

NEW DURHAM PLANNING BOARD MINUTES
January 10, 2006

A video recording of this meeting is on file with Office of Town Clerk, is available for public viewing during normal business hours, and will be retained in accordance with the New Hampshire Municipal Records Board rules established under RSA 33-A:4, or for a minimum of 24 months.

Members Present: Chair Bob Craycraft arrived at 7:05 PM, David Lindberg, Michael Clarke and Alternate Cathy Orlowicz. Alternate Selectmen Representative Ron Gehl.

Members Not Present: Vice-Chair Don Voltz, Alternates Brain Chasse and George Gale had an excused absence. Selectmen Representative Dwight Jones and Alternate Christopher Lapierre had an unexcused absence.

Others Present: Gerry Mylorie of Strafford Regional Planning Commission.

Acting Chair David Lindberg called the meeting to order at 7:00 PM. The Board members introduced themselves to the public. Acting Chair David Lindberg appointed Alternate Cathy Orlowicz to sit for Chair Craycraft. Acting Chair Lindberg gave the chair to Chairman Craycraft at 7:11 PM. Chair Craycraft appoints Cathy Orlowicz to sit in for Vice-Chair Don Voltz.

1. A Continued Public Hearing on the New Durham Open Space Conservation Subdivision Ordinance.

The Board began reviewing the Open Space Conservation Subdivision Ordinance with comments and suggestion made by Town Counsel Walter Mitchell as follows:

Article IX.B, 13 – in the first line delete the first “the”. The board concurred with the suggested change.

Article IX.B 15 – fourth and fifth line need work- does the “when feasible” go with lightning or underground cables. **Changed:** locating electrical, telephone, and cable utilities underground when feasible; and ensuring lighting is not excessive to inhibit the rural “bright stars/dark sky” nightscape.

IX.C-1 I trust that the board realizes that the “encouragement” language is just that – you may encourage, but not require. No action was taken at this time.

IX.C-2 - the last two lines, starting with “said modifications” seem completely unnecessary. Board members concurred with the suggested change.

IX.C.3- same comment re: “strongly encourage”. No action was taken at this time.

IX.C.4 – second line – insert “also” between “shall” and “apply”. **Changed** – This Open Space Conservation Subdivision Section shall also apply to the phased subdivision of a parcel over a period of time through separate successive applications.

IX.D.3- Question if the language means the same thing as stated in 2 and 4a. **Changed-** Delete D.3 and renumbered.

IX.D.5- Chart the wording for Building Density is accurately suggesting that the present ordinance calculates min. lot sizes bases on soil types. Member agreed to use 100,000 in formula change.

Chair Craycraft questioned if Vice-Chair Don Voltz supplied his flow chart (methodology) for this section. Cathy Orlowicz notes the Board had approved Vice-Chair Voltz’s methodology for this section and has a hard time interpreting Gerry Mylroie formula. Gerry Mylroie notes he was not aware or supplied a copy of what the Board approved and would incorporate Don Voltz’s chart.

IX.D. 12 (a) questioned if 50% of the buildable area must go into the open space restricted by a covenant, and yet in 5 we are giving the developer a 25% credit for unbuildable land. Changed- insert after “buildable area” “; and a portion of non build able,” (b) delete designated open space, replace with the buildable area.

IX.D.12 (b).2 add “plus subsurface system” at end of last sentence. (D) Changed- insert “other”. Members concurred with these suggested changes.

Remove note “Still needs revision, according to the note”.

IX.D. 12. Renumbered - **IX.D. 11 Renamed:** Open Space Types, Area, Location and Design.

Modified: Designated Open Space. At least fifty percent (50%) of an Open Space Conservation Subdivision’s buildable area and a portion of the non-buildable area of the parent lot shall be permanently Designated Open Space by covenant recorded at the Registry of Deeds and shown on the recorded subdivision plan.

IX.D. 14 Delete- In the Exception.

IX.E.1 Setback Distance. Changed: ~~Front distance, rear and side yard setbacks may be reduced to (50%) of the requirements in the zoning district when the required setbacks from lot lines and from street right-of-ways within the Open Space Conservation Subdivision may be reduced.~~ No structure shall be located within 15 feet of any lot line or within 20 feet of any road frontage property line within the Open Space Conservation Subdivision.

~~IX.E.2 Changed: Landscaped Buffer A 100-foot landscaped buffers strip shall be provided along the perimeter of the parent lot except where access streets into the subdivision are located, where adjacent land is part of an Open Space area or Conservation easement, or where groups of residential dwelling units on adjacent lots etc.~~

IX.E 2. (Modified) Buffer. A minimum 100 feet wide naturally vegetated and/or landscaped buffer area shall be provided along the perimeter of the parent lot except where:

- a. Access streets into the subdivision are located,
- b. Adjacent land is part of an Designated Open Space area or conservation easement, or
- c. Residential dwelling units in the Open Space area or conservation Subdivision are grouped with residential dwelling units in an adjacent parcel's subdivision.

The buffers are shall be owned in fee and managed by an association of the owners of the lots within the subdivision (homeowners' association)

IX.F 1 Modified: Management Area Boundaries. The Boundaries of designated Open Space areas (~~including, but not limited to Conservation area and other Use Areas~~) recreations areas, stormwater management activities and naturally vegetated areas shall be clearly delineated on plans including plats and marked in the field with signage approved by the Planning Board to distinguish these areas from private property.

IX.F Open Space Management. The following sections were modified to reflect Walter Mitchell comments as follows:

F. OPEN SPACE MANAGEMENT.

1. **Management Area Boundaries.** The boundaries of Designated Open Space areas, (including, but not limited to Conservation Areas and Other Use Areas), and recreation areas, stormwater management activities and naturally vegetated areas shall be clearly delineated on plans including plats and marked in the field with signage approved by the Planning Board to distinguish these areas from private property.
2. **Development Prohibited.** Development in and/or subdivision of Designated Open Spaces in the future are prohibited and shall be so noted on the approved recorded subdivision plan/plat.
3. **Management Authority.** Prior to the sale of any lots, the Designated Open Space shall be protected and controlled by one or more of the following methods subject to Planning Board approval:
 - a. Ownership by an association of the owners of the dwelling units within the subdivision (i.e. homeowners' association) with open space protection deed restrictions;
 - b. Ownership by an association of the owners of the dwelling units within the subdivision (i.e. homeowners' association) with a conservation easement granted to the Town or recognized conservation or land trust organization;
 - c. Dedication to the municipality as public Open Space; and/or
 - d. Transfer, with permanent restrictions, to a land trust or other recognized conservation organization.

A management plan for the Designated Open Space and facilities shall be required and approved by the Planning Board. Any amendments thereto shall be reviewed by Town Counsel, the Conservation Commission and approved by the Planning Board.

4. Conservation Easement / Deed Restriction:

- a. A conservation easement or deed restriction, established as defined in subsection b below may be transferred to the Town of New Durham or an established and designated land trust organization among whose purposes is to conserve Open Space and/or natural resources.
- b. The conservation easement or deed restriction shall:
 - (1) Protect Open Space from future development, subdivision, and environmental damage by restricting the Open Space area from any future building or subdivision; and the removal of soil, trees, and other natural features except as is consistent with conservation, recreation or agricultural or forestry uses or uses accessory to permitted uses;
 - (2) State whether Open Space is for the benefit of subdivision residents only or may be open to residents of the municipality.

5. **Management Entity Responsibilities.** An Open Space management entity shall assure the Designated Open Space will be protected in perpetuity from all forms of development or subdivision except as shown on the approved Subdivision Plan and that it will never be changed to another use. The management entity shall:
 - a. Provide detailed standards and schedules for maintenance of the Designated Open Space including vegetative management, and
 - b. Allow for municipal maintenance of Designated Open Space in the event that maintenance specified under the management entity's agreement is not completed.

G. Application and Review Process:

1. The application and review process for an Open Space Conservation Subdivision be per the Town of New Durham Subdivision Regulations except as provided herein, but including that per RSA II 674: 4 II a pre-application for subdivision plan review is required prior to formal application submittal.

The reminder of Walter Mitchell comments (Application and Review Process) and suggestions will be incorporated in the Subdivision and Site Plan review regulations and deleted from the ordinance. Cathy Orłowicz questioned why this section was included since this was never seen or approved by the Board. Chair Craycraft notes this was included after the fact and the matter was briefly discussed by the Board.

The Board went back to the formula (pg 4) and agreed that a copy of Vice-Chair Don Voltz's methodology to be inserted into this section. Gerry Mylroie questioned if any of the Board members had reviewed his formula. Chair Craycraft notes he has no issue if both formulas were included for consideration for formal adoption.

After final review of the ordinance Selectmen Rep., Ron Gehl notes several minor grammar errors on Page 1, Page 6 Section 12 include "septic systems and leach fields". Ron Gehl asked the Board to reconsider the use of "required versus encouraged" and suggested the following language change as "may be required". Ron Gehl note at some point a Subdivision may come before the Board that screams the use of such an ordinance, and this change will give the Board more authority to determine the more feasible approach for an application.

Michael Clarke and Cathy Orłowicz noted their displeasure with the suggested language change because it had been already voted on twice by the Board.

Motion made by Michael Clarke to change the language as followed “may be required” on Page 3 Section 3. Seconded by Ron Gehl. Vote: 3 Yes (Gehl, Craycraft, Lindberg) 2 No (Clarke, Orlowicz). The Motion carried.

Motion made by David Lindberg to hold the Final Public Hearing on the Open Space Conservation Subdivision Ordinance on January 24, 2006 at 6:30 PM. Seconded by Michael Clarke. Vote: Unanimously approved.

2. Adjournment:

Motion made by Michael Clarke to adjourn at 10:15 PM. Seconded by David Lindberg. Vote: Unanimously approved.

Respectfully submitted by,
Kathleen Merrill
PB Clerk

Approved: February 21, 2006

Approved

Approved