



CITY OF DOVER

DOVER PLANNING BOARD – MINUTES

Meeting Type: Regular Meeting
Meeting Location: Council Chambers
Meeting Date: Tuesday, March 23, 2010
Meeting Time: 7:00 pm

MEMBERS PRESENT: Ronald Cole (Chair), Frank Torr (Vice Chair), John Swartzendruber, Doug Steel, Marcia Gasses, Lee Skinner (Alternate) and Gary Green (Alternate).

MEMBERS NOT PRESENT: Donald Andolina, Dean Trefethen, Linda Merullo and Perry Plummer.

STAFF PRESENT: Christopher Parker (Planning Director) and Michelle Beauchamp (Recording Secretary).

OTHERS PRESENT: James Shulte, Doug Larossa, Robert Stowell, Janet Butler, Paul Butler, Robert Kmetz, Michael O'Donnell, Christine Castaldo and Michael Castaldo.

The Chair called the meeting to order at 7PM. As alternates, Lee Skinner stood in for Linda Merullo and Gary Green stood in for Perry Plummer.

- 1. APPROVAL OF THE** February 23, 2010 Workshop Minutes, February 23, 2010 Regular Meeting Minutes, March 9, 2010 Workshop Minutes and March 9, 2010 Special Meeting Minutes.

F.Torr made the motion to approve the February 23 workshop & regular meetings and the March 9 workshop and special meeting minutes. L.Skinner seconded. G.Green noted that the March 9, 2010 minutes should reflect that it was a special meeting. Board members agreed. **Vote:** Unanimous.

2. OLD BUSINESS

- A.** Continued Public Hearing to consider amendments to Chapter 155, entitled "Subdivision of Land" of the code of the City of Dover. Amendments include the requirement to get abutters from City records and require 3 sets of labels; establish standards for traffic studies; amending the time for Planning Board decisions to 65 days; deleting preliminary plat approvals; revising escrow agreements section; reducing the minimum size of an R-12 lot for an open space subdivision to 5 acres; changing the distance between units in clusters; adding a blasting section; amending all fees to refer to the adopted fee schedule; require 5 prints of final plat; amending the requirements for information on preliminary and final plats; adding new storm water management documents; amending street tree requirement; adding perimeter landscaping requirements; revising the waiver requirements; general amendments to the definitions section; revising three definitions; deleting the definition of Family; and several minor housekeeping amendments. The complete wording of each amendment is available in the Planning Department and on the City's website at www.dover.nh.gov.

The Chair opened the public hearing. No comment was made. The Chair closed the public hearing.

C.Parker noted that the Board had two public hearings for these changes.

F.Torr made the motion to adopt amendments as presented. D.Steele seconded. **Vote:** Unanimous

- B.** Continued Public Hearing to consider amendments to Chapter 149, entitled "Site Review Regulations" of the code of the City of Dover. Amendments include revising the Technical Review Committee procedure; require 3 sets of abutter labels; reduce application deadline to 15 days; adding a blasting section; amending all fees to refer to the adopted fee schedule; set standards for a landscape plan; establish standards for traffic studies; revise the parking regulation standards and add bicycle rack



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requirements; amend parking lot design standards; allow storm water treatment in landscape areas; revising the waiver requirements; general amendments to the definitions section; revising the definition of abutter; adding a definition of gross leasable area; and several minor housekeeping amendments. The complete wording of each amendment is available in the Planning Department and on the City's website at www.dover.nh.gov.

C.Parker noted that staff made revisions to the parking requirements. He stated that after reviewing the bicycle parking requirements the staff removed bicycle from table and added the following paragraph: In addition to parking spaces for automobiles, any proposed use that is required to obtain site review approval per Chapter 149-4, shall be required to provide parking for bicycles on bicycle racks. The number of spaces for bicycles shall be equal to 5% of the number of parking spaces required by the Parking Regulation Table in Chapter 149-14-D(1).

The Chair opened the public hearing. No comment was made. The Chair closed the public hearing.

F.Torr made the motion to amend the amendment. L.Skinner seconded. **Vote:** Unanimous

F.Torr made the motion to adopt the amendments as amended. J.Swartzendruber seconded. **Vote:** Unanimous

- C.** Continued Public Hearing and possible vote regarding proposed Road Impact Fees. NH RSA 674:21-I authorizes impact fees to be collected to pay for the impacts to Capital Facilities caused by development. The details of the impact fees are outlined in a report prepared for the Planning Board, which is available for public inspection in the Planning Department and on the City's website at www.dover.nh.gov.

The Chair noted that the Board would not discuss this tonight.

- D.** Discussion and Possible vote on Community Development Block Grant (CDBG) funding requests for Fiscal Year 2011.

J.Swartzendruber made the motion to accept Planning Department recommendations as read. D.Steele seconded. M.Gasses made the motion to allocate \$2,299 to Dover Recreation and \$3,000 to Sexual Assault Support Services. G.Green seconded. **Vote:** Unanimous.

- E.** Consideration and possible vote on a Major Subdivision of land for Dover Point Properties Development, LLC; Assessor's Map L, Lot 89G, zoned R-20, located at 202 Dover Point Road (**P07-39**) (14 lots). By Order dated 7/16/09, the Strafford Superior Court remanded this case to the Planning Board for further proceedings.

C.Parker noted that this project remanded back to Planning Board for approval. It was originally conditionally approved on October 23, 2007. The Planning Board decision was appealed to Superior Court by two sets of abutters. On July 11, 2008, the court ruled that the Planning Board decision was not final until the Planning Board holds a compliance public hearing per RSA 676:4-I(i). The Planning Board held the hearing on August 26, 2008 and voted on September 9, 2008 that the conditions had been met. The abutters appealed the Planning Board decision to Superior Court. On July 1, 2009 the Court remanded the application back to the Planning Board for consideration of two of the waiver



CITY OF DOVER

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requests. One waiver was to allow the 8-inch water main instead of the 12-inch water main required. The second was a waiver to the requirement for a 3% road slope within 75-feet of the intersection. The applicant has submitted revised plans that show a 12-inch water main and the road slope of 3% within the first 75-feet of the street. The waivers are no longer necessary. The revised plans also include a berm to be constructed along the southerly buffer to divert surface water away from the Hobbs property, as part of a settlement agreement. The Planning Board is being asked to approve the amended subdivision plan.

Jim Shulte, representing the applicant noted the project had been approved by this Board on two different occasions. First with a conditional approval with 4 waivers, then 2 of the waivers became moot after the subdivision regulations were modified as to road grade and width. The court sent it back and one of the conditions in the approval was for the City Engineer to review and decide if any changes were necessary in light of an independent engineering review done by Alex Ross, which was hired by the abutter Catherine Hobbs. This Board reviewed the engineer's comments. The City Engineer recommended that the Board approve the plan in spite of comments by the engineer. Abutters C.Hobbs and the Bulters appealed to Superior Court as to whether or not the waivers ought to have been granted and objected to the traffic analysis and the impact of the project. The abutters raised the issue as to whether or not the Board improperly gave the City Engineer authority to make decisions about drainage. They complained about the drainage plan and that they were not given adequate opportunity to provide testimony at public hearings. These issues were presented at a trial conducted before Superior Court. The judge decided on July 1, 2009 and reaffirmed on July 16, 2009 that the Board should not have granted the two waivers and a new plan would be needed that did not have the two waivers.

J.Shulte noted that the waivers were for the City Regulations that required a 75 foot entrance be at a grade not to exceed 3%. He noted that the first 50 feet of the entrance did that but the last 25 feet were at a grade of 4.2%, a slight slope. He noted that the court also found that there was no demonstration of hardship to the applicant that the requirement for the water main to be 12 inches as opposed to 8 inches.

J.Shulte noted that C.Hobbs filed an appeal to the Supreme Court and the Butlers did not appeal. He noted that the Board has approved the drainage plan and the Superior Court has upheld that. C.Hobbs withdrew her appeal. The developer has agreed to make the third change under consideration tonight which is to construct a low berm, two feet high, along C.Hobbs property line that will not allow surface water onto her property. Plans were drawn in consultation with her engineer, who has approved this design and has added language.

J.Shulte noted that the applicant is requesting that the Board approve the final version. He noted that the amendments are the changes that were necessary to the entrance road to accommodate the 75 foot 3% grade. He noted that the proposal has a 12 inch water main, however the City Engineers letter requested an 8 inch water main. He added that the applicant would not object. He noted that the third item under consideration would be the berm for the C.Hobbs property. It does not affect the overall surface water. He added that it was not necessary to change the Drainage Plan.

J.Shulte noted that late this afternoon he received a report from an engineer at the university dated January 2009, which raised questions about drainage that was not presented to this Board previously but



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Meeting Time: 7:00 pm

probably could have been. He noted that the applicant's engineers can speak to the comments if the Board wishes. He noted that the reports contain errors and misassumptions. The Superior Court ruled that this Board properly reviewed and approved the Drainage Plan based on the advice from the City Engineer. He added that the Butlers did not appeal this to the Supreme Court and they are prevented from contesting drainage.

F.Torr noted that he believes the 8 inch water pipe was already discussed by the Board at the time of the original hearing. J.Shulte noted that the standards that were in effect at the time required the applicant to show hardship. Since it was possible to build with a 12 inch pipe, the court found that there was no hardship. C.Parker noted that the City is requesting the 8 pipe, not the applicant. He added that the requirement is being imposed. He noted that the standing water would be a public health issue. D.Steele noted that the larger pipe would create a longer detention time and this could create a chlorine residual, odor issues, taste issues and the possibility of bacteria problems.

F.Torr made the motion to accept the amendments. L.Skinner seconded. **Vote:** Unanimous

The Chair opened the public hearing.

J.Butler noted that she is an abutter and since the initial discussion regarding this development she has been concerned about the Piscataqua River. She noted that Tom Fargo from the Conservation Commission shared numerous concerns with the Board about the proposed development. Alex Ross, an engineer, testified to the inadequacy of the Stormwater Drainage Plan by TriTech. She noted that the City Engineer refused to meet with Alex Ross. In December of 2008 we hired Dr. Rossen, an engineer at the Stormwater Center at UNH to evaluate the TriTech drainage plan. We hired Tom Balistero from the Stormwater Center at UNH to evaluate the revised plans. She noted that he shares Dr. Rossen's concerns and adds several more. She noted that copies of his evaluations have been provided to the Board. We would like the Board to adequately and properly address these concerns. She added that they are both regional and national experts on stormwater.

The Chair noted that these are items that the Board is not addressing at this meeting. The Board has been told by the Court that the subdivision is approved and all the Board is addressing now are the proposed amendments.

P.Butler asked the Planning Board to consider the asset we have. He read a letter from the Jackson Estuarine Laboratory from May of 2008. P.Butler noted that we raised these objections 3 years ago regarding losing the Great Bay Estuary.

The Chair closed the public hearing.

C.Parker noted that the Planning Department recommends that the amendments to the previously approved plan be approved by the Planning Board with the following conditions:

1. The original Planning Board conditions of approval from October 23, 2007 remain in place, as applicable, with the following exceptions. Condition number 3 is deleted because none of the waivers are necessary. Two waivers were made moot by the revised plans and two were made moot



CITY OF DOVER

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Meeting Type: Regular Meeting
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Meeting Date: Tuesday, March 23, 2010
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- by amendments to the Subdivision Regulations. Condition number 6 is removed because the recreation impact fee is now in place, which is covered by condition number 10.
2. The applicant shall revise the plan to address the recommendation contained in the City Engineer's letter dated March 18, 2010.

C.Parker noted that we are recommending as a condition of approval to reduce the water main size to an 8 inch main.

M.Gasses made the motion to approve the amendments with staff recommendations. D.Steele seconded. **Vote:** Unanimous.

- F. Consideration and possible vote of a request for a 90-day extension for John & Caroline McGlone, Assessor's Map I, Lot 124, zoned R-40, located at 25 Piscataqua Road (**P09-16**) (5 lots) previously approved on 9/22/09. (An Administrative 90 day extension was granted on 11/30/09 to expire on 3/22/10).

C.Parker noted that the applicant is requesting an additional extension. He noted that he spoke with the applicant regarding the ultimate plan for the property. The Chair noted that the Board could grant the 90 day extension with the understanding that C.Parker will contact the McGlones and try to explain what needs to be done with the framework they have to work within.

F.Torr made the motion to approve the 90 extension. M.Gasses seconded. **Vote:** Unanimous.

3. NEW BUSINESS

M.Gasses stepped down.

- A. Consideration and acceptance of a Conditional Use Application for Measured Progress Inc (Owned by 171 Watson Road of Dover Holding Corporation) Assessor's Map E, Lot 27B, zoned ETP, located at 100 Education Way. (Expansion of existing parking lot, add 42 new parking spaces)(**P10-02**)
- B. Consideration and acceptance of a Site Plan for Measured Progress Inc (Owned by 171 Watson Road of Dover Holding Corporation) Assessor's Map E, Lot 27B, zoned ETP, located at 100 Education Way. (Expansion of existing parking lot) (**P10-04**)

The Chair noted that he would like to discuss both cases at once but make two separate decisions.

R.Kmetz noted that we are avoiding wetlands and preserves trees. This plan puts the additional parking spaces in the grassed area. The Conservation Commission has approved the use of the buffer area. One or two trees will be impacted. We have reduced the number of parking lots and the amount of impervious surface.

M.O'Donnell noted that Measured Progress has experienced growth and is projecting further growth. We would like to add 41 parking spaces. He noted that they will build a retaining wall and the parking area will be elevated about 4-5 feet in some spots. The Stormwater management features are based upon the new rules from the Department of Environmental Services (DES). The new components include tree wells that



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collect and treat the runoff. The stormwater is then discharged to the existing flow pattern. He noted that they are proposing a rain garden/ bio retention area with grass, shrubs and trees. He noted that they are required to meet the pre and post development flow rates. He added that they would be disturbing between 10,000 -11,000 square feet. We have met with the Conservation Commission. He added that they have endorsed the conditional use plan.

L.Skinner noted that there was not a lot of public transportation in that area. R.Kmetz noted that the City has a pilot program on call for Measured Progress. The work force is about 100 miles diameter around Dover. He noted that they do have walkers, bikers and carpoolers. The nearest off site parking is the Transportation Center. He added that we do have overflow parking for other buildings. We like to have parking within site of the building for security reasons. He noted that we have 70 employees on business trips, carpooling or absent. He added that during the hike of gas we had a carpool committee.

G.Green noted that he was curious about using a pervious surface in this project. It was noted that the ground water table is within 4 feet of this surface and pervious surface is not recommended by DES. Studies at UNH have shown that 4 feet is the magic number.

Lee Skinner made the motion to accept the applications. J.Swartzendruber seconded. **Vote:** Unanimous.

The Chair opened the public hearings for both applications.

C.Castaldo, an abutter, noted that she was concerned about the lack of mitigation to offset the impact on the wetland. She noted the existing parking is underutilized.

M.Castaldo noted that he did not see the need to tear up a greenway and erect a 4-5 foot barrier which will impact the wildlife. He noted that there is existing video surveillance and felt that the need for security is a moot point. He did not feel that there has been an attempt to get people to carpool.

The Chair closed the public hearings.

C.Parker noted that the applicant appeared before the Technical Review Committee on January 7, 2010 and February 25, 2010 (TRC Notes enclosed). The applicant appeared before the Conservation Commission on February 1, 2010 and March 1, 2010 and received a favorable endorsement. The Planning Department recommends approval of the Conditional Use Permit, with the following conditions:

1. The applicant shall provide the Planning Department with a copy of the NH Department of Environmental Services Alteration of Terrain Permit and add the permit number to the plan.

G.Green made the motion to approve the conditional use permit with staff recommendation. D.Steele seconded. **Vote:** Unanimous

R.Kmetz noted that they do not have any unused areas. He noted that several years ago we developed a master plan for future expansions. He added that there are areas that sometimes appear to be underutilized during the year. He stated that the barrier would not be more than a foot or so in some portions of the wall. He stated that the company did not want to presume that security cameras would provide a sense of security to our employees.



CITY OF DOVER

DOVER PLANNING BOARD – MINUTES

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M.O'Donnell noted that people leave at different times and there are three shifts working. There is a need for parking to cover the overlap so that people don't park on education way. He added that when designing the parking lot we also had to take into consideration, the City of Dover fire truck access.

C.Parker noted that we have had the pleasure in working on the adjacent measured progress trail and future parking lot off Watson Road to allow residents to use the portion of the trail.

C.Parker noted that the applicant has submitted a set of plans asking for approval to expand an existing parking lot that will result in a net increase of 42 parking spaces. A Conditional Use Permit is required due to the parking lot impacting 10,960 square feet of the 50-foot wetlands buffer. The applicant appeared before the Technical Review Committee on January 7, 2010 and February 25, 2010 (TRC Notes enclosed). The applicant appeared before the Conservation Commission on February 1, 2010 and March 1, 2010 and received a favorable endorsement. The Planning Department recommends approval of the site plan, with the following conditions:

1. Add the owners' signature to the plan.
2. Provide the Planning Department with a digital version of the plan.
3. The applicant shall add the engineer's stamp and signature to the appropriate sheets of the plan.
4. The applicant shall have the Stormwater Management Maintenance and Inspection Plan approved by the City's Environmental Project's Manager.
5. The applicant shall provide the Planning Department with a copy of the NH Department of Environmental Services Alteration of Terrain Permit and add the permit number to the plan.

D.Steele made the motion to approve the site plan application with the staff recommendations. G.Green seconded. **Vote:** Unanimous

John Woodman was recognized for this support for this trail. M.Gasses joined the Board.

4. STAFF COMMENTS

C.Parker noted that the April Workshop will be on the 6th not the 13th. He noted that there will be a planning discussion at 7:30AM at the Green Bean Café.

C.Parker noted that tonight would be M.Beauchamp's last meeting, she has decided to move on and I wish her luck and thank her for her time in the Planning Department.

5. COMMITTEE REPORTS

M.Gasses noted that there will be a ground breaking event for the trail parking lot on Saturday, May 15th at 10am until 1 or 2PM, which includes a barbeque. .

6. ADJOURNMENT

F.Torr made the motion to adjourn at 830PM. L.Skinner seconded. Vote: Unanimous.