



**CITY OF DOVER**

## DOVER PLANNING BOARD - MINUTES

Meeting Type: Regular Meeting  
Meeting Location: Council Chambers – 288 Central Avenue, Dover, NH 03820  
Meeting Date: Tuesday, July 28, 2009  
Meeting Time: 7:00 pm

**REGULAR MEMBERS PRESENT:** Ron Cole, Frank Torr, Marcia Gasses, Doug Steele, Perry Plummer, Dean Trefethen, John Swartzendruber, Linda Merullo

**REGULAR MEMBERS ABSENT:** Don Andolina

**ALTERNATE MEMBERS PRESENT:** Jan Nedelka

**STAFF PRESENT:** Christopher Parker, Planning Director, Steve Bird, City Planner, Jennifer Bretz, Recording Secretary

Meeting called to order at 7:04 pm.  
Torr joined the meeting at 7:57 pm.

### 1. CITIZENS' FORUM

Len Peterson, 36 Back River Road, stated that he is addressing the Picnic Rock Development. He lives in a 1775 house that is located within 200 ft of the blasting area. His house was damaged, from blasting from the living care facility, three years ago, which is located 1200-1500 ft away. The new subdivision will now be blasting 200 ft from his home. His home sits on a rock ledge that extends into the blasting area. He gave an example of blasting, in Windham, which had damaged some homes. When he had contacted the living facilities insurer, they told him there was nothing they could do. They provided reams of data explaining why the blasting could not have damaged his house. State of NH statute 674 states that if there are any sensitive areas, such as aquifer recharge zones, foundations or wells that might be affected by blasting; a Planning Board could require additional engineering data on the construction methods. He would like blasting removed as a construction practice. He's put a lot of sweat equity and upgrades into his home. It's one of the older homes in Dover. His home will most certainly be damaged. He would like the Planning Board to make some changes.

Ed Bleiler, 28 Isaac Lucas Circle, has had many calls regarding the rezoning of the City. He thinks that it is an enormous project that most people do not understand. He had told Parker not to rush it. Let the people have neighborhood meetings so that people in the affected areas understand what is happening to them. A lot of citizens are afraid and they would like a chance to have a meeting with the Planning Board for an explanation of what is happening in their particular area.

### 2. APPROVAL OF MINUTES OF JUNE 23, 2009 & WORKSHOP MINUTES OF JULY 14, 2009

**Motion:** Trefethen made the motion to approve the minutes, Merullo seconded. Vote: U/A

### 3. OLD BUSINESS

- A. Public Hearing and possible vote on zoning amendments to the land use ordinances and regulations.

Cole explained that the rezoning is a result of 18 months of work to get to this point where the Board is asking for the citizens input.

Parker stated he had intended to make a short presentation to answer some of the common questions but there was an electronic malfunction. He printed out copies of the presentation for everyone in the audience (in file). He thanked the members of the Planning Board as well as members of the community who were involved with the three subcommittees. Some of the information used to generate the regulation changes goes back to 2006-2007 when the visual preference survey was completed as well as



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the Land Use Master Plan work. Of the 29 posted amendments half are housekeeping in nature. He's not going to go through the Form Based Code tonight. That warrants a whole separate meeting. There's no reason to rush this. The goal of these amendments is to continually evolve as the community evolves. We want to have regulations that reflect the community's character and reflect community's desires specifically with the Form Based Code. That is a separate tract that they've been following with a separate consultant that's been working on that project. There've been cherrite's, a public input survey, etc. The intention of the ordinance/change is to combine the three downtown zones into one and make that one as flexible in use but more restrictive in preserving the community character. The focus of the presentation is to go over the other amendments. He proceeded to go over the handout.

Parker stated that on the table for the RM-U District, it says under permitted uses that you can have a 3-4 family dwelling with a footnote 4. On the bottom of the page, under Special Exception, it states that you can have a 3-4 family dwelling with a special exception. Considering that Staff didn't mean to change the difference between the RM-10 and RM-U, the Board would need to make an amendment to the amendment strike 3-4 family dwelling as a permitted use. You can have a 3-4 family dwelling in the RM-10 today and RM-U tomorrow if you get a special exception. As the Board considers the public hearing tonight, if there are amendments that make sense and the community doesn't have any issues with, the items can be separated and voted on. He does suggest two amendments, one to remove the plus X ft for accessory structures and to take the 3-4 family dwelling out of the RM-U.

Plummer stated that many of the amendments are a compilation of comments made at site walks and Citizens Forums over the last couple of years. That prompted some of the amendments.

Parker stated that Plummer was correct. They also look at what variances are being asked for and incorporated those changes in as well.

Discussion ensued regarding the Form Based Code.

Cole welcomed Jan Nedelka as the new Planning Board alternate member.

### Public Hearing Open

Mark Laliberte, 6 Central Avenue, stated that he's speaking about the 12 acre parcel enclosed by Exit 7. Being a resident there, he knows, better than most, about the singular traffic situation that exists there. It's been a problem for a long time. It's only remediated by the fact that there are residents going in and out of the driveway rather than dozens of commercial customers. Given the traffic situation in that neighborhood, it seems that it would be in the City's best interest to manage that island as one big parcel rather than four small ones. He asked if the City has that kind of management control where you could end up with one big development rather than four little ones.

Parker stated that you could come in on a parcel by parcel basis. From a commercial development standpoint, it's not feasible. If someone were looking to put in a specific use, unless it's a home based use, they would need more than one parcel. It is a 20,000 sq ft district. Through the site plan regulations, the access management concerns would be addressed.



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Laliberte asked if it was regulated by commercial common sense rather than City control. Parker stated it's 50/50. The site plan regulations are very clear about access management.

Rebecca Oehler, 9 Cushing St, stated she encourages the Planning Board not to take action on any of the items tonight. These are some big changes being proposed and she encourages them to give the citizens adequate time to look everything over. She applauds them for developing a transit district. It's a step in the right direction for the City to make. She's concerned that the RM-8 district is becoming more restrictive on dense use rather than leaving it as is. Looking at the State's climate action plan in the downtown areas, as well as the areas within easy walking distance of downtown, we should be encouraging more dense population growth to reduce the need for automobiles and reduce the climate change impacts. To decrease the density or make it more difficult for homeowners to build multi family housing is the wrong direction to go.

Parker stated the RM-8, as it exists today, allows for an individual to come in, buy up a lot of older homes, demolish them and put up one single structure. Through the feedback received at the Master Plan level, the community was in favor of multi-family housing but within existing structures. The RM-10 allows that. People didn't want to see a lot of the older homes raised so that a garden style apartment could be put up.

Oehler stated that the existing structure could be converted to a 3-4 family unit whereas now they will be restricted to a 1-2 family unit.

Parker stated that the Special Exception criteria is very clear and has been successful.

Susan Eisler, 344 Washington St, stated that she is not affected by the changes however, the Cochecho is now a protected river. Any development along the Cochecho has to be taken into consideration. When you take out residences and put in a multi-family, Cedar Cove for example, there is now a retention pond next to it. It's constantly filled with filthy, dirty water. It's within a protected shoreland, they were given an exception. There is so much water in Dover that you have to be really sensitive when developing in Dover. They'll end up pushing water onto someone else.

Jean Field, 24-26 Second St, had some questions regarding the Form Based Code.

Parker stated he'd like to wait until the August 11 meeting when they address the Form Based Code and give her the correct answer after.

Ken Grossman, 25-34 Mill St, stated that he wanted to say how grateful and appreciative to the zoning changes being proposed for that area. As he moves forward and work with the additional property, they will have no difficulty working within the guidelines.

Attorney Malcolm McNeil, owner of 180 Locust St, stated that he does not represent any client tonight. He understands that the Form Based Code is the focus of the August 11 meeting but the FBC is why he is present tonight. Past Planning Board members were constrained by established, definable rules. The Form Based Zoning being proposed has not received any judicial review. It hasn't been tried before. Under Form Based Zoning, you have the power, skill and ability to completely design the building from



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the ground up. That will be the authority. The issue is whether the citizens of Dover are ready for that. This is in the context of appearing before Historic District Commissions, primarily in Portsmouth, Durham and other locations, where stylistic and Form Based control takes months of review. It usually involves architects, historians and others with regard to the use of private property. It's also going to result in a process that is elongated and will change the Planning Board to an Architectural Review Board and a Historic District Commission all at the same time. From the beginning of the discussions that he has had with Parker and others with regard to this ordinance, his complaint has not been with the effort because the effort has been tremendous. His complaint is who makes stylistic decisions with regard to your and my property. How far are you going to go in doing that? How far will Form control over substance? How far do the people of Dover wish you to become the controllers of the buildings that they build? The question becomes are those stylistic opinion based controls? He wants the Board to think very carefully about what they're doing with Form Based Zoning.

Richard Ferraro, 67 Clearwater Dr, stated for clarification, the slide on Spur Rd covers 22 acres of state land which belongs to the Fish and Game.

Parker stated that that was correct.

Betty Ireland, 50 Silver St, stated that she is unhappy with the changes on Silver Street.

Rick Hebbard, 97 Spruce Lane, stated it would put everyone's mind at ease if the board did not vote on the proposed changes tonight. He has a concern about the Sawyer Mills property. They built the mills because of the river. By rezoning that area, they will strip away the property rights of the owner to continue using the river for his needs. We all know that we're in an energy situation where water could potentially be the power for some new design. By rezoning, it's going to strip away, by eminent domain, and take his rights away from utilizing the mill.

Parker asked how because it currently is zoned residential.

Hebbard stated it was not built to be residential. It was built as a mill to utilize the power of water. Who's to say, in the future, that we're not going to have a situation where that could be utilized again? He would like it to be advocated for commercial use.

Holly Grossman, 25-34 Mill St, stated that she wanted to thank the Planning Board for Mill St. It gives them a chance to have a Conservation Zone that serves the river. She stated that she trusts the Board to do the right thing by Dover. As they are changing the zoning on Mill St, if there is ever a need for the mill to be used for something different, it can be addressed at that time.

Mary Hebbard, 97 Spruce Lane, stated she has lost count of the number of people that have questioned what is happening with the zoning. The letter is all that the public received. There was no chart or map. It would have been nice to see something that would give people a sense of what is going on. One of the things that people are concerned about is that this seems like it is the only public hearing, their only opportunity to speak on this. There wasn't anything in the letter that said this is the first in a series of public hearings. Everyone thinks that this is a done deal tonight. She would like the Board to have a



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workshop involving the residents within the affected areas because once they make the changes, the City is going to be a very different place.

Catherine Cheney, Ward 5 Councilor, went over some questions she had regarding the Housekeeping amendments. The main reason she is speaking tonight is she received an e-mail on the amendments July 8. She went attended the Council meeting, that night, and informed everyone that she had received an e-mail regarding the amendments and that it was on the City of Dover website for the public to view. She received her notice on Friday, July 17. She knows that the RSA's say that you have to give 10 days notice but she thinks that the public needs more time to view the amendments, especially where it might impact a specific person.

Atty. Chris Wyskiel stated he would like to address the Form Based Code of the expanded Commercial Business District. He applauds the expansion of the district. He believes that it is innovative and smart to turn the idea of setbacks around and adopt a build to line. He does express concerns with the degree of architectural codes that are written into the code and suggest that any developer or private property owner that hires an architect to present some type of new development in town which may not specifically fit the goals written into the proposed zoning may rob us of an opportunity of art and expression in architecture. That should not be our judgment. When the mills were built they were a radical departure from the existing character and traditional buildings of the time. At that time, if there were a code in place that intended to reinforce the existing architecture and traditional building materials of the time, the mills would not have been built. The architectural standards go too far in that regard.

Rick Callaghan, Ward 6 Councilor, stated that he is here as a resident and a past member of the Zoning Board of Adjustment for 21 years. He commends the Board for what has been done so far. He was impressed with the handout given. It clears up a lot of the confusion. He has received a lot of complaints regarding the time frame between the legal notice and the public hearing. There are some significant impacts on neighborhoods. The expectation that residents have ample time to go through the document and see how it impacts them personally and their business is not an adequate amount of time. Even though it does meet the legal requirement, there should have been more time. Even though many of the questions are obvious to some, they are not obvious to everyone. The Planning Board should take the time and make a more aggressive effort to find out what the community wants. Another workshop should be done. Another concern that he had was that the ZBA was not invited to participate in the process. He received an e-mail from the ZBA Chair, Masi Denison which he read to the Board.

Parker stated he looks at the Zoning Board as the judicial arm as the process. The Zoning Board interprets the zoning regulations. He wanted to make sure that the Zoning Board didn't have a conflict of interest with the regulations. For example someone couldn't come to them and say, "You created this law and now I want to get around it." He wants the Zoning Board to have complete objectivity.

Councilor Callaghan stated that they are at a level where they deal with appeals on Planning Board decision. The error still is that they weren't even consulted.

Parker stated that he did have Zoning Administrator, Bruce Woodruff, inform the Zoning Board, at the last meeting to tell the Board that if they had any issues with the amendments to submit them to the Planning Department. Unfortunately Masi Denison wasn't at the last meeting.



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Attorney Chris Boldt, 4 Evans Drive, stated that he does have concerns, as a land use lawyer, of what the Form Based Code is doing. He does have a question regarding amendment 15; section E4 which deals with the Conservation District. The attempt is to pull in the Comprehensive Shoreline Protection Act within the Conservation District. One provision that may be unintentional applies to the first 50 ft, the Conservation District is 100 ft, which has a more onerous burden on a property owner to what they can do which is very little within that first 50 ft of waterfront protection area. The language of the current amendment makes it seem like the entire 100 ft of the City ordinance has to bear the burden of what the state has determined should only be applicable to the first 50 ft. He asks them to reconsider how they state their desires. In amendment 16, it appears to have the requirement of a Conditional Use Permit at any time there is development within the buffer area. Development is defined more onerously in this provision as erection or construction of a building. The way he reads it is if he's remodeling something within that buffer area, he has to obtain a Conditional Use Permit. He also had a question about only 40% of the buffer counts in the uplands calculation of lot size. Does it apply to an existing lot of record?

Parker stated it's an existing lot of record but only when it becomes subdivided does it apply.

Discussion ensued regarding the Comprehensive Shoreline Protection Act.

Kevin McEaney, 8 Gold Post Rd, commends the Planning Staff the amount of hours they've put into this work. He'll withhold comments on the Form Based Zoning for the August 11 meeting but there are two things that he has questions about. One is a clarification with regard to the density in the RM-U zone. He has a project coming up that is a Lot Line Adjustment/Subdivision that may not be able to move forward unless that gets stripped out tonight. They may have to delay it to another meeting so hopefully something can happen with an amendment to that effect that will allow this to move forward. With regard to the garage setbacks, he's aware that that is also going to be stripped out however he has a client that is in the process of applying for a building permit. Since the posting has taken place, they're not allowed to move forward with the design they had which would not currently meet the new zoning requirement. If something could be done with that that would be wonderful. He continued to go over the slope and transfer of development rights definitions.

Kirt Schuman, Executive Director Dover Chamber of Commerce, 30 Cushing St, stated that he applauds the intent of the changes to make the ordinance more accessible, to encourage creative development, to promote the flexibility of use and to protect Dover's unique character. We are also in favor of the incorporation of additional commercial opportunities as well as the increased mixed use potential. We look forward to the continued dialog regarding the Form Based Code on August 11 and are happy to assist in any outreach efforts that the Planning Board wants to take part in. We believe that if the concerns raised tonight can be addressed we can have a very innovative and effective ordinance that not only promotes all forms of development but also protects individual rights of property owners.

Bob Stowell, Trittech Engineering, 41 Sandpiper Dr, stated he's received a lot of phone calls from clients asking what the amendments mean to them. He realizes that a lot of effort has gone into it. He doesn't believe that a lot of discussion has gone into the Wetlands regulations. There have been some minor changes and significant changes. He's spoken to Parker regarding when mitigation might be required. At the state level when you hit 10,000 sq ft of wetlands impact, it triggers a mitigation process. This appears



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to include a buffer impact as well. There should be some benefit in the process for the review process. The standards can be different for projects that come before the Board for review.

Chad Kageleiry, Dover Neck Rd, stated that there is a lot of information in the document. Regarding flexible zoning proposed in the I-1 zone, he's in full support of that change as it was specifically brought out in the Master Plan. That plan should go forward. The intent in allowing a residential project to go forward is to replicate or expand some of the abutting residential uses to emulate a continuation of the neighborhood. The way it's written right now says that we should mirror the lot size. The lot size doesn't dictate the density. That should be investigated a little further. Any existing buildings in those zones ought to be factored and considered as part of the development plan brought forward. Any existing building could satisfy the commercial component and then a residential component could be considered new construction. The way we're factoring or considering the density is to take a 500 ft radius around the subject site. The three sites that qualify right now are vastly different neighborhoods. He doesn't think that one generic rule of 500 ft is the right way to look at how to bring the right type of project forward. Another concern he had is with the wetlands. NHDES has jurisdiction over wetlands. He believes that we should abide by their laws. They don't recognize buffer areas. Buffers play a part but many times a small wetland will create a very large buffer.

In regards to the Form Based Code, he's met with the consultant and has attended some of the charette meetings. It's a very progressive thought process and a very creative way to get better product downtown. Initially he wasn't convinced that there would be an equitable approval process that could be where we would end up. Given more thought to it, he believes that it can be managed and negotiated fairly. There has to be some kind of economic viability language built in to protect the rights of the applicant. Changes are warranted to the way it's written right now. Some form of that ordinance being passed will allow for a better product downtown and a more attractive product in general.

Cathy Vanderweil, 20 Arch St, stated she supports everything that Attorney McNeil said. She asks the Board not to vote on this tonight. There should be more thought put into protecting the architectural integrity of Dover.

Holly Grossman, 25-34 Mill St, stated she thanks the board for proposing the change from UMUD to R-12. At the time the 64 unit condo development was proposed for Mill St, she had spoken to almost everyone she could on Mill St and Charles St. There was no one that wanted that much traffic on either street. People were concerned about safety issues, the environment and the quality of life on Mill St. This is the best thing that could happen for Mill St.

Atty. McNeil stated he wants to explain why he's concerned with the language within the ordinance. He read from the Form Based Code. The Planning Board is supposed to decide the architecture for the Form Based Code. Every one of the criteria permits the Planning Board to reject any design that could come before them. The better way of making these changes is a Historical District route where everyone is informed and knows that when they change their building, they don't go to their architect, they're going to have to go to the Planning Board. That's the language he's concerned about.

Public Hearing Closed



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Cole stated that the Planning Board is aware of their options. One would be to hold off on everything, two would be to hold off on some of the things and take action on the Housekeeping.

Parker stated he would strongly urge the Board to make the amendments to the amendments, the RMU amendment and the garage amendment. Amending the amendment doesn't require a reposting it's an editorial clarification. As Mr. McEneaney mentioned, there is a plan coming up tonight that is being constrained because of that typo.

**Motion:** Trefethen made the motion to amend the two amendments, Plummer seconded. Vote: U/A

Recessed at 9:36pm.

Resumed at 9:44pm.

Parker state he'd like to encourage the Board to leave everything posted with the amendments made and not vote on any items tonight.

Cole stated that his thoughts are the same. This was the best public hearing he's ever seen.

Parker stated on August 11, they will have a van tour workshop at 6:00 pm and the meeting at 7:00 pm.

**Motion:** Gasses made the motion to continue discussion at the August 11 meeting, Torr seconded. Vote: U/A

Plummer asked if there would be another public hearing on August 11.

Parker stated he would advocate that the August 11 meeting have a dialog and allow for some back and forth to work with the community on the regulations. There are small amendments that could be made. He thanked Steve Bird for all of his hard work.

- B. Consideration and possible vote on an amendment (reconfigure the residential parking areas) to a previously approved (May 12, 2009) site review of land and conditional use permit for River Valley Development Corp., Assessor's Map K, Lot 23, zoned B-3, located at 46 Dover Point Rd. (6 commercial units totaling 3,552 sq. ft. & 6 residential units) (P09-08A)

Parker stated the applicant had the project approved in May. Since that approval they have looked at reconfiguring the building size to lessen the intensity of the project. By doing that, they're also lessening the intensity of the pavement on the parcel thus not needing to encroach into the 50 ft buffer. One of the discussions on the 50 ft buffer was to require porous concrete in that area to lessen the impact on that buffer. By not encroaching into the buffer with the pavement they would no longer need that porous concrete. In addition, they have included a common access between their lot and Map K, Lot 23, Dover Point Office Park which is an additional change to the plan.

Doug LaRosa, Trittech Engineering, stated they reduced the building size, pulled the pavement back outside of the buffer and are hoping to remove the condition of porous pavement.



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Parker read staff comments:

### Conditions to Be Met Prior to Signing of Plans:

1. Add the owners' signature to the plan.
2. Add surveyor's and engineer's stamps and signatures to the plans.
3. The applicant shall revise the plan to correct the parking calculations in note #13.
4. All conditions of approval from the May 12, 2009 Planning Board meeting remain in place, as applicable.

Merullo stated she's disappointed with the pervious surface coming out. She wants to encourage builders to use pervious surface so that they can visit them in the winter to see how the snow removal works.

Parker stated it would be more applicable on a project that uses it for the whole surface as opposed to this where this project was only going to have it on the back portion.

**Motion:** Torr made the motion to approve with conditions, Merullo seconded. Vote: U/A

### C. Request for an Extension of Picard Lane

Parker stated that after the agendas went out, we had a request for an extension on the Picard Lane Subdivision. On each members desk there was a letter from the representative for the property. (In file) On January 13, the Board extended the Picard Lane subdivision from 1 year up to January 10, 2010. One of conditions was that all of the utilities minus water and sewer because it is a septic project, had to be in place by July 13, 2009. The applicant is asking to extend that until August 28. Parker did discuss with the City Engineer whether this was feasible. He did provide that it is a reasonable request. The three of them have discussed the need for the project to be completed as far as the public road is concerned. Carriage Hill Lane is off of this and that is ready for acceptance. Based on the City Engineer's support, Parker is recommending the Board extend the project until August 28 but he's hesitant to go beyond that.

Plummer steps down as an abutter.

Trefethen asked the applicant how certain they are that the electric will be done by August 28?

Paul Hollis stated that the holdup was from the amount of rain they had in June. The second matter was with PSNH.

**Motion:** Trefethen made the motion to approve the extension to august 28, 2009, Swartzendruber seconded. Vote: U/A

## 4. NEW BUSINESS

- A. Consideration and acceptance of a minor subdivision of land for 16 Industrial Park LLC, Assessor's Map G, Lot 4, zoned I-2, located at 16 Industrial Park Dr. \*(P09-23) (1 lot)



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Chad Kageleiry, owner of the property, stated that the property is 7.5 acres. He would like to cut off one lot on the western end to potentially have another development site. It meets all zoning criteria, we accept all conditions of approval and am requesting to have the application approved tonight.

**Motion:** Torr made the motion to accept the application, Steele seconded. Vote: U/A

Public Hearing Open  
Public Hearing Closed

Parker read the staff comments:

**Conditions to Be Met Prior to Signing of Plats:**

1. Add the owners' signature to the plan.
2. Add surveyor's stamp and signature to the plat.
3. The applicant shall revise the plat to add a note that indicates that the property is served by municipal water and sewer.
4. The applicant shall revise the plat to add a note indicating the non-wetland portion of the proposed lot.
5. The applicant shall revise the plat by adding the Planning Board file number in the title block.

**Motion:** Steele made the motion to approve with conditions, Plummer seconded. Vote: U/A

- B. Consideration and possible vote on a minor lot line adjustment of land for Mark & Suzanne Jones, Assessor's Map 11, Lot 11, 11-1 & 14 zoned RM-U, located at 10 Arch Street. \*(P09-17)

Kevin McEneaney, McEneaney Surveying and Engineering, stated this is a lot line adjustment and subdivision. They're merging lots and then subdividing the lot. It's located in what will be the RM-U zone but it's currently in the RM-10 zone. Looking at the Conditions of Approval, one of the conditions of the subdivision was that a portion of the building where the 4 unit is and the attached barn, would have to be removed in order to facilitate the setback requirements on the two smaller lots. He referred to the site map. That condition would have to be met prior to the signing of the plan which is problematic for the applicant because there are some deeds that have to be exchanged in particular there's a drainage or utility easement. They need to get the plan on record so that they can convey the utility easement. They're asking to revise it so that it is a Lot Line Adjustment. Refers to the site map.

**Motion:** Plummer made the motion to accept the application, Trefethen seconded. Vote: U/A

Public Hearing Open  
Public Hearing Closed

Parker read staff comments:

**Conditions to Be Met Prior to Signing of Plats:**

1. Add the owners' signature to the plan.
2. The applicant shall revise the plat by adding the Planning Board file number in the title block.



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3. The applicant shall revise the title block to list only the Lot Line Adjustment
4. The applicant shall adjust the table eliminating Lot 11 and Lot 11-1 and adjust the area and frontages appropriately.
5. The applicant shall revise the plat to update note 3 the plan intent to reflect that it is only a Lot Line Adjustment.

**Motion:** Trefethen made the motion to approve with conditions, Swartzendruber seconded. Vote: U/A

Trefethen recused himself from items 4C, 4D and 4E.

- C. Consideration and acceptance of a conditional use permit for Lydia Scott 2002 Trust, Assessor's Map M, Lot 1, zoned R-40, located at 220 Back Road. \*(P09-19) (to allow an existing deck and stairs within the conservation district along the Cochecho River)

Cole asked McEneaney to combine his discussion for 4C, 4D and 4E.

McEneaney stated he will discuss 4C separately from the other two.

McEneaney stated that the Conditional Use Permit is for an existing set of stairs. The stairway has existed since 2003. There was no permit obtained for it. They will be applying to NHDES for a wetlands permit. The conditions listed are the same as the ones listed by the Conservation Commissions.

Gasses stated they should vote on the Conditional Use permits separate then the others. At the Conservation Commission it was a separate issue. It's not tied to the other plans.

Merullo asked Parker about a concern regarding a cantilever deck going into a conservation area from a prior case. Now we have actual stairs in the conservation district. It was approved unanimously by the conservation board.

Parker stated that his impression of the difference is that that involved a conservation easement held by the City. The Conservation Commission is the agent to review and monitor the easement. In this case the easement is not held by the City, it's held by a separate entity.

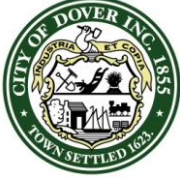
Gasses stated that the stairs goes into the title river and they have to get a permit from the state.

**Motion:** Torr made the motion to accept the application for 4C and 4D, Merullo seconded. Vote: U/A

Public Hearing Open  
Public Hearing Closed

Parker read staff comments:

The applicant appeared before the Conservation Commission on July 7, 2008 and July 6, 2009. The Conservation Commission voted to endorse the application (See enclosed Conservation Commission



**CITY OF DOVER**

## DOVER PLANNING BOARD - MINUTES

Meeting Type: Regular Meeting  
 Meeting Location: Council Chambers – 288 Central Avenue, Dover, NH 03820  
 Meeting Date: Tuesday, July 28, 2009  
 Meeting Time: 7:00 pm

minutes). The Planning Department recommends approval of the Conditional Use Permit with the following conditions:

1. The applicant shall obtain a NH Wetlands Bureau Permit and provide a copy to the Planning Department.
2. The maintenance work on the cracked foundation of the deck shall be performed at low tide and any excavated soils shall be removed to an area above the tidal range.

Plummer asked what happens if the applicant can not obtain a state permit?

Parker stated that they've already discussed it with the State and it is obtainable.

Steele asked who ensures that the maintenance work on the foundation is done at low tide.

McEneaney stated the work can only be done at low tide.

**Motion:** Torr made the motion to approve with conditions, Merullo seconded. Vote: U/A

- D. Consideration and acceptance of a conditional use permit for Lydia Scott 2002 Trust, Assessor's Map M, Lot 1, zoned R-40, located at 220 Back Road. \*(P09-20) (to allow construction of a driveway in the wetland buffer for access to proposed lots)

Public Hearing Open  
 Public Hearing Closed

Parker read staff comments:

The applicant appeared before the Conservation Commission on July 6, 2009. The Conservation Commission voted to endorse the application and wanted to encourage a driveway width of less than 20-feet (See enclosed Conservation Commission minutes). The Planning Department recommends approval of the Conditional Use Permit with the following condition:

1. The applicant shall obtain a NH Wetlands Bureau Permit and provide a copy to the Planning Department.

**Motion:** Merullo made the motion to approve with conditions, Gasses seconded. Vote: U/A

- E. Consideration and acceptance of a major subdivision of land for Lydia Scott 2002 Trust, Assessor's Map M, Lot 1, zoned R-40, located on Back Road. \*(P09-18) (4 lots)

McEneaney stated that the subdivision being proposed is a 4 lot subdivision. The overall parcel is 26.3 acres. He continued to go over the application.

Cole stated the parcel is being split into four lots and the other three are built on, what is the purpose of the waiver?



**CITY OF DOVER**

## DOVER PLANNING BOARD - MINUTES

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McEaney stated that they need the waiver because a major subdivision is defined as three or more lots. Since they're creating four it automatically triggers them into the major subdivision. The Open Space Subdivision is required to be looked upon at that point.

Parker read the staff comments:

### **Conditions to Be Met Prior to Signing of Plats:**

1. Add the owners' signature to the plan.
2. The approval includes the granting of the requested waiver for the reasons outlined in the applicant's letter and those reasons stated above.
3. The applicant shall revise note #5 on the plat by adding the Riverfront Residential Overlay District and lot size requirements for same.
4. The applicant shall revise the plat to add a note indicating the non-wetland portion of the proposed lots.
5. The applicant shall revise the plat by adding the Planning Board file number in the title block.
6. The applicant shall revise the plat by labeling the proposed access easements.
7. The applicant shall revise the plat by adding a note specifying that the driveways will be a minimum of 20 feet wide if the houses do not have a sprinkler system.
8. The applicant shall revise the topographic sheet to add the proposed well locations and radius.
9. The applicant shall revise the plat to add a note specifying that there will be no further subdivision of the property.
10. The applicant shall provide the Planning Department with a copy of the NH Department of Environmental Services Subdivision Permit and add the permit number to the plat.
11. The applicant shall provide the Planning Department with a copy of the NH Department of Environmental Services Wetlands Permit and add the permit number to the plat.
12. The applicant shall remove the shed from the Conservation easement.

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

13. Any new dwelling unit shall be assessed the school impact fee of \$3,654, the recreation impact fee of \$1,184, the police impact fee of \$276, and the fire impact fee of \$530 at the time of building permit application.
14. The applicant shall revise the plat reflecting changes in the location of the shared driveway. Access easements shall be adjusted as well.

**Motion:** Torr made the motion to approve with conditions, Merullo seconded. Vote: U/A

- F. Consideration and acceptance of a conditional use permit for Public Service of New Hampshire, Assessor's Map I & J, Lot 27A, 81B & 1, zoned R-12 & R-40, located at various locations on Garrison Rd, Spruce Ln and Back River Rd. \*(P09-21) (to reconductor the PSNH M-183 Transmission Line between structures 13 & 55)

Gasses steps down as an abutter.



**CITY OF DOVER**

## DOVER PLANNING BOARD - MINUTES

Meeting Type: Regular Meeting  
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Ian Trefrey of NHSC represents Public Service of New Hampshire. He stated PSNH needs to reconstruct the 3.2 mile stretch of the M-183 line between structures 55 and 13 within the town of Madbury. It requires impacts to four wetlands for structure replacement in three locations and one for access. All of the impacts are temporary and to be restored. They did receive that the permit by notification is complete from the NHDES. He submitted a copy to the Board. They met with the Conservation Commission on July 6.

**Motion:** Plummer made the motion to accept the application, Steele seconded. Vote: U/A

Public Hearing Open  
Public Hearing Closed

Parker read the staff comments:

The applicant appeared before the Conservation Commission on July 6, 2009. The Conservation Commission voted to endorse the application (See enclosed Conservation Commission minutes). The Planning Department recommends approval of the Conditional Use Permit with the following condition:

1. The applicant shall obtain a NH Wetlands Bureau Permit and provide a copy to the Planning Department.

**Motion:** Trefethen made the motion to approve the application with conditions, Swartzendruber seconded. Vote: U/A

### 5. STAFF COMMENTS

Parker stated that Tom Fargo has resigned from the Conservation Commission. It's been great working with him over the past 11 years. Bill McCann is the Vice Chair and he is acting in the agenda setting and notification role.

### 6. COMMITTEE REPORTS

### 7. ADJOURN

Motion: Torr made the motion to adjourn at 10:40 pm, Trefethen seconded. Vote: U/A