

City of Dover Conservation Commission
Minutes for September 12, 2005 Meeting,
5:30 pm, Dover Public Library, 3rd Floor Lecture Hall

Public Hearing

In accordance with RSA 36-A:5, the Dover Conservation Commission held a Public Hearing for the purpose of receiving input on the following proposals endorsed by the Open Lands Committee:

- A. To expend funds from the Conservation Fund to purchase a parcel of land owned by Charles Kageleiry and Michael Kane, located between Silver and Fisher Streets. The parcel is known as Map 12, Lot 126 on Dover tax maps.
- B. To expend funds from the Conservation Fund to purchase a conservation easement on a 12-acre portion of a larger parcel of land located off of Sixth Street near Watson Road and the Cochecho River. The parcel is owned by 171 Watson Road of Dover Holding Corporation and is known as Map E, Lot 27B on the Dover tax maps.

Chairman Fargo opened the Public Hearing at 5:30 PM by reviewing the process through which public input would be received. Fargo stated that the expenditures for the land and conservation easement purchases would need to be approved by the City Council. The public would also have an opportunity to comment on the proposed expenditures at the October 12th City Council meeting. Fargo presented maps depicting the locations of the subject parcels.

Fargo stated that the parcel of land owned by Charles Kageleiry and Michael Kane (Map 12, Lot 126) was proposed to be purchased by the City for \$185,000.

Public Comments:

- Steve Bird, City Planner described the City's appraisal of the land and subsequent negotiations with the owners. The value of the land was based on a development scenario wherein the owners contend that they could build a condominium development on the parcel.
- Bruce Woodruff, City Transportation Planner, described how the parcel represents a portion of an alternate transportation corridor as well as an important link between developing greenways to the north and south.
- Leon Chapman, Fisher Street resident and abutter to the parcel, described the wildlife he has observed on the land and voiced his support for the purchase.
- Jason Lucey, resident of 101 Belknap Street and abutter to the parcel, stated that he would like to see the City own the land and keep it open, rather than see the land developed into condos.

Chairman Fargo closed the Public Hearing on the Kageleiry and Kane parcel at 5:44 PM. Fargo then directed the public hearing to the subject of the parcel of land, located off of Sixth Street near Watson Road and the Cochecho River, owned by 171 Watson Road of Dover Holding Corporation (Measured Progress). Fargo stated the City proposes to purchase development rights for parcel E-27B for \$140,000.

Public Comments:

- Dona Layton, Conservation Commission member, recused herself from participating because she is an employee of Measured Progress.
- Steve Bird, City Planner described the City's appraisal of the land and subsequent negotiations with the owners. The value of the land was based on a development scenario wherein the owners demonstrated that a building could be placed on the subject land. The land is located in the ETP development zone that allows flexible development for non-residential use of the land. The owners were required by the Planning Board to protect the land and provide public access to the trail along the former railroad bed. Mr. Bird stated that the cost of the easement was negotiated and is significantly below the appraised value.
- Unidentified resident of 164 Watson Road expressed concern about the availability of parking on Watson Road for use of the trail. Mr. Bird stated that there will be no public access from parking areas on other portions of Measured Progress' property. Parking at the trailhead will need to be addressed in the future.
- Mr. Varney, of 88 Watson Road, asked what kind of use would be allowed on the trail. Mr. Bird stated that hiking and biking would be allowed, but motor vehicles would not be allowed. Mr. Varney asked if the trail would be

extended to Rochester. Chairman Fargo stated that volunteers with the City's Open Lands Committee are attempting to link the trail to regional trails, including a nearby extension to Rochester.

Chairman Fargo closed the Public Hearing on the Measured Progress parcel at 5:53 PM.

Regular Monthly Meeting

Commission Members: Tom Fargo, Chair; Marcia Colbath, Vice Chair; Bill McCann, Secretary;
Dona Layton; Alban Lobdell; Ed Millman; Susan Eisler

1. Approval of minutes from August 1, 2005 meeting.

Chairman Fargo asked if there were any proposed amendments to the August minutes. Ed Millman stated that the reference that he demanded action would better be described as a request. There were corrections as to who made and seconded a motion.

Al Lobdell made a motion to approve the minutes as amended, seconded by Ed Millman, the motion was approved by all.

2. RE: Tax Map E, Lots 27, 27B and 27D, Further consideration of an application by 171 Watson Road of Dover Holdings Corp., (Measured Progress), 171 Watson Road, Dover, for a State of New Hampshire Dredge and Fill Permit and a City of Dover Conditional Use Permit to impact 683 square feet of wetlands to construct a roadway for Phase 3 of the Measured Progress facility located off Sixth Street. Applicant also proposes grading within the 50-ft. setback from wetlands. *(The Commission tabled its review of this application on August 1, 2005 pending more information.)*

Discussion:

At a request from Chairman Fargo, the Commission agreed, with all in favor, to remove this item from the table for further review. Most Commission members had attended the site review with the Planning Board held on September 6th.

The applicant has prepared an Expedited Dredge and Fill Permit. Nate Allison, of TF Moran described the project which included some changes that have been made since the Commission's first review in August. Mr. Allison stated that at the request of the Commission and Planning Department, they have reduced the number of parking spaces at the daycare center and have moved the proposed dumpster location. These changes have reduced the impervious surface and the encroachment into the 50-foot wetlands setback associated with the previous plan. The proposed wetlands impact for the roadway extension past the daycare remains unchanged. Fargo pointed out that the Commission had previously endorsed encroachments into the wetlands setback for grading associated with earlier phases of this project.

Chairman Fargo pointed out that the wetlands impact is not necessary for the Phase 2 work proposed at this time. Mr. Allison stated that the applicant is seeking approval at this time so that utility construction for Phases 3 and 4 could be completed in the future without disrupting operations at the daycare facility. He stated that if these future phases are not built, the impacted wetland will have to be restored.

Ed Millman commented that he had never seen such a process as we are doing now. Ed was concerned that the Commission is reviewing an application for a wetland impact and proposing to purchase a conservation easement from the same applicant. Ed asked if the two issues are tied together? Fargo stated that he sees them as separate issues. As explained by Steve Bird, during the public hearing (above), the purchase price of the easement is less than appraised value. Dean Peschel stated that the two issues are not linked at all.

Susan Eisler made a motion to endorse application for 683 sq ft. Expedited Minimum Impact Application to NHDES and also the encroachments into the City's wetland setback. Marcia Colbath seconded the motion. With no further discussion, the motion passed with all in favor. Dona Layton abstained because she is employed by the applicant.

3. RE: Tax Map A, Lots 36 and 36-12, Consideration of a request by Steve and Corrine Vermette, Parsons Lane, Dover, NH, to reconfigure the buildable and non-buildable areas on their property and amend a Conservation Easement held by the Conservation Commission. *(The Commission tabled its review of this application on August 1, 2005 pending more information.)*

Discussion:

At a request from Chairman Fargo, the Commission agreed, with all in favor, to remove this item from the table for

further review. Kevin McEneaney described the proposal as a request to reconfigure the two existing lots and to reposition the buildable and protected (non-buildable) easement areas. Mr. McEneaney stated that the proposal would not decrease the amount of land under easement, just change the location reserved for development in the original conservation easement. Chairman Fargo noted that the original easement was donated to the City Conservation Commission as part of an "Alternative Design Subdivision". So called ADS subdivisions were clustered developments similar to Dover's now-required Open Space Subdivisions. ADS subdivisions were optional when the project was approved by the Planning Board in 2001. Fargo reminded the Commission of previous discussions and a site walk completed in January 2005. (See February 2005 Meeting Minutes.) At that time, the Commission was agreeable with the conservation easement amendment, as long as the easement restrictions would become more stringent. The plan was to include forestry management requirements because the restricted easement area was going to be owned by two owners who might have different opinions on how to manage the land.

Steve Vermette, owner of the property, asked a question about the "Change of Use Penalty" that would be assessed on land now under "Current Use". Mr. Vermette asked if the Commission's commitment to reimburse the penalty to the owner would pass on to next owner. Fargo stated that in September 2001, the Commission had agreed to consider reimbursing the change in use penalty in exchange for accepting the conservation easement without cost to the City. Fargo stated that the Commission will consider a petition from next owner, as long as the request is consistent with the agreement approved in September 2001.

Bill McCann made a motion to endorse the proposed changes to the conservation easement; seconded by Marcia Colbath, all voted in favor.

4. RE: Tax Map 12 & 15, Fisher St. ROW, Considering an application by City of Dover, Community Services Department for an Expedited Minimum Impact Dredge and Fill Permit to re-construct drainage structures on the north and south sides of Fisher Street near the former B&M railroad ROW.

Discussion:

Dean Peschel gave a brief overview of the proposed reconstruction of Fisher Street. Drainage improvements will require minor impacts to the wetlands along the former B&M railroad corridor. Chairman Fargo stated that he was concerned about some previously completed work in the area, but the engineering plan calls for the restoration of these impacts.

Susan Eisler made a motion to endorse the application to the NHDES Wetlands Bureau, seconded by Al Lobdell, all voted in favor.

5. RE: Tax Map 22, Lot 1 and adjacent Cochecho River, Considering an application by City of Dover, Community Services Department for an amendment to NHDES Dredge and Fill Permit # 2001-932 to expand the Cochecho River dredge project to improve water access to the subject parcel.

Discussion:

Dean Peschel gave a brief overview of the proposed amendment to NHDES Permit # 2001-932. Dean stated that during the first year's dredging efforts problems were encountered with bedrock ledge that the contractor was not prepared to remove efficiently. A decision has been made to reduce the depth of the dredged channel from 7 to 6 feet below low tide. This will reduce the amount of sediment excavated by approximately 10,000 cubic yards. This will make more room available in the dredge spoil cell. The plan is to use some of the spoil cell capacity for contaminated soils excavated from the City-owned River Street parcel. Some of this contaminated soil is within 100 feet of the tidal river requiring DES approval for excavation in the tidal buffer zone.

Susan Eisler expressed concern about the excavation of soil near the river. Dean stated that soil runoff would be managed to avoid runoff. Soils will be transported to the nearby dredge spoil cell. Chairman Fargo stated that the existing NHDES permit was issued to the NH Port Authority. He asked if there would be a problem with the City requesting an amendment to the permit issued to a separate agency. Dean indicated that the Port Authority is a cooperating partner with the City. Fargo suggested that the Commission's motion endorse an amendment or a new application so that both options would be available.

Susan Eisler made a motion to endorse the amendment or a new application to the NHDES Wetlands Bureau as described by Dean (that appropriate precautions will be used to prevent soil run off into the river). The motion

was seconded by Dona Layton, all voted in favor.

6. Possible vote on recommending expenditures from the Conservation Fund for land protection projects described during Public Hearing.

Susan Eisler moved to authorize the purchase of the land from Charles Kageleiry and Michael Kane (Map 12, Lot 126) for \$185,000. Seconded by Marcia Colbath with the stated rational that if the trail is not built, the land would be preserved for conservation purposes. The motion passed with Ed Millman opposed.

Ed Millman moved to authorize the purchase of a conservation easement on land owned by 171 Watson Road of Dover Holding Corporation (Measured Progress, parcel E-27B) for \$140, 000. Susan Eisler seconded. Marcia Colbath asked if there would be public access to the river. Steve Bird responded that access would be consistent with the June 24th Planning Board approval. All voted in favor, with Dona Layton abstaining because she works for Measured Progress.

7. New Business

- Update on environmental remediation activities at the former Dover municipal landfill.

Dean Peschel gave a brief description of recent work completed by the City and other responsible parties as outlined by the EPA-approved remedial action plan.

- Concerns of the Commission (*Open to input from all Commission members.*)

Dona Layton requested that the Commission consider authorizing an expenditure from the Conservation Fund to pay for an appraisal of a confidential property. She requested that the Commission go into non-public session to discuss the details.

Bill McCann moved that the Commission go into non-public session to discuss a confidential land protection project. Dona Layton seconded the motion. Roll call vote:

Fargo-yes
Colbath – yes
McCann—yes
Eisler –yes
Lodbell—yes
Layton –yes
Millman—yes

All in favor, non-public session began 7:20 PM

Non-public session ended at ended 7:35 PM.

Dona Layton moved to authorize an expenditure of approximately \$2,500 for an appraisal of land discussed in non-public session. Al Lobdell seconded. The motion carried with Layton, Lobdell and Millman in favor, McCann and Eisler opposed, Colbath abstained.

8. Adjournment:

The meeting adjourned at 7:48 PM with unanimous approval.