



CITY OF DOVER

## DOVER PLANNING BOARD - MINUTES

Meeting Type: Regular Meeting  
Meeting Location: Council Chambers – 288 Central Avenue, Dover, NH 03820  
Meeting Date: Tuesday, November 27, 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, Ronald Cole John Swartzendruber, Kirt Schuman

**MEMBERS ABSENT:** Doug Steele

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

Chairman Ron Cole brought the meeting to order at 7:05 pm.  
Kirt Schuman sat on the Board.

### 1. Citizens' Forum

Ron Cole explained that there would not be a public hearing on the Mill St. project. If anyone wanted to speak, this would be the time.  
No one spoke

### 2. Approval of minutes

Donald Andolina made the motion to approve the minutes.  
Dean Trefethen seconded.

Frank Torr had a couple of corrections to his committee report and Tony McManus pointed out a typo.

**VOTE U/A**

### 3. New Business

- a. Consideration and acceptance of a Conditional Use Permit for Douglas Dodd General Contractor, Inc., Assessor's Map E, Lot 35E, zoned R-40, located on Cardinal Dr.\* (P07-55)**

Chairman Cole announced that this item was removed from the agenda at the request of the applicant.

**VOTE U/A**

### 4. Old Business

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



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Chris Parker explained that the applicant was last before the Board in August. The most important issues that need to be worked out is a geologic technical review that the Board had requested. An RFQ went out, the results were received and they will be sitting down with the applicant, the City Engineer and the Conservation Commission Chair to review the submittal and chose a consultant to do the work. They will have the month of December to do the work. The applicant asked to come before the Board to give an update on the items that have been addressed. The Board is not in the position to approve the plan tonight. They did receive a letter in August from the applicant waiving the 65 day limitation. This is within the Board's ability wait for the report.

Atty. Malcolm McNeill explained that there has been a delay in the form of an RFP. It is not under the control of the developer. The response just came in after a two month period of time. Except for the geotechnical report, he believes that all of the issues have been reviewed by staff and there are no outstanding issues except for issues for street and sidewalks. When reading the agenda they presumed that there would be some public comment. He introduced Mike Garrepy; John Ring, engineer; Steve Pernaw, traffic engineer; David White, architect; Kevin McEaney, surveyor; Chad Michaud, engineer Geotech firm; Todd Hamilton, drilling & blasting expert and Mike Derosiers, Brown Industrial Group. They are proposing a 64 multi-unit building in the UMUD zone. There has been a history of high intensity in this zone. The property is 3.29 acres and bordered on the north by the turnpike, the south by Mill St., and the west & east it is situated next to a parking lot. They are proposing 56 two-bedroom units, and 8 one-bedroom units. The project is proposed to be four stories high, consistent with the zoning. 132 parking spaces, of which 54 will be located under the building. 70% lot coverage is permitted and their lot coverage is 38.5%. 239 units would be allowed on this site, as opposed to the 64 they are proposing. The units and density are all permitted uses in the zone. There is no relief necessary. The area is one of multi-family use, whether it is the Ten Commandments, the Sawyer Mill development or the conversion of Chris Davies' property into multi-family use. It is commensurate with the type of utilization of this area and consistent with zoning. The project was reviewed by TRC on January 11 and March 22. They have attempted to narrow down all the responses from those committees. The applicant appeared before the Conservation Commission for a Conditional Use Permit for the steep slope characteristics of the site. The Conservation Commission unanimously supported the project with three conditions: 1) To have a stormwater outlet area monitored post construction to insure that erosion is kept at a minimum. 2) The developer has a plan for recreation. Malcolm explained that there have been developments where they have paid for recreation at \$200.00 per unit. There is a boat ramp area down the Bellamy River where a dock might be an appropriate amenity that could be utilized by people in the area, as well as at the site. 3) A yearly stormwater maintenance report be filed with the City. Atty. McNeill stated they have gone through an e-mail from Chris Parker and they agree with most of the items. They have compared the City Engineer's conditions as it relates to the list. Their goal this evening would be to leave the meeting knowing the geotech issues are



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unresolved but there are no other issues that are outstanding. He offered to go through the list and give responses and refer to the experts he has brought in.

Dave White, architect, explained that the last time he was here they had stucco as the exterior material for the entire building. Chris Parker indicated that he would like to see something different. He explained they would be using a 1' x 2' block, similar to the new Hilton Garden Inn. They will be using clapboard for the top four residential floors. Instead of using the painted brick color on the clapboards they are using a sage color on the top floor. The massing of the building remains the same. The 32 units are located on each side wing with vertical elements in the middle, where the entrance is located. The overall look of the building has stayed the same, only the materials have changed. He explained that the trees on the top of the hill are 50 to 60 feet high. What is not shown in the rendering is the area that is being blasted. He said that the rendering is a pretty good representation of the tree line.

Malcolm McNeill said he will have a sedimentation and erosion control plan and they will obtain all State and Federal approvals. In their view, the criteria necessary to satisfy the grounds for a Conditional Use Permit have been addressed and they have voluntarily agreed to comply with the other components contained in the zoning ordinance. The massing and intensity of the building, the building layout and design is in keeping with the architectural guidelines of the UMUD zone. The applicant is covering half the amount of the site as they could in the UMUD. There is no relief necessary for the number of units, no violations. They have an offsite improvements plan, reviewed by the City staff. They have agreed to an offsite contribution of \$15,836, which is consistent with some of the contributions, as they relate to the Durham Rd. intersection and other intersections that are impacted by this project.

Chad Michaud of SW Cole, stated he was hired to do test borings. Their services include a professional geologist and engineer. He spoke about the rock and the slopes and how they determine how stable the slope. They have prepared a report. He spoke about a protective fence. They asked to be involved during blasting to evaluate the rock as it is coming out. Their report recommends that the applicant subcontract with a qualified blasting contractor and that a pre-blast survey be performed on residences or structures near the project. This will document any pre-existing cracks or conditions in the homes or the buildings to have documentation on what is existing vs. post blast conditions. They have had discussion on the drilling for this rock face to be done with a line drilling technique, which is a more delicate way to blast rock.

Todd Harrington, Maine Drilling & Blasting, stated that they have been involved in projects large and small for about 40 years. He explained how they will be scaling their blasting operation for that site as there are structures that are reasonably close. They will do a site assessment and have an understanding of the conditions on and around the site. They will do a test blast and will monitor their blasts with a blasting seismograph. He explained how the rubber mats work. They will probably have from 12 – 18 mats on the site. They will have a call list and



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will notify the people a half hour before the blast. There will be strict security programs in place and have warning signals regulated by State regulations.

Perry Plummer asked about the pre-blast survey and what buildings would be surveyed. He asked if they would survey the Ten Commandments and the buildings on the north side and the building across the street.

Todd Harrington pointed to the two closest structures. The factory building further down the street is a pretty good distance from the blast area.

Perry Plummer asked if they would put a seismograph near those two buildings.

Todd Harrington stated that they would. They will start off with 2 or 3 seismographs. The US Bureau of Mines is what they have to go by.

Perry Plummer explained that they would have to get permits through the Fire Department and have insurance.

Linda Merullo asked about the trees in the back and the distance to the turnpike. She asked if they are clearing 3.3/4 acres of trees before they do the blasting. She asked how close the building is to the turnpike and if they need to get a permit from the State for the blasting. Is the rendition a realistic picture of the amount of trees that will be left afterward? How many acres of trees are they taking out?

Mike Derosiers, Brown Industrial Group, provided some site work direction for this project to the applicant. He explained the existing tree line and said they are not extending into the right-of-way of the turnpike. From the top of the slope they have, in the deepest part, 40 feet from the right-of-way of the turnpike. There will be approximately 45 feet of tree line left on their property. They are not going into the State right-of-way.

Jonathan Ring, Jones & Beech, said there is 50 to 80 feet area of existing trees that will not be touched.

Mike Derosiers said that the clearing of trees would happen from south to north and only the trees that have to come out would be taken out and trucked out.

Linda Merullo asked if it would encompass 3 3/4 acres.

Jonathan Ring said that it is roughly 2 acres of the site that is being disturbed.

Frank Torr asked if there would a seismic device near the turnpike.



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Todd Harrington said no, because there would be no impact on the turnpike as there is ample distance.

Tony McManus asked what kind of rock it was and if they had any idea of the depth of the formation, vertically and horizontally.

Chad Mitchel said the rock is common for this area and is a dark gray color. He didn't know the depth of the formation.

Ron Cole asked if he is correct to think that it would be two weeks of blasting. How often would it occur? What affect would it have with regard to vibration?

Todd Harrington said that it would run between one and three blasts a day. He said that they take this very seriously given the distances between the blast area and the nearest structure. They will be placing blast seismographs. They know very clearly what is being transmitted to a structure and they can verify that they are within the US Bureau of Mine standards. If they damaged structure after structure, they would not be in business very long. They did the Kohls project in Rochester, which is a very large project. He said that they seek out those that will be home during the day and put them on a call list. They will work with the neighbors.

Dean Trefethen stated that part of the impact is the blasting but also the removal of the debris.

Mike Derosiers said that a good percentage of the rock will remain on site for reuse on site.

Dean Trefethen stated that a project on Back River Road was just done. A large and noisy piece of equipment was used to break up all that rock and ran for weeks all day long crushing up that rock. He lives probably ¼ of a mile from that blast site and the noise could be heard outside all day long.

Mike Derosiers said that he doesn't think that the project is all that large so he doesn't anticipate that they will be working outside of the typical work hours of Monday thru Friday, from 7 to 5.

Dean Trefethen asked if he foresees any problem with the existing road in using hauling equipment to remove the logs and stone. He was concerned with the pinch point in the road.

Mike Derosiers said that there was no problem when they redid the project down the road. They realize there is a pinch point.

Malcolm McNeill stated Jones and Beech will develop a storm water management system maintenance plan. They will consider a recreation contribution, building a floating dock further



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down in the river, or will talk to the Recreation Department for any alternative. Erosion and Sediment control monitoring during construction will be done and will be part of the EPA SWP Permit for the site. They have agreed to a geologic peer review. He requested that Chris Parker follow through with all the questions and matters on the list with the City's consultant so that they get answers from the expert also. He passed out a brochure for a pet waste disposal device. For the screening of the building from the turnpike, the tree line existing on the State right-of-way and on this property makes a good buffer. There will be no parking on Mill Street and signs will be placed as determined by police and Fire Department. They will do a lot merger at an appropriate time. They agree to brick sidewalks on Mill St. but they are not sure that the Engineering Department agrees. It will be worked out between Engineering and Planning whether the sidewalk should be brick or not. They agree to what is reasonable. They will install speed tables at station 2.00 and 7.00 for traffic calming to the satisfaction of staff. They are not convinced that DPW wishes to have that and they would be happy to work it out with both departments. The architect has provided the staff with the architectural review. They will be using clapboard instead of stucco with a mill design. He said that the dumpster that is referred to is the Ten Commandment's dumpster and the placement is not consistent with the easement. They will either remove the dumpster or screen it. They want to make it clear it is not the applicant's dumpster. They are happy to stripe the center line on Mill Street from station 0.00 to the end of the property, consistent with working this out with DPW. He said that there is conflicting information from DPW saying that they do not support brick sidewalks or speed bumps because of future maintenance issues. They will work this out with staff and DPW. They will transition power lines underground at pole 21/12.

Mike Garapy, applicant, explained where the existing power lines are located. They plan to drop the overhead power at the building and as it runs along the building it will be underground to the end of the property and impact area and then it goes above ground. They have increased landscaping along the east side of parking lot to screen from 25-34 Mill Street.

John from Jones & Beech pointed out the proposed landscaping on the plan. He explained the type of trees they will be planting. They will place the trees 10 feet on center; they will be 8 feet high and will grow about one foot per year. If the Board feels it is necessary, they will add 3 more white pines.

Malcolm McNeill stated that the only issues left are the Conditional Use Permit and the issue of being informed on the Geotechnical review by the consultant.

Ron Cole asked about the traffic volume and when the peak times and volume would occur.

Steven Pernaw, traffic consultant, stated that during the a.m. and p.m. peak hour period this site will generate approximately 30 trips. During the morning the majority will be exiting and during the evening the majority will be arriving.



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Frank Torr asked Chris Parker with regard to recreation if he would prefer utilization of the river rather than a cash contribution.

Chris Parker said that he and Mike Garrepy agreed that they should focus on the river. His concern with the boat launch is that the public right-of-way ends at the end of this property and to get to the launch, it would be over the Great Bridge property. They need to look into what easement allowance for public access exists. He wants to talk to the Recreation Director about what opportunities exist. Conservation Commission has expressed support for doing something along the river.

Frank Torr said that it is important because the opportunity to get access to water isn't always available. It would have to be a floating dock.

Marcia Colbath said that it would be a canoe and kayak launch. A dock would make it more enjoyable.

Mike Garrepy said if they cannot get the right-of-way down there they would make the contribution and they will take an either/or approach.

Linda Merullo stated she wants to know all about the slope when this comes back up in January. Is it 28%, in most areas or just some areas? What does the Master Plan say regarding slopes? She asked what the Board was recommending and would this be setting a precedence that would set the City up for future law suits. She wants to understand it. She feels that some areas are greater than 28%. Some areas were so steep they could not even get up to do a site walk. There will be serious blasting. This will set it up for everyone coming before the Board at a 40% slope. She asked for this information before the January meeting. She felt this was the major obstacle to this project.

Malcolm McNeill stated that it is his understanding that the Conditional Use Permit has not been acted upon but he feels that Linda Merullo has good questions that need to be answered. The Geotechnical Report has to be completed. He believes those are the only two issues. He said that he doesn't plan on bringing back all of the experts next time. It cost thousands of dollars to get all of the experts here. He is presuming those are the issues and asked if the Board agrees.

Tony McManus stated that, personally, he has more issues than the Conditional Use Permit but he feels that the information that was received is complete. He didn't want Malcolm to presume that he is satisfied with the information that he has received.

Jarred Sims asked if he could speak. He said that he hasn't heard if there would be any corrective improvements to Charles St. This site is accessed from both Mill Street and Charles



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St. Charles St. is not in good condition and the heavy equipment will probably be coming through Charles St. He asked if Charles St. would be repaired.

Paul Dorazio, major principal at Sawyer Mills, stated there is a real problem with the corner. The Mill was built before the road was put into use. He was told that they were going to straighten the corner out and take a corner of his property and make the road right. He signed the paper but they are not following through. He felt the City should be advised. There is a problem because they are saying there will be 64 units and 32 cars. Sawyer Mills has 246 units and they have 400 spaces. What is presented is not a true perspective of what will happen. The road should be fixed or there shouldn't be any more traffic. He has been to four meetings and this is the first time he has been able to express the problems.

Chris Parker said that it is in the plan to correct the right-of-way as part of the project.

Jared Sims stated he will not sign anything until he feels that they will solve the problem.

Chris Davies, owner of Bellamy Mills Apartments, it is important to say that he was never properly notified of this project and never heard of it until August. They tracked what happen and it looks like the certified letter made it to the post office and got mangled and never delivered. He has questions and issues. He is not saying he is against what they are trying to do. He has concerns with safety, etc. When he heard of this project in August he went directly to Chris Parker's office. He has a 30 unit work force project and the developer never picked up the phone to talk to him. He never had a bite of the apple.

Chris Parker stated that this came before the Board in June the first time.

Holly Grossman, owner of the Ten Commandments, stated she was down there today and now that the leaves are off the trees, tractor trailer trucks are visible on the turnpike. She asked if the building could be staked out. She asked if the State could take more land towards this building as the years go by. She was appalled to see how close everything is now that the leaves are off the trees. She said that she can't imagine putting people there.

Jared Sims, 32 Mill St., stated since it is now an impromptu public hearing he submitted some photos for the Board showing the traffic that gets parked in the pinch point. There are 8 Sawyer Mill entrances in that section. There are lots of residents and carpet cleaners, moving trucks, etc. that park, thereby reducing that pinch point even further than it is already. The same thing happens on Charles Street because there are a lot university students with cars in the street, which reduces the street to single lane or a lane and one half. He said it takes time to get out of the street in the morning.

Chairman Cole stated that the non-public hearing is now closed.



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### 5, Committee Reports

None.

### 6. Staff Communications

#### a. Contract Zoning

Chris Parker stated that he has done some review of other communities within this State and others looking at contract and performance based zoning. Nashua was brought to his attention where they have a very attractive situation. They could do a zoning amendment which would give the Planning Board the ability to rezone a piece of property based upon a site plan. The applicant would come forward with what he would like to do. They would work out the nitty gritty details and by virtue of approving the site plan; the lot would be rezoned to be conforming. He said that the Planning Board Chairman and he have had a conversation on contract zoning. Should they look at specific areas, or should an overlay district be done. If a developer can come up with a plan that works for the Board and the developer, then that becomes the approved underlining zone for that area. At the last meeting Tony McManus and Kirt Schuman stated they would work with him on contract zoning. He would like sit down and come back at the December meeting with a fleshed out idea for Dover. He felt that it is an innovative idea.

Tony McManus asked what ever happened to spot zoning.

Frank Torr asked if this contract zoning has been court tested.

Chris Parker explained that there are criteria that go into to it so that it meets an overlay standard.

Tony McManus stated that he has not seen a spot zoning case in NH for 30 years. He said maybe we are beyond that.

Ron Cole felt that this would be very positive for the community.

Chris Parker stated that on Saturday before Thanksgiving, at a watershed conference in Concord, he and Tom Fargo gave a speech on why the City went to a mandatory Open Space Subdivision. 50 years ago they did have a traditional subdivision – it was Locust Street in the 30 and 40's. What we now call traditional was the conventional and we've drifted from that and as a community, we are going back to that.

Chris Parker said that Tom Clark reminded him to look into regulations on wood fired boilers. That issue will have to be reviewed.



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Chris Parker said that he had spoken to the Board about the idea of having a land use summit where the Board members from Planning/zoning/Open Lands, Transportation Advisory etc. would get together. It was decided to wait until January after the new members are in place.

Ron Cole stated that Frank Torr's and John Swartzendruber's terms are up on the 14<sup>th</sup> of February. He would love to have them back on the Board and urged to go before the Appointments Committee for reappointment.

Chairman Cole encouraged the members to consider going to the Smart Growth Seminar.

Chairman Cole spoke on the article in Foster's about the permeable surface in the new parking lot at the hospital in New Loudon, NH. He said he would follow up on that.

Chris Parker said that Steve Bird attended a conference on permeable surfaces on November 2. They have developed it so it doesn't frost heave. He is looking into making pervious surfaces the conventional way to do a parking lot.

### **7. Adjourn**

Frank Torr made the motion to adjourn at 8:50 pm.

Marcia Colbath seconded.

**VOTE U/A**