

**DOVER PLANNING BOARD
MINUTES OF THE MEETING
SEPTEMBER 17, 2002**

MEMBERS PRESENT: Ronald Cole, Margaret Stevenson, Parks Christenbury, David Landry, Anthony McManus, Dennis Ciotti, Joyce El Kouarti, Beth Thompson, Frank Torr

MEMBERS ABSENT: Chuck Maglaras, Pete Lavoie

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

Chairman Ron Cole opened the meeting at 7:04 PM.

Ron Cole explained that one of the keys to a vibrant community is a balanced community with industrial commercial and residential. He said that periodically they need to make adjustments to what is going on in the community. Ron said that he formed four subcommittees of the Planning Board. Each of those subcommittees were made up of 4-5 members of the community on it. These were lay people, not experts in planning, but people who live in the community. These people got ideas from the community and from the Planning Department. They compressed them into a number of suggestions that will be addressed tonight. Next week there will be a meeting to address the proposed Subdivision and Site Review Regulations. Ron Cole explained that the Board members are not just the folks from City Hall, they are all members of the community and this is where they live. They have no axes to grind and they want nothing but the best for their community. He said that not all 40 the proposals will make it but all are good ideas. This meeting is educational on both sides. Ron Cole said that the Planning Department and the Board are looking for your input as to what is being done right and what you feel is wrong and maybe some suggestions that can be implemented. It's a give and take. Keep in mind that we are all residents and we are "they".

Steve Stancel, Planning Director, explained this is a process that they go through every 3 or 4 years where they take a look at major rezoning. Doing nothing is not what would be good for the City of Dover. He said that in order for Dover to continue to be a vibrant community we continue to make these proposals and hopefully we will get some if not all of them through. He said that this meeting is an important step in receiving input in the changes that will affect us all in the future. The City continues to grow at a rapid pace. Within the last 3 to 4 years they have added an average of more than 200 living units in the City per year and as a matter of fact, as we sit here this evening, there are more than 537 approved housing units sitting in the Planning Office that have yet to be built but could come in for a building permit tomorrow. We see the result of this growth in our school enrollments, in the roads with increased traffic congestion, in the tax rate as we have to pay for the upgrades to our schools, infrastructure and in increased services. These proposals represent a comprehensive approach to managing growth, protecting

open space, maintaining quality of life and stabilizing the tax rate in the City. Steve Stancel said that a power point presentation has been prepared to explain the proposals. He said that after the presentation they would be available to answer specific questions. He also said that there are sheets available at the back of the room where specific questions could be written if anyone didn't feel comfortable speaking in public. He said that any comments would become part of the record and they would get back to everyone.

Steve Stancel went over a power point presentation. He said that copies of the presentation will be available in the Planning Office.

Ron Cole opened the public hearing portion of the meeting. He asked everyone to state their names and addresses and they would be given 5 minutes for their comments.

Amendment #1 Gulf Road

Steve White, 134 Court Street, President of the Cochecho Country Club stated that this zoning amendment is in their interest. He said that currently they are a non-conforming use and it restricts them in anything that they want to do. He said that on the other hand the R-40 does change the zoning for the abutters. He thanked the Planning Board and the members of the committee and their families for the monumental task that they have undertaken.

Alex Cohen, 39 South Pine Street, said that a recent study has shown that as little as 4 to 6% of impervious ground coverage, such as paving and roofs, can lead to pollution runoff and groundwater degradation. He wanted to know what consideration has been given to this issue.

Steve Stancel stated that there are several proposals in the groundwater zone. Anytime that you go to cover an area more than 20%, within a secondary groundwater protection district, you would be required to go to the Conservation Commission and present a report from a hydrogeologist showing how you are not going to degrade the groundwater protection zone. There are also some requirements that say that you have to place all of your drainage back into the system but that it has to go through a proper cleansing procedure and it would have to be deposited outside the 200 day travel time.

Chris Parker, City Planner, who did his college thesis on that topic, offered to sit and talk to Mr. Cohen about it at his office.

Roland Hofemann, Councilor from Ward I, stated that he has a concern about noise at night from people in residential areas who have light industry near them. He asked if any consideration had been given to that aspect when you have residential and light industry in the same close quarters.

Ron Cole said that when they run into a situation where they have zones abutting each other, there is a fairly exhaustive process that takes place with respect to lights and sound,

whether vegetation, walls or fences would be needed. There is a lot of planning that goes into it before the accepting the application, let alone approving it.

Bob Demers, Gulf Road, stated that removing the RM-12 zone removes the option of multifamily units in the area. He questioned if there was another motive, because multifamily isn't an issue out there right now. He was troubled that this is a very high end area that surrounds the country club. He said that by going to R-40, it would allow mobile homes, and mobile home parks which are not consistent with \$350,000 to 800,000 homes that are being built in that area. There are parcels of land that could be purchased for that reason. He said that veterinarian offices, kennels, gravel pits, junk yards, congregate care, and even a hospital could be permitted. If multi-residential is a concern, he said that he wanted them to recognize that that is the only area in the entire City where it is being changed to R-40. There is very little property left. The City needs to protect this area, it's a quiet residential area, not a commercial, industrial area. He said that all of the lots that have been recently sold are over 60,000 sq. ft. with luxury homes being built. These people want acreage and nobody is going to put ½ million dollar homes on a postage size lot. He feels that the current lot size works for this area. If something isn't broken, leave it alone. If residential growth is a concern, this is not the answer. The zoning should protect the area and the high-end luxury homes. The Country Club has no problem performing in the zone that they are in. He said that there is a current suit before the Supreme Court that still is unsettled between Cochecho Country Club and the abutters. To make a change on that property before the Supreme Court makes a decision on that suit may change the outcome of the suit. He said that he doesn't feel that it is in the best interest of the City to even address this issue until the Supreme Court has ruled.

Amendment #2 Back River Road.

No one spoke

Amendment #3 – 4 Residential Changes to Growth

Malcolm McNeill, his wife owns property at 180 Locust St. He stated that he represents multiple parties in the City on a number of issues and he will supplement his remarks with written comments. He said that he takes no issue with the geographical rezonings which are proposed in the City, they are long overdue in many areas. Malcolm said his remarks are for those of you who own the remaining residential property or own existing residential property that you wish to change. This is the government that you will have to deal with. The issue becomes an issue of whether these changes provide reasonable certainty in balancing your private property rights with the government's rights to interfere with those rights in the public interest. In his view these proposals don't do that. He said that he is speaking about items 3, 4, 26, and 30 and he thinks that they are all interrelated. In item #3, relating to the R-40 zone, the size of the zone is being propose to be increased despite the fact that there are utilities, opposite of what is existing. What public interest is being served other than the interest of trying to stop residential growth. There are ways of legitimately doing that but this is not one of them. In this case, to make this adjustment, you are creating nonconforming uses and nothing is being said as

to how they are being treated. If you presently have a 30,000 sq. ft. on public utilities, what are your future rights to build on your property is entirely unclear because it hasn't been addressed.

Malcolm McNeill said in regard to connecting the dots on paragraph #4, that this proposal would limit a person's ability to develop a parcel, even if it complied with zoning because of the 50' foot setbacks from very poorly and poorly drained soils. He asked if the public interest was being protected.

Atty. McNeill said that under the new proposal, every project that is in the R-40 zone then become involved in a totally subjective subdivision process that was previously called an Alternative Design Subdivision process. The way that worked before was if the Planning Board liked your project, you could do it. If they didn't like your project, you couldn't do it. That will be the new process. If you are willing to give that power to other people, then you should not object to this ordinance. If you feel that there should be definite criteria so that you know that you meet all the rules and you will be granted the right to do with your property what you wish, then you should contact your elected officials and object to this. The ADS was designed to compare with a conventional subdivision so that the developer could show that it was better, but now that's over because there is no more conventional subdivision. He said that impact fees are not just for the developer. If you are going to add a dwelling unit onto your existing structure, you are going to pay an impact fee. Looking at the ordinance, you don't know what it is going to be. You need to ask what this impact fee is going to cost you.

Malcolm McNeill said that he represents the town of Newmarket. He said that they drafted an impact fee ordinance but every one of the elected officials, before they voted on that ordinance, knew what that impact would be on the citizens that it would impact because they knew what the methodology would be. The question is how about all of you that may have developed property that have already paid an impact fee. Assessments have existed in Dover for years. If you didn't pay them, you wouldn't get your permit. How that plays into this ordinance isn't addressed at all. Are existing projects grandfathered or not. He said that the methodology should be done now rather than later so that the people of Dover know what they are getting into. The imbalance between commercial and residential has existed for many years. He commends the Board for trying to strike a balance, but it should not be struck on the back of the basic, fundamental constitutional land rights and that is his objection. If this ordinance is constructed in a fashion where there is certainty and predictability and no subjectivity, that's what we should have as a result. Malcolm said that he recently represented a party in a project where one of the grounds of denial by the Planning Board, was that they didn't feel that there was a need for any more of "those" despite the fact that it was a permitted use. So if the issue of subjectivity and trust and lack of certainty comes to mind, remember that kind of a result happens everywhere when there is a lack of certainty.

Amendment #5: Dover Point Road

Marilyn Follansbee, 25 Dover Point Road, commended everyone for the job that they have done and said that it was a fine presentation. She said that they have seen very few houses change hands in 26 years and it is a nice, settled neighborhood. She is not in favor of the zoning change. Dover Point residents on the side of the cemetery and Dover Auto don't have sewer. There is only sewer on one side of the road. She said that their land can absorb the rainfall and the melting snow and help fill the water table. They are fast become a country that puts in asphalt parking lots and buildings without any thoughts of the consequences. Their open land is not huge but every bit that can stay green is good for the environment. Mrs. Follansbee said that their neighborhood is a short, scenic spot among the car lots. This area is a nice approach to the City and a welcome change to drivers as they approach Dover. Mrs. Follansbee said that a B-3 zone would make the road even busier and it is difficult to get out of their driveways some times of the day now. There would have to be traffic lights set up and the road would have to be reconstructed. The majority of the homes do not have children and they have not needed the police and fire departments very often and they do pay their taxes. They are not burdens to the City. She is tired of hearing that it is inevitable that this area be rezoned.

Carl Heller, 10 Dover Point Road, stated that Dover Point Road is a gateway to the City of Dover and they want to keep it green and like it is. The traffic is heavy and companies coming in there would increase the traffic. They find it hard to get out of their driveway.

Ron Cole stated that he is employed by Dover Auto World and he is keeping his hands completely off this issue. He wanted it known that whenever this comes up before the Board, he leaves the room so that there will be no tainting of the issue.

Toni Kretsepes, 15 Dover Point Road, stated she has been there for 40 years. The Dover Master Plan speaks about maintaining the character of the neighborhood. She spoke about uncontrolled growth and urban sprawl that wants to connect Dover to Portsmouth. She asked the Board to resist the pressure.

Amy Linsey, lives in the Applevale development, she said that she was surprised that the use is going toward commercial, she thought that it was going for adult living. She said that it wouldn't impact the schools and the town needs housing that is affordable for adult living. Also going with the residential there are rules about having a conservation zone. She abuts the Williams property and has had foxes and deer coming into her yard. She added that according to her calculations, all the woods will go and there won't be any protection for the animals. She is concerned that a parking lot could come right up to her property which is about 25 feet from her house. She said that when you build residential there is more said about having open space and conservation easements and she is not hearing that with the commercial and the parking lots.

Anna Boudreau, 9 Northam Drive, considers herself a land protection advocate yet she is in favor of a lot of these changes. The fact that you mention animals, the fact that there is a business there or 80 houses, neither are good. Landowners are not the bad guys. If you own land you have the right to sell it is you want. It's either going to be developed as a commercial building or its going to be 80 housing units. The only thing that will take it

off the rolls to not be developed in the next 10 – 50 years is to remove those development rights and sell them outright to a land trust. That's the only thing that will prevent development. 86% of the land right now is zoned residential and only 14% is zoned non-residential. All the zoning changes affect only about 3% of the total land in Dover. She lives in a busy area near Glenwood. She would rather see land on the outskirts stay open by development rights and building go on in her neighborhood. Anna said hats off to the Planning Board because this is a tough battle. She asked people to talk to their friends into donating their development rights and to support bonding money to buy open space. Your tax rate will go up if you have more houses. She likes the idea of ADS being called an Open Space Subdivision. She said that people are not aware that if you are in a growing region our leaders can't say that we want to stay small, they would love to say that but legally, we have to absorb the growth. Simply saying, let's not grow anymore is not realistic. We have to grow intelligently and in the right way and do everything that we can as a community and support our leaders, who have to make the difficult decisions.

Tim O'Donnell, 25 Applevale Drive, said that he is talking about Dover Point Road. He said that growth is good in moderation. He has deer and bear in his backyard. He doesn't want to take that away from his children. He finds the traffic on Dover Point is ridiculous as it is.

Woman (didn't identify herself) – said that she has to agree with everyone from Dover Point Road. Her grandfather owns some land beside Thornwood. He had the best garden and land. She asked why the land couldn't be bought for a garden for the animals. She said that her dad moved up north because Dover had gotten too big for him.

Kevin Kelly stated that he owns land on Sixth Street, and that ETP is the most failed zone change in the last 17 years. He is a person who has lived this nightmare for the last 15 years. He purchased a beautiful piece of farmland with the idea of putting a couple of house lots on it. His roots are in Dover. The land has been on the market for the last 15 years and nobody has come to look at it. He asked the Board that Elderly Assisted Care be a special exemption to ETP or to any zoning in the City. He doesn't understand why that couldn't be an exception and expand the TDR to the ETP also. This has been a sore subject in his life but appreciates the opportunity to speak.

Chip Williams, 198 Back Road, said he is representing Elliott Rose Co., as the president. They are opposed to the ETP zoning and feel that it should stay at R-40. They would like to continue the residential characteristic of the neighborhood. He said that since the ETP has been looked at, they have lost one individual that was under contract and there are currently other buyers that are looking at the piece for residential use. Whether it's 55 or older or not, they feel that residential is best to market the property.

Elizabeth Ware, land use planner for Drakes Appleton Corporation, stated they are a residential/commercial developer that is interested in the Williams' property. They would like to see it remain as an R-40 zone. They would like the opportunity to work with the City on developing it under the new open space subdivision and PUD. She feels that this would create less impact for the people in the community as opposed to ETP. If

she were an abutter she would be concerned that ETP allows for scientific, chemical and experimental labs. She said that the parking impacts would be pretty substantial on the sight. She believes that ETP would be better on Sixth St. where there are fewer residential properties.

John Morin, 24 Dover Point Road, stated that traffic is ridiculous. The homes between the dealerships and the cemetery are homes and that is where they live. He said that he has a child on the way and would like to keep the traffic down a little bit. He said that regarding item #6, he would rather have residential than a chemical lab.

Linda Small, 19 Dover Point Road, stated that she agrees with Marilyn Follansbee and Tony Kretsepes.

Amendment 7 Central Ave.

No one spoke

Amendment 8 Knox Marsh

No one spoke

Amendment 9 Littleworth

No one spoke

Amendment 10 Central/Locust St.

No one spoke

Amendment 11 Sixth Street

Cornelia Eagan, 156 Sixth St., stated that she is part owner of the field on the corner of Sixth Street and Whittier. She said that it was part of her grandfather's dairy farm. Her house will be 100 years old. They have no intention of developing the land. She said that the traffic is backed up at certain times of the day but the new light has cut down on the accidents. The access to that property is not good, there is quite a hill and the other access would have to be through a very narrow area which would run right beside her house.

John Scruton, 99 Sixth Street, said if this City doesn't start keeping its open space and rural character, the taxes are going to go up again and we will have to build more schools. There will be more traffic congestion. Offsetting residential development with commercial development will not lower the tax rate. Mr. Scruton said that there is a fair way out of this, and that is by buying development rights. He named off some local communities who have put up money for open space. He said that it seemed to him that it would take 15 million dollars to buy development rights in Dover and we wouldn't have to put up with this rezoning.

Peter VanHamil, is an attorney for Ms. Eagan's family who has owned and lived on the corner of Sixth and Whittier for some time. He stated that Mrs. Eagan's desire is not to do anything with the land, but the change of the proposed uses forces their hand into doing something which they would rather not do. He said that all they have to do is pay taxes on this land at the moment but with the rezoning, their options have become to put

it into open space or sell and that is not what they wish to do. Their concern is to just be able to keep the land as is.

Chairman Cole called a 5 minute break at 9:10 PM.

Meeting brought back to order at 9:20 PM.

Amendment #12 New Rochester Road

Bernie Taylor, 2 Willard Road, said that there is a requirement of 10,000 sq. ft. for the Office zone and he asked if there was a grandfather clause that would allow an office space on a lot that is probably half that size.

Steve Stancel stated that the lot is grandfathered and if a new, allowed use comes in (insurance for instance or small office user) they could go into the facility.

Mr. Taylor said that the majority of the lots are half that size in that area. He said that there are restrictive covenants on the lot that when they bought the property it was deeded in that it had to be used for residential use and not for business. He said that he was wondering if there was some way that the City has of addressing this issue if he turned around tomorrow and wanted to sell his lot to a doctor or dentist etc.

Steve Stancel stated that the City doesn't have a way of addressing these issues. It would be a matter of the property owners banding together and seeking legal advice on how the covenants could be overturned. This area has a history. They looked at the protective covenants in the past, and there are some potential outs. This time around they chose the Office use because it is a transitional zone and you will see more and more units go office. If you go the variance route, it will result in a hodgepodge of mixed uses that may not relate well to each other as opposed to there being a more formalized zone.

John Scruton asked what the City was going to do with all the abandoned commercial buildings after we get them. Philadelphia has to spend a half a million per year just to tear down abandoned buildings.

Amendment 13 Littleworth Rd.

Glen Gerry, Wallace Drive, stated that we are talking about rezoning a total of 515 acres, of which 345 is on the backs of people in his development, Littleworth Rd. and Columbus Ave. When people say it is only 3% of the total City acreage, to the 21 homes on Wallace Drive, it's a very big percentage – roughly 60%, maybe higher. He said that they will become a little floating residential community floating among a sea of smokestack industry. He said the Board was looking to rezone at that time when he purchased this property. He bought after that, in order to protect his investment. It's scary for them because they hear non-smokestack for ETP but they don't hear that for I-2 and I-4. He stated a case in Wisconsin where there was a residential area similar to theirs and they changed the zoning to industrial across the river and put in a printing press. He said that every night they hear the alarms and the printing presses and the trucks 24 hours

a day. That is poor planning. Mr. Gerry said that the web site for the rezoning is excellent in trying to let us know what you are doing. He is concerned that on the back of 21 homeowners, you are going to do 66% of this change and as Malcolm McNeill said, "they as citizens shouldn't put up with that."

Amendment 14 Littleworth R-20 to I-4

William Kish, 18 Wallace Drive, said that it is more than just the 21 homes on their street but also the ones on Columbus Avenue that are just being built now for \$275,000. He has a situation where the lot behind his is zoned commercial or industrial. He has very little to say in the way this business owner operates. He's bringing dumpsters in at all hours of the day and night and on weekends. He was told that he could pursue this in civil court. He asked what protection the City was giving the land owners besides reducing the value of their property.

Steve Stancel stated that he would have to check with the Code Enforcement Officer to find out the details but he does know that that particular use is a grandfathered use and has been around for a long time. He said that that particular area of Wallace Woods was proposed for rezoning several times in the past. He said that he wishes that it would have passed, but it didn't, so now we have residential encroachment in an area that the City needs in order to protect its future for economic development.

Elaine Sudkis, 42 Wallace Drive, said that the people who live on Wallace Drive like their subdivision and it amazes her that the City is still looking at that property considering that there is land on Littleworth Rd. that has been for sale for industrial and they can't sell it. She said that their road just recently got resurfaced and it cannot handle the amount of traffic that would be put on that road. She said that she understood that the road was resurfaced but it was never put out to bid. She asked if the City is going to dig up the road, put in a sewer line and then resurface it again, throwing good money after bad. Nobody wants an office building stuck in their back yard. All you are doing is nickel and dimeing the tax payers. Columbus Avenue can't handle the traffic. She said that their children can't stand on the street to wait for the school bus, it's not safe. The parcel that abuts up against Wallace Drive was deeded to the Young family in the late 1600 by the King of England. It still remains in the Kay family today. She said that they don't want to sell and she is speaking for Mary Kay. She is asking on behalf of a lot of people on Columbus Avenue not to rezone the area.

Kim Griffith, Wallace Drive, wanted to say that she agrees with everything that has been said by everyone. They do not want to be rezoned.

Amendment 15 R-40 to I-4

Vin Kasabian, 76 Columbus Avenue, asked how does going to I-4 maintain road character.

Steve Stancel said there are a couple of ways that it does. An I-4 is a 5 acre zoning area and requires extensive 75 ft. setbacks, 33% of the lot has to remain as open space. That as opposed to it remaining residential, where you can end up with a significant amount of residential homes, no open space, with significant negative impact in terms of children and other uses.

Vin Kasabian said that we have the choice of building 300 houses or have an industrial park. He said that he is just days away of getting out of Dover. He said that he has had it. Mr. Kasabian said that Dover is too congested and crowded and the rezoning makes it worse.

Maurene Willette, Wallace Way, asked if there was a true definition of light industry. Does it mean manufacturing or an office building. She asked if there was a way to just stop handing out building permits and stop approving neighborhoods from going in. She said that she is sorry that they chose this area, but it is a residential district and there are 20 houses with children at every house that go to the schools and they pay the taxes. Why take a residential area to put in industry – just stop approving neighborhoods and stop approving building.

Steve Stancel gave the different uses that were listed for light industry. He added that it is important to point out that communities, particularly in NH, cannot just close the doors and say no to development. We have to allow development and the way that the tax structure is in this State makes us heavily reliant on property taxes. Residential development does not pay for itself in terms of revenue received via taxes vs. the cost of service for the residential developments. Therefore, every community has to fight for a balance of commercial development along with the residential and so that is why we are forced to continually look in Dover for areas that we can rezone. Unfortunately, there are no more perfect areas because Dover has grown and 86% of our land is zoned residential. Steve Stancel ended by saying that if we are to stabilize the tax rates or at least keep up with them, we need to provide some economic development in the community.

Nadine Walsley, 7 Wallace Drive, stated that she is concerned with laboratories and industries and that some of these industries carry biomedical and hazardous materials. She is also concerned with what will happen to the groundwater. She said that it is hard to get out onto Columbus Avenue and that it becomes a drag strip in the evening. The depreciation of their property is something to consider. She doesn't want industry in that neighborhood and it should be put someplace else.

Amendment 16 – 17

Amendment 18 Transfer of Development Rights (TDR)

Chris Parker explained that the TDR promotes infill and it preserves farmland and open space. He said that, as an example, someone who has land that they want to retain but don't want to build on it could decide that they want to sell the development rights. Person B has land that they want to build on and like the idea of buying the development

right from Person A who receives some revenue for that and a lower tax rate because their land is no longer developable. Person B buys those development rights and builds more on his lot than they would have previously been able to. One person is increasing their density and the other is decreasing their development rights. He said that the way that this works is that the residential portion, the R-40 and R-20, can sell their development rights to any zone that permits residential development east of the Spaulding Turnpike that is not an R-40 or an R-20. An R-20 cannot give to another R-20. R-20 or an R-40 cannot give to an RM zone in most cases. I-4 and a B-4 can trade between themselves. Currently the TDR is just at Enterprise Park where you can trade between the two zones. The proposal here is to make that I-4 and B-4 throughout the City.

Amendment 19 – 24 Open Space Changes

Dan Ayer, 10 McKone Lane, stated that he thought that the Board was doing a good job. He thinks that they ought to look at the ordinance in light of what Mr. McNeill said. Because there is no definition of what you are going to cluster, which is now an option and allows incentive to do that. Mr Ayer said that clusters create more open space but he doesn't think that it should be mandatory.

Dan Ayer was also concerned with the Wetlands Ordinance because he thinks that there might be an error. He thought that this change was to correlate the City's wetlands ordinance with the State's. He said that it is clear that the State does not require in their definition any buffer zone at all, nor that the wetlands be marked. He thinks that that should be pointed out. This is more than the State mandates in that you are requiring a buffer zone and wetlands marking. To go back further, that you are saying that all uplands must be contiguous. When you take that and factor in the buffer zone, you are nullifying a great portion of many lots, and requiring the lot size to be so big that it won't be developed. In fairness, you might reverse that and say that all wetlands must be contiguous because it is more probable to get a spotting of wetlands than a spotting of uplands. He said that you are going you have 50' buffers all around those spots that now become big spots and then you have a worthless piece of land. He said that he owns land and this really doesn't affect him, but he thinks that there are other parcels that this is really going to impact. He said that you have to take a good hard look at that. Dan said you are presenting this as a State requirement is not in fact a true State requirement.

Glen Gerry, Wallace Drive, was concerned that the setbacks to very poorly drained soils from 75' to 50' may be creating more house lots because it is being reduced. He's confused. He wanted to know if it is a typo.

Steve Stancel stated that right now there is a setback from very poorly drained soils of 75' but we have 0 setback from wetlands. What is happening is that people are purchasing lots and are building houses and are filling right up to the wetland and eventually it becomes encroached and slowly gets filled in. The committee looked at coming up with a more formalized blanket approach and instead of 75' from very poorly drained and 0 from wetlands that they would go 50' from all jurisdictional wetlands.

Tom Fargo, Chairman of the Conservation Commission, said that many of the proposed amendments listed under amendment 26 originated with the Conservation Commission. The proposed amendments fall into 5 categories; 1) To adopt a single definition for wetlands consistent with the criteria of the NH DES and the Army Corps. Currently we have 2 categories for wetlands, poorly drained and very poorly drained soils and those criteria are not consistent with what the State is using. We want to get away with the two-tiered City system and go with the definition that is consistent with what the State is using; 2) The City's ordinance now has a 2 tiered system that has to do with wetlands setbacks. Setbacks from where you can build in relationship to the wetlands which is a 75' setback required for construction within areas that are very poorly drained and no setback from wetland areas that are just poorly drained soils. We decided to go with a consistent 50' setback from all wetlands. This is not what the State requires, there is no setback required by the State for wetlands protection. However, other communities in the region do have setbacks. Portsmouth has 100' from various types of wetlands. In trying to come up with a dimensional standard they chose 50'. There is also a 50' setback from streams, so the 50' would be consistent with streams and wetlands. There is a 100' setback in the Conservation District Ordinance from tidal water.

Tom Fargo explained that the requirement for permanent boundary marker is because they have had many subdivision plans that come in where the developer uses silt fences to delineate the wetlands and there have been numerous times where in the course of doing the development the fence gets moved or removed. The permanent marker will always be a reference that anyone can use to say that this is the place where the wetlands delineation has taken place. The requirement for contiguous uplands was a request from the Conservation Commission. It will be problematic because there will be restrictions that aren't there now. It will take a bit of planning by the developers to get lots in around the wetlands. He said that he takes exception with what Atty. McNeill said earlier that there is no public benefit in protecting the wetlands. He said that wetlands do have functional value that protect the environment. He said that many people spoke in favor of protecting the environment. He said that a new major subdivision will be required to have an environmental impact assessment. This is consistent with the recommendations of the Master Plan. He added that he has written comments that he is going to leave with the Planning staff regarding the amendments.

Amendments 27 – 29

No one spoke

Amendment 30 – 32

Ray Bardwell, Spur Road, stated that before adopting the Impact Fees you should be more direct on what you are looking for. He said that this is a blank check. He said that he is already doing impact fees on his project called Water & Sewer Investment Fees. He figured that they are going to be paying about 45 to \$48,000 just on those two items alone. They figure that they are already paying impact fees of about \$80,000 to \$90,000.

He feels that you should delineate what you intend to add on top of those fees that are already in place.

Amendment 33 – 34 River St.

No one spoke.

Amendment 35 – 36 Cochecho Waterfront District

Ron Cole announced that there would be a presentation by the Chamber of Commerce at the City Council meeting tomorrow night.

Amendment 38 – 39

No one spoke

Amendment 40

Mrs. Allen stated that she had some question about one of the maps that was located in the back of the room. She said that there is a line drawn between what they call "potato patches" behind her home. She said that there is a street drawn behind her home and there is no street there.

Steve Bird said that the map was prepared on a small scale and when it was blown up and the rear line is off because of the scale. It is not meant to change the zoning of those rear lots. Steve said that it is a historical right of way that has existed for years in that area.

Chris Parker explained that there were lines in different colors and that red represents a historic right-of-way. Chris said that what Mrs. Allen is pointing to are right-of-way lines that are shown in red and the green lines are just boundary lines and in black there are the edge of pavement depicting the actual street. He said that there is no street back there but there is the historical right-of-way.

Ron Cole said that the full text is available on the City's web site www.ci.dover.nh.us or at the Planning Office between 8:00 AM and 4:00 PM and on Wednesday from 8:00 AM until 6:00 PM at the Public Library or call 516-6008.

Tom Fargo stated that they have heard from a number of individuals that ETP is not a zone that is successful to the landowners or for commercial development. He said that we have heard from Atty. McNeill that he is concerned that some of these land use regulations that are very difficult to interpret from a legal point of view. He wants to point out that all of Dover's zoning ordinances are very prescriptive. They require set rules and regulations of what can and what can't be done. Modern planning is moving to what is called performance standards and before this process is done some of these areas that are perhaps failing such as ETP has been suggested might be looked at for some innovative land use regulations or control techniques. Perhaps a look at what is being done elsewhere with performance standards and maybe try applying them in those areas where people have significant concerns with land value and appropriate use.

Ron Cole asked if any of the members of the Board had any comments.

David Landry said that he spoke to a few people during the break and he sincerely hopes that when the time comes for the Board to pursue possible CIP funding to purchase development rights that some people will come out and speak to that point because it's perfectly understandable to hear some of the comments about why don't we just stop allowing buildings, stop allowing houses to be built and give no more permits. This Board would probably love to do that. We can't do that. We can do other things but it doesn't come free. People have the right to develop their property. If you want to purchase their development rights or want to purchase their property outright, it costs a lot of money and there is a tax impact. You have to decide what you want and if you as a community want to see these green spaces and if you don't own them already, you have to step forward and speak your minds on that issue.

Ron Cole said that we did hear "why can't you just say no". We know that that doesn't work even though we did recently win a case at court and that still will be appealed. He said that he has also heard numerous times, "Why can't you do it someplace else in town." Ron stated that they also have to look out for the 26,000 other people out there. This is a major undertaking and we distilled 5 or 6 months and many man-hours into 3 hours and 20 minutes. He said that he is hoping that the everyone will contact the Planning Department if they have any questions. He congratulated the staff who is doing a great job. He said that next week we will be in the Council Chambers and will deal with the Subdivision and Site Review recommendations. He thanked everyone for their input and bid everyone adieu.