

**DOVER PLANNING BOARD
MINUTES OF MEETING
FEBRUARY 12, 2002**

MEMBERS PRESENT: Tony McManus, David Landry, John Sullivan, Frank Torr, Margaret Stevenson, Beth Thompson, Chuck Maglaras, Parks Christenbury, Pete Lavoie, Ron Cole, Dennis Ciotti

STAFF PRESENT: Steve Stancel, Planning Director and Jacqueline Freeman, Recording Secretary

ITEM #1: Citizen's Forum

Jerry Reese, 2 Crestview Drive, stated that his 4 years on the Board were enjoyable. He emphasized the need for more manpower in the Planning Department. He urged the Board to make their input known to Councilor Christenbury to enable some kind of additional manpower to be put towards the Planning staff. He said that the City is undergoing a lot change. There is the Planning Board work, the Conservation Commission, The Open Lands Committee and the Traffic Study work. Even if Bruce Woodruff were here, the Planning staff, in his opinion, needs additional manpower. Mr. Reese requested that a sidewalk be installed between Whittier and Sixth Street when the Glenwood Avenue upgrade is done,

He said that the Planning Board approves all these projects but they never get to see the final product. He said that it would be good if the Board could go see the final results. Jerry said that, as a member of the Government Affairs Committee of the Chamber of Commerce, they had a very extensive discussion about the need for rezoning in the City. The City is getting a lot of favorable publicity in the Boston Globe and other regional newspapers with regard to housing developments and while good, it cannot continue. The Government Affairs Committee has forwarded a petition proclamation to the Directors of the Chamber of Commerce, to advocate that the Planning Board actively begin to look at rezoning land from residential to commercial. He said that most of the homes that are being built in the City are 3 & 4 bedroom homes and the population of school age children is going to go up.

ITEM #2: Approval of the minutes of the workshop and the meeting of January 22, 2002.

Frank Torr made the motion to approve.
Beth Thompson seconded.

David Landry stated that it should be stated in the workshop minutes that the ideas that he listed are not listed in any order of importance. Also Wadley House should be spelled Wadleigh House.

VOTE U/A

ITEM #3: Consideration and acceptance of an application for a site plan of land for Sixth Street Station, LLC (owner Ray Bardwell) Assessor's Map 31, Lot 103, zoned RM-8, located on Sixth Street. (8 units) (P01-71)

Tony McManus recused himself.
John Sullivan sat in for Tony.

Ray Bardwell went over everything that has been done to Sixth Street Station up until now. He stated that the land title problem has been resolved and they will be building an additional 2 buildings of eight units on that land. He said that the Riverwalk is shown on the plan and the easement deed for the Riverwalk has been sent to the city for review. He went over the various changes that are depicted on the plan. He said that they have had the Fire Department trucks come into the development and turn around and they had no problem at all. He said that they have changed the lighting to a more decorative design. Ray said that the path to the Riverwalk would follow the sewer easement.

Parks Christenbury made the motion to accept the application.
Beth Thompson seconded.
VOTE U/A

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

Peg Stevenson made the motion to approve with the condition that the owners' signatures be added to the plan.
Parks Christenbury seconded.
VOTE U/A

Tony McManus took his seat and John Sullivan sat in the audience.

ITEM #4: Consideration and acceptance of an application for a minor subdivision of land for the Estate of Elbert E. Wheat, Assessor's Map A, Lot 29B, zoned R-40, located on Blackwater Road. 3 lots (P02-02)

Bob Stowell, Trittech Engineering, represented the applicants. He stated that this was a straightforward application and all of the lots would have wells and septic systems.

Chuck Maglaras made the motion to accept the application.
Frank Torr seconded.
VOTE U/A

The public hearing was opened.

Tom Fargo, Conservation Commission Chairman, said that it was important to note that when parcels that are so far removed from the City center are subdivided, sprawl is being

promoted. He said that these outlining areas should be viewed as potential areas for open space protection. The City of Dover has a program to try to promote the protection and preservation of these spaces.

The public hearing was closed.

Parks Christenbury made the motion to approve with the following staff recommended conditions as follows:

1. Add the owner's signature to the subdivision plat.
2. Add the surveyor's stamp and signature to the subdivision plat.
3. Revise the plat by amending Note #7 to add that the property is located in the Secondary Protection Zone of the Groundwater Protection District.
4. Revise the plat to add the Strafford County Registry of Deeds recording number for Reference Plan #2 in note #6.
5. Revise the plat to add the common subdivision plat note #25, regarding providing the survey on disk.
6. Provide the planning department with a copy of the NH Subdivision Permit and add the permit number to the plat.

David Landry seconded.

VOTE U/A

ITEM #5: Consideration and acceptance of an application for a major subdivision of and for Dupere Corporation on Washington St. (owner Delvin Arnold) Assessor's Map G, Lots 10 & 11, zoned R-12, located at 336-338 Washington St. 19 units (P01-65)

Ron Cole recused himself and Chuck Maglaras took over the chair. John Sullivan took Chuck's seat on the Board.

Henry Boyed introduced himself and Chris York of Millennium Engineering. Henry explained that they merged the 2 parcels comprising of 12.94 acres of land and then divided it into 21 lots. He said that they are asking waiver relief from the 1000-foot roadway length for a roadway of 1,215 feet in length because of the distance that they need for the wetlands crossing. They are also asking for a waiver from the 6% maximum percent grade on the street to 8%, which is allowed by the State.

Mr. Boyed stated that there are two parcels that exist now with homes on each of them. He said that they merged the lots to create 20 lots, with 18 new structures. He said that, originally, there was another lot that was made that was an unbuildable lot. They thought that it might be of some benefit to the City but after TRC, it was apparent to them that it would be better that the parcel be divided up into lot #3 and #4's ownership. The existing sewer easement remains intact and will be widened to 30 feet at the request of the Engineering Dept. Henry Boyed explained each sheet of his plan.

Mr. Boyed said that they have received their State Wetland Permit for the wetland crossing. They are proposing a 4' high x 12' wide box culvert, which will allow for migration of small animals. Mr. Boyed said that Washington St. has a bit of pitch and it was a challenge to design the beginning of this road to mirror what is happening in the field. They are proposing that the road be separated vertically with an island with entering cars coming in at a lower grade. He said that at this point, they have not come up with a better solution. They believe that this not only is a safe solution, but also will be a beautiful beginning to the road.

Steve Stancel stated that one of the major issues at TRC was the possibility of connecting this cul-de-sac through to abutting parcels in the future. He asked Mr. Boyed to explain why there is no 50' wide accessway.

Henry Boyed said that they left the TRC meeting without a tremendous amount of direction about that issue. He said that there was discussion on looping the water through and that he wasn't sure what direction he should take this in. He would like some direction from the Board.

Steve Stancel stated that his recommendation would be that unless they can show the Board otherwise, they want to see a 50' right-of-way for future connection into abutting parcels, at least to the north.

Frank Torr asked how much land on lot 19 is not covered by either wetlands or easements for the sewer. He asked what provision the developer is making for the turnpike noise for the future residents. He said that there needs to be some provisions up front because the residents will go to the State looking for a barrier and it should come from the developer.

Mr. Boyed said that he would have the calculations for him. He said that the houses would be nearer Washington St. than the turnpike. He said that page 2 shows the tree line and that lot 10 is entirely wooded.

Steve Stancel stated that that would be something to look at on the site walk.

Dennis Ciotti asked about the illegal foundation mentioned in the memo from Tom Clark.

Henry Boyed said that this lot was created prior to them getting involved. He said that he believes that it went 6" into the building setback. He said that he is not sure of the status.

Steve Stancel stated that the reason that the letter was written was because there hadn't been a Building Permit received. Since that time they did receive a Building Permit, then it was determined that the foundation was 6" closer than it should be and now it is going to the ZBA.

Margaret Stevenson made the motion to accept the application.
Beth Thompson seconded.

VOTE U/A

The public hearing was opened.

J. P Nadeau, of JBJ Trust, which abuts lots 11, 12, 13 and part of 14, stated that his issue is that his piece of land is landlocked and he is interested in getting access to his land.

Steve Fortune, 339 Washington St., owner of the house directly across from Taylor Rd. He has 3 concerns. The first is environmental. He said that this land was once a park and is now being mowed down for this subdivision. Hopes they adhere to wetlands setbacks and keep the land as natural as possible. He said that the developer has already showed his carelessness and his disregard for the law. He said that the easements seem to impact the neighboring properties. He said that he opposes this development of the road that will empty out practically in his living room. He said that his house is 20' from the roadway. He said that there would be little impact on the abutters if the road came in on lot G 11-1, next to lot 20. He said that a loop of some kind for access to the north, would ease traffic in and out of the development. He asked if the road could be moved 10 or 20' up the hill with an island. The exiting cars would come between him and his neighbor to the south. He asked for the possibility of some hedgerows or some trees planted on his side. He is concerned that his privacy, property value and security are in jeopardy.

Rich Lundborn, 340 Washington St., is a civil engineer with MJS Engineering and an abutter. He said that his concern over the project, being the abutter next to the "foundation", has nothing to do with the development itself. He has a skepticism after looking at the drainage report. They are claiming a 7.7 cubic foot per second reduction in runoff to the downstream watershed. He said that right now, his back yard is fairly flooded and in his experience a 7.7 cubic foot reduction is pretty large in a 19 lot subdivision. He said that he is having a hard time swallowing that his back yard won't become more flooded than it is. When he bought the parcel, he knew that it flooded. He said that his barn already has been flooded a few times but he doesn't want it flooded more frequently. He said that as far as moving the road down, he's like Mr. Fortune and feels that it would have an impact on himself because it would be 25' from his door, which is worse than across the street. He said that he does feel for Mr. Fortune too. He would like for the drainage analysis to be picked over and the City take into consideration the City Engineer's review when they bring back an opinion.

Tom Fargo, Conservation Commission, stated that this item was under discussion at their December meeting and they decided to table action until they did a combined site walk with the Planning Board. Since that time, the State has issued a permit for the crossing. He said in reviewing the conditions for that application, he noted that the proposed drain that goes underneath the road is a box culvert of rather small dimension. The adjoining parcel, developed by Doug Dodd, had to have a fairly large bridge structure to cross the same wetlands and drainage area. The inspector that approved both permits said that the difference was not based on the hydraulic analysis of how much water might go through the drainage way, but rather the amount of impact that was caused to the wetlands by the structures themselves. He said that there are drainage issues out there that need a very

close inspection and perhaps, by outside review. The Conservation Commission is concerned about the proximity of a couple of the houses to the wetlands. There is also concerns with lot #8 and #18 that are very close to wetland areas. Tom said that he endorses the connection to the adjacent subdivision.

Chuck Maglaras stated that he is recessing the public hearing.

John Sullivan said that he thought that Mr. Fortune had brought up a good point when he questioned the lack of enforcement when the building on the property was supposed to have been stopped. He asked Councilor Christenbury and the staff to look into that situation. Also, one thing that he objects to is the idea of the arbitrary penalty. He said that there are direct impacts to abutting properties and he would rather see a developer docked for any violations, with the money going directly to mitigating the circumstances for the affect on the abutters, rather than just looking at a chance to bankroll another Public Works project.

Steve Stancel stated that the City could do both. Steve said that with any project, since there are no formal impact fees in place yet, it is checked to see if there are any projects that are in the Capital Improvements Program pipeline that are being paid by the taxpayers. These upgrades in the CIP are roads that are used by the general public and will also be used by the new project. He said that they determine the fair share allocation by the new traffic added by the project.

John Sullivan asked how big a development must be to command impact fees.

Steve Stancel explained that even a small project could be charged a fair share if there were a CIP project nearby. He said that a 6 unit project, off of Mill St., will be paying their fair share for the Charles St. Pump Station and the traffic signals on Central Avenue.

John Sullivan made the motion to table and schedule a site walk.

Tony McManus seconded.

VOTE U/A

Chuck Maglaras set the site walk for March 2, 2002 at 9:00 AM and announced that the public is invited. He asked Mr. Boyed to have the centerline of the road staked.

Ron Cole took his seat as Chair. Chuck Maglaras took his seat on the Board and John Sullivan went back to the audience.

ITEM #6: Old Business

a. Consideration and acceptance of an application for a site plan of land for Cochecho Country Club, located at 145 Gulf Road. (P01-70)

Peg Stevenson made the motion to take this item off the table.

Dave Landry seconded.

VOTE U/A

Paul Connolly explained that they had sent a letter to the abutters but had not received a response from them. He said that he spoke to Robert Demers, Jr. on January 8th with regard to the screening or buffering along their common boundary line and after asking him if there was anything that they could do, he was not responsive. He said that given that, they have gone ahead and proposed 150 lineal feet of 7 foot high, solid wood fencing along the common boundary.

Steve Stancel gave the staff recommended conditions.

Paul Connolly stated that they could go with a living screen or a man made screen. He checked with the Planning Department because with a living screen there is the potential for gaps between the plants and his fear was that that would not be acceptable. He thought that the solid buffering would be more acceptable.

Peg Stevenson said that the looks of the building is a concern and she thought that a wooden building would be more aesthetically pleasing. At the last meeting the Board did not see an actual picture of the building that was going to be put up. Peg asked Paul Connolly if he had one available.

Paul Connolly showed her a catalogue showing similar installations. He said that the president of the club turned in a set of specific pictures of the proposed building to the Building Inspector 5 days ago.

Frank Torr asked if the Board was being presumptuous by taking action on this item when there hasn't been a decision by the ZBA.

Steve Stancel stated that if this was approved this evening and the ZBA changed their minds next week, this approval would be null and void.

Frank Torr thought that the Board should wait. He asked what would happen if it was found that there was noise from the chargers.

Steve Stancel said that there would need to be mitigation and that Paul Connolly had said that they would look for a different time to charge the carts.

Discussion ensued with regard the time it would take to charge the carts.

Tony McManus made the motion to approve with the following conditions:

1. Add the owner's signature to the site plan
2. Revise the plan to add a note containing the details of the variance granted by the Zoning Board of Adjustment.
3. Provide the Planning Department with a copy of the NHDOT Driveway Permit and add the permit number to the plan.

4. Provide the Building Inspector with the manufacturers specifications for the battery charging system and a plan for mitigating impacts from any emission.
5. The applicant agrees that the new operation will not increase the noise level, as measured at the southerly property line during the evening hours when the battery charging units are operating, above the existing noise level during the same time period.
6. A professional company certified by the Planning Department shall be used to monitor the noise levels

Parks Christenbury seconded.

Ron Cole read part of 674:44 in the NH Planning and Land Use Regulations.

VOTE 5 – 3 Opposed – Margaret Stevenson, Pete Lavoie, Frank Torr

b. Discussion of Village at Bellamy Commons, Mist Development, located on Knox Marsh Road, regarding scheduling a site walk. (P01-41)

Rueben Hull, representing Mist Development, stated that he thought that the Board wanted to hold the site walk during the week at peak traffic hours.

Ron Cole asked the Board to go individually to the site during peak hours, and then report the results on Saturday morning at the scheduled site walk.

Tony McManus suggested 10:30 AM so there wouldn't be a rush from one site walk to the other.

The site walk was set for Saturday, March 2, 2002, at 10:30 AM.

Reuben Hull agreed to stake out the centerline of the proposed road and the boundary with Bellamy Park.

ITEM # 7: New Business

a. Discussion and possible posting of proposed zoning change on Dover Point Road and land adjacent and including Thornwood Farms, Assessor's Map K, Lot 19.

Steve Stancel stated that last week, at the Planning Board workshop to discuss goals and objectives, the discussion lead to several areas for rezoning. One of the areas was Thornwood Farms and adjacent parcels. He said that he has collected several examples of PUD ordinances and in his opinion, this could be used not only for this particular area but it could become an overlay district over the entire city. A PUD promotes flexibility in development. The Cities that have this in place set a threshold of a minimum parcel of 30 or 50 acres. A PUD throws out the underlying zoning district, lot size requirements and housing type requirements. A developer could come in, and instead of 90 single-family house lots, he could propose a combination of single family, multi-family, duplexes, condos clustered in one section of the parcel and a percentage of the parcel

would be placed in open space. The other added attraction of a PUD is that a mixed-use development, with small-scale retail, commercial or office type uses would be created and allowed on the parcel. The concept is to create more livable communities to live, work and shop, closer to their home. The ADS regulations could be adjusted to include portions of the PUD, or we may choose to move forward with an entirely new PUD. He said that they have met with the various players on the Thornwood Farm parcel, who are present this evening. They had concerns with regard to any possible zoning change. He said that he invited them here tonight to listen to the Board's discussion and provide input if the Board would like. He said that they are proposing to put a 55 or older housing development on the parcel. Steve said that he thinks that that is consistent with a PUD and we could still allow some mixed uses.

Steve Stancel stated that the applicants are willing to work with the City. In most of the communities the PUD is an overlay district and there are incentives in the PUD that would make it more attractive for a developer to take advantage of that, as opposed to doing a traditional cookie cutter subdivision project. Depending how the PUD is set up, the developer won't be hurt one way or the other.

Ron Cole stated that the PUD is the development engine of choice in many far seeing communities in the US today. He said that he grew up in a PUD, it was called a neighborhood. The PUD is something that can be a point of pride to the community. He said that it would be something, which will enhance the image of the community and also satisfy the vast majority of needs that the community has in one place. He said that he has seen PUDs in VA, and they work. Ron said that the Board attempted to do some rezoning in this area the last time around and it didn't work because of the great cry on the part of the people in the neighborhood that said that they didn't want commercial development in the area. In the past week, he has had 3 different citizens who live somewhere in that area screaming at him because the Board is going to let houses be built there. This places the Board between a rock and a hard place. This is the opportunity to do something good for the community and he asked every one to try to get on the same page. Ron said that whatever the Board does, there will be people at the public hearing that are not going to want it and he just wants to reiterate that. He said that there would be people saying that they don't want anything there. He reiterated the need to work together for the benefit of the community and for the benefit of the owners of the property.

Tony McManus stated that a year ago the Board did not attempt to rezone this parcel. The proposal was to create a commercial strip zone along Dover Point Road and the two things are far different. He asked if there is any requirement that, in addition to the residential units, the developer actually provide one or more of the potential commercial uses or can they just go ahead and put the residential up and then hope that someone else comes along and does the commercial.

Ron Cole said that he apologizes to Tony if he appeared to be misguiding people about the rezoning.

Steve Stancel said that he thinks that these are fine tuning details that this Board, or the committee that chooses to take this on, can decide upon. He said that some communities say that the developers, themselves, have to develop the economic portions of the project. He said that others say the developer can master plan the PUD, put in the residential units, and sell off the economic portion to an economic developer.

Frank Torr asked if adjacent properties to Thornwood would be considered. He said that some of the neighbors might be interested in being part of the rezoning.

Steve Stancel stated that he hesitates on just picking on Thornwood, which is one advantage of the planned unit development. It would be an overlay district, in theory, if the City chose a minimum lot size of 50 acres, then any lot in the City that was 50 acres or larger could partake in a PUD. Steve said that he has received phone calls from 3 property owners in that area, between Dover Auto World and the cemetery, that want it rezoned to commercial. He said that the Board did not have that support a year ago.

Ron Cole said that there is substantial feeling in the community that the Board needs to rezone immediately. The charge that the Planning Board has, and one of the reasons why the rules and regulations are in place, is so the Board can get as much input from people in the community and people that are in the affected areas.

Atty. Bernie Pelech, Attorney from Portsmouth, who is representing Elliot Rose Co. of Dover, the owners of Thornwood Farm, introduced Ken Grantstaff, who is from the company that has the property under agreement. He said that this proposal caught his client out of the blue in January, when the rezoning issue came up. He said that beginning last fall, the property was marketed and the focus of the marketing was the fact that it was an R-40 zone. The potential buyer put the property under agreement based upon the R-40 zoning and has been planning to move forward based on that fact. He said that as such, they would be opposed to any move to rezone the property from the R-40. That is not to say that they are opposed to the concept of a PUD. Because the PUD is an overlay zone, they would not be opposed to a PUD, provided that it does not interfere with the buyers ability to go forward. As soon as a public hearing is posted on changing the zoning ordinance, a lot of things happen legally. One the things that happen is that any application that comes forward after that point must be in conformity with that posted zoning change. Therefore, the Board can give notice of a public hearing to change the zoning from R-40 to something else and a subsequent application would have to be in conformity with the something else.

Atty. Pelech said that if the concept of a PUD overlay goes forward, the procedure is quite different because the underlying zoning is not being changed, it would still be R-40 with a PUD overlay. They don't have a problem with that. He said that Portsmouth has had PUDs for 15 years. He said that it is a great concept and it worked very well. He said that they are willing to work with the City.

Ken Grantstaff, President of Nesiti Development Corp., stated that they based their decision to move forward on the property on the fact that it was zoned R-40. He said that they looked at a project that was a cluster concept allowing a significant portion of the property for conservation uses. He said that he has worked on several PUDs, or Cluster Development scenarios. He said that they created a small, almost quaint community type of environment, with sidewalks and street lamps. These communities have been extremely successful. Mr. Grantstaff said that their first thought is that there is a potential for 90 homes but their intent is not to bring in 90 homes into this community. His intention is to bring in an age-restricted adult community under Title 8. He said that under Title 8, it is probably the only Federal law in the books that specifically allows you to discriminate against children. They currently have projects that are operating or in the development stages under Title 8. These project allow or a 80/20 mix. 80% of the community must have one adult per household with the minimum age of at least 55 and can go to 62 or 65 years old. The 20 percent of that project then becomes open to an age group that allows for a couple to come in at maybe 25 – 35 – 45 years old. It still specifically restricts the community to zero children. This type of community has zero impact on the school system of the town. 99.9 percent of these communities offer a cash positive situation for the town. 70% of the US population, 62 years and up, controls 70 to 72% of the US wealth. Bringing one of these communities into a small town brings with it a lot of great things. The main thing with these communities is there is zero children.

Parks Christenbury said that it is an issue of fairness because the Williams have posted that property for months. It's a balancing act. He said that, as a City Councilor, he is concerned about housing. Parks stated that he was pleasantly surprise to hear what the intentions of the project are and was happy to hear that they are willing to work with the City on a PUD.

b. Goals and Objectives.

Steve Stancel stated that he tried to summarize the Planning Board Goals for 2002. He said that they are included in the packets. He said that he broke down all the proposed goals into 4 different categories.

1. Residential Changes to Manage Growth
2. Promote Increase Commercial/Industrial Base
3. Open Space
4. Quality of Life

He said that the Board could list and rank their top three priorities in each category. He said that that might be a good way to prioritize their goals.

Ron Cole said asked the Board to come back in two weeks with their prioritized goals, they'll be collated at that point and the committees will be appointed. He said that he would appoint 4 subcommittees with at least one Board member on each subcommittee. He said that he has the names of 10 or 12 people that are interested in different areas on this project.

Tom Fargo said that he would like to bring up the review of the Groundwater Protection Ordinance. He said that the Conservation Commission suggested some upgrades. Beth Thompson was appointed as a committee of one to work with the Planning Staff and himself to try to get that ahead. He said that it needs a jump start. Dean Peschel has suggested that the Planning Board and Conservation Commission evaluate amendments to the Wetlands Protection District Ordinance. He said that he would like that added to the wish list.

Ron Cole said the Board would be receiving applications for the NHOSP Planning and Zoning Conference. It would be a good chance to get some training and the Planning Department will pay for it.

Parks Christenbury said that he gave each member a legal opinion that he requested on the status of city employees sitting in as members of the Planning Board. He said that this is the City's official opinion on this. Please contact George Wattendorf if anyone has any questions.

Steve Stancel said that the CDBG applications have been received and will be heard at the February 26th meeting.

Steve Stancel said that Attorney Wattendorf has been wanting to sit down with the Board in a Non-Public Session to discuss some legal matters of some pending cases. He suggested the 26th.

Ron Cole suggested that the Board could meet at 6:30 on the 26th prior to the regular meeting.

ITEM # 8: Adjournment

Frank Torr made the motion to adjourn
Beth Thompson seconded.

VOTE U/A