

**DOVER PLANNING BOARD
PUBLIC MEETING
AUGUST 20, 2002**

MEMBERS PRESENT: David Landry, Parks Christenbury, Margaret Stevenson, Joyce El Kouarti, Pete Lavoie, Beth Thompson, Frank Torr, Dennis Ciotti, Tony McManus, Ron Cole

MEMBERS ABSENT: Chuck Maglaras

STAFF PRESENT: Steve Stancel, Planning Director; Steve Bird, City Planner; Chris Parker, City Planner and Jacqueline Freeman, Recording Secretary

Chairman Cole brought the meeting to order at 6:35 PM.

Chairman Cole stated that Alternate Dennis Ciotti would be sitting on the Board and Alternate Joyce El Kouarti would be able to make comments and participate, but would not be able to vote.

Chairman Cole explained that this was a special meeting for the purpose of addressing a list of proposed zoning, site review and subdivision regulation. Ron Cole explained that this particular special meeting was not designed for public comment but was merely for the Board to get itself together as to what it wants to address and post so that the balance, which is about 85% of the process, can continue. He explained that the Planning Board will eventually make recommendations to the City Council and the City Council will take action from that point. Three or four public hearings will be held during this course of time.

Steve Stancel went through the changes that were made at the last meeting. One of the changes was that agricultural uses were exempted from the Scenic Road Overlay. He said that they spoke with Mr. Hebbard and they made the determination that it did make some sense to exempt agricultural uses within that 25' area from the right-of-way. Steve explained that the staff referenced the state definition for agriculture.

Steve Stancel said that another change was regarding parking spaces. There were condominium projects where 2 parking spaces per unit was required and the developer was counting one space in the garage and the second space was right in front of the garage and it didn't leave space for the car that was in the garage to get out. He said that they changed the definition of what a parking space is and made it "independent access to an aisle or driveway" for each parking space. Steve added that the only people who would be subject to this would be new multifamily units.

Steve Stancel said that a change was made to replace all references of Public Works Department, to Community Services Department. Also replaced is all references of Alternative Design Subdivision with a new title of Open Space Subdivision which better meets the ordinance now that we are also talking about planned unit options. He said that

there were two other clarifications that were made last week. One was the open space requirement in the PUD and the other one was minimum sending and receiving areas in the TDR.

Chris Parker stated that after TDR discussions with the Board and with citizens input, there was a fear that there wasn't a limit on how much land could be transferred. There were people who thought that their neighbors were going to do this and they would have high-rise apartments beside them. Chris said that on page 7, in Zoning, Section 8; numbers 1, 2, and 3 are new. 1. states that in order to qualify to send development rights, you must have 5 acres. Chris said that that way people wouldn't be cutting their back yards or otherwise un-developable pieces of land. 2. Describes how to calculate what your received right would be. He said that you take the minimum lot size from the sending district and divide that by the minimum lot size for the receiving district. Chris said that R-20 and R-40 are the sending districts. If someone in R-12, which is a receiving districts wanted to purchase development rights from someone in the R-40, they would need to take the minimum lot size in the R-40, which is 40,000 sq. ft. and divide that. You get 3 additional rights that could be added to your current development right in your zone. Chris Parker said that they have added number 6, on page 8 that states that the development that you are proposing has to be consistent with the Master Plan and compatible with the neighboring land uses. This is the cap, so that you can not go out and buy 30 development rights to shoe horn in on a 12,000 sq. ft. piece of land.

Steve Stancel stated their main objective was to attempt to preserve larger tracts of open space as opposed to preserving an acre here and there. He said that you can look at Tuttle Farm or some other large tracts of land that would be more conducive to preserving bigger chunks of open space as opposed to somebody attempting to preserve their backyard.

Tony McManus felt that it would be preferable that we preserve a backyard as open space rather than plunking a house on it. He said that it could be posted to get feedback at the public hearings but he is not sure that he understands.

Residential Subcommittee

Tony McManus said that it would make sense that we should not be deleting anything at this point. All items should be advertised and then weeded out under that process.

Parks Christenbury indicated that there may be some items that looked good to the committee at first, but when they put the whole pie together it wasn't the case. There are a couple of items that he doesn't support within his own committee and they want to remove them. He felt that there is no point in posting something that there really is no support for.

Commercial and Industrial

Ron Cole stated that he is removing himself from #5. Dover Point Road – Change R-12 to B-3, because he is employed by an abutter. He asked Tony McManus to take over the meeting for that item.

Beth Thompson said that the Commercial/Industrial group members would like to see #11 and #17 removed. The Oak/Gulf Road rezoning, and the Eating and Drinking Establishment use from the Office zone.

Parks Christenbury stated that he was abstaining from items #5 and #6, because his spouse is employed at one of the businesses located in that zone.

Beth Thompson explained that they heard from an owner of a large parcel on Oak Street that they were not able to contact before. They felt that it was best to remove it from the list. They also want to remove #17 Eating and Drinking Establishment, Personal Service and Retail because it would be an issue with getting things passed.

David Landry said that he can see removing #17, but could not see why #11, Oak/Gulf Road, should be removed. He said that there will always be people who will protest the rezoning of their property.

Beth Thompson said that when they met with the owner of the Gulf Road property they understood that the intention was not to have a large residential development but to pass it on to the family. They were willing to consider looking at something deed restricting.

Parks Christenbury said that when you actually walk the property on Gulf Road and delineate the wetlands and the hill, it is evident that the parcel is not conducive to enterprise. He said that the descendents want to build houses on 5 or 10 acres. Out of 70 acres, probably 20 or 30 acres are usable.

David Landry suggested that the Board consider changing it to R-40.

Frank Torr stated that the parcel may not be appropriate for ETP but it should be considered for some type of commercial zone. It is surrounded by commercial property.

Tony McManus said that he feels the City should buy the armory. He said that it is a logical location for some municipal facility. He agreed with deleting #11 and #17.

Steve Stancel stated that the Planning staff has always agreed with not having ETP in that area. He said that he wondered if the Board would contemplate leaving that area R-40. The area across the street is being changed from a multifamily zone to R-40. This would further restrict the area from the large amount of potential development and it would still fit in with the plans of the family.

Steve Stancel suggested that the armory stay R-12 to be consistent with the zoning on that side of the road. He said that he would only rezone up to Oak St.

Beth Thompson said that the armory is contiguous to the B-3 on Portland Avenue.

Steve Stancel said that Steve Bird just pointed out to him that there were two smaller lots along Gulf Road that were purposely left out of the proposed ETP and we would recommend that they would go into the R-40 as well.

Tony McManus said that we have been talking about preserving the Janetos land for the family and a conservation easement. He said to allow the armory to go B-3 would likely result in having a shopping center across from these people's land. He thinks that it is poor planning.

David Landry said that if we were to post all of these, he doubts that he would vote for all of them. He said that he is opposed to #12, Sixth/Whittier.

Ron Cole said that he will open discussion on items #10, Central & Locust and #12, Sixth & Whittier, to see if anyone had any problem with these going any further.

Tony McManus said that he agrees with David Landry on both of these items. He said that he thinks that R-12 should be upgraded to a larger lot.

Steve Stancel stated that the Planning staff is opposed to #12, Sixth & Whittier because of the potential for TDR and needing some land for urban infill. He said that it could be a potential receiving area and it seemed to make sense to allow residential there because of the infrastructure.

Beth Thompson asked if they vote to post things tonight if they would still have an opportunity at a later date to come forward with other changes. She said that they have just cut back on 100 + acres of commercial/industrial.

Ron Cole said that this was the horrific part of the whole rezoning. He said just a few minutes ago David was saying that we have to keep ETP. It defines exactly the challenge that the Board has. There is a balance that they are trying to maintain. The most difficult thing that this Board has had to do in the last 10 years is to try to find a reasonable balance between these important issues.

Frank Torr said that he would like to see Sixth & Whittier stay in because it meets the standards that the Board originally set. It has the utilities, the road has been upgraded and it has exposure to the Spaulding Turnpike.

Ron Cole asked who would like to keep it in for discussion purposes. Four members didn't want to keep it in and four wanted to keep it in. Ron broke the tie to make it 4 - 5 to keep it in

Tony McManus asked to go back to #10, Central & Locust. He said that he made the comment at the last meeting that it was just asking for trouble. He said that two of the houses on that side have just put in a lot of effort in fixing their houses up and he would

hate to tell them that they might have a Denny's next door. He said that he thinks that we owe the people across the street not to turn that into a commercial strip. He said that he thinks that it should not be considered as part of the rezoning.

Frank Torr said that he is on the other side of the coin from Tony. He said that rather than see that creep occurring, lets make the decision now to have it zoned properly rather than have it occur by Zoning Board.

Tony McManus said that the answer is to stop the creep. He doesn't want to see it happen.

Dennis Ciotti said that he walked that stretch of Central Avenue, and he doesn't think that the road can support B-1 in that area. He thinks that it is a B-1 site but that the traffic issues outweigh any benefit that the B-1 would have to anybody. Getting in and out of there would be a nightmare unless we could access that property from the back side, on Locust Street.

Steve Stancel said that the Planning Department had some concerns about B-1 zoning. One potential compromise might be instead of B-1, rezone to an office zone. An office zone is a transitional zone and would not allow retail or restaurants and it still allow duplexes and triplexes and the existing uses would not become non-conforming.

David Landry said that he tries to decide if in 10 or 20 years from now if he can look back at the decisions that he made and think that they made any sense and if they worked out. If industrial land is not put aside it would be a shame on the Planning Board. If ETP is not put aside it would be shame on the Board also and he continued by saying that he does not feel the same way about the B zones.

Parks Christenbury said that a B-1 means a mom and pop type of business. It's a balancing act. He still wants the quality of life here where if a member of his family or a friend wants to have that inventory for a small business, it would be available. It's a balancing act.

Beth said that there is only 8 acres in this proposed rezoning.

Parks Christenbury said that he is willing to amend it to Office.

Ron Cole asked for a show of hands to recommend that we change Item #10, Central/Locust from RM-10 to Office.

Vote 6 – 1

Opposed – Tony McManus

Tony McManus said that he felt that we are changing the zone just for the sake of making a change without deciding whether or not it is appropriate planning. He said that in this case he doesn't see a reason for any change.

Frank Torr said that he is still concerned with item #6, the ETP on Dover Point Road. He would like to see it go all the way to Middle Road. He thought that the planners' concerns were that if the Middle Road side got developed first, the traffic would be dumping on Middle Road. If the Dover Point Road side got developed first, it probably would be a natural setting. He felt that it would be consistent and would not happen tomorrow.

David Landry said that he tends to agree for the purpose of posting that it should be extended.

Beth Thompson said that she would also agree.

Tony McManus asked if there were any members opposed to posting this. No one said that they were.

Open Space Subcommittee

David Landry asked about #23, having the Kennel use in the PUD. He didn't think that it was a great use for the PUD.

Discussion ensued with regard to doggie daycare and soundproofing to alleviate noise.

Tony McManus stated that it was decided that it should be left as is. He asked if anyone had any question on numbers 20 – 26.

Beth Thompson asked for a clarification on locations of PUDs.

Chris Parker said that they would be for R-40 or R-20 zones or for parcels that are over 50 acres.

Quality of Life

Beth Thompson asked about the amendments to the sign ordinance. She said that on the non-Residential, Industrial Zones 1, 2, and 4. The second row down there is E, that says that 1 sq. ft. of sign area for each 100 sq. ft. of leased space. She said that you could have an industrial office building and a small user, that is only taking 100 to 200 sq. ft. but they would be given a sign that is not much bigger than a sheet of paper. It's a destination point and they came up with 6 sq. ft. minimum for a leased space.

Chris Parker said that what they discussed changing it so that E says, 1 sq. ft. of sign area for each 100 sq. ft. of leased space or a minimum of 6 sq. ft. He said that they don't think that it will be used that much.

Frank Torr said that he had a question on page 21, G 1, where they used the age of 62 and most housing standards use the age of 55 for senior citizens.

Steve Bird explained that this was put in the Impact Fee Ordinance to specifically indicate which types of developments the Planning Board could grant a waiver to in terms of having to pay the impact fee. The two common standards are either 55 or 62, years of age. They thought that if the purpose of the impact fee is to compensate the City for impact of development, 55 may be of an age where you could have children in school but 62 would probably be less likely.

David Landry asked when the impact fees would be applied, at the time of approval vs. the time of the permit.

Steve Stancel said that they did make a minor revision to this section that allows them to push that argument off until they actually come up with fees. He said that the individual fees are going to come to the Planning Board for the Planning Board vote, they are not going to the Council. He said that it will be up to the Planning Board to potentially waive existing housing units out there that haven't been built yet.

Steve Bird said that on page 21, G2, is a paragraph that was added in response to the concern about how development that has previously been approved may be impacted by this ordinance. He said that it makes reference to the State RSA 674.39.

Discussion ensued with regard to when the impact fee should be applied.

Steve Stancel stated that Bruce Mayberry, the City's consultant and one of the foremost consultants on impact fees, worked within the State of NH and he felt that it was better left in the Planning Board hands.

Steve Bird said that the reason that Mr. Mayberry, doesn't believe that the actual fee should appear in the Zoning Ordinance is because impact fees are revised as conditions change. It is not something that you leave in for 5 years. The impact fee should be reviewed on a yearly basis to be sure that people are being accurately charged. He said that it should appear in a supplementary document that is the methodology for the impact fee for the different types of uses. He said that they will research into the issue of whether it has to go to the City Council. In Mr. Mayberry's experience, the actual calculation is not part of the ordinance, it is only in the supporting document.

Parks Christenbury he said that on some of the impacts there is a lag time. If it's a serious proposal, we need money up front so we can plan for it and the earlier we get the money on the City side the better. He would rather see the money up front.

David Landry thought that if the fee was paid and the project did not proceed for 5 years, it may be completely inadequate. It should be charged when there is an actual impact.

Steve Stancel stated that, traditionally, the impact fee is paid at the time of the building permit stage because that is when the impact comes in.

Cochecho Waterfront District

Parks Christenbury said that we all received a letter with the request to include the garden lots. He said that he is opposed to that. He feels that there is enough land up there to leave an appropriate buffer between that neighborhood and the 7 acres that can be developed. He said that the people are willing to accept a reasonable development and all they are asking for is a reasonable buffer and those garden lots become their buffer.

Beth Thompson said that she thinks that we are talking about CWD as strictly commercial but if you look at the uses, 1 family and 2 family dwellings are allowed and that certainly is allowed there right now. She doesn't see much of a change.

Site Review Regulation Amendments – No discussion

Open Space Committee has a section entitled invasive species.

David Landry stated that he wanted to add non-native invasive species to read "shall reserve the right to prohibit non-native invasive species", not native from being planted.

Ron Cole said that in order to cover all the bases we should just cross out non native and will deal with the invasive portion.

Quality of Life Subcommittee

Architectural Design

Beth Thompson said that she approves wanting to have some architectural guidelines, but our tastes change continually. She doesn't want it to be too invasive.

Joyce El Kouarti said that it would be helpful if we included pictures and drawings in our design guidelines that we are showing to developers.

Beth Thompson stated that the Board should not be picking out the windows or the colors because of personal opinion. She said that she would not opposed to posting it, but she is concerned.

Steve Stancel stated that he is speaking as an administrator that has to sit across from developers in the early stages of development and has to fight with them as far as the quality of their site plans. Our current regulations do not give us enough leverage to push for better quality. He said that Brooks and Rite Aid could have been better if we had these types of things in place.

Subdivision Regulation Amendments.

Residential Subcommittee

David Landry spoke about how close the houses seem to the road at Ezra Green.

Discussion ensued about the width of the roadway and the setbacks.

Joyce El Kouarti stated that a narrower roadway adds to the aesthetics.

Scattered or premature development was discussed.

Steve Bird said that he discovered that the subdivision regulations didn't have a standard paragraph to help the Planning Board deny a subdivision because it is scattered and premature. A classic example would be on the outskirts of town where there is no development and someone wants to put in a 200 lot subdivision and the road is inadequate, no water and sewer, no fire station. This would allow the Board to deny a plan. The likelihood of having to use it is remote, but at least it would be there if you wanted to use it.

Scenic Roads

Steve Stancel said that the primary change is the violations and penalties and he read them. He said that this is a separate ordinance that would go to the Council as a separate resolution.

David Landry said it should grandfather a current agricultural use, not allow for the expansion.

David Landry said that someone wanting to start a farm is quite remote. The way this reads it allows for someone to degrade a scenic road, which is what we are trying to preserve.

Discussion ensued where a farm use may need the 25 foot setback for crops or horses.

Parks Christenbury made the motion to post the recommended changes.
Peg Stevenson seconded.

Parks Christenbury stated that he was abstaining from the two issues on Dover Point only at this time only because he will be seeking a legal opinion on whether he can vote on those or not.

Ron Cole stated that he was abstaining from the two issues on Dover Point Road for business reasons.

VOTE U/A

Steve Stancel explained that this rezoning will require a City wide mailing and 15 days notice. He said that the mailing itself only has to be done 5 days in advance but he recommends 10 days. Steve stated that the regular meeting is Sept. 10th and he

recommended not doing it at a regular meeting and. September 17th, would give an extra week.

Tony McManus suggested that we have one public hearing on the zoning and one public hearing on subdivision, site review and scenic roads.

Parks Christenbury thought that the scenic roads and site review could be done at a regular meeting.

Chairman Cole recommended that the Planning Department post as soon as legally possible and set the Sept. 17th for the public hearing for the zoning amendments.

Ron Cole scheduled the subdivision and site review regulations for the 1st Tuesday in October.

ITEM #8: Adjournment

Peg Stevenson made the motion to adjourn.

David Landry seconded.

VOTE U/A