

**DOVER PLANNING BOARD  
MINUTES OF MEETING**

Held: March 26, 1985  
City Hall Auditorium  
Municipal Building  
Dover, New Hampshire

Members Present: Vice-Chair Harold Preston, Stephanie Faria, Robert Steele, Pierre Bouchard, R. Craig Williams, J. Andrew Galt, Robert Weisner. Chair George Maglaras arrived late. H. Les Elder was excused from the meeting, as he was away on important business.

Alternate Members Present: Robert Seaver, Otis Perry.

Other: Planning Director Timothy Sheldon, Recording Secretary Kathleen Brown.

ITEM #1: Public Hearing on the major subdivision of land owned by E. Richard Rowell, Assessor's Map M, Lot 90, zoned R-40, on the corner of Dover Neck and Middle Roads.

Mr. Rowell explained the major subdivision and noted that he has recently retained the firm of Civil Consultants to design the engineering for the project. In response to a question from a member of the public, Mr. Rowell explained the proposed path of the sewer line, and stated that those residents whose property lies within one hundred (100) feet of the proposed gravity line will be required to hook into it.

Public Hearing Opened.

Mary Greer, Tuttle Lane, spoke in opposition to the proposal and stated that property owners along Tuttle Lane are not interested in hooking into the sewer because of the expense involved. In addition, she stated that Tuttle Lane is a narrow street with many children in residence, and that the the increased traffic would be a burden to the area.

Charles Werner, Tuttle Lane, inquired about the possibility of an alternate path for the proposed sewer line and suggested that following the Public Service Company ROW to Toftree Lane may eliminate the necessity for sewer hook-up by unwilling residents.

Mr. Bouchard responded to Mr. Werner's concerns by explaining

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that the maintenance of sewer lines which cross private property is difficult at best, and that access to sewer lines during the winter months in the event of an emergency may be impossible. He further added that many property owners may welcome the opportunity to hook into the sewer system and thus eliminate potential septic system problems.

Mr. Werner restated that he is not interested in hooking into the sewer and noted that he has invested much money in the maintenance of his current septic system.

Mr. Rowell speculated that only a small number of property owners may be affected by the proposed route of the sewer system.

Andrew Haley, Tuttle Lane, restated concerns relative to the potential for increased traffic in the area, and noted that he too is not interested in tying into the sewer system.

Mr. Preston stated that the developer will be responsible for the cost of the installation of the sewer system.

Mr. Haley stated that since many septic systems lie to the rear of the property, it could be a major expense for individual property owners to hook into the sewer line.

In response to questions from Mr. Preston and Mr. Haley, Mr. Steele explained that State law requires residents whose property boundary lies within one hundred (100) feet of the gravity flow sewer line to tie into the system.

Mr. Bouchard explained that should a property owner claim a hardship would prohibit him/her from tying into the sewer, s/he may seek a special exception from the Sewer Commission. He further stated that the City will ultimately own and maintain the line, and it will be the City and not the developer who will be responsible for enforcing the State law.

Kevin Mone, 12 Hanson Avenue, City Council representative from Ward 3, stated that it appears that the residents are not opposed to the development per se, however they are opposed to the personal expense which will be incurred as the result of the

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proposed sewer line. He requested that the Board consider the potential hardship to the residents as the result of this unexpected expense.

Contance Passas, Tuttle Lane, stated that she was concerned about the potential for traffic increase along Tuttle Lane. She noted that she was not opposed to the development itself, however she is concerned about what appears to be the lack of planning for the roadway system. She reiterated the concerns expressed regarding the proposed sewer line.

Mr. Steele stated that the private connection into the sewer was not relevant to the Planning Board discussion, rather it is the responsibility of the Sewer Commission.

Arthur Thomits, Back Road, stated that he was concerned that the character of the area may change as a result of this project. He explained that this subdivision, in his opinion, may constitute premature development because of the traffic problem and the poor condition of the roadway. He suggested that the developer should be required to upgrade the existing street.

Jim McKenna, Middle Road, directed a question to Mr. Bouchard regarding the fees which will be assessed to the developer when he connects with the existing water line. Mr. Bouchard explained that the applicant will be assessed per the front footage of the property, as outlined in the City regulations. Mr. McKenna expressed his concern regarding the equity of this method and suggested that perhaps this may need to be changed.

Dawn Greer, Tuttle Lane, restated the concerns relative to traffic conditions in the area.

Mr. Preston stated that, as a long time resident of Middle Road, he was aware of the large volume of traffic which uses that street in order to by-pass Dover Point Road.

Pam Amari, 93 Tuttle Lane, suggested that the proposed sewer be located along Middle Road.

Mr. Mone requested that, should the gravity line along Tuttle

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Lane be approved, the City give the residents enough notice so that they can be prepared to expend the funds necessary for tie-in.

Mr. Preston and Mr. Steele again noted that this was an issue for the Sewer Commission.

Mr. Mone stated that the Planning Board should consider alternative routes for the sewer.

Mr. Bouchard stated that the developer is willing to install the line wherever the City deems it to be appropriate. He explained that Mr. Rowell is willing to use the Public Service Company ROW, however the City has recommended an alternative route be developed as there is the problem of with the maintenance of lines on private property. Finally, Mr. Bouchard stated that engineering for the proposed line has not yet been undertaken and that the location is not definite. The Middle Road/Tuttle Lane route is merely assumed to be the best location at this time.

In response to a question from Ken Neenan, Middle Road, Mr. Bouchard stated that the project definitely will be serviced by City sewer. Mr. Bouchard restated that should an affected property owner claim undue hardship as the result of this, the Sewer Commission will attempt to evaluate the case in a fair manner.

Mr. Rowell stated that he altered the proposed route of the sewer line from the Public Service Co. ROW to the Middle Lane route as a result of a request by the City. He noted that he would prefer to locate the sewer within the ROW, as it would be less expensive for him to install.

Mr. Preston responded to Mr. Haley's concern that the Planning Board was not willing to make a decision on the location of the sewer and was "passing the buck" to the Sewer Commission.

Dawn Greer requested that Mr. Bouchard clarify his earlier remarks about the City never haven taken anyone to Court for refusing to hook into the sewer line. Mr. Bouchard stated that he had not meant to imply that the City will not enforce the

State law requiring hook-up to the sewer.

In response to further questioning from Mary Greer, Mr. Bouchard stated that if a problem with a property owner's septic system is found, s/he will be required to hook into the sewer. If no problem with the septic system exists, Mr. Bouchard stated that it will be up to the property owner to decide upon a course of action and that the City will respond accordingly.

In response to a question from Mr. Preston, Mr. Bouchard stated that if the developer installs a forced main all the way to Dover Point Road, property owners will never be able to tie into the sewer.

Mr. Mone requested that the Board consider the idea of the installation of the forced main.

Ms. Passas stated that she was disturbed by what she perceives to be an argumentative, hostile situation between the Board and the members of the public. She stated that the location of the sewer line should be an important point in the decision-making process of the Board.

Mr. Bouchard suggested that a forced main which can later be converted to a gravity flow system be installed along Tuttle Lane. He explained that this system will not require the hook-up of property owners at this time, however it would provide an option for future sewer service. In response to a question from Ms. Passas, he restated that the potential to convert to sewer along the Lane would exist.

Mary Greer stated that this solution, as presented, seemed to be equitable. She then restated her concerns relative to traffic.

In response to questions from Mr. Haley, Ms. Amari, and Ms. Passas, Mr. Sheldon explained the notification process for the subdivision application, as contained in State statute. The three citizens all expressed concerns that the property owners affected by the proposed sewer line were not notified.

Frank Stevens, Tuttle Lane and Middle Road, noted that concerns

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of residents along Middle Road may surface only after this public meeting.

Vic Caliendo, Middle Road, expressed his concerns that the proposal may alter the character of the existing neighborhood.

Mr. Preston noted that the project meets all the zoning requirements of the City.

Mr. Caliendo restated his contention that the magnitude of the subdivision will have an impact on the area.

Mr. Preston again explained that the actual design for the sewer system will be the responsibility of the applicant's engineer and the City Engineer. Mr. Steele noted that the applicant will be required to obtain a license from the City Council for the installation of the proposed sewer, if it is placed in an existing street.

Charles Chwalek, 35 Morningside Drive, requested that the Board clarify the goal of this Public Hearing.

Mrs. Haley raised concerns that the Board was not hearing the concerns being expressed by the public.

Mr. Steele explained that the purpose of the meeting is to obtain public input on the various applications before the Board. He then outlined the procedure usually followed by the Board when considering applications.

Mr. Werner reiterated concerns that those affected by the proposed sewer line were not notified.

Public Hearing Closed.

Mr. Sheldon read the report of the Site Review Screening Committee.

The Board decided to hold an on-site review of the parcel on Tuesday, April 2, at 5:30 p.m. Mr. Preston requested that Mr. Rowell have the road and lot lines staked for this meeting. He

then responded to public concerns that one hour may not be enough time for a viewing of the property.

Mr. Rowell stated that he was not aware of the fact that an on-site review was a public meeting, and he expressed concern over his liability should someone get hurt on his land.

ITEM #2: Public Hearing on the site review of land owned by Sam Banamo (applicant RAP Construction/Randy Parsons), Assessor's Map A, Lot 9, zoned B-3, on the corner of Longhill Road and Route 16B.

Randy Parsons explained the proposal.

In response to a question from Mr. Bouchard, Mr. Parsons stated that he has received WSPCC approval for this project.

In response to a question from Mr. Weisner, Mr. Parsons stated that the only landscaping plan was what is depicted on the site plan.

In response to a question from Mr. Preston, Mr. Parsons stated that the property has been surveyed.

Public Hearing Opened.

George Parsons, Varney Road, spoke in favor of the proposal and suggested that the project will serve to better the community.

Public Hearing Closed.

In response to a question from Mr. Williams, Mr. Parsons stated that the WSPCC approval did specify commercial use.

Mr. Sheldon stated that the following items should be considered by the Board:

- 1) Receipt of City septic approval.
- 2) Receipt of City driveway permit.
- 3) A landscape plan depicting street trees, and
- 4) Placement of granite curbing along the property lines.

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Moved by Mr. Williams, seconded by Weisner, to approve the site review application, contingent upon the conditions outlined above by Mr. Sheldon.

U.A.

Mr. Parsons raised concerns regarding the necessity of the installation of granite curbing all along the property lines. He noted that the back half of the lot meets the zoning requirements for residential use and could be so developed at a future date.

George Parsons noted that the cost of the granite curbing was a consideration and that other commercial sites in the area do not support curbing along the property lines.

Mr. Bouchard expressed his pleasure at the fact that the applicant proposes to clean up the area.

Mr. Sheldon suggested that the Board consider the installation of curbing along Longhill Road, thus making the site inaccessible from that side. With regard to Route 16B, he suggested that the curbing run to within 100 feet of the end of the lot, thus preserving the opportunity for residential development.

Moved by Mr. Perry, seconded by Mr. Galt to reconsider the motion to approve the site review, so that the Board may more carefully consider the location of the granite curbing.

U.A.

In response to a question from Mr. Bouchard, the Board agreed that an on-site review of the property would not be necessary.

Mr. Galt stated that he would like to see the curbing on Longhill Road be installed at least to the power pole, so as to delineate the parking for the site.

Mr. Sheldon suggested that the Board permit Mr. Bouchard and himself to view the property and determine the appropriate placement of the curbing.

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Moved by Mr. Perry and seconded by Mr. Galt to permit the installation of the granite curbing at the discretion of the Planning Director and the Director of Public Works. The curbing installed shall not be less than what is depicted on the original site plan.

U.A.

ITEM #3: Public Hearing on the site review of land owned by Geraldine Moore and Ruth Drake, (applicant Forbes & Parks), Assessor's Map I, Lot 19, zoned RM-20 and R-20, on Durham Road.

Ms. Faria abstained from this item and was replaced by Mr. Seaver.

Mr. Forbes explained the proposal and noted that the front part of the property is zoned R-20, while the remainder is zoned RM-20; all buildings are proposed to be located within the RM-20 zone. He stated that the narrow configuration of the property made compliance with both the setback requirements and the required roadway width impossible. After discussing the situation with the Site Review Screening Committee, Mr. Forbes stated that he had provided a full two parking spaces per unit, thus making parking on the street unlikely. In addition, he noted that he is willing to stripe the driveway and post no parking signs. These actions, Mr. Forbes stated, make his request for a waiver of the required driveway width reasonable. He stated that the second driveway shown on the site plan can be combined with the main roadway, thus eliminating the need for a waiver of the Driveway Ordinance. Finally he noted that he has discussed the design for the sewer with the City Engineer and is willing to work out an arrangement which will allow for the timing of off-peak pumping from this site and others in the area.

In response to a question from Mr. Williams, Mr. Forbes indicated that the existing building would remain on the site.

In response to a question from Mr. Preston, Mr. Forbes stated that he had not only a recent survey of the property which can be referenced on the plan, but also a signed boundary agreement between the current property owner (Ms. Drake) and the adjacent

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property owner (Mr. Towle).

Mr. Sheldon read the report of the Site Review Screening Committee.

Mr. Forbes directed a question to the Board regarding the necessity of providing recreation space for one bedroom apartments.

Public Hearing Opened.

Irene York, real estate agent for the property owners, spoke in favor of the proposal and stated that it is in keeping with the character of the existing land use in the area.

Richard Sherf, Durham Road, clarified the fact that the property is actually 80 feet in width on the diagonal, but that it is 75 feet straight across. He then stated that he is opposed to the proposal because, in his opinion, it is an odd shaped lot which is not appropriate for apartments. In addition, he raised concerns regarding drainage.

In response to a question from Alan Gast, 12 Hemlock Forest, Mr. Preston stated that the developer was not required to disclose the proposed rent for the units.

Jack Towle, Durham Road, spoke in favor of the proposal.

Gary Fagelman, owner of Redden Gardens, stated that he had not been properly notified of the Public Hearing. Ms. Brown produced a receipt signed by a representative of his corporation on March 18, 1985.

The Board decided to hold an on-site review of the property on Tuesday, April 2, at 4:30 p.m.

ITEM #4: Public Hearing on the site review of land owned by John Gavin, Assessor's Map I, Lot 3B, zoned RM-20, on Durham Road.

Ms. Faria returned to her seat on the Board for the remainder of the meeting. Mr. Maglaras joined the meeting at this point.

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Charles Tucker, an attorney representing Mr. and Ms. Baber, Mr. Davis, Mr. and Ms. Pelletier and Ms. Hancock, requested that the Chair step down from his position for this item. Mr. Maglaras refused to do so and Mr. Tucker requested that his clients' objection be noted in the record.

Richard Millette, the engineer representing the applicant, presented each Board member with a detailed booklet of the project and its impact on the immediate locale. He went through the information item by item and a copy was placed on file for public review. In addition, Mr. Millette reviewed the letter sent to his client by the City Engineer. He explained that the item which requests the developer to widen the road to 32 feet is under discussion, and that everything else will be resolved to the City's satisfaction. With respect to a memo from Mr. Sheldon to the Site Review Screening Committee, he stated that a representative from both WSPCC and the State Wetlands Board have viewed the property and determined that the wetland boundaries indicated by his firm are accurate. Mr. Millette stated that these representatives are willing to be present at the on-site review, so as to give the Board a chance to speak with them. Mr. Millette indicated that electric utilities will be placed underground. Finally, he stated that the applicant will submit a landscape and lighting plan to the Board for its review.

Mr. Maglaras clarified the fact that Mr. Sheldon's memo was to the Site Review Screening Committee.

Mr. Sheldon read both the letter from City Engineer Jay Stephens and the letter from himself, for the benefit of the public.

Mr. Galt requested Mr. Tucker to elaborate on his request that the Chair remove himself from the proceedings. Mr. Tucker stated that Mr. Maglaras has publicly stated that he has never voted against a final site review application that has come before the Board. Mr. Tucker noted that this may indicate a prejudice on the part of the Chair.

Mr. Maglaras stated that, as Chair of the Board, he does not vote.

Public Hearing Opened.

Mr. Tucker, Exeter, directed a question to the Board regarding the procedure to be followed regarding this site review application. Mr. Maglaras stated that it was customary for the Board to hold only one Public Hearing on each application, unless there is a substantial change to the original plans. Mr. Tucker stated that in his opinion, another Public Hearing may be warranted, as many issues relative to the project are unresolved. He noted that the abutters may not be prepared in full to address all items relevant to this proposal because of the lack of information.

Mr. Maglaras stated that he will act upon the wishes of the Board after the Public Hearing has closed.

Mr. Tucker requested that the Board consider the input of his clients when considering this application.

James Bermingham, Garrison Road, directed a question to the Board regarding the water supply for the project and the proposal's affect on water pressure in the area. Mr. Maglaras responded by noting that flow tests will be required by the Planning Board to determine if the water supply in the area is adequate.

In response to further questioning by Mr. Bermingham, Mr. Steele explained that in 1979, the firm of Camp, Dresser and McGee was hired to do an analysis of the City's water supply to the year 2020. Using projected population figures, they found it to be adequate.

Mr. Maglaras, again in response to Mr. Bermingham, stated that the existing water pressure in the area will be protected.

Al Demers, Mast Road, directed a question to the Board regarding the water pressure in the area as it relates to fire protection. Mr. Bouchard explained the location and size of the water lines. Mr. Maglaras reminded the public that flow tests will be required by the Board and the results will be available for public review.

In response to further questioning by Mr. Demers, Mr. Maglaras

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stated that should the flow tests indicate inadequate water pressure, the developer will be required to submit an alternative plan.

Donald Cheney, 53 Back River Road, raised concerns regarding the poor site distance along Back River Road near his home. In response to Mr. Millette's point regarding the potential for increase of the tax base of the City, Mr. Cheney stated that taxes continually increase regardless of the amount of new construction.

Chattie Cheney, 53 Back River Road, stated that she was opposed to the proposal and reiterated her husband's concerns. She expressed her opinion regarding the "unbusinesslike" manner in which the meeting was being run.

Bill Baber, Mast Road, stated that it was his understanding that all of Morningside Park is fed by a 6" water line. He reiterated concerns regarding the availability of water pressure for fire protection.

Barry Hager, Garrison Road, suggested that the Public Hearing should not be continued until such time as all relevant information is available to the public, including the results of the flow tests.

Mr. Maglaras explained that the information relative to any application before the Board is constantly changing, and he reminded the public that the Board may or may not chose to hold another public meeting on this item.

Al Luloff, Tanglewood Drive, a member of the Dover School Board, raised his concerns over the applicant's estimate of 50 school-age children in residence at the proposed complex. He suggested that because 51 of the units are proposed to be three-bedroom, the statisitcs may not hold true, and Mr. Luloff estimated the number to be much higher, perhaps around 170-175 children. He concluded by noting that the increase in the birth rate in Dover, coupled with development, would indicate a trend toward "tremendous growth."

Chritine Baber, Mast Road, asked if the Board if the applicant has made a formal application to the State Wetlands Board and the Water Resources Board. Mr. Millette and Mr. Loughlin replied that they have not. Mr. Maglaras stated that it is common practice for an applicant to apply to the State only when the plan is in its final form. Ms. Baber stated that it was her understanding that this information was required to be made public prior to the Public Hearing. Mr. Maglaras stated that the information is always available prior to final Planning Board approval. Ms. Baber reiterated her concerns and requested that the Board adjourn the Public Hearing until such time as this information is available to the public. Mr. Maglaras reminded the public that the Board will make a determination relative to the scheduling of another public hearing at the close of public testimony.

Wilfred Arnold, Back River Road, raised concerns regarding the potential for increased traffic generation along the Back River Road. He also questioned the Board regarding the order of the agenda with regard to the Public Hearing scheduled to discuss a possible rezoning of the area. Mr. Maglaras pointed out that the rezoning was item #5 on the agenda, and explained that the order of the agenda was selected in an effort to give Mr. Gavin an opportunity to present his plan to the public, given the present zoning designation. Mr. Maglaras then noted the many duties and responsibilities of the Planning Board.

Arthur Thomits, Back Road, Chair of the Dover Conservation Commission, stated that in his opinion, the Conservation District as currently delineated on the plan is in error. He noted that this is an issue which should be addressed by the Board. Mr. Maglaras stated that the Board has been informed by other parties as well that the CD line may not be accurate.

Steve Lord, Mast Road, stated that in addition to the placement of the CD line, the impact on the flood hazard area and the amount of the land being moved should also be addressed by the Board.

Mr. Millette responded by stating that as of now he is not sure how many cubic yards of fill will be displaced by the project.

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Mr. Maglaras noted that this will be controlled by the State through the excavation permit.

Mr. Lord noted that a spring exists in Phase 5 and that the applicant is proposing to build units directly on the top of it. In addition he suggested that the contour lines depicted in Phase 5 are not accurate, as a 20 foot ravine exists in that area. Mr. Maglaras stated that the Board will note these concerns during the on-site review.

Malcolm McNeill, an attorney representing Serafino Cerminaro, stated that his client has no objections to the proposal and considers the project an appropriate use for the zone.

Carlene Field, 201 Mast Road, raised concerns regarding the potential for traffic increase along Mast Road. She also stated that, in her opinion, the size of the project may warrant more than one ingress/egress.

Mark Pelletier, 94 Back River Road, noted that problems with traffic on Back River Road currently exist "on the hill." He questioned the Board regarding the comparison by the applicant of the traffic count along Back River Road and the capacity of Mast Road when doing the analysis.

Mr. Millette explained that he had determined the capacity along Mast Road and compared it with the projected number of daily trip ends from the site. He then explained that he had obtained a peak traffic count for Back River Road in an effort to relate the potential for increased traffic at the intersection.

Mr. Maglaras stated that as the Site Review Screening Committee's memo points out, the Board will be considering the traffic generated by the site.

Bob Davis, 203 Mast Road, raised concerns regarding the environmental impact of the project. Specifically he cited issues of possible erosion from the development and runoff from both the existing impermeable soils and development surface. He explained that the State Highway Department is having the above mentioned problems with its property directly across river from

the site. He indicated that the residents in the area have walked the site with a number of representatives from various environmental groups and all have expressed the following concerns: 1) all development should be moved off the slopes and away from the river, and 2) efforts should be taken to maintain the existing forest. In conclusion, Mr. Davis reiterated previous statements regarding the placement of the Conservation District on the plan and noted that WSPCC and the Wetlands Board have given him the impression that they will not pass the project as presented.

Julianne Hancock, Mast Road, stated that she was opposed to the proposal as it stands, as it represents what she considers irresponsible growth. She restated the concerns of the residents regarding the impact on fire protection and traffic in the area.

David Field, 201 Mast Road, stated his opposition to the proposal as presented. He expressed his concerns regarding the proposed encroachment into the natural waterways and suggested that the ecological system may be altered as the result of this development. He requested that the Board restrict building away from the waterways.

Richard Lord, Mast Road, stated that a problem with travel along Mast Road in the winter currently exists and wondered if another access for the site could be used, especially in the event of an emergency.

Mr. Maglaras reminded the public that the roadway system within the proposed project will not be owned nor maintained by the City.

Mr. Millette stated that there is no other possible access to the property through land owned by the applicant. He noted that the possibility of obtaining access through an adjacent property had not been studied.

Sally Diamond, 14 Birch Drive, stated that another access along Garrison Road would not be desirable because of the location of the school in that area and the impact of increased traffic.

Marcia Pelletier, 94 Back River Road, stated that she was opposed to the proposal for all the reasons previously mentioned, including the impact on the water and sewer systems, and traffic.

Alan Gast, 12 Hemlock Forest, stated his opposition to the proposal. In response to a question from Mr. Gast, Mr. Maglaras stated that the Board does have the power to require a second access to the property if it deems it to be necessary. He reminded those present however, that the applicant does not currently have the frontage to support a second access and would need to purchase an easement or ROW from an abutting land owner. Mr. Maglaras noted that a second public hearing would be in order if the Board placed this condition on its approval.

Phyllis Perrault, 5 McKenna Street, stated that she did not believe that a second access onto Garrison Road would be appropriate.

Karen Gast, 12 Hemlock Forest, stated that she was opposed to the proposal. She suggested a need for more planned growth in the area, as well as a need for wildlife protection.

Robert Davis explained that the plans of the State and Federal program for Great Bay Estuary Management will eventually include the study and protection of the river as far as the Sawyer Mills Complex. He noted that the Board currently has an opportunity to leave the existing wildlife undisturbed and that not to do so would be a disservice to those organizations whose plans include management of this area.

Donald Cheney stated that, in his opinion the Board should at this point, be aware of the displeasure of the residents in the South End as to the introduction of condominiums into the area.

Bill Baber stated that, while the applicant has agreed to rebuild what is the first constriction in the sewer lines, the developer proposes to use one-half of the existing capacity for all of the Mast Road area because of the second constriction in the line. Mr. Baber stated that the applicant has not presented the reports of all the environmental experts who have viewed the site, because the reports are in his opinion, critical of the proposal.

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He listed a number of these representatives who are willing to attend a Board meeting and offer input: James Hayden of the Soil Conservation Service, Scott Williamson, a wildlife expert with the Extension Service, David Lane and Fred Elkin from the WSPCC and a representative from the State Wetlands Board.

Christine Baber noted that representatives from the Audubon Society and the Great Bay Trust had also voiced concerns relative to the project. Mr. Sheldon stated that these letters are on file and would be read by the Chair after the Public Hearing.

Mr. Millette stated that the reports mentioned by Mr. Baber were included in the package presented to the Board this evening.

Attorney Peter Loughin, representing Mr. Gavin, stated that he agreed with Ms. Baber that the WSPCC and Wetlands Board applications should be available for the public and he suggested that the Board hold a compliance hearing before granting final approval, to give the public a chance to review the data.

In response to a question from Al Demers, Mr. Millette stated that the proposed sidewalk will be located on Mast Road. He further explained that the existing ROW for Mast Road is generally about 50', but that there exists one encroachment near Back River Road.

Mr. Maglaras stated that the sidewalk would be constructed to City specifications. He noted that the widening of the road is currently under discussion and has yet to be determined.

In response to additional questions from Mr. Demers, Mr. Millette stated that Mast Road ROW is 29-32 feet wide at its most narrow point.

Steve Schulten, Mast Road, spoke in opposition of the proposal and stated that the development may be a strain on the existing capacity at the Garrison School.

In response to a question from Richard Lord, Mr. Maglaras explained that the City will not be paying for any of the proposed upgrading of the infrastructure.

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Elaine Swett, Garrison Road, stated her opposition to the proposal because of the impact on the water pressure in the area. She suggested that the Board hold another Public Hearing to resolve many of the unanswered questions posed by the residents.

Public Hearing Closed.

Moved by Mr. Galt to recess the Public Hearing until such time as more complete information is available for the public to review. He also requested that representatives from the various environmental groups who have viewed the site, be invited to attend the next meeting.

Mr. Maglaras clarified a point of parliamentary procedure.

Mr. Weisner seconded the motion by Mr. Galt.

U.A.

Mr. Millette pointed out that many of the issues raised by the residents are included in the booklet he has presented, and which is now part of the public record.

Mr. Maglaras called a 5 minute recess. The meeting reconvened at 10:35 p.m.

~~ITEM #5~~: Public Hearing to amend Chapter 170 of the Code of Dover, entitled Zoning, by altering the official zoning map of the City of Dover (170-8). The purpose of this amendment is to rezone that area generally bounded by Back River Road, Mast Road, Garrison Road and the Bellamy River, from its present zoning designation of medium density multi-residential (RM-12) to medium density single-family (R-12).

Mr. Maglaras explained that this item has come before the Board because of a petition presented to the City Council and forwarded to the Board.

Public Hearing Opened.

Marcia Pelletier, 94 Back River Road, stated that she was in

favor of rezoning the area to the R-12 designation because it would be consistent with the existing housing in the area.

Carlene Field, 201 Mast Road, stated that she was in favor of the rezoning proposal because of the traffic problems in the area and the existance of dangerous intersections, such as the one at the corner of Route 108 and Back River Road. She also noted that should development continue to be concentrated in the south end, the City should not consider the relocation of the fire station in that area.

Steve Schulten, Mast Road, stated that he was in favor of rezoning the area because of the traffic problems along the existing roadways.

Jennie Leathers, Mast Road, stated that she was in favor of the rezoning petition.

Christine Baber, Mast Road, requested that it be refleted in the minutes that the agenda was "overloaded" for this evening, and that it was unfortunate that this item was not discussed until 10:30 p.m. She then read exerpts from the 1971 Land Use Plan developed by Metcalf and Eddy regarding the area being considered for rezoning. She explained that the 1971 report indicated that the area had a high conservation potential, steep slopes (many in excess of 25%), and erodible soil (Suffield type), and that the recommendations included maintaining this section of the City as open space. She referred to a 1977 report by the Strafford Regional Planning Commission, which was presented to the City Council but never adopted, which reiterated many of the same items included in the Metcalf and Eddy study. Ms. Baber questioned the Board regarding the consistency of the 1979 rezoning with the recommendations of the Master Plan, as she has been unable to find much in the way of statistical analysis which would substantiate the changes.

Malcolm McNeill, an attorney representing Sara Bowdoin, explained his contention that the 1979 comprehensive zoning was not random, but rather an indication of good planning. He noted that the four areas within the City that were designated as RM-12 zones at that time, all share common characteristics including: land

areas which are contiguous to water bodies and near the urban core, surrounded by a residential area which generally consists of single-family homes abutting the street, with large vacant lots to the rear. He noted that the land zoned RM-12 exhibited traits common to transitional areas. He noted that the 1979 rezoning was adopted only after many Public Hearings, and that it was constructed as a reasonable plan for growth control which was in keeping with the comprehensive plan. He reiterated his belief that the development plans now pending before the Board are the result of planned growth. He stressed the fact that the two most important criteria to consider when discussing zoning are consistency and predictability. Because, he explained, the 1979 rezoning meets both of these criteria, he requested that the Board consider the issue of good planning and not bow to public pressure when voting on the petition before them. Mr. McNeill offered a rebuttal to an article in the February 13th edition of ~~Foster's Daily Democrat~~, in which Bill Baber, of Mast Road, questioned the appropriateness of the RM-12 zoning.

Charles Tucker, an attorney representing land owners along Mast Road, stated that the petitioners were not concerned about growth control in the area but, rather would like to see the zoning changed from multi-family residential to single-family residential. He stated that since the 1979 rezoning, developers have attempted to build to the maximum density permitted in the RM-12 zone, something which he believes is not consistent with the spirit and intent of the ordinance. He explained that the residents who have lived in the area since before 1979 had certain expectations when purchasing their property which was zoned for single-family. He stated that it is his opinion that the Master Plan for the City dates back to 1971, and that no statistical analysis has been undertaken since that time. He reiterated concerns about sewer capacity in the area. Finally, he noted that his clients were concerned not with multi-family use in general, but rather the high-density of multi-family units which is permitted under current zoning.

Al Luloff, Tanglewood Drive, raised his concerns about the concentrated growth in the south end of the City. He suggested that a community-based comprehensive plan should attempt to disperse some of the development. He stated that he was opposed

to the development of multi-family units at this density.

Greg Martin, an attorney representing Redden Development, stated that his client was opposed to the rezoning petition because of its apparent lack of consistency and planning. He stated that multi-family development does have a place in Dover and that his clients are not land speculators.

Steve Lord, Mast Road, stated that he remembered Mr. Sheldon explaining, at the PB meeting held on February 25, 1985, that the study of the rezoning would contain a study of the watershed area being affected. Mr. Lord then raised concerns that no flood study has ever been undertaken by the City for the area under discussion, and the impact of development on the waterways has not been elaborated on.

Judy Sanders, 16 Partridge Lane, stated that she resented Mr. McNeill's request that the Board not yield to public pressure. She in turn urged the Board not to yield to private interest pressure.

Kerry Forbes, Garrison Road property owner and member of the Planning Board during the 1979 rezoning, stated that a comprehensive plan was done in 1979 only after almost one year of study, meetings and workshops with various neighborhood groups. He stressed that much time and effort was afforded in developing the zoning plan. In rebuttal to Ms. Baber's contention that the RM-12 zone is not in keeping with the 1971 study done by Metcalf and Eddy, Mr. Forbes pointed to his own development in that area. He explained that on a parcel which is 24-1/2 acres, he has plans to construct 57 units; when deducting the land which will be developed for the buildings (3/4 acre), parking lots (1/2 acre) and the roadway (1 acre), the amount of land left as open space totals approximately 22-1/2 acres. He indicated that he does believe that certain problems do exist within the zone, as the result of the large setback requirements and the lack of any ordinance which would prohibit construction on steep slopes. He suggested that the 1979 rezoning was an attempt to provide a diversity of housing opportunities for the residents of Dover and that while the RM-12 zone may need to be revised, changing it to a single-family zone is not the answer.

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Bill Baber, Mast Road, stated that the current RM-12 zoning promotes a grid-style of development. He suggested that while Mr. Forbes developed his land to provide for only 3 units per acre, many developers would prefer to develop the entire 7.3 units per acre permitted within the zone. In response to Mr. McNeill's comments relative to public pressure, Mr. Baber reminded the Board that this was the result of government by democracy.

Gary Fagelman, owner of Redden Gardens, stated that he was opposed to the rezoning petition because it did not demonstrate consistency and sound planning for growth. He noted that the owner of multi-family complexes are taxpayers, the same as single-family homeowners. He suggested that the Board consider revising the RM-12 zone to lessen the potential density by deleting steep slopes from the permitted building area.

Robert Davis, Mast Road, stated that in 1979 there were only three articles in the local newspapers which discussed the rezoning, and that the Board has the obligation to make the public aware of its actions. He suggested that no one has offered him a reason as to why the area under discussion was chosen for multi-family use. He further added that one member of the Planning Board in 1979 is now developing in the RM-12 zone, and suggested that there may be some impropriety involved.

Peter Loughlin, an attorney representing John Gavin, stated that he agrees that all property owners have the right to rely on the existing zoning when they purchase their land, and that includes his client as well. He stated that no significant changes in circumstances have occurred in the Mast Road area since 1979 which would warrant a rezoning. He stressed that the basis for the rezoning in 1979 is still valid today.

Irene York, Garrison Road, stated that she was opposed to the rezoning petition. She noted that the City must provide alternative housing for those persons who are unable to afford a single-family detached home. She stated that the 1979 rezoning was comprehensive and should remain at it is. She suggested that the Board consider each proposal for development individually, rather than prohibiting multi-family entirely.

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Ruth Drake, Garrison Road, stated that she was in favor of maintaining the current RM-12 zoning.

Julie Hancock, Mast Road, stated that she believes that, in the long run, condominium owners will request City services above and beyond education for their children. Ms. Hancock expressed her concerns that the magnitude of this type of development will drain the tax revenue of the City and she suggested that Dover may become a bedroom community if the City is not more careful about attracting industry to the area. She requested that the Board consider the rezoning of all the areas currently designated as RM-12.

Paul Fisher, Garrison Road, stated that he was in favor of maintaining the current RM-12 zoning.

Kerry Forbes stated that the fact that there will be many children living in these condominium units is a misconception. He noted that in his 24 units at Greenfield Commons there are only 3 children, and in Hemlock Forest there are 3 children in 30 units.

Gary Fagelman stated that addition of new development to the tax roles of the City does not decrease taxes, however it does decrease the rate of increase. He suggested that the property tax in Dover would be much higher without the addition of new development.

Jenny Hodgdon, 14 Austin Drive, stated that she was in favor of the rezoning.

Richard Lord, Mast Road, stated that in his opinion, condominiums will become the ghettos of the future. He requested that the Board listen to the concerns of property owners in the area and rezone the land to single-family residential.

Bill Baber, Mast Road, stated that the RM-12 zone created in 1979 has "real problems" and is what he would consider to be unreasonable. He stated that the 1979 action by the City is not consistent with the Master Plan and that he has been unable to

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find any detailed analysis of the decision-making process of 1979. He requested that the Board hold a number of workshops to look at the issues before it makes any decisions.

Bill Hopkins, Beech Road, stated that he was in favor of maintaining the RM-12 zoning designation.

Jack MacLaughlin, Garrison Road, stated that he was in favor of rezoning the area to R-12.

Peter Hooksetta, Back River Road, stated that he was in favor of maintaining the RM-12 zoning designation.

Bill McQuade, Towle Avenue, stated that the Board leave the RM-12 zone in tact and instead address each development proposal separately, to be sure that it is in compliance with the intent of the zone.

Charlie White, Bay View Road, stated that multi-family housing does not constitute a slum and he is in favor of maintaining the existing RM-12 zoning designation.

Public Hearing Closed.

After a one minute recess, Mr. Maglaras reviewed the options before the Board.

In response to a question from Mr. Bouchard, Mr. Sheldon stated that the 30-day time frame during which the Planning Board is required to act on the petition begins with the Public Hearing. He suggested that Mr. Steele may have to request a waiver from the City Council on this matter.

The Board discussed the potential agenda items for a workshop on the following Tuesday.

Mr. Bouchard stated that he would like to have the opportunity to review and vote on all the RM-12 zones in the City.

In response to Mr. Bouchard's comments, Mr. Galt noted that the Board must act upon the petition exactly as it is presented, that

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being to change the zoning from RM-12 to R-12. If the Board chooses to expand the scope of the request, it may develop an alternative plan and hold another Public Hearing on that.

Mr. Steele stated that he would like to take action on the petition at this meeting and then schedule a series of workshops to look at a comprehensive rezoning of the City. He then explained that should the City Council agree with the recommendation forwarded to it from the Planning Board, a simple majority would be necessary for them to ratify the recommendation. Should the Council disagree with the Board's recommendation, a 2/3 majority would be required to defeat it.

Mr. Galt stated that he did not wish to vote on this item this evening as it was too late and he was too tired.

The Board discussed the development of a schedule for the numerous on-site reviews and workshop sessions to be held. An on-site review of the property owned by John Gavin, Mast Road, will be held on Thursday, April 4, 1985 at 4:30 p.m. After an informal vote by the Board, it was decided that the rezoning issue will be discussed at a workshop session on Tuesday, April 2, at 7:00 p.m. (Vote 8-1 with Steele opposed). The item will then be voted upon at the regularly scheduled meeting to be held on April 9 (under Old Business).

~~ITEM #6~~: Old Business

- 1) There was none.

~~ITEM #7~~: New Business

- 1) Approval of the minutes of the regularly scheduled meeting held on March 12, 1985.

Mr. Preston requested that this item be postponed until the next regularly scheduled meeting.

- 2) Upon the suggestion of the City Council, the tapes from the Planning Board meetings will be kept for an indefinite period of time.

Moved by Williams, seconded by Galt, to adjourn at 12:00 a.m.