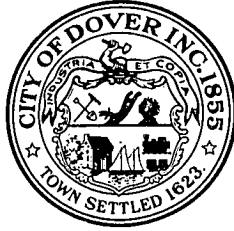


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## City of Dover, New Hampshire

DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

### MEMORANDUM

TO:	Planning Board Members
FROM:	Planning Department Staff
DATE:	October 24, 2003
SUBJECT:	<i>Staff recommendations for agenda items for the October 28, 2003 Planning Board Meeting</i>

**ITEM #3: Public Hearing to amend a condition of approval of the Alden Woods Subdivision that no parking be allowed on Wildewood Lane, to allow parking on one side of Wildewood Lane.**

Please review the enclosed memo dated August 18, 2003 from City Attorney George Wattendorf on this subject. The Planning Department recommends approval of the amendment to the conditions of approval.

**ITEM #4: Application for a Conditional Use Permit for Daniel & Jacqueline Ayer, Assessor's Map N, Lot 19, zoned R-40, located on Back Road. (P03-60)**

The applicant met with the Conservation Commission on October 6, 2003. While the minutes of the meeting are not completed yet, the Conservation Commission recommended approval of the Conditional Use Permit. The Planning Department recommends approval of the Condition Use Permit with the following condition:

1. The applicant shall obtain a wetlands permit form the NH Wetlands Bureau and provide a copy of the permit to the Planning Department.

**ITEM #5: Application for a minor subdivision and lot line adjustment of land for Timothy Ayer & Denise McKenney, Assessor's Map 20, Lots 7 & 8, zoned R-12, located on Niles St. (P03-59)**

The Planning Department recommends that the minor subdivision and lot line adjustment plat be approved with the following conditions:

1. Add the owner's signatures to the plat.
2. Provide the Planning Department with a digital version of the final plat.
3. Revise the plat by adding the surveyor's signature to the surveyor seal.
4. Revise the plat by adding a note referencing the variances granted by the Zoning Board of Adjustment.

**ITEM #6: Application for an Open Space Subdivision of land for Coldwell Banker – Criswell/Wolcott Real Estate (Owners Michael & Kevin Barry and Sheila Robinson), Assessor's Map E, Lots 67 & 69-A, zoned R-12, located on Sixth Street & Whittier St. (14 lots)(P03-48)**

The applicant met with the Conservation Commission on September 8, 2003 and received a favorable recommendation. The applicant has requested a waiver to Chapter 155-43D, to permit an 8 inch water main in place of the 12 inch requirement. The City Engineer supports the waiver request. The Planning Department recommends that the subdivision plat be approved with the following conditions:

1. Add the owner's signatures to the plat.
2. Provide the Planning Department with a digital version of the final plat.
3. Revise the plat by adding the surveyor's seal and signature.
4. Approval includes a Conditional Use Permit for the development on steep slopes.
5. The applicant shall provide the Planning Department with a copy of proposed homeowner's association by-laws.
6. The homeowner's association by-laws shall provide for the preservation of the open space in perpetuity and prohibit the dumping of yard and other waste in the open space.
7. Approval includes the granting of a waiver to allow an 8 inch water main.
8. Provide the Planning Department with proof that the applicant has filed a Notice of Intent with the Environmental Protection Agency.
9. The applicant shall grant to the City an easement for a public trail to connect the City parcel (formerly Cassily) to a crossing of the Spaulding Turnpike, at a location along a section of Whittier Falls Way.
10. The applicant shall pay the Community Services Vehicle Capital Improvement Program fee prior to the issuance of the first building permit.
11. In lieu of providing on-site recreation facilities, the applicant shall make a contribution for improvements to existing recreational facilities prior to the issuance of the first building permit.
12. Any other conditions recommended by the City Engineer.

**ITEM #7: Application for a site review of land and Conditional Use Permit for Michael Sievert (Owner Churchill Medical Systems, Inc.), Assessor's Map D, Lot 14-4, zoned I-4, located on Venture Dr. (P03-58)**

The applicant met with the Conservation Commission on August 4, 2003 and received a favorable recommendation from the Conservation Commission. The Planning Department recommends that the site plan and Conditional Use Permit be approved with the following conditions:

1. Add the owner's signature to the plan.
2. The applicant shall obtain approval of the site plan from the Dover Economic Development Corporation.
3. As required as part of the originally approved site plan, the owner shall pay a proportional share of any new road constructed adjacent to the site at the time the project connects to the road. Said proportional share shall be determined as follows: Total cost of road and utilities divided by total upland acres adjacent to the road, (32.92 acres) times total upland acres for the parcel (4.8 acres).
4. Provide the Planning Department with proof that the applicant has filed a Notice of Intent with the Environmental Protection Agency.

**ITEM #8: Application for a nonbinding site review of land, as required by RSA 674:54, for the City of Dover and Omnipoint Holdings, Inc. to construct a 140-foot telecommunications monopole and cabinet at 271 Mast Rd., Assessor's Map H, Lot 58, zoned I-4. (P03-62)**

RSA 674:54 provides for the planning board review of governmental land uses and nonbinding written comments relative to conformity or nonconformity of the proposal with normally applicable land use regulations.

**ITEM #9: Old Business**

**a. Discussion and possible vote on a site plan for The Kane Company, located on Sixth St.**

As of the writing of this memo, the Planning Department has not received any new information, therefore we are likely to recommend that the application remain on the table.

**b. Discussion of Capital Improvement Program**

Mike Joyal, Assistant City Manager, will be outlining the CIP. The City Council is holding a workshop on November 5, 2003 for detailed presentations on the CIP. We would recommend that Planning Board members attend this workshop versus holding a separate workshop.

**ITEM #10: New Business**

**a. Request for a School Impact Fee Waiver for Tedbarray Homes LLC, for Footbridge Lane, Assessor's Map H, Lots 11, 15, 19, 23, 27, 2, 4, 6, 8, 10, 12, 14, 16, 18, 20, 22, 24, 26, 28, 30 and Trestle Way Map H, lots 28, 30, 34, 36, 40, 42, 60, 62, 64, 66, 68, 70.**

The site plan was approved by the Planning Board on April 9, 2002, prior to the Planning Board's vote to adopt the school impact fee. The plan was signed by the chair on August 8, 2002. The first building permit was granted on November 25, 2002. RSA 674:39 states, in part, that site plans that have been approved and recorded are exempt from zoning ordinance amendments for four years, provided that substantial completion of the improvements on the plat have occurred and that active and substantial development has begun within 12 months. The authority for impact fees was adopted as Chapter 170-28.7 in the zoning ordinance. Due to the fact that the site plan was approved prior to the adoption of the school impact fee and is protected from zoning changes under RSA 674:39, the Planning Department recommends that the waivers be granted.

**b. Request for a School Impact Fee Waiver for Build America of N.H., LLC, for Assessor's Map 39, Lots 17, 18, 25, 26 and 27, located on Sullivan Drive and Evergreen Valley Drive**

The Planning Board has already denied the impact fee waiver request for lot #17 on July 29, 2003. The avenue for appeal of this decision would have been to Superior Court.

These lots were part of a subdivision approved by the Planning Board on March 14, 1995, and the plat was recorded on October 11, 1995. RSA 674:39 states, in part, that subdivision plats that have been approved and recorded are exempt from zoning ordinance amendments for four years, provided that substantial completion of the improvements on the plat have occurred and that active and substantial development has begun within 12 months. According to City records, there was no active and substantial development until March 31, 1999, when the first building permit was issued for the subdivision. This was 41 months after recording the plat.

RSA 674:39 also states that approved and recorded plats are vested if substantial completion of the improvements as shown on the plat has occurred within four years of recording. As of October 11, 1999, the improvements shown on the plat such as the roads, drainage facilities

and ball field were not substantially complete. The first building permit for one of these five lots was granted on March 31, 2003.

The applicant argues that the Tri-Partite Agreement constitutes an extension of the 12-month period provided for active and substantial development, as allowed by RSA 674:39 IV. However, this agreement was not in place until more than five years after the plat was recorded and more than four years after the 12-month period had expired.

The authority for impact fees was adopted as Chapter 170-28.7 in the zoning ordinance. The Planning Department has sent this waiver request to the City Attorney for a legal opinion.

**c. Request for a School Impact Fee Waiver for Scamman Builders, Inc., Assessor's Map J, Lot 2,5, 6, 7, 8, 9, 10, located on Seaborne Road.**

These lots were approved by the Planning Board on February 11, 2003, prior to the Planning Board's vote to adopt the school impact fee. The plat was recorded at the Registry of Deeds on April 16, 2003. The first building permit was issued for on June 19, 2003. RSA 674:39 states, in part, that subdivision plats that have been approved and recorded are exempt from zoning ordinance amendments for four years, provided that substantial completion of the improvements on the plat have occurred and that active and substantial development has begun within 12 months. The authority for impact fees was adopted as Chapter 170-28.7 in the zoning ordinance. Due to the fact that these lots were approved prior to the adoption of the school impact fee and are protected from zoning changes under RSA 674:39, the Planning Department recommends that the waivers be granted.

**ITEM #11: Adjournment**