



CITY OF DOVER

DOVER CONSERVATION COMMISSION – MINUTES

Meeting Type: Regular Meeting
Meeting Location: Second Floor Conference Room - 288 Central Avenue Dover NH
Meeting Date: Monday, June 9, 2014
Meeting Time: 5:30 pm

MEMBERS PRESENT: Bill Hunt (Chair), Marcia Gasses, Kris Houle, Richard Erickson, Michael Joyce, Kevin Perron, Nicole Andrews (Alternate)

STAFF PRESENT: Steve Bird (City Planner)

OTHERS PRESENT: Councilor Jason Gagnon, Michael McDonough, Paul Delisle, Tyler Matteson, Kevin McEneaney, Jon Ring, Ron Hebert, Anna Boudreau, Scott O’Neil, Jessica Smith, Paul Connolly, Chris Albert, others

The meeting was convened by Hunt at 5:35 PM.

1. APPROVAL OF THE PRIOR MEETING MINUTES

Gasses moved to approve the May 12, 2014 minutes, Erickson seconded. Vote: Unanimous

2. OLD BUSINESS

- A. Update on disc golf proposal for Cassily property, Assessor’s Map 34, Lots 20B & 21.

Hunt explained that Grzywacz, of the disc golf club contacted Bird and said he was working on more detailed plans and figuring out how to deal with wetland impacts and was not ready for this meeting.

3. NEW BUSINESS

- A. NHDES Wetlands Permit and City of Dover Conditional Use Permit for Adam, Jade and Cheryl Fogg, Assessor’s Map L, Lot 13, zoned R-20, located at 25 Nute Road. Proposal is to replace an existing house and garage with a new house and garage in a single structure, within the Conservation District adjacent to the tidal Bellamy River. The total permanent impact is 3,900 square feet.

Hunt: This item has been withdrawn by the applicant until he has a chance to apply for a side lot line variance.

- B. NHDES Wetlands Permit for Michael C. McDonough, Assessor’s Map 7, Lot 13A, zoned R-20, located at 29 Boston Harbor Road.

McDonough was present to explain that he wanted to conduct work adjacent to Little Bay in a tidal wetland to construct a new fixed pier (144 sq. ft.), gangway (72 sq. ft.), and float (200 sq. ft.). I received a permit in 2010 for a seawall. The DES permit has been submitted. I obtained a waiver from the abutter for being closer than 20 feet. The design and material are environmentally friendly, with no pressure treated lumber, the deck lets through light and is made of plastic, ramp is fiberglass and oriented north/south. The pilings will be driven to lessen sediment.

Gasses confirmed that the dock will be constructed by barge.

Houle: Why did you choose the specific location?

McDonough: I choose an area already shaded by an oak tree to reduce impact to eel grass.

Hunt: Where will the dock be at low tide?



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McDonough: The dock will be 75 feet from shore and extending it further will not be of any benefit. It will not anywhere near the channel.

Andrews: Who will construct the dock?

McDonough: Most likely it will be Riverside and Pickering Marine.

Houle: What are the minimum side property line setbacks?

McDonough: The neighbor has signed waiver supporting the location.

Gasses made a motion to endorse the NHDES Wetlands Permit application, Houle seconded. Vote: Unanimous

- C. City of Dover Conditional Use Permit for Paul Delisle, Assessor's Map 8, Lot 17, zoned R-20, located at 20 Leighton Road.

Delisle was present to explain the proposal to add approximately 200 sq. ft. of additional deck to an existing house, within the Conservation District adjacent to the tidal Bellamy River. I recently purchased the house and we are doing major renovations. We are adding decks to the house and getting rid of a bulkhead and concrete steps.

Gasses: It is hard to tell where the house is on the lot. We need a better plan.

Hunt: Let's put the application on hold to let him look in his car to see if he has better plans.

After moving onto agenda item D. the applicant returned with more plans.

Delisle displayed a site plan that was submitted to DES for the driveway removal and relocation.

Houle confirmed that the driveway is out of the 75 foot setback from the river.

Delisle: I just received a state permit for the driveway and decks from DES.

Bird: I thought any work within 100 feet of a tidal waterbody requires a wetlands permit.

Gasses: The site plan does not show the proposed decks.

Bird: Would it be more accurate to call these porches rather than decks since they are roofed.

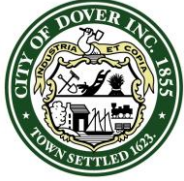
Delisle: Yes they have roofs.

McEneaney: As a surveyor, I can help but point out that the site plan was prepared by a licensed land surveyor and you cannot just use that plan without his permission.

Hunt: There are unresolved issues that need to be addressed by the applicant. You need to work with Bird to develop a better plan and contact Ambit Engineering. Also confirm that the state permit you just received is all you need. If you get this all figured out you can get on the July agenda.

- D. Request for Approval of a Forest Management Plan for Timber Harvest on Conservation Easement Lots – Tender Crop Farms, Dover Point Road, Assessor's Map L, Lot 1; Map M, Lots 52, 53-A, and 54. Conservation easement (98.8 acres) obtained in 2006 and 2007, held by City of Dover Conservation Commission, Strafford Rivers Conservancy and NH Department of Transportation.

Tyler Matteson was present to review the proposal to conduct a timber harvest on approximately 37 acres of the farm to convert the forest to active farming uses such as orchards, cattle, and crops. We hired Marc Jacobs to delineate wetlands. Our goal is to do the timber harvest so that no additional permitting is required. There are a lot of wetlands mixed in with the trees. He distributed a new



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harvest and clearing plan that shows the area to be cleared and the 75 foot no cut buffer along Varney Brook. We will use a special machine to harvest trees within 20-feet of the wetland boundary.

Bird: The Forestry Management Plan will have to be reviewed and approved by the Conservation Commission. I had a meeting on May 28, 2014 with DOT and SRC to review the revised plan.

Joyce: How were the wetlands delineated?

Matteson: We used a certified wetland scientist.

Houle confirmed that trees on steep slopes will not be cut and for all trees removed, stumps will be ground, not removed.

Gasses: Cattle will disturb the soil. Have you decided if any fencing will be installed?

Matteson: Fences will be at the top of the hill.

Gasses: Run-off from the site will end up in the Bellamy River. Tree clearing to the top of the bank is not a best management practice.

Councilor Gagnon: If you will not be clearing into the ravine, how will you remove the valuable trees?

Matteson: There is a difference between a selective cut and clearing trees.

Gagnon: The City has been dealing with nitrogen loading issues in Great Bay and is concerned with potential impact of cattle on the Bellamy River. The health of Great Bay is very important.

Matteson: The grass mix used is net nitrogen neutral. The best way to control manure is to fence them out of the water.

Gagnon: Cows will seek shaded areas and that is where the manure will end up.

Matteson: North of Nute Road will be crops and the cattle will be south of Nute Road.

Gasses: What are the best management practices for grazing cattle?

Matteson: There is no BMP.

Gasses: There is an updated manual dealing with manure management put out by the state.

Andrews: I am concerned with the same issues raised by Councilor Gagnon. Isolated fragmented wetlands are not healthy areas.

Perron: What are the cattle numbers?

Matteson: We are planning to use put one cow and one calf per acre, which is the standard.

Hunt: You need to fix the colors on the map legend – the colors are reversed.

Houle: Will you be placing fences around the wetlands?

Matteson: We are not planning on it, cows need access to water.

Gagnon: A grazing management plan would be helpful.

Matteson: Is it required?

Gasses: This is an unusual request. I am concerned about impacts on wetlands.

Gagnon: Cattle don't just drink out of the streams. Manure will end up in the water. Water could be pumped to a holding area.

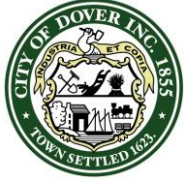
Hunt: How do you manage the watering of the cattle and manure in Newburyport?

Matteson: Our system is very passive. Feeding areas are located away from wetlands and there are dug ponds for cattle.

Andrews: Will there be a fence around wetlands?

Matteson: I am envisioning a fence around the large wetland area south of Nute Road.

Gagnon: What your practices for watering apple trees?



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Matteson: We use drip lines and only minimal fertilizer, which can be used in the drip line. Vegetables except for corn will be fertilized.

Boudreau: I am representing the Open Lands Committee. There are three areas of concern – wetlands delineation, number of acres being cut, and nitrogen loading issues. OLC did not vote officially to take a position. It seems like they are doing a lot to work with the state and city.

Bird summarized the Conservation Commission authority and stated that he has consulted with the City Attorney to confirm who has the final say.

Houle: I would like to see plans for managing storm water run-off. Agricultural fields have more run-off than forests.

Matteson: That is above and beyond the deed requirements. We have not hired an environmental consultant. We don't have detailed topography for the parcels.

Gasses: Not sure you are following BMP's.

Bird: The city will be looking to the SRC and DOT for input prior to making any decisions.

Hunt: We would like to see you provide answers to some of our questions.

- E. City of Dover Conditional Use Permit for Changing Places, LLC (Owners: Robert Mairs & Cammar Properties LLC), Assessor's Map 24, Lots 103, 104 & 104A, zoned CBD, located at 44 Portland Avenue and 26 School Street.

Kevin McEneaney and Paul Connelly were present to explain the proposal to build a 9-unit residential building and a mixed use building that will impact 9,385 sq. ft. of steep slopes in the Conservation District. We have three applications pending with the Planning Board – a lot line adjustment, site plan and this conditional use permit. There is 6,000 sq. ft. of commercial space on the first floor and 9 residential units above in the front building. The rear building is 9 residential units with parking underneath. The city parking lot is next door and we will lease 25 spaces from the city and will restripe to add five spaces.

Houle confirmed that would be an increase in run-off.

McEneaney: We are here to talk about the CUP for 20% slopes. This property was before you in 2008. The steep slopes are not environmentally significant. There is lots of junk on the property from the houses on Mechanic Street.

Gasses: I don't have an issue with the steep slopes, but I am concerned with dumping storm water into the Cochecho River.

Houle: There is no storm water plan shown here.

Connolly: We have not done a drainage study yet. We will have under drains behind the units.

Houle: No attenuation or treatment is shown.

Connolly: We will look at the numbers.

Gasses: I am concerned that the plan has not gone to TRC yet.

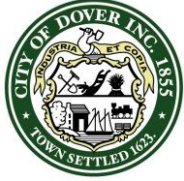
McEneaney: We did not want to do complete engineered plans if there is no support for impacting the steep slopes.

Bird: Is there any bedrock in the slopes?

McEneaney: No, we have done borings and it is all soil.

Houle: You should have no problem with doing some recharge given the soils.

McEneaney: That will be addressed at TRC by the city engineer and reviewed by the Planning Board.



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Gasses: We should make a recommendation that the city engineer pay close attention to the storm water impacts.

Joyce: At less than one acre you will not trigger EPA NOI or alteration of terrain. How will you manage steep slopes and erosion control?

Connolly: We treat it the same even if we are not preparing for those permits. It will all be on the plans submitted.

Houle: The plan does not have any information on how the slopes will be managed.

McEneaney: Are you saying you want us to prepare fully engineered and designed plans before you will review the steep slope impacts?

Houle: That is my recommendation.

Connolly: The plan shows that the steep slope areas will be stabilized through the placement of buildings and parking lots.

Gasses made a motion to endorse the Conditional Use Permit for steep slopes provided that the City Engineer is made aware of our concerns with storm water run-off management, peak flows and treatment and construction best management practices and erosion control during construction, Joyce seconded. Vote: 6 in favor, 1 opposed (Houle).

- F. City of Dover Conditional Use Permit for the Storage Barn, LLC (Owner: Jeff and Diane Weeden), Assessor's Map D, Lots 15 & 16, zoned B-4, located at 389 Sixth Street.

Mark Phillips was present to explain the proposal to build self storage warehouse units, parking lots and drainage structures that will impact the 50-foot wetlands buffer. We built the Eagle Storage facility on Knox Marsh Road. The Weeden property is north of Howard Dental. A 40-foot wide utility easement cuts down the middle of the lot so it limits us to using that for the access road. The Planning Director and Economic Development Director required that the front 500 feet of the property not be used for storage, but reserved for a higher use.

Chris Albert of Jones and Beach Engineering stated that the wetlands are agricultural fields that are mowed for hay. The buffers provide habitat for wildlife and protection from run-off. These wetlands provide limited value for wildlife.

Jon Ring: We have been to TRC already. We have been making plan revisions all through the process and just submitted some material today. We have added porous pavement on the downhill side of the road, but we can't catch the run-off. We will need an AOT permit. We are here tonight for the Transfer of Development Rights (TDR) request as it relates to wetland buffers. There will be no porous pavement on the main road. We have 5.16 acres for the sending area and will be preserving half of the wetlands on the lot. There are no direct wetland impacts, only buffers. 27% of the pavement will porous, which reduces the buffer impacts. Under the storage units south of the road will be stone storage areas to collect run-off.

Houle: How will you handle the drainage north of the easement?

Ring: The bioretention system will handle that drainage.

Gasses: Everything you are conserving can't be built on already. TDR bothers me. It looks like you are doing the most you can to protect wetlands.

Joyce determined that the emergent wetlands are located to the northeast of the site.

Albert: We will only hay once a year.

Houle confirmed that test pits have been done.



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Bird: TDR is the primary issue. The Planning Board wants feedback from the Conservation Commission on wetland buffer impacts. The Planning Board will likely do a site walk and you can go along with them.

Phillips: Also wanted to let you know that we plan to do solar arrays to off-set electricity costs.

Andrews: That is not really relevant to this issue.

Bird: The Conservation Commission should look at what can be done to reduce impacts to the wetland buffers. When compared to previous applications the size of the impact is larger.

Gasses: The only way to do that would be to lose some buildings. You are only protecting wetlands.

Bird: The equine center off Member's Way used TDR to reduce the wetland buffer and it was negotiated to allow the buffer to be 25 feet.

Houle: I would like them to evaluate removing buildings to reduce impacts.

Bird: It seems like a lot of the impacts are associated with the road to the storage unit and apartment unit building.

Houle: Why can't the building be moved towards Sixth Street a little?

Ring: Due to the 500 foot restriction required by the variance. We applied TDR to allow relief from lot size and frontage requirements.

Gasses: Do we feel the entire TDR being requested is sufficient for the impacts? They have mitigated the wetlands impacts.

Joyce: They could lose buildings.

Gasses made a motion to endorse the application as presented, Houle seconded. Vote: Unanimous

4. REPORT FROM THE CHAIR

A. Discussion on Easement Monitoring Visit for Washington Highlands/Morrison Lane

Hunt: We conducted an easement monitoring visit on June 2, 2014 and Gasses, Perron and Bird were in attendance.

Bird: I have drafted the easement monitoring report and wanted to know if there were any changes or questions. We will finalize the report and send it to the HOA along with a letter summarizing the issues.

Hunt: We are still waiting to receive the management plan that we asked for three years ago. Overall it appears that there has been some minor improvement in the manicured lawns extending into the open space and no expansions.

Joyce: Maybe we should put a clock on it for the submission of the management plan.

Gasses: We could ask the City Attorney to draft a more strongly worded letter to get the management plan.

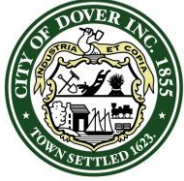
Hunt: A member of the public would like to address us on this issue and I will allow it.

Ron Herbert: The biggest problem is the purple loosestrife that is spreading. You went too early to see that. The plan prepared by West contained false information. They are mowing twice a year now.

Joyce: That is something the management plan should address.

Hebert: You need to enforce the deed restrictions. You have let this go on for too long.

Bird: I will discuss this with the City Attorney to see what the next steps should be and report back at the next meeting.



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- B. Request from Riverside and Pickering Marine Contractors for Appeal Waiver for application of Novelli at 145 Spur Road

Bird explained that the Conservation Commission voted to endorse the application at the April meeting and a letter was sent to DES. The application was approved by DES on May 28, 2014 and there is a 30-day appeal period for any aggrieved party. The applicant is requesting the City waive any right to appeal the permit, which will allow them to begin construction sooner, by about 2-3 weeks.

Gasses: As long as we are not impacting an abutter's right to appeal, I see no harm.

Houle made a motion to endorse the waiver request, Erickson seconded. Vote: Unanimous

5. OTHER BUSINESS

6. ADJOURNMENT

Perron motioned to adjourn at 8:55 PM. Andrews seconded. Vote: Unanimous