

CITY OF DOVER

DOVER PLANNING BOARD - MINUTES

Meeting Type: Regular Meeting
Meeting Location: Council Chambers – 288 Central Avenue, Dover, NH 03820
Meeting Date: Tuesday, April 22, 2008
Meeting Time: 7:00 pm

REGULAR MEMBERS PRESENT: Ron Cole, Marcia Colbath, Dean Trefethen, Frank Torr, Tony McManus, Perry Plummer, Donald Andolina, John Swartzendruber, Doug Steele
ALTERNATE MEMBERS PRESENT: Linda Merullo, Ron Stock
ALTERNATE MEMBERS ABSENT: Kirt Schuman
STAFF PRESENT: Christopher Parker, Planning Director and Jean Glidden, Recording Secretary

Chairman Ron Cole brought the meeting to order at 7:03 pm. He stated that he has heard from Councilor Scott regarding potential zoning changes in Ward 3 and Cole mentioned that a public hearing was not going to be held this evening. He stated that he will open citizens' forum at this time and will recess to 7:30.

1. Citizens' Forum

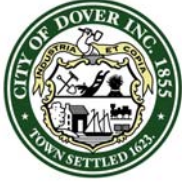
Gary Preston, 130 Middle Road, stated that he is in favor of agriculture changes but the five acre lot size puts a burden on them. To take the lot size from 1 acre to 5 acre will take equity away from landowners. We have 100 houses on each side of our 18 acres and if this goes through they will only be able to have 3 houses and does not believe it is fair.

Cole stated that the agenda shows Item G. discussion of and possible vote to post amendments to the City of Dover Zoning Ordinance. What they are going to do this evening, as a Board, is discuss whether they want to post any of the amendments. If the board decides to do that, there is a lengthy process with a substantial amount of public input as they proceed.

Parker stated that he is looking for if the board wants to consider these and wants to have me and my staff further work on them and work with the public to refine them then I'd ask you to post them and we'll have a public hearing on May 13. We would like to have a neighborhood meeting at Langdon Place or St Thomas Aquinas, to meet directly in Ward 3 on this subject. If the board feels there is no worth in doing this, then don't post it. I don't want to waste staff time on something the board isn't going to be behind. We're reacting to the Speak Out Dover sessions, we're reacting to the Land Use master plan, we're trying to do some of these things and just wanted to get feedback. We have not notified residents that would be affected, we don't do so until it's posted. Should you vote to post it, than I will a copy of the proposed ordinance to everyone that would be affected. Quite honestly, I don't want to waste taxpayer dollars if I don't need to spend \$1,000 on mailings, I'm not going to spend it.

Cole stated we're at the beginning of a process that may not go any further because I stated to Councilor Scott that if I allow folks to do it, we're going to do it.

Craig Williams, 154 Middle Rd, has resided there for 27 years. This is substantial part of his and his wife's equity. They've kept the land in pristine shape for this period of time. It appears the city has decided to take land by quasi imminent domain by making the rezoning more restricting and trying to get around the statutes that way. He suggests that if the city attempts to do this we will end up in Strafford County Superior Court. Landowners will try to get it overturned or seek restitution. The city is not in a position to pay fees to do this. He suggests that this go no further than this discussion.



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Helen Preston, 130 Middle Rd, has resided there for 56 years. The 18 acres is in ETP and should have been changed when the city changed it for the Williams' back into R-40. The city doesn't want to do it for some reason. It's been three years and parcel should go back with the rest of the farm.

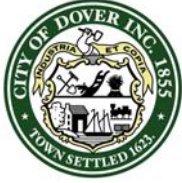
Scott Stevens, 9 Frances Drive, resident for the past 6 months. He is President of the River Run condo association. He's expressing general concerns over completion of the project at River Run. We, as an association, have come across many major and minor problems. The builder, KAB, continues to work throughout the city without any recourse for the completion of this project. Drainage needs to be addressed immediately. The association has reached out to the builders about communications, deadlines, timelines and courses of action to take place with little or no return. He would like the board to consider all of the proposals tonight to make sure River Run is completed.

Parker asked Stevens to give him a list of the items that need to be addressed and he will get together with Code Enforcement Officer.

Chief Dave Bibber, 1 Whittier Falls Way, regarding old business 4. C. has resided there for thirty years. Project across the street from him is taking away all of the equity. He stated that he is disappointed that KAB was asked to meet with him to discuss the issues to find some remedial suggestions but did not take the time to contact me. He stated that he held off on receiving representation until he spoke with them. He asked that they postpone decision of this item so that he could get legal help. On Whittier Hills when the trees were cut down, they weren't supposed to be cut down but no one realized it until it was too late. The drainage in the river behind his house is from that project and the same engineering firm who gave us all these promises is the same engineer that is doing the project across the river from his home. He is uncomfortable with any promises from them. He's experienced it once and does not want to experience it again. He's built up some equity in his home and it's rapidly going away. He wants to know how the project is able to be done when there is going to be degradation to the river. There is impervious soil, there's free flowing channel on one side of the project and across from that is a main thoroughfare which is Whittier St. He asked about the shoreline protection act. The act requires 250 ft but there are people working 100 ft in from the river. He also wants to point out that a specific design criterion doesn't mean that this project has to be approved. The city has the right to question the impact, not only to the city but to the abutters as well. He asked that they come to his house and look at this project and reconsider decision this evening. Don't let this happen.

Barry Williams, 196 Middle Road, addressing agricultural zoning. Once this is posted this would stop all activity. Dover does have the current mechanism for open spaces which they have been exercising. They have conservation easements on farms all around his property that are the existing farms in that area. The other mechanism Dover has is open space subdivisions. Both of those mechanics are being used and to change zoning does not seem right. To change to an alternate is not fair to him or his family. To come forward to take a vote and give a moratorium is not fair. If this affects my financials he would have appreciated being notified of this...he stated that he did not receive any notification regarding these changes. You are limiting this zone as it is already restricted. The oldest farm in the area is R-20 the Tuttle Barn. You are going to create 5 acre lots that will cut out less of the open space. There is not merit in this rezoning. This is unconstitutional and consider tabling this until you have citizen's forum and post this request.

Councilor David Scott, 220 Back Road, states his name appeared on the website as a co-sponsor of the proposed ordinance. He states that he opposes the ordinance because it takes away property rights of people that have a



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certain amount of land. This is a form of eminent domain without compensation. Some people are fortunate to have land to sell. This will prevent some of them from doing this. He stated that he opposes this.

Kevin McEnenaney, 8 Gold Post Rd, to speak on the rezoning. Working with Barry Williams and today they submitted a preliminary plan. If the rezoning takes place the majority of the land or the lots that are existing would be nonconforming in size. He just wants to make sure that there is some mechanism that will allow people to expand their improvement or do certain things without being forced to go to the zoning board. That's a very difficult burden to put on a homeowner that may have an existing lot of record that meets the current zoning regulations. The other item is a provision to allow an individual to subdivide their property at one time under the existing R-40 regulation if the lot is less than 5 acres. If that goes forward, it should probably include the lots that are over 5 acres. It's penalizing the larger landowners by not allowing them to get at least one R-40 size lot. The proposal doesn't require an open space subdivision. These will be frontage lots and you should visualize the look of the lots if that takes place in the future. Whereas the open space subdivision regulations that are in place, over the last few years, have worked very well.

2. Approval of minutes of the minutes of April 8, 2008.

Frank Torr made the motion to approve the minutes.

Perry Plummer seconded.

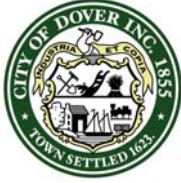
VOTE U/A

Linda Merullo needs to be put in the minutes

3. New Business

A. Consideration and acceptance of a site plan of land and Conditional Use Permit for Paolini Brothers Development, Assessor's Map K, Lot 20, zoned B-3, located at 54 Dover Point Road. (P08-15)(12 units & office building)

Attorney Schulte represented the applicant. This is a 1.5 acre, approximately 69,000 sq ft parcel of land. It has 230 ft of frontage along Dover Point Rd and is 300 ft deep. It is in the B-3 zone. Along the far right hand side and along the top side, the zone line says it is actually R-40 but we are allowed to extend the B-3 zone into that and have done that except for the 100 ft setbacks from Dover Point Rd and Constitution Way. Each of the corners on the bottom right and top left remain R-40 but the bulk of the property and where all of the construction is located is in the B-3 zone. The large building toward the front is a three story building, about 3500 sq ft footprint. The first two floors will be for professional office space. The top floor will house two condominium residential units. In the back of the property two buildings will contain five townhouse condominiums. Each residential unit will have 2 parking spaces. 62 spaces will be on this site. It will be more than the minimum required. The property is serviced by city water and sewer. The sewer line will connect to an existing sewer line that runs and services the Toftree subdivision. Chris Berry with Berry Engineering will address that issue. Two conditional use permits will also be addressed and why they need them. We are in discussion with the planning dept in regards to recreation. The history of this type of townhouse development project is that there are very few children living in them. With a project this size, it would be unusual to have two children living in it. It doesn't make a lot of sense to put active playground equipment on site. Instead it makes more sense to contribute to other recreational facilities



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elsewhere. We are proposing to put in passive recreation. Picnic tables for the residents and for the commercial component.

Christopher Berry with Berry Surveying and Engineering represented the applicant. This project was started approximately two years ago. We talked to the planning dept., we've had quite a few revisions. During the last TRC meeting we had major discussion regarding drainage and utilities for the site. Water is fairly easy. There is a 12 inch water line, across the street, which they will be able to tap into. They're proposing a 6 inch line into the project with two fire hydrants. The large bldg in the front will be sprinkled. They've looked at pulling sewer from different sites. The Paolini Bros. have received two easements. One that crosses Kevin Cooper's land which is directly abutting to the right hand side project and the Forger property which pulls the frontage and structure off of Toftree Ln. There's an 18 inch sewer line located down the slope that they will be proposing to tie into. In regards to drainage, soils on this particular site are very good, very deep seasonal high water tables, very good infiltration rates and the existing drainage, on this site, is very close to zero. They're challenged with recreating that zero drainage. Instead of bringing it to one collection system and then trying to infiltrate that into the ground, in the winter that poses some problems. They have a very good method of infiltration and conclusion of cleaning the water before it goes into the ground. The parking lot, in the front of the building, is to sheet flow into a bio retention system. There are many studies that have itemized this bio retention design as one of the best for cleaning many of the nutrients that come off from pavement. They've incorporated that as part of the landscaping design. They've incorporated a water quality unit for areas unable to capture and run through the bio retention areas. Able to infiltrate the 50 year storm event and the majority of the 100 year storm event with storm water leach bed. Landscaping plans provides will incorporate proper screening along the front of the building, many details for the bio retention system and provide ample screening to the left and right abutters. Will also screen lights to Constitution Way. We've taken the time to consider the steep slope at the rear of the property. They're working with planning for a Conditional Use Permit. To fill the area in impacts a fairly steep slope 2 to 1, they've provided a split rail fence along with certain plantings and hedges to keep individuals and storm water away from that slope. We would like the board to consider a fee for the active playground. We are proposing two play areas and would prefer to remove those. We have a wetlands impact, which they are speaking to the Conservation Commission about on May 5. The wetlands permit is not a permanent fill situation; it's going to be a temporary impact. The wetland scientist has designed the impact and the replacement of the wetlands. DOT permit is required as well. Traffic analysis has been submitted. They would require a deceleration lane.

Dean Trefethen stated that Constitution Way is a private road. Would you be allowed to go off of that instead of Dover Point Road? Berry said the applicants did think of that. The owner of Constitution Way would not allow it.

Frank Torr asked about the existing 12 inch line. He wants to know if that was an easement to the state.

Berry stated that there was no recorded easement.

Linda Merullo stated that she attended the TRC meeting and was impressed with their plans. She wants to know if Parker is concerned with the contract zoning, if anything was going to change in that area? She wants to know about the flexible zoning and what they were thinking. Is the driveway 32 feet wide? Berry said it will be 24 feet. Parker addressed contract zoning. This project is grandfathered from the change. Zoning board accepted jurisdiction and acted upon special exceptions for this type of situation.

Motion: Andolina made the motion to accept. Swartzendruber seconded. Vote: U/A



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Public Hearing Opened

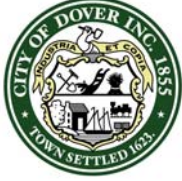
Kathleen Hessefort, 51 Toftree Ln, she abuts the property in the back. She received a certified letter and that was the first time she had heard about the building. My husband passed away four months ago and Mr. Paolini, at one point, came and asked for an easement for the water and sewer. My husband said absolutely not and died within two months after that. Last July, Mr. Paolini told me that he wanted an easement for his private home and never mentioned this building. I am concerned because Varney Brook runs across our property and there are no trees to block us from these units. My neighbors were supposed to attend but are out of town this week. If the sewer is backed up who would pay for this? This is a lot more usage put on our sewer system putting in a big unit like that and will be located directly in her back yard. She would just like to get some answers.

Cole said that he will schedule a site walk and all interested parties can attend. Trees will be discussed at that time as well.

Berry addressed her concerns. He stated that the easement is recorded. This will not have an affect on the sewer. The existing sewer line is an 18" line and flows well due to the pitch and slope of it. We can discuss the landscaping plan and visual impact on the abutting parcels. If the abutter would like us to show her residence on the overall plan in relation to the project, we can. If the board or the planning staff feels that the landscaping in that area, after the site walk needs to be increased than we can take a look at that.

Tyse Leonard, 64 Dover Point Road, stated that he is against this request. Listening to the board plans to change the requirements for land in other parts of Ward 3 so that they can only sell in larger parcels, it sounds like we're trying to manage the size of Dover. We need to because with our tax cap. Teaching school, I see we are growing and we can not maintain our school department, fire dept, police dept and everything else that comes with more development. On Dover Point Road we have a proposed twelve units; we have the five units that are in already. On Dover Point there's the High Point area that went in. There is another approved unit diagonally across from the other dealer. We are trying to flood the city with people. Controlling the growth needs to be controlled on Dover Point Road. Traffic is not easy to get in and out on this road. Every time the toll rises, the traffic increases. We have 19,000 cars on a daily basis. From my house looking across at this property a three story structure will dominate my view. I am opposed to this. He continued to state that he is against the request.

Dean Comisky, 62 Dover Point Road, is against the proposal. After listening to farm issues he can not believe that the board has accepted another application from a construction company that hasn't finished the first project that they have started. The drainage they talk about goes down into a brook that comes out of the dam behind the Williams greenhouses and all of the drainage would have to go down through there to the brook that's about 100 ft from the corner of the property. The drainage can't come out towards Dover Point because there's no ditch line on the east side of Dover Point so where would it go? He wants to know where they will put all the snow. With ten units and two in the office building, on a three story unit, the only three story unit that he knows of, on Dover Point, is St Thomas Aquinas and St Anns. He doesn't understand how you get grandfathered on this. Most families have, at least, two children. He doesn't see a where the playground is. He doesn't think it's a good idea to give the kids a parking lot to play in after hours. Traffic with 62 parking spaces is impossible. Good to have new development but to demo a home to put this in, he doesn't understand how this could all fit in on Dover Point.



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Ron Cole said he will recess the public hearing. The site walk is on Tuesday the 29th at 5:30 and they will park at the Cemetery.

McManus asked the height of the bldg.

Atty Schulte said 34 feet. The first floor is 10 feet tall.

Motion Trefethen second Andolina vote U/A

Swartzenruber asked that they stake off where the three buildings will be located.

Parker said to also stake the drainage.

B. Consideration and acceptance of a minor lot line adjustment of land for Christopher & Britta Ayer, Assessor's Map C, Lot 3 + 3E, zoned R-40, located on County Farm Rd. (P08-17)

Kevin McEneaney represented the applicant. Lot C-3 is 19.2 acres, 16.2 acres is under conservation easement. On the plan shown, outlined in blue, is the existing 19.2 acres. Highlighted in pink is the three acre building lot. They want to add acreage to their building lot and create a new line. The building area will not change in size. They will sell off the three acre lot.

Trefethen confirmed that a home is not located on this lot.

McEneaney stated that they will add this land to their existing abutting property. There is currently a driveway and will have a third access for this property.

Motion: Torr moved to accept the application. Steele seconded Vote u/a

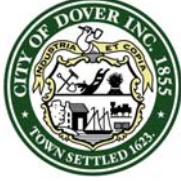
Public hearing open
No comments
Public hearing closed

Parker stated that the Planning Department recommends approval of the lot line adjustment plat with the following conditions:

Add the owners' signatures to the plat.
Add the surveyor's stamp and signature to the plat.
Provide the Planning Department with a digital version of the plat.
The applicant shall revise the plat to add a note indicating that the access for Map C, Lot 3 is to be from the existing driveway on Map C, Lot 3D.

Motion: Steele motion to approve. Colbath seconded. Vote: U/A

C. Consideration and acceptance of a minor lot line adjustment of land for Revolutionary Homes, Inc., and Old Forest LLC, Assessor's Map M, Lots 2 + 2-1, zoned R-40, located on Back Road. (P08-18)



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Cole stated that the next three items should be shared and would address them individually.

Kevin McEneaney stated they are doing a lot line adjustment, first adding some land to lot M 2-1, the next item is going to be a minor subdivision of that particular lot, M 2-1, into two lots. The third item is a three lot subdivision of the remaining land that they had just adjusted the lot line on, which will be three frontage lots. This property is located on Back Rd. It has significant frontage on Cocheco River. The lot exists as 16.8 acres with two pieces of frontage.

Cole asked if they will be subdividing the larger lot? McEneaney said it is not part of the application. Mr. Philbrick wants to keep it as is.

McManus asked why this isn't considered a four lot subdivision. The whole thing is owned by the same owner. This will be four new house lots. To me this would be a major subdivision.

Parker said if the two original lots were being utilized, an example would be Dan Ayers application, a few years ago. He had two lots and he was ending up with four. He was doing lot line adjustments but the net was still two. McManus stated this is taking advantage of the fact that they split up the lots in a certain way so that M 2-1 is a separate lot, but it all comes out of the original property. This was owned by the same people and will now be owned by the same people and we're being given a four lot subdivision.

McEneaney stated we have two existing and we're asking for five total, equaling a net of three. These are taxed separately.

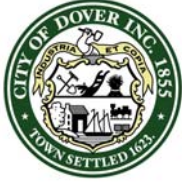
McManus suggested having a site walk on this, we are having a lot of problems with projects on this road...traffic and the width of the road...we can not approve this if we are concerned with safety.

Motion: Colbath made the motion to accept. Perry seconded. Vote: U/A

Public Hearing Open

Janet Pillion, 130 Court St, stated that she has tremendous concerns allowing the applicant to divide the lot. The plan is to demolish the historic home and barn that exists on the property. She submitted pictures of the home for the members to view. Dover doesn't have a historical commission so who watches this. After consulting several history and preservation experts, the house dates to the 1770 or 1780's and it's an outstanding example of the early Georgian Federal architecture. The house is unusual due to the materials used. An historic expert reviewed first floor rooms stated that they are an excellent candidate for restoration.

Ellen Cook of Drew Road reviewed the historic resources chapter of Master Plan, which states the challenge for the city will be to grow and redevelop in a manner that is consistent with the protection and enhancement of its valuable historical resources. On page 55 of the Dover master plan, under Implementation Program, Dover has a wealth and variety of historical and cultural resources throughout the community. These resources give Dover a unique character and add value to the city. They are concerned that these are the kind of valuable resources that are going to fall by the wayside because no one is really watching. She believes it's extremely important that they do not allow Dover to lose another historic structure in development of the Back Rd property.



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Janet Pillion stated that regarding other opportunities to move ahead, inquired about the possibility of moving the lot line. If moved would the house have to go? The house is only within 13 feet if it's a 25 ft setback needed. If the applicant moved the property 12 ft, this would eliminate the need of it being conforming with the current zoning for R-40 especially with the other 13 acre lot. Would the board consider allowing an open space subdivision with the density bonus for a minor subdivision? Would the board allow the developer to build an additional home?

Dan Philbrick resides at Three River Farm. He stated that he appreciates the concern. His goal is to preserve the river front and keep the development down on the front. This property is directly across from Three Rivers Farm. To have a major subdivision on the water would change the character of this area. As far as the home is concerned, he instructed his realtor to sell it for less money to someone willing to preserve it. The house is totally taken over by beetles and raccoons. He believes in historic preservation. He would work with the buyer to save anything of significance. It is a great historic bldg but this had to be saved years ago. It rains indoors. There are areas where you would go right through the floor, to the basement. I don't think the barn stands a chance of being saved. His motivation is to preserve the river front and have as minimal impact on this property as possible.

Janet Pillion responded to the statements. There are not any promises on protecting the waterfront. What would be put into place regarding that lot? What does the city want to do? What does the community want to do? If the property is for sale, then put it on the market and when it's marketed, it needs to be listed with a historic real estate broker. What is it under contract for?

Dan Philbrick said that the remaining lot is under discussion with the Nature Conservancy.

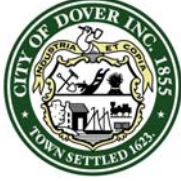
Ellen Cook said she is thrilled that this is for sale. She's glad that Philbrick would entertain a notion to have someone take a closer look?

Public hearing closed

Parker stated that the Planning Department recommends approval of the lot line adjustment plat with the following conditions:

1. Add the owners' signatures to the plat.
2. Add the surveyor's stamp and signature to the plat.
3. Provide the Planning Department with a digital version of the plat.

Trefethen asked Parker about the historic district ordinance. Parker stated chapter 30 of the Dover code, it's called Historic Districts, clarifies characteristics and qualifications. If a structure is outlined as being in historic district, then it qualifies under the regulations set forth. In the mid 80's, there was a movement to establish a historic district. From looking at the photographs that were collected and the document that was produced, that district was going to be Locust St, Silver St and the Elm St area. That went to a public hearing and was defeated by the community. The historic commission could still exist, to do work in the community, but no one has been appointed to the committee since that time. Should there be a structure within a district that they wanted to demolish; the building inspector couldn't issue a demo permit until the historic district commission signed off on it. That would be good if we had a) a district and b) the structure was in that district but we have neither. We need



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to take this ordinance, update it, create a historic district commission and review the idea of creating districts or remove the criteria of having a district and establish the criteria for how a structure would be considered historic.

Torr said that his thought is would there be any harm to take a site walk. It would give him a clearer picture. He is familiar with the home.

Colbath stated that as a Board they can not tell Mr. Philbrick if he can or can not take that building down.

Torr said his intent was to familiarize the Board with the property.

Parker said the site walk is valid for the subdivision. But this is the lot line adjustment.

Plummer said we are not going to look at the structure. We look at the site.

Cole said we are seventh oldest community in the United States. I think that it is incumbent on us, as a board, to take our history and work with it as much as we can. Because they have three back to back pertaining to the same area, his suggestion is that they take action, accept the application on all three items and on the third one, move to table it until the board can do a site walk.

McManus agrees with Parker on the lot line adjustment.

Trefethen stated that if they grant the second, the house will be nonconforming.

Parker states accept it, and then table it.

McEneaney stated they have sufficient frontage to adjust the line to make the side setbacks more.

Motion: Andolina moved to approve the lot line adjustment plan (P08-18). Torr seconded vote u/a

D. Consideration and acceptance of minor subdivision of land for Revolutionary Homes, Inc. (Owner: Olde Forest, LLC) Assessor's Map M, Lot 2-1, zoned R-40, located on Back Road. (P08-19)(1 lot)

Motion: Torr moved to accept, Plummer seconded vote u/a

Motion: McManus to table Trefethen seconded vote u/a

E. Consideration and acceptance of a minor subdivision of land for Olde Forest, LLC, Assessor's Map M, Lot 2, zoned R-40, located on Back Road. (P08-20)(2 lots)

Motion: Torr moved first to accept, Plummer seconded vote u/a

Motion: Andolina to table McManus seconded vote u/a



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McEaney asked the purpose of the site walk. Cole said to look at the big picture. McManus said his thought is to approve the lot line adjustment and we are accepting the two applications and table for a site walk. The board shouldn't approve either one until they have an opportunity.

Site walk schedule for Tuesday April 29th at 6:15 parking at driveway at the house.

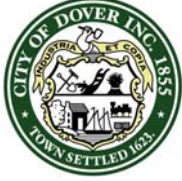
F. Consideration and acceptance of a site plan of land for Aranosian Oil Company Incorporated, Assessor's Map 15, Lot 71, zoned B-3, located on Central Avenue/Locust Street. (P08-09)

This application has been withdrawn by the applicant.

G. Discussion of and possible vote to post amendments to the City of Dover Zoning Ordinance: 1) Agricultural zone in Middle Rd./Back Rd. area; 2) Drive thrus in the B-4 District; and 3) Restrict residential uses to second floor or higher in B-3 District, UMUD District, and Office District (for 3 & 4 family dwellings).

Parker moved to the podium. The area in blue is in R-40 zone and would be changed to agriculture. Shaded area off of Henry Law Ave, currently zoned R-12, would be agriculture. Looking to put the Preston land it into the same zone as the rest of her property, as she asked. They took the current R-40 uses and mirrored them in the agriculture zone. They took away ones that promote agriculture. They added an accessory use clarification. If it is a farming related agricultural related use, they do not want to limit height to the 35 feet currently contained in the R-40. They recognize that certain farming equipment would require height. Allowed wetlands to be counted. On the dimensional regulations, they removed the limitation that it has to be continuous upland. They limited the maximum coverage of a lot. Impervious surface needs to be limited. The definition of coverage of a lot, it talks about just the structures. They want to limit the amount of pavement for a roadway or driveway. They do understand that there are lots would remain nonconforming. This would not be beholden to the open space subdivision regulations unless the board changes the subdivision regulations to require it. In 1978, everything you see as R-40 was the agriculture zone. In background material, a table was provided what the dimensions were, prior to 1979. The min size was 10,000 feet. We changed that in 1979 to 40,000 feet, this would change it to 217,000 feet. The minimum frontage was 100 ft. We moved that to 150 feet. We will leave the front side setback at 50 feet. The rear setback is 15 feet; we would move it to 50 feet. The max coverage remains at 10 feet, the max height is 35 and they are proposing the same. Included in the packets are minutes from the April 7, 2007 Economic Land Use Analysis Subcommittee, where this idea originated from. Under the public comment, two residents at Back Rd said we need to promote the rural area of the community and link land use and transportation. Back Rd and Middle Rd are not suitable for high density development. If we control the density, we won't have to widen the road. Where could we promote an agriculture and farming zone? The three areas, in R-40, that stood out were land off of Sixth St and County Farm Rd, land off of Tolend Rd and Littleworth Rd, and land off of Back and Middle Rd. On County Farm and County Farm Cross Rd, a majority of the land is already in conservation, through the county or through the city's processes. The land off of Littleworth and Tolend Rd is already being preserved as the landfill. There is a sizeable amount conservation lands but you also have a large amount of wetlands. The last area that was recognized was the area on Back and Middle Road. The land uses need to be recognized and limited, if we're going to promote a rural character and promote a farming culture.

Dean Trefethen stated that whenever we talk about rezoning any land in this city, people that live in that area, do not want it to be rezoned. People are only concerned when it is happening in their own back yard. We hear people



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say they want growth curtailed or stop all together. Unless it is their piece of land that they want to sell, subdivide and make money some day. When we instituted zoning, in 1949, there were restrictions on every piece of land in this city. Not one dime transferred hands. The idea that you're putting restrictions on my land because you're changing the zoning, therefore you're taking my land and you should pay me because it's in effect imminent domain is not true. The State of NH passed legislations that enabled zoning, with zoning comes certain criteria which include you must have a planning board, a zoning board, a master plan, zones, and regulations. We have all of those things. Since 1949, we have changed zoning in different locations, the definition of zoning and still money has not changed hands because my land is now rezoned. Every piece of land comes with restrictions and permissions on it. When we change zoning we are not taking rights we are transferring rights. The quandary that the board gets in is the constant expression by the citizens, they want development slowed, but they do not want it to affect their property. Whether we pass or don't pass this zoning amendment it does affect people.

Cole said that you got a ten minute treat of what it is like to be on the planning board. This area is like Sybil. This area has multiple personalities. We hear from different personalities and have heard a number of them this evening. Depending on what we do, we're going to hear from one side or the other saying you did the right thing or you did the wrong thing.

McManus stated that we are not being asked to pass anything, we're being asked to start a process and a dialogue on whether or not the three proposals are appropriate for the city. This is important to put these on the table to begin the process of dialogue. The items will be posted and the items will go out and everybody would have the opportunity to be heard.

Torr asked if we can obtain conservation easements. Preston property was caught in the middle when the Planning Dept and Board changed the Williams' property to an ETP zone.

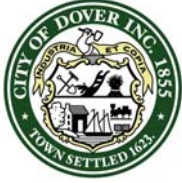
Plummer said that outstanding job bringing this forward. You struggle with people whose land is money in the bank. Because they didn't sell it we feel like we are taking money from them. A group of citizens wanted this and it has to be brought forward. If we don't have any intention on doing this, we're putting a lot more work on the Planning Dept. This could put a hardship on the property owners depending on the process length. How long does it usually take?

Parker said if posted tonight, the public hearing would be on May 13th the Planning Board could vote it that night. His suggestion would be to post it tonight and have the public hearing on May 13th, have a neighborhood meeting in June to go over the details and have the board vote on it at the second meeting in June or July. This would start the 31 day window.

Plummer stated that this would probably end up a court case. It could halt all activity on the properties up to a year. He believes there should be another public hearing.

Parker stated the council holds a public hearing as well as the citizen's forum. In regards to the farm incentive, there is the current use tax process with the state. If you have over ten acres of land that you are using for agriculture or non build use, you can apply for it. It's a voluntary and temporary program. It's not meant to be a permanent solution.

Steele asked why the people have a restriction on their property. Parker said if you were to post this and (example) Mr. Philbrick comes forward and you approve his plan but it would hang out there until a decision was made as it would not meet zoning under the proposed ordinance. Mr. Williams dropped off a major subdivision



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today. It has to go through TRC and a major subdivision process. Mr. Williams met with Parker in January and at that time was told the board was doing a 5 acre minimum change in the spring.

Colbath stated she is concerned that Councilor Scott has argued both sides. She wants to hear from the landowners before it is officially put onto the track.

Parker said his main goal is to state that he only has so many resources. There are also ten subdivision regulations that they're working on including the removal of density bonuses and things of that nature that he'd like to be working on. We should either follow this through or put it on the back burner. If the board doesn't think that it would support it and send it to the Planning board then let's not post it. If you think you want to work with the residents than post it. If the feedback and your own feeling is not the right thing to do we will not post it.

Andolina asked Parker what the proposed lots/parcels are there any that are less than five acres. Parker explained the lots. There would be some made nonconforming. The idea is to take the larger lots and promote the larger lot agriculture subdivisions. Andolina stated that we should create the zones. He's concerned about owner's property rights. He believes it's a more serious act to deprive the landowners the right to sell off their property in support of some future needs. In fairness to these people who have set aside ten or five acres we ought to defer the implementation and give these owners a time frame to exercise their rights.

Cole said we are care takers of the community. He said he sees where Don is coming from but does not see that happening. We have to make that decision or we decide to scratch the agriculture zone right now. The only alternative to that portion of the recommendations of staff is to let this thing alone as of right now. We, as a planning board, can hold our own neighborhood meeting without implementing the change. As a Board we can listen to the people in Ward 3, make a decision and help guide the Planning Director.

McManus stated that we should listen to the Ward 3 people but we're responding to the entire community. We've already had the public hearings; we've gone through the whole process. We have the results of what the community is interested in seeing Dover become in the next 10-15 years. If we do not post them you are voting not to do them because that's the first step in the process. Andolina asked what point in the process do you apply resources to this? Parker said he already has the letter done. It would be working on the changes and mailing out 1000 letters. This would put a strain on staff. Colbath said we need to listen to all of the people. Most directly affected is Ward 3. Do not post this and do not rush it.

Plummer said he is not opposed to posting it but if we do not have any intention to do this we need to move forward or kill it. We will create subdivisions that might not have happened.

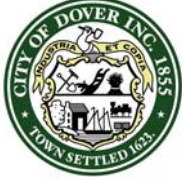
Andolina said we do not see people rushing out to buy.

Merullo, said that she agrees with Chief Plummer, post it and have the public hearing. We can hear their concerns. To create a neighborhood meeting is too much.

Cole said we do not post it and have Councilor Scott host the meeting.

Colbath stated that she is a supporter of agriculture, but is not comfortable with this after tonight's meeting.

Plummer said he agrees with Colbath, post a public hearing to hear comments and decide after that.



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Trefethen said there has to be enough of us here who think we should move on and post it but it also has to go through the city council level. We have had very little luck rezoning anything for all the reasons expressed.

Andolina said the first motion is to post all three zoning amendments recommended by the planning board and refer to public hearing, if that does not pass; his second motion would be to post the second two and refer to the new public hearing.

Motion: McManus made the motion to post all three amendments to refer to a public hearing. Nobody seconded.

Motion: McManus made the motion to post second and third amendments recommended by the planning board and refer to public hearing Andolina seconded...Vote: U/A

Recessed at 9:54 p.m. resumed at 10:03 p.m.

4. Old Business

a. Discussion and re-approval of a lapsed site plan and Conditional Use Permit for St. Thomas Aquinas High School, located on Dover Point Road. (P07-19)

Plummer stepped down, Merullo will vote. Cole recused himself as he did not sit in on the original case, McManus will sit in as Chair. Stock will vote.

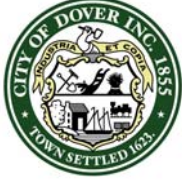
Paul Connelly represented the applicant. One year ago, the board approved site plan and the improvements proposed for the site. 90 days later, they had not met the conditions of approval and asked for a 90 day extension which would have brought them forward to Oct 23, 2007. In the interim, had been working on obtaining all the state permits, filing EPA notices of intent, obtaining lot merger as well as an easement from NH Catholic Charities to use a portion of their land for parking. While immersed in those activities we forgot the extension. After Oct 23, 2007 the 90 extension had expired. We find ourselves before the board again. On April 24 2007 the board approved the subject site plan and improvements subject to ten conditions of approval. In early September, the board revisited the conditional use aspect of the application regarding changes in the slope impact and wetland impacts. The conditional use permit was re-approved.

Torr asked Chris about the letter of March 28. Parker stated that we need a motion to re-approve the plan to give them the ninety days.

Motion: Torr made the motion to re-approve the site plan and conditional use permit with the same conditions of approval from April 24, 2007 and September 11, 2007. Seconded by Andolina. Vote: U/A

b. Discussion and possible vote on a lot line adjustment plan for Doug Dodd, Assessor's Map E, Lot 35 & 35 E, located on Cardinal Drive. (P08-10)

Parker clarified that on February 26, 2008, the Planning Board removed this application from the table and a motion to approve with staff conditions was defeated on a 3 to 5 vote. However, no motion to disapprove was made so the Planning Board needs to make a decision on the application. The applicant has submitted a revised lot line adjustment plan that removes the stairs from the deck.



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Cole returned as Chair. Tony McManus left the meeting at 10:13. Ron Stock will vote.

Attorney Schulte represented the applicant. In February the motion failed. After consulting with the Planning Department we have made a modification to the plan. The difference is that the plan that was voted on in February had a stairway leading down. The present proposal is that it will just be a deck accessible from the main living area. No stairway will be added. All the lots in this project could have been 20,000 square feet but they are 10,000 square feet. Had it been 20,000 square feet we would not need to be here. We would still need to make sure we do not disturb the soil and the conservation and wetland setback but we would not need this lot line adjustment.

Cole asked Parker to explain their two options. One could be a motion to deny or make the motion to approve with the conditions outlined in the staff memo.

Motion: Torr made the motion to approve subject to conditions set forth by the Planning Department. Plummer seconded. Vote: U/A

The following is the list of conditions recommended by the Planning Department:

1. Add the owners' signatures to the plat.
2. Add the surveyor's stamp and signature to the plat.
3. Provide the Planning Department with a digital version of the plat.
4. The applicant shall utilize the wording in the proposed warranty deed submitted by Attorney Schulte in the deed when the lot is transferred.

c. Discussion and possible vote on a site plan of land and Conditional Use Permit for KAB Realty Management, LLC (Owners: Jeannine & Monique Gagnon, Ann Marie Booth, Y & R Gagnon), Assessor's Map E, Lot 66, zoned RM-8, located at 46 Whittier Street. (P07-64) (62 units)

Motion: Dean made the motion to remove from the table. Andolina seconded. Vote: U/A

Bob Stowell with Tritech Engineering represented the applicant. They submitted additional plans to all members. Since the last meeting a new memo has been submitted dated April 18th. We went through and reviewed the items recommended by the Board. The plans show increased setbacks. Parking areas were increased and the sizes of the green spaces before you get to the parking spaces would increase. The big benefit is shown on L-1 increased landscaping provided. Northerly building that we pushed back as much as 34 feet. We've increased the number of trees and shrubberies and we added an additional 34. We provided increased buffering between the entire project and Whittier Street. We are up to 81 shrubs and trees of significance size and greenery that should provide much improved screening from the Whittier general public. The second sheet shows the pitched roof design which softens the height of the building and is more in keeping with the neighborhood. Third sheet is a prospective view of the landscape. A 3-D version from the Whittier Street bridge looking from the south was added. The landscape architect was able to add proposed landscaping. Density was discussed. Sheet E-3 shows a great number of multi family dwellings. A total of 57 buildings are in the same neighborhood as this project. It is in the context of the neighborhood. Sheet E-4 shows multi family buildings and buildings across the river. The next sheet shows the elevation of the townhouse style units which are better situated which are closest to the



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abutting properties on the other side of the river. Conservation easement plan proposed has been submitted for the balance of the property as well as the trial shown through the property. The last page in the packet is the plan that shows the alternate parking lot location that was presented to the Conservation Commission. At the last meeting traffic was discussed and this was reviewed again with staff. It came up at TRC and the same answer they received was traffic generation is Whittier Street is capable of handling a lot of traffic. Several conditions were knocked off the list from last time. We have added specific numbers to the recreation equipment. Dean Peschel has signed off on the operation maintenance plan for storm water management and we had Bill Boulanger signed off on the Whittier pump station. Last meeting we talked about a fence on top of the retaining wall and we finally made it on to the plans. A crosswalk was not shown and it was an oversight. We added the crosswalk and we did have discussions with Engineering and they were not in favor of a mid block crosswalk and does not know if they have had additional conversations. The straight away was not an appropriate place for a crosswalk, but we so we added it and will do stamped concrete or paint. We believe that we comply with the regulations.

Andolina thanked Stowell for the documentation addressing all of the concerns of the Board. We suggested that you contact Mr. Bibber to get some thoughts on his concerns. Did you do that?

Stowell said we had a very brief conversation with Mr. Bibber and it was not very fruitful so neither side pursued it any further.

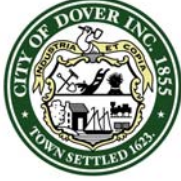
Perry confirmed with Stowell that the closest building to the river was shorter and they were able to pull it off the road. The 100 ft of vegetation will remain for environmental purposes not necessarily for screenage. Perry asked Parker to explain Chief Bibber's concern with the shoreland protection act. Parker said that Chief Bibber brought up the 250 foot requirement and that requirement It says it is any lot within 250 feet of the river needs to comply with the following regulations it doesn't say that you have to be 250 feet from the river it helps to determine what the district is. The 100 ft setback is a local ordinance and in this case the more restrictive. The 250 feet defines the boundary and unfortunately a lot of people would like it to be a setback but it is not.

Stowell said under the shoreland protection act you can actually build structures within 50 feet. As Parker said the local regulation is more restrictive.

Steele mentioned that it is difficult at times to sit on the Board and make these decision when a project like this comes in and meets all requirements but you may personally not like the project or you may not like the affect that the project has on abutters and is speaking primarily on Mr. Bibbers behalf. It puts us in a difficult situation. I personally do not care for the project and would like to see the land stay the way it is. The fact that it meets the requirements I have to vote for it and it is difficult for me to do so. The only other comment is Mr. Bibber stated during citizens' forum that he did not meet with the applicant. The applicant said they did meet so I am hoping as a professional courtesy the applicant did speak with Mr. Bibber.

Stowell said after the last meeting we had a brief discussion in and I think the hallway that Chief Bibber felt in his mind that it was not a meeting. Neither party pursued after that point.

Cole asked for the Planning Department's recommendation. Parker stated that the applicant has submitted a revised site plan and letter for your review. The applicant appeared before the Conservation Commission on March 24, 2008 and received a favorable recommendation. The Planning Department recommends that the site plan and Conditional Use Permit be approved with the following conditions:



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Conditions to Be Met Prior to Signing of Plans:

1. Add the owners' signature to the plan.
2. Add the surveyors and engineer's stamps and signatures to the appropriate sheets of the plan.
3. The applicant shall provide the Planning Department with a copy of the NH Department of Environmental Services Shoreland Protection Permit and add the permit number to the plan, if required by RSA 483-B.
4. The applicant shall add the NH Department of Environmental Services Alteration of Terrain Permit number to the plan.
5. The applicant shall revise the plan to add specific model numbers for the recreation equipment and add details to the plan.
6. The applicant shall prepare an Operations & Maintenance Plan for the storm water management system, which shall include annual inspection and reporting to the City's Environmental Division and a maintenance plan for the plants to be installed at the southern end of the parking-lot turn-around. This plan shall be reviewed and approved by the Environmental Projects Manager.

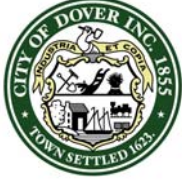
Conditions to Be Met Prior to Issuance of a Building Permit:

7. The applicant shall revise the floor plans for buildings #1, 2, and 3, to match the dimensions of the building footprints on the site plan.
8. The applicant shall revise the architectural rendering of buildings #1, 2, and 3 to reduce the building height to no greater than 40-feet.
9. Approval includes the granting of a Conditional Use Permit subject to the granting of a Conservation Easement Deed to the City that includes limited public access to the existing hiking trail along the Cochecho River. The deed shall be reviewed by the Planning Department, with consultation by the City Attorney on the proper form of the documents, and recorded at the Strafford County Registry of Deeds.
10. The applicant shall record Sheet CE-1 at the Strafford County Registry of Deeds.
11. The applicant shall prepare easement deeds for the drainage easement and slope easement. The deeds shall be reviewed by the Planning Department, with consultation by the City Attorney on the proper form of the documents, and recorded at the Strafford County Registry of Deeds.
12. The applicant shall transfer ownership of "Parcel A" to the City.

Conditions to Be Met Prior to Issuance of a Certificate of Occupancy:

13. In lieu of providing the full amount of on-site active recreation facilities, the applicant shall contribute \$9,000 to the Dover Housing Authority (DHA) to be used for improvements to existing recreational fields on the DHA property across the street.
14. The applicant shall construct a sidewalk in the public right-of-way on the east side of Whittier Street from Hampshire Circle to the Cochecho River Bridge or contribute \$23,721 to the City for the construction of the sidewalk.
15. The applicant shall contribute funds in the amount of \$6,200 to the City for the implementation of the Fast Trans transit system.

Parker stated that the situation with Chief Bibber is unfortunate, but added that the applicant did meet with staff and has been very cooperative and working over issues and understanding the Board and Staffs concerns. He commended the applicant for the third sheet in the packet. This is a type of view that he tried to get previous applicants of a project to help the Board envision what the intensity of the project might be on the street view. This is a helpful illustration of the look and feel of what is being proposed.



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Merullo alternate member stated that she understands that this project meets the requirement but is not in favor of it. We need to protect our riverfronts. As you heard from other people they want to protect the view of the river. She is concerned with projects like this. Can we institute some sort of change to protect our river fronts.

Parker said we need to consider zoning changes and site review regulation changes. We are working on this now and we need to continue to work on changing rules and regulations. If we want to set the bar higher we need to change our rules and regulations. I encourage all members in the coming months is to use projects like this as examples and saying we passed it because it met the rules and regulations. We should learn by our projects in the community.

Trefethen stated that he would like to echo Doug's comments on this project. He said he does not like it and wish we didn't even have to see it. I am disappointed that the developer didn't take the words from the Board truly to heart. As Chris said this is one of the projects that we will point to and say we do not want another one of these. The developers are hurting themselves by pushing everything to the limit.

Perry added that he would like to make a comment. He is concerned that when the Board stated that the applicant and developer should meet with the abutter to get his concerns it didn't happen this sends a bad message to every developer. I would rather see this tabled to have that meeting as we originally requested. This has nothing with me knowing Dave Bibber. The Board asked them to meet with the abutter and it didn't happen.

Andolina added that he does not disagree with Perry, however the request made by Chairman Cole was made after it was tabled.

Cole added that he understands everybody's concerns and if it meets the regulations it is approved. The other issues as far as concerns with the river it is not a positive situation; however until we get rules and regulations set that will do that for us this is where we end up.

Motion: Perry made the motion to table in order for the meeting to take place as originally requested. Steele seconded. Vote: 3 to 6 (Perry, Steele and Cole in favor)

Motion: Trefethen made the motion to approve with the Planning Board recommendations. Colbath seconded. Vote: 8 to 1 (Stock opposed)

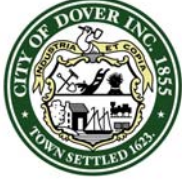
5. Committee Reports

6. Staff Communications

Parker stated that starting at the next meeting a new clerk typist will be present to take the meetings. He asked regarding changes in the rules and regulations. What you do or do not like about projects. Cole mentioned some workshops and seminars to attend. If interested see the Planning Department Clerk.

7. Adjournment

Adjourn at 11:00 p.m.



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