on Riverside Dr. have been fixed. They have not. What is



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the sense of a City code or a Master Plan if they are continually writing waivers? Unless they receive those waivers, this doesn't fit. By seeking waivers they are not working within the code. They want to make sure the proposed backyard doesn't end up in their backyard. The drainage study is incomplete and they haven't seen a traffic study. He disputes the number of cars coming out of Riverside Drive between 7 and 9 am. This subdivision was presented with one major consideration of maximum dollar return on investment. It should be rejected. There is no shortage of housing and they are shoehorning these houses in. According Chapter 155, waivers should only be granted in the event of extraordinary or unnecessary hardship to the developer. He doesn't see any. The utility easement on Riverside has to be 30 feet and here they are going with a 24 foot street. Utilities should not be secured from Riverside Dr. Where are the impact reports? This plan should be rejected. There are 3 letters sent to the Board with greater details.

Janet Butler, 96A Dover Point Rd., stated she is opposed. They put in a dock last summer and needed approval from Conservation Commission, Historical Society, Army Corps of Engineers, NH Wetlands, the Governor's Council, Planning Board, City Building Office and a couple of others. It took 6 months to get the approval. There is a system out there to make sure her dock doesn't negatively impact the river. Concerned about the storm drainage coming off of 14 roofs, driveways and a big road coming down into the river. She called the EPA, Army Corps of Engineers, NH Estuaries Project and they said that this should occur at the local level and Conservation Commission is responsible for making sure that this project meets the standards. She read from a publication from the National Estuaries Report with regard to stormwater runoff. They can't have all this stormwater pouring into this river without serious damage. She implored the Board to have the Conservation Commission look at this plan. Aesthetics are also a concern. Can't phantom how this "spine" of a road will come down and bisect the property. It seems very unattractive, almost an eyesore. Development can be done beautifully and they would like to see a beautiful development. She is very concerned with the Hobbs property because of the possibility of the trees being cut and they are located 20 feet below. There is serious danger of a mud slide if a landowner decided to cut the trees. Concerned with the 15 traffic accidents right in front of St. Thomas. The tolls going up means more traffic. Mrs. Butler questions the traffic study.

Patrick O'Day, Burns Bryant & Cox, and council for Mrs. Butler, stated with regard to Tom Fargo's statement that the tolls are going up that there are two components to the traffic study, the gap analysis and the queue data form. This would impact the gap analysis. This has to be done at the site to log the numbers and can't come out of a book if this is going to be accurate. Relative to the conservation issues, there are plans in another phase to build docks that could have additional impact. There are several overlay districts that should be taken into account. Relative to a buffer, the value of those trees doesn't add up to that much. You have to look at the stumpage value and you might get \$3,000 to \$10,000 but you have lost that buffer. The plans are calling that the no cut zone be established by protective covenants but the wording should be part of the purview of this Board. The Whitehouses have suggested some language. There should be something about replanting. If it is part of the covenants it is something the court would enforce. He would consider leaving the 2 lots that are closer to the waterfront be left open. This is part of the purview of the Board. Chapter 155:36d speaks about preservation of natural features. This is something that could be considered in preserving the views and the waterfront and would fit in with the intent and spirit of the Master Plan. He felt it is important that the Conservation Commission thoroughly reviews this.



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Susan White, part of the Riverside Dr. Community, said she concurs with what Brian Whitehouse said. She directly abuts the proposed subdivision and already has a water issue in her basement. Additional water would cause damage to her property and reduce the value of her home. In terms of aesthetics, it strikes her that she has 1/3 of an acre and yet she will be looking directly into 2 backyards. It would not add any value, monetarily or visually to the area.

Gail Tanner, 10 Riverside Dr., the tolls have gone up and to get out at 1:00 pm they had a longer wait. The runoff of the water is a concern. Concerned about the river. Lived at her address for 25 years and this summer saw 4 people walked out into the middle of the river at low tide. They are loosing the water.

Nancy Pearson, 200 Dover Point Road, was concerned with the vegetation in the right-of-way that might have to come down for the sight line. She was concerned about the trees in front of her house. She was not sure if she or the City owns them, as they are not 10 feet from the road.

Chris Parker stated that the vegetation is along Dover Point Rd. and on Shore Lane. They would verify with the applicant if they are in the right of way. Dover Point Road is a State controlled road at this point and they would work with the State. There is a recent subdivision plan of the Pearson property that would identify the right-of-way.

Nancy Pearson asked if she would be notified if was determined that the trees needed to be removed.

Chris Parker explained if the trees are on her property she can't be forced to cut them.

Roy Tanner, 10 Riverside Dr., was concerned with the runoff. There is a problem with runoff on Riverside Drive and this project could make it worse. The traffic is a concern. It is suicide at about 2 or 3 o'clock in the afternoon whether they go right or left. He lived there since 1954. He is against this project unless someone can explain why this will be a benefit for their area.

Stephen Parks, attorney with Wyscial, Boc, Tillinghast & Bolduc, represented Paul Butler. He listened to concerns and reviewed the minutes of prior meeting. It is unusual that the focus has been on traffic counts and he hasn't heard about the aesthetics. The grade of the land is at 10% and the required grade is to be no more than 6%. He was concerned with safety and with emergency vehicles. Drainage is an issue with some of the abutters. This development doesn't comport with the ordinance. The applicant is seeking waivers on the design standards. It is well within the purview of the Planning Board to not issue waivers. He reminded the Board that whether or not a waiver should be issued, they have to reach the conclusion that strict conformity would pose an unnecessary hardship for the applicant. There are alternatives with this piece of land. If the Board decides to issue waivers - it cannot be contrary to the spirit and intent of the regulations. If the Board is granting waivers to put in a road, described as a spine or aqueduct, down the middle of the project and running the driveways off that road at a difference of 8 feet between the road surface and the lots. He wondered how pleasing it would be to see a road straight down to the river with 14 houses jammed in. His clients feel that is a concern. If something is not aesthetically pleasing, it will affect the property value of any abutter. There are issues with respect to drainage. He doesn't know of any other development in Dover with this raised roadway. It is a concern that the Planning Board didn't ask for feedback from the Conservation Commission. The purpose of the Conservation Commission is to protect and promote the natural resources of Dover and for protecting the



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watershed resources of the City. The powers of duties say that the commission shall coordinate its efforts with the activities of other official or unofficial bodies conducting studies, research and evaluations for similar purposes. Given the drainage study, the commission should get involved. Mrs. Butler was correct in describing the road as a rib running down the land. He read Chapter 155:51. NH RSA provides that Planning Boards may provide waivers in strict conformance with the spirit and intent of the regulations. The subdivision standards are minimum standards and somebody decided that 6% grade was important. The Planning Board is charged with protecting against scattered or premature subdivision of the land by reason of drainage. Another reason would be to provide for the harmonious development of the municipality and its environment. It is important to put this on the record. The abutters have not used the language of the statute but their concerns with water draining into their basements, and down the slope into the Pistataqua. They are valid concerns and are concerns that are appropriately within the purview of the Planning Board. Questions asked are why they are putting 14 houses on this lot that is so narrow. Why is the City reducing the grade and raising the roadway. If you are looking at it from a cross section there is a gap between the top of the road and the side. It doesn't seem harmonious or right for this piece of land. That has been recognized by the NH Supreme Court as a singular right to put the brakes on something. Why don't they do a cluster development? There would be no drainage or runoff concerns. He was concerned with the quantity of water, with the impervious surfaces, pesticides and fertilizers from the lawns that would be running into the river. A cluster development would eliminate that, as the homes would be more densely packed. 14 or 15 houses could be built and it would be more appropriate and would be more harmonious, eliminating a raised spine in the middle of the lot and be more aesthetically pleasing. Maybe a three dimensional plan should be required or finding another neighborhood where this has been done. What will this development look like at the end of the day? Standing at the top of Dover Point Rd and looking down, it is very scenic. He stood there and tried to picture the road and the houses on both side. Will he even be able to see the water? The scenic value will be lost. When you look at developing this for profit, there is a tradeoff. This developer is proposing a plan that doesn't comport with the ordinance and is looking for waivers. If the Board thinks there maybe is a better way, you are within your rights to not approve it.

Brian Pearson, 200 Dover Point Rd., said that he thought that the trees in front of his house were owned by the City. They shield his home from the lights from St. Thomas, so they are very important to them. He asked that the applicant put in a trim only and a not cut on those trees.

Paul Butler, 196A Dover Point Road, echoes his neighbors' sentiments.

Paul Connoly, Civilworks, civil engineer and surveyor, on behalf of St. Thomas High School, which is directly across the street from the project. He's been on the record with a myriad of concerns. He wants to go on the record for a couple elements of the traffic study. They are pleased that the applicant and their engineers have undertaken a traffic assessment and study of the local. They hired TEP LLC, who is well respected. They have done a queue and a gap study. One of the elements of the traffic study is specific to the existing traffic that leaves Riverside Drive in the morning peak hour, between 7 and 9 am. They get a split in that traffic leaving Riverside of 7% in the northerly direction and 30% in the southerly direction. That particular demographic associated with a neighborhood close to 50 years old is transportable. He is surprised that the report did not assign a more even 50/50 split. Even with a 50/50 split, they are only talking of a difference of 9 or 10 trips in the am peak hour - 2 headed southerly and 8 headed northerly. It would only make a difference of 2 and 8 for a 50/50 split of 5 to the south and 5 to the north. He wants to



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make that point of the record. The report concludes that the left out turning movements from Shore Lane will self regulate and more specifically, between the hours of 7:30 am and 8:00 am. There are queues in certain sectors getting up to 15 cars long. He want to go on record saying if it is not 2 and more like 5, the incident will be more than what is reported in the traffic assessment memo. The report takes the queues that are now backing up and waiting to get into St. Thomas, in a northerly direction on a northbound lane. The report takes these numbers and repositions them up to the new egress and access entrance way into St. Thomas, directly adjacent to St. Ann. The report doesn't account for the additional movements coming out of St. Thomas. Pointing to the map he showed where they presently come out of St. Thomas. He speculated that due to the northbound movements heading out of St. Thomas and turning northbound on Dover point Rd., the queues could be longer than estimated. This will be regulated to some extent by the positioning of a traffic control officer, paid for by St. Thomas. He doesn't think that the report is accurate with regard to the queue lengths. He thinks that the numbers are out there and should be looked at harder and get a more precise number. If the queues are longer, the sight distance becomes shorter in terms of how far up Dover Point Road a car leaving Shore Lane can see. In all fairness to St. Thomas, why would the aesthetics be a concern? St. Thomas cares enough because a good portion of their budget, which is close to 2 million dollars, is going to site improvements approved by this Board. A good portion of that money will be spent on visual updates to the curbing, lighting, a retaining wall and ornamental fences. They care what they look like and what the neighborhood looks like. Could a cluster subdivision have addressed the issues that have come up? Could the homes be put in closer to the river? There are probably marketing concerns. If the homes were clustered, there would be more open space and less paved and impervious surfaces and drainage.

Bob Stowell, stated that Mr. Fargo said that they didn't have to go to Conservation Commission. They didn't go because there were no impacts. Mr. Fargo said that the Board had to vote no on a project that he said he hasn't looked at. He said that he doesn't like the drainage, on a project that he hasn't looked at. He said that the Conservation Commission is more qualified to look at the drainage than the City Engineering staff. The Hobbs' had a drainage review done and they haven't seen it yet. Trittech Eng. prepared a drainage report, put their State of NH stamp on it, the Planning staff has reviewed it and given it their blessing. There is no way that Riverside Drive can get water from this project. They are asking for a waiver to the pavement width and not the right of way width. They have a 50 foot right-of-way. He can't remember a project that he presented here that had 28 feet of pavement. It is the Board's desire to have less pavement and less runoff going down to the river. Less pavement is a good goal. If 28 feet of pavement is desired, they can do that and take the waiver off the table. They can take the waiver off the table for the 8" water line. They are willing to put in a 12" water line. They can do the 6% road, but it will look worse than the 8%. They can do the 6% and they will develop this property and they are not going away. Regarding the grading work that they did on Sheet G-1, it shows as you come to lot 1, the front door is the exact grade of the road. There is no hole. There is no aesthetic nightmare. The viability of the project depends on the aesthetics. He can't do anything about the tolls or the oysters in Great Bay. They wanted to do a very high quality treatment system. For years they were doing the vortex system, which was required by the Conservation Commission for sensitive areas. As Tom Fargo mentioned, UNH has done a lot of studies and UNH felt that those systems are not very effective. He said they are now using the ones that UNH is saying are effective. The system is the Cadillac and there are a dozen ways to do it cheaper. The City Engineer pushed and pushed for this unit. It is the first in the City of Dover. These lots are larger lots than on Riverside Dr. How can they prevent people from cutting down what they are not supposed to? They are providing buffers, which are not in the subdivision regulations.



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The buffers will provide visual screening to the abutters. It is not a requirement. It will be included in the deeds to have as much bite as they can. He can't guarantee some yahoo won't cut down the trees. They used Riverside Drive for data because it is better. If you assume 50/50, it changes the scope. It doesn't approach the level of concern. The queue is a valid point. The queue will change when the entrance changes. What is the best data that they have? They could have gone to the St. Thomas study but they did not do a study. He doesn't know how they designed the queue length without a study explaining how long the queue would be. They have a State Driveway Permit and St. Thomas doesn't.

Jim Schulte, attorney representing the applicant, stated that everyone wanted to talk traffic at the last meeting. They got a traffic study. He said that Bruce Woodruff reviewed it and concurs with it. It confirms what they have been saying; traffic is not going to be the reason to deny it. Riverside Drive has a concern about the runoff if the trees are cut, the hill will run into the river. The people on Riverside might have a concern with erosion because if you look at their lawns, they have clear cut all the way back to the trees. The only trees running down to the river are the trees on this property. They will put the trees in protective covenants, a no-cut zone. The deeds will have a provision that there is a no-cut zone. The only way a tree can be cut down is if it presents a hazard, or if it must be trimmed enough to provide for the monumentation. That would all be subject to approval by the City department. It intrigued him when Stephen Parks said he enjoys the view down the property, as he drives by. He understands now the 15 accidents. The people are enjoying the vistas. The Technical Review Committee has been supportive of this, particularly of the waivers. Earlier tonight a plan was approved which had 4 waivers, there was a bit of difference, but essentially the same as they are asking for tonight. The water waiver was recommended by the Engineering Department, but if the Board's inclination is to not grant the waivers, this project can proceed without it. It would be a marked departure of the Board's practice to deny this type of waiver.

Mrs. Pearson asked if they would be bringing in fill to make up the grade.

Bob Stowell explained that there is a small section of the road that will need fill but not the entire road. Material will be brought up to bring the road up and the houses will also be brought up. The homes will have walkout basements. When the project is completed you will go in the front door and the back yard is at natural grade. He pointed on the map the homes that have higher than normal grading to be done because of the road grade.

Chris Parker wanted to address the denial option. He said to deny a subdivision application is an option but he cautioned that you must articulate the concerns and how they relate to the ordinance. He reminded the Board that should they be considering a denial, they must be sure that it will stand up because the applicant would have the opportunity to appeal the denial. There needs to be a reason and it has to be done in such a way that points out why it was denied.

Chris Parker stated the Planning Board accepted the application on August 28, 2007 and held a site walk on September 4, 2007. The applicant has requested four waivers to the Subdivision Regulations related to the road design, involving the road grade (8% instead of 6%), the 3% road grade at the intersection (50 feet instead of 75 feet) and the width of pavement (24 feet instead of 28 feet), and one waiver to the diameter of the water line (8" instead of 12"). Based on the



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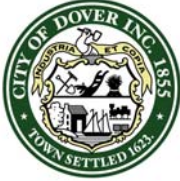
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justification given by the applicant, and after consulting with the Fire Chief and Community Services Director, the Planning Department supports the wavier requests. He articulated the recommended conditions of approval

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 the four requested waivers.
4. The applicant shall provide the Planning Department with a copy of the NH Department of Transportation Driveway Permit and add the permit number to the plat.
5. The applicant shall revise the plat to specify that the proposed 30-foot "Increased Building Setback" along the rear of the lots applies to principal and accessory structures. The "No Tree Cutting Area" buffers shall be staked in the field by the surveyor, checked and approved by staff prior to any road or land clearing. Language shall be added to the protective covenants stipulating vegetation shall be replanted should trees be documented as being felled or removed.
6. In lieu of providing on-site recreation, the applicant agrees to contribute funds for off-site recreation facilities, in the amount of \$3,500. Such contribution shall be made prior to the issuance of a building permit.
7. The applicant shall provide the Planning Department with proposed easement documents for the utility easements and the force main easement, prior to the signing of the plat.
8. The applicant shall identify and remove any vegetation located within the right-of-way of Dover Point Road that is impeding sight distance, to the satisfaction of the City, prior to the issuance of a building permit.
9. The applicant shall revise the plat by adding a note to require that construction vehicles access the site via Shore Lane, except for the construction required installing the water and sewer lines to Riverside Drive.
10. The new dwelling units shall be subject to any impact fees or water and sewer investment fees in place at the time of building permit application.
11. The applicant shall place a fence along the utility easement with a gate to allow maintenance. With the said gate shall be approved by the Community Services Department.
12. A fence preferably one that is not chain link but one that will provide some visual buffer be installed and that the applicant work with community Services department to gauge a appropriate width gate.
13. Provide the copy of the drainage study done to the Hobbs property to the city engineer prior to the signing of the plat.

Perry Plummer clarified he never said that he is in favor or against it. He said a 6% or 8% grade will not affect the safety and fire protection. He was in favor of the 8% grade waiver, based on the site walk and of Bob Stowell's statement that the houses would come off the road, which would look better.

Discussion ensued with regard to the drainage being designed for a 2 year storm.



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Doug Steele said that this drainage is the preferred method that the University is now recommending. The engineering staff has reviewed it and approved it. It is a high quality system.

Perry Plummer asked if they would still be requesting the waivers if the houses were reduced by half.

Chris Parker said he doesn't see where they would change at all. The subdivision could go through without them.

Perry Plummer said that he is not in favor of prohibiting left turns. It will push the problem somewhere else. He agrees with the protective covenants because if someone cuts those trees down, a monetary value won't help but having to replant them might discourage them more. He was concerned with possible problems from drainage and runoff. The traffic report was done by a company with a high reputation but his concern is from the new entrance and the queue and how it might block the sight line.

Bob Stowell explained the stacking lane going into the St. Thomas. The study shows that the 85 percentile is 6 cars, so if they put 6 cars in the queue, they still have 230 feet of sight distance. He said that he feels that it does address the queuing lane.

Perry Plummer was concerned with the crash data and with the shoreline issue. If that is destroyed we can't bring it back. There are drainage issues on Riverside Dr., whether this is developed or not.

Linda Merullo said with regard to aesthetics, that the houses would be buffered enough so they would not be seen. The houses would be fairly expensive and won't look bad. The drainage is state-of-the-art technology and more effective than the drainage on Riverside Drive. She was trying hard to see a negative that would merit a no vote but couldn't see anything that would be that detrimental. As far as the trees being cut down, she couldn't imagine anyone wanting to cut down the existing trees. They probably would not want to see Riverside Dr. and visa, versa. She felt that the 8% grading would be an improvement. She said that she would vote to approve.

Tony McManus stated that there is a difference between Dover Point Road and the bottom of that driveway, of 80 feet. That is an 8 story building. The purpose of zoning says designed to promote the safety of Dover's residents, to encourage the maintenance of Dover's aesthetic quality of life, to encourage the most appropriate use of land. It's very clearly says, where special circumstances exist the Board can agree on the waivers and where not granting them would create extraordinary hardship. The public interest will be served provided that by granting the waivers shall not have the affect of nullifying the intent and purpose of zoning and the Master Plan. They are asking for 4 waivers and Attorney Shulte just said that the Board gave 4 waivers to Steve Woods. He felt that was different because this is a public street and the street height is more extreme. He said that the distance between Royer Lane and the new street met the requirements for the distance between two streets or driveways, but it didn't apply from the exit to St. Thomas. When they ask for 4 waivers and one as serious as that, and in looking at the lay of land, this property is not appropriate for the proposed use. It cannot be used for 14 houses, except by very substantial deviation in at least several instances from the minimum standard of the ordinance. The variance will not benefit the general public. He doesn't believe it would cause the developer any unnecessary hardship if it were denied. Cluster zoning was brought up, or fewer lots, or



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reconfiguring the location of the road to avoid the problems. There are alternatives. The developer should have known of these problems and the limitations of the parcel when he bought it. There is a problem of aesthetics. The road will be a dike. He said they will have to fill the front yards of 2 or 3 of the houses. The topo is not appropriate for the development that is proposed. That amount of fill is bound to change the flow of water in some way. It will either back up against the road on the northern side or it will flow towards Riverside Drive, from the southern side. He has questions with the design of the road being built up 9 feet and not fully complying with the minimum requirement. He doesn't believe the shelf at the top of the road will be appropriate to give a view north and south. Getting up the last stretch to Dover Point Road in the winter will be a problem. Bruce Woodruff agrees that they followed the proper standards for guidelines for determining traffic but he always thought that the standards completely ignore reality. It will be hard to get out of the driveways. The tolls have been raised, which will add to the amount of traffic on Dover Point Road. He feels that the queuing is a problem and the sight distance will not be 250 feet when there are 6 to 8 cars in the queue lane. He is going to vote against it. There are legitimate reasons that the Board can say no. It is not appropriate to go forward because the plan can not meet the minimum standards, it doesn't serve the public purpose, there are safety problems, it doesn't enhance the aesthetic quality of life and it is not the most appropriate use of the land. Even if they meet all the requirements, in certain cases, the Planning Board can go beyond that if there are good enough reasons to deny it.

Donald Andolina felt that the abutters have sufficient concerns over the runoff, the ramifications of erosions, flooding and potential harm to the river. The Conservation Commission has not looked at this. He felt that there are enough unanswered questions on important elements, that a closer look is needed. He agrees with Perry and with Tony.

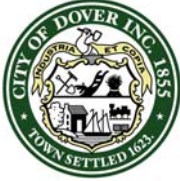
Marcia Colbath stated that she was a little concerned with the traffic. She travels Dover Point Road and comes to St. Thomas at 7:00 and 7:15. In the entire month, not only did she not incur a single car leaving Riverside Dr., she didn't incur a single car between Middle Rd. and the turnpike overpass. She is comfortable with the numbers. Regarding the toll increase, people will go back to using the highway in about a month. Regardless, it will not increase the amount of vehicles coming out of the side streets along Dover Point Road. This project can be built without those waivers whether the Board likes what it looks like. Dover Point Road has high water pressure and they don't need a 12" line. She would like to know of a road that is 8% looks like so she can compare it.

Chris Parker stated that Baldwin Way is 9%. Village Drive he thought was 10% but it is private. He doesn't know of a road to the river at such a grade. He said that he is sure if there are others.

Doug Steele said that Parson's Lane comes to mind.

Marcia Colbath said they don't have any pictures of what the houses will look like. If the Riverside Dr. people put trees on their lots, they would absorb the rainfall which will prevent water from going into their basement. She knows from experience with her property that trees absorbed the water.

Bob Stowell stated that there will be significant landscaping provided to make the project attractive. The houses will be designed on an individual basis.



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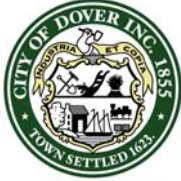
Marcia Colbath said that she is concerned with lot 12 because it has a minimum building envelope and it abuts the water. The drainage issues are a concern to her but she is not concerned that the drainage from this development is going to impact Riverside Dr.

Doug Steele stated that the City would maintain the drainage. He said that the engineering staff has approved of the waivers and he is supportive of that decision. The applicant said that they would eliminate two of the waivers if need be. 6" is good for the system. It loops the system and keeps the water moving. A 24 foot road for a subdivision of this size is adequate. The City is trying to reduce the paving in the City. The slope standard for the communities in our area is 8% and Dover is 6%. We have 8% roads in the City that are being plowed and sanded. He doesn't have a concern with that but wonders why the City is more stringent. It may be an unnecessary waiver that we have to go through on a regular basis. This will be a curbed street that discharges into a state-of-the-art system. This street will get better treatment than most streets. It is his understanding that the topo of the back yards will not change because there will be walk out basements. If you look at the topo of the southerly portion of this project it does not appear that water will be running off from the site onto the abutting road. He felt that the applicant has done what was asked. He is supportive of the project.

Dean Trefethen said that he has gone back and forth in his mind, with regard to Tony's comments. What he has heard are reasons to deny the conditions. He felt that if you denied the project on those reasons, you have a legitimate reason to do that, but if you denied the project as a whole for those reasons, the City would not stand a chance in court because they will eliminate all the waivers and probably make the shelf 75 feet. We can make them do the 6% but it will take more fill - but they will do it. He thought that the Board could just deny the waiver and maybe, they would change their plans. He doesn't think they will. There is a lot of difference between 28 and 24 feet and he struggles on every subdivision that we approve, because he experiences that first hand. In this case, we are looking to minimize as much as possible the amount of water that we are going to put in the drainage swale, 24 feet is the answer. If the Board requires them to do the 6%, there will be 10 feet of fill or more. If the 8 feet doesn't look good, the 10 feet would look worse. Aesthetics is the most subjective word in the dictionary. It means something different to everyone. Some people driving through the Riverside Dr. neighborhood would not consider it aesthetically pleasing and others would find it just what they like. You can paint your house any color you like and put any decoration on your house, gaudy or not. Talk about the 15 accidents, he spoke to someone official and some of those accidents occurred at 1 or 2 am and that has nothing to do with St. Thomas. The idea of increasing the no-cut zone is a good idea. They will have a 30 foot setback. He doesn't see that it should be a no-cut zone but that is ok. There is a trade off here. He said that he spent 16 years on the ZBA and he said they lost every single court case. You have to pick your battles. The applicant has stated they will do this subdivision without waivers, he doesn't think the city would have a leg to stand on. He will not vote no.

Tony McManus said that he doesn't think it makes much difference if they are approved or not approved. He felt that the fact that they would have to put in 10 feet of fill to meet minimum standards, is reason that this is an inappropriate project for this parcel.

Perry Plummer felt that we owe it to the Riverside Drive residents to be sure they would not be affected by this project. He asked to have the City Engineer review the drainage and report in writing that it will not affect the abutters before he is willing to vote in a positive way. He would like to see the



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Conservation Commission verify that there are not impacts. He believes that there are no impacts but the Board should hear the Conservation Commission or the City Engineer say so. He felt that the Board owes it to the residents to check that.

Doug Steele said that he can't say that the City Engineer said to him that this won't affect the abutters as far as drainage goes. The applicant's presentation states that the amount of water they are receiving will be reduced. There is water being captured and treated instead of running down the entire field. As a condition of approval, the Board can have the City Engineer write something.

Perry Plummer said that he encourages someone to table. He is not saying that they shouldn't develop the property but they owe it to the residents of Riverside Dr. and for the protection of the water and to resolve if the Pearson's trees are in the right of way, or not.

Chris Parker said this project was accepted on August 28, 2007. That sets the 65 day approval clock. If the applicant agrees to extend that clock they can. Today is day 56. The next meeting is November 13, 2007.

Dean Trefethen asked if the 65 days was the City's regulations or the State.

Chris Parker stated it is the State's regulation.

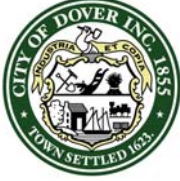
Tony McManus stated that if this is not acted on it within the 65 days, it becomes approved. He asked Bob Stowell if he would be willing to extend the deadline.

Bob Stowell stated that they would prefer to craft a condition of approval that could satisfy the specific concerns without prolonging the process and continuing bringing new issues and concerns in. They have a letter relative to concerns. They would be happy to work with engineering staff and Community Services to ensure that everybody is happy. That would be a preference to accomplish some sort of language to allow them to go forward and to satisfy the concerns as well.

Chris Parker said that part of that discussion should be other issues that the Board sees value in tabling to get more information. If that is the only one he thought that the applicant has a point that could be made into a condition of approval.

Frank Torr said the Board should look at the traffic situation. It has changed and it will stay changed. People who evade the toll will diminish as time goes on but the number will have increased and stay increased. He wouldn't want to pass this development tonight with the conditions that the City Engineers look at it. He is deathly opposed to that. He has other concerns with the project and they have been stated by everyone. He will be voting, no.

Dean Trefethen suggested is he is not willing to go so far as a conditional approval. If the Board has specific information that we need, then let's get that information. A lot of the opposition has no defense or validity. There are a few that are worth pinking out and putting them into the conditions of approval. To keep everything open and to keep turning back and forth is not fair to the applicant.



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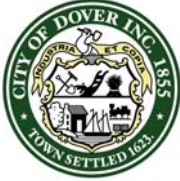
Marcia Colbath made the motion to approve with conditions and discussion.
Linda Merullo seconded.

Frank Torr said in case it passes he would like to see the implementation of the replanting language.

Tony asked Chris to reread everything.

Chris Parker read the conditions as follows:

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 the four requested waivers.
4. The applicant shall provide the Planning Department with a copy of the NH Department of Transportation Driveway Permit and add the permit number to the plat.
5. The applicant shall revise the plat to specify that the proposed 30-foot "Increased Building Setback" along the rear of the lots applies to principal and accessory structures **and shall be incorporated into the "no tree cutting area buffers" which shall be staked in the field by the surveyor checked and approved by the staff prior to any road or land clearing. Language shall be added to the protective covenants stipulating vegetation shall be replanted should trees be documented as being felled or removed.**
6. In lieu of providing on-site recreation, the applicant agrees to contribute funds for off-site recreation facilities, in the amount of \$3,500. Such contribution shall be made prior to the issuance of a building permit.
7. The applicant shall provide the Planning Department with proposed easement documents for the utility easements and the force main easement, prior to the signing of the plat.
8. The applicant shall identify and remove any vegetation located within the right-of-way of Dover Point Road that is impeding sight distance, to the satisfaction of the City, prior to the issuance of a building permit.
9. The applicant shall revise the plat by adding a note to require that construction vehicles access the site via Shore Lane, except for the construction required to install the water and sewer lines to Riverside Drive.
10. The new dwelling units shall be subject to any impact fees or water and sewer investment fees in place at the time of building permit application.
11. The applicant shall place a slatted fence screening the development along the common boundary line with lot L 89G-9 and lot L- 92L. The fence shall run the width of the shared utility easement. A gate shall be installed to accommodate access for maintenance work on the easement. The width of the gate shall be approved by the Community Services Department. Additional landscaping (trees and shrubs) shall be planted, subject to staff approval, along the easement on lot L 89G-9.
12. A copy of the Ross drainage study shall be submitted to the City Engineer and the plan shall be amended to reflect any changes proposed by the City Engineer as a result of his review.



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13. A drainage maintenance plan shall be provided to the Community Services Department and the Environmental Projects Manager shall review and approve it prior to the signing of the plat."

Chris Parker the question he is unsure of is the desire of the vegetative buffer and the no tree cutting etc. He asked if the Board feel that that is the neighborhood's desire is for a visual buffer. Another option would be to look to the applicant to put a fence along the Riverside Drive side of those trees on the abutter's property. He said that he doesn't feel it could be on the Shore Lane side if there is a no-cut zone.

Linda Merullo asked should there be any impact to Riverside Drive by drainage issues, can the City hold the developer accountable to remediate that problem and can they be held liable?

Chris Parker said there is an existing drainage study that says that there wouldn't be. In reality, it would be a civil issue. There are so many variables out there.

Tony McManus asked with regard to the City Engineer, if it could say subject to his approval following his review of the Ross report.

Chris Parker said he would provide a copy of the Ross drainage study to the City Engineer for approval. He had asked when Mr. Ross picked up the information, Thursday to get the information back on Monday if he expected the City to have an opinion. Mr. Ross said he was not aware that this was on the agenda tonight.

Dean Trefethen felt that the fence on the utility easement was a good idea. He thought that on lot 89G-9, where the sewer easement does a turn, that plantings could be put around it so when looking down the easement from Riverside Dr. you would see trees.

Chris Parker said the engineers were concerned with roots getting into the sewer line and that is why he came up with the fence buffer.

Dean Trefehen said it would be outside of the easement.

Chris Parker said that they would be along the non-easement line add a tree buffer and landscaping.

Chris Parker changed #11. The applicant shall place a fence screening the development along the utility easement with a gate to allow maintenance of the easement. The width of the gate shall be approved by the Community Services Department. Additional landscaping shall be planted to the approval of the City.

Dean Trefethen said this will provide the visual blockage that has been expressed but the gate does another thing. At a previous house he had with a similar situation behind his house and it becomes a pass through for children. The people who live on Shore Lane that have the two houses against the easement will not be too pleased that everybody is cutting through their back yard to get to their friends house. The gate is one way to reduce that but we are looking for more than that.



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Chris Parker re read the conditions and 11. 12. 13.

11. The applicant shall place a slatted fence screening the development along the common boundary line with lot L 89G-9 and lot L- 92L The fence shall run the width of the shared utility easement. A gate shall be installed to accommodate access for maintenance work on the easement. The width of the gate shall be approved by the Community Services Department. Additional landscaping (trees and shrubs) shall be planted, subject to staff approval, along the easement on lot L 89G-9.
12. A copy of the Ross drainage study shall be submitted to the City Engineer and the plan shall be amended to reflect any changes proposed by the City Engineer as a result of his review.
13. A drainage maintenance plan shall be provided to the Community Services Department and the Environmental Projects Manager shall review and approve it prior to the signing of the plat."

Perry Plummer was concerned with removing vegetation as the residents don't know where it is.

Chris Parker said that the condition is intended that he and Bruce Woodruff will go out, utilizing the surveys from the recent subdivision and they should be able to determine if there is vegetation that is within the right of way. He believes that the utilities being relocated will provide a better sight distance than any vegetation. Chris assured Perry that they will try to work anything out with the homeowners.

Donald Andolina asked for a condition that asks for an opinion from the Conservation Commission. They can decide to give an opinion or refuse. He didn't think that the Board addressed the potential to the river and the flooding. There are no engineers on the Board and he wants an opinion from the Conservation Commission.

Marcia Colbath said that she sits on the Conservations Commission and doesn't know what he wants them to say because they do not have any authority. There is no impact for them to look at. Tom Fargo has told them on different occasions to only look at what they were supposed to look at. In this case, there is nothing for them to look at.

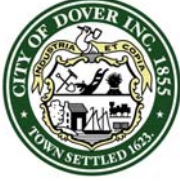
Donald Andolina said that is why he is requesting the condition so they can vote on it or not.

Tony asked Donald if he was making that an amendment.

Donald Andolina said he was making an amendment.
There was no second.

VOTE 5 – 4 Opposed – Donald Andolina, Frank Torr, Tony McManus, Perry Plummer

Chris Parker had two items under Old Business.



CITY OF DOVER

DOVER PLANNING BOARD - MINUTES

Meeting Type: Regular Meeting
Meeting Location: Council Chambers – 288 Central Avenue, Dover, NH 03820
Meeting Date: Tuesday, October 23, 2007
Meeting Time: 7:00 pm

The Mill Street Project - 64 unit apartment building. The time of the last discussion the Board had indicated concerns with the geological stability study and he has not had the time to put together a RFP to do a peer review of the study. The applicant has asked that the Board reconsider that decision and allow him to bring in his expert. He spoke to Ron Cole about this and he will make a better effort to get the peer review done. Their expert will say that the stability study is good. He has had the master plan and other things in the way. The idea was that he would draft an RFP for an outside consultant that the applicant will pay for because the Board doesn't have the technical expertise.

Chris Parker said that the second item is a letter from Matt Cox from Fisher St., saying that the neighborhood would like to work with the Board to pursue contract zoning. Ron Cole expressed what he felt was the Board's interest that you do want to see a contract zoning and not have it take a year and a half. Chris said that he will have an amendment before the Board in November. He said that he would like to see if anyone who would like to prescreen it. He found a two stage process that would approve two pieces of legislation. One would enable the City to do very flexible zoning. A second one called concurrent rezoning, would allow the applicant to come back and only have to go through one stage approval as opposed to a two stage approval.

Linda Merullo asked if this would help the abutters on Locust St.

Chris Parker said that the intent of the contract zoning will be to look at the flexibility of allowing uses that are not currently allowed under the underlying zoning but taking into account abutter concerns more that we do so today. Having aesthetic control is very loose in the regulations. We say in the guidelines that they do not apply to single family homes. He gave some examples. He said that contract zoning would help the Board with the transitional issues and the abutter concern issues. It is not site plan or zoning approval by the neighborhood. The Board acts in their behalf. It just allows a bit more flexibility.

6. Adjournment

Frank Torr made the motion to adjourn at 10:50 pm.

Marcia Colbath seconded.

VOTE U/A