

**DOVER PLANNING BOARD
MINUTES OF MEETING
FEBRUARY 28, 2006**

MEMBERS PRESENT: Ron Cole, Donald Andolina, Anthony McManus, Perry Plummer, Dean Trefethen, Doug Steele, Marcia Colbath Ron Stock

MEMBERS ABSENT: Bryan Cahoon, Kirt Schoman, Frank Torr, John Swartzendruber

STAFF PRESENT: Steven Stancel, Planning Director; Chris Parker, City Planner and Jacqueline Freeman, Recording Secretary.

Chairman Cole asked Ron Stock to take Frank Torr's seat on the Board.

ITEM #1: Citizens' Forum.

No one spoke.

ITEM #2: Approval of minutes

The approval of the minutes of February 14th meeting was put off until the next meeting of March 14, 2006.

ITEM #3: Consideration and acceptance of a site plan of land for George J. Foster & Co., Inc., Assessor's Map D, Lot 9A, zoned I-4, located on Venture Dr.*(P06-06)

Bob Stowell represented the applicant and stated that they are adding 57 parking spaces in the northwest corner of the existing parking lot. They spoke with Engineering and their concerns have been addressed. He said that there are some additional improvements that need to be done relative to drainage to make the plan complete. He said that the existing lighting is adequate.

Tony McManus made the motion to accept.

Donald Andolina seconded.

VOTE U/A

The public hearing was opened.

There were no comments.

The public hearing was closed.

Donald Andolina made the motion to approve with the following conditions:

1. Add the owners' signatures to the plan.
2. Add the engineer's seal and signature to the plat.

3. the applicant shall obtain approval of the parking lot expansion from the Dover Business and Industrial Development Authority.

Perry Plummer seconded.

VOTE U/A

ITEM #4: Consideration and acceptance of a site plan of land for Tri-County Realty, Inc., Assessor's map 2, Lots 19, 20, 21, zoned B-2, located on Central Ave./Williams St./Henry Law Ave.*(P06-07)

This item has been withdrawn at the request of the applicant.

ITEM #5: Consideration and acceptance of a minor subdivision and site plan of land for Krishna Realty Group, Inc., (Owner Prime Circle, LLC) Assessor's Map D, Lot 2A-1 (proposed), zoned B-3, located on Webb Place.*(P06-09)

Bob Stowell explained that the property is located along Indian Brook Drive between the Blockbuster Video building and the State barns. They are subdividing off slightly under 1 acre on the most westerly portion of the site to make a separate lot to situate the proposed 59 room hotel. They met with TRC on February 16th and most of the comments have been addressed except the issue of the connection with a sidewalk to Central Avenue. There is a section of sidewalk that leads from this site to the further end of Webb Place down to the office building and apartments that were constructed there a few years ago. It would be helpful to have a sidewalk from this site to Central Avenue to connect the hotel to the restaurants and retail in the area. They are still trying to figure out the logistics of how to make that happen. Still up in the air is a drive-thru associated with Bickfords which was not utilized but it is currently being removed to house Starbucks. There is concern with the location of curb cuts and queuing for the Starbucks. Starbucks queuing is not related to the hotel project but it is related to the overall area. Those are the issues that need to be addressed.

Bob Stowell stated that there are 60 spaces designated for the hotel. There are 59 rooms and the requirement is 1 space per room. There are 91 spaces for the Blockbuster building and they maintain 93 parking spaces on that site. They are slightly in excess on both lots.

Marcia Colbath stated that this project is in the Secondary Groundwater Protection area and has not come before the Conservation Commission yet.

Bob Stowell answered that based on the maps in the Planning Department, it is not in the Groundwater Protection District. They are close but it comes to the southerly side of Webb Place and they are located on the Northerly side. They have worked closely with Dean Peschel on their drainage infrastructure.

Marcia Colbath stated that this site had been under review a few years ago and went before the Conservation Commission at that time.

Bob Stowell stated that he was not involved in that project but his recollection of that period was that the maps were in the process of being revised and the current maps show that they are not in the zone but they have no objections to coming before the Conservation Commission. They have followed the guidelines for Groundwater Protection and they have gotten input from Dean Peschel.

Malcolm McNeill stated that he also represents the applicant and he was involved with the previous hotel. There was an uncertainty with regard to the status of the district which has permeated many of the development discussions that have occurred in the Weeks Crossing area. He said they are not in the zone, simply stated. Their purpose is to have what they presume is a completed plan accepted. He is not excluding having a discussion with the Conservation Commission but in terms of their assumed jurisdiction over the site they are not in the zone.

Tony McManus asked if there had been some monitoring of the well area to see if there had been any impact since the new office and apartment buildings have gone in.

Doug Steele stated that he would have to get back to the Board on that. He added as of late, they have increased testing with regard to the Smith and Cummings Wells.

Tony McManus asked if the Planning Department had given any thought about having a traffic study done. With relation to the Starbucks next door it will require people to come in off of Central Ave. and Webb Drive. He has some real concerns about approving one or both depending on what the traffic impact is going to be.

Steve Stancel explained that the Board will not receive the site plan for Starbucks because it is an existing restaurant use that is going into another restaurant use and only a building permit is necessary. He said that there has been a drive-through previously with Boston Market. Drive-throughs are allowed in a B-3 zone. With regard to a traffic study analysis for the hotel, it was determined that, given the 59 rooms and the fact that it was a hotel, a traffic analysis was not required. Generally speaking, the traffic that is generated by a hotel does not come during peak hours so it is usually not a big issue with regard to the vehicle trips during the peak period. They have requested that the developer look at a safety concern that exists at Webb Place and Central Ave. When the lights go green, to come out of Webb Place, the intersection is so wide that frequently people will want to go straight through that intersection and there are accidents caused by cars that take a left going south onto Central Avenue. The developer will look at different signal options that could occur there to alleviate that traffic safety.

Ron Stock was concerned with an oak tree that was marked for removal on the north side of the site. He asked if it had to be removed if it is a healthy tree. He noticed on the east and west side there was no shrubbery.

Bob Stowell answered that their landscape architect did a site inspection prior to making that recommendation. He couldn't say exactly what she found but that was her

recommendation. He said that he is not sure what the rationale behind the shrubbery is but he can find out.

Dean Trefethen asked how the public would be directed to find this hotel.

Bob Stowell said the site has the most visibility of any of the properties at Weeks Crossing but has not been able to attract major tenants there because of the difficulty to get to this site. He anticipates that they would have signage off Indian Brook Drive, either on the building or a pylon sign to identify the hotel with directions underneath. There is an existing directional sign at the end of Webb Place naming the businesses.

Malcolm McNeill stated if you think of the hotel on the other side of the street, it suffers from the same problem because it is on the corner and you have to go around to get to it. They received a sign variance that created a sign at the site on the building and the variance request was to put a notation of the hotel on an adjoining piece of property. Perhaps that would be considered for this project as well.

Dean Trefethen made the motion to accept the application.

Dough Steele seconded.

VOTE U/A

The public hearing was opened.

There were no comments.

The public hearing was recessed.

Steve Stancel stated that an issue is the provision of a sidewalk from this site out to Central Ave. Previous projects were made to run a sidewalk from this site all the way to the apartment complexes. People are utilizing that sidewalk to get to Week's Crossing. With the hotel being located on that site, without a restaurant, other than a coffee shop on the site, they anticipate that people spending the night will want to partake in the restaurants at Week's Crossing. It will be important to get them to the pedestrian facility at the Crossing. The other concern deals with the drive up issue with Starbucks and the fact that the applicant is showing an 8 car queuing capacity. They are not completely convinced that 8 cars is enough. They asked the applicant to have a traffic engineer look at the existing intersection of Webb Place and Central Ave. with regard to what could be done to increase the safety of that intersection.

Ron Cole asked if there was data on how many cars queue up at the Dunkin' Donut down the street.

Steve Stancel stated that there is a problem with the Dunkin' Donut and they did receive a report from the applicant who looked at historical data of other Starbucks in MA and, for the most part, their data indicated that 8 car queuing would work. Their concern is that it takes longer to get through a Starbucks than a Dunkin' Donut. If you go beyond 8 cars you begin to block the entrance lane.

Tony McManus stated that he would like to have the information on the well monitoring distributed to the Board because that is one of his concerns.

Steve Stancel stated when the apartment and office complex came through, they were made to design their drainage system to include this particular future project. The drainage was designed previously as part of a master plan for the area.

Ron Cole brought up the potential water pressure problem.

Steve Stancel stated that not long ago there were new 12" water mains brought up to this area. Those particular water mains provide an adequate amount of water to the area. The pressure is directly related to the elevation of this area in comparison to Garrison Hill and the water tower. There are some water pressure issues which may require the hotel to put a pump system in for sprinkler heads. Other than that, it will not have an affect on other sites further north from this site.

Marcia Colbath asked if the pumps were installed just for the sprinkler system and not for the everyday use. She asked how many gallons of water a tipical hotel uses.

Doug Steele stated that it would be for both and the hotel needs an increase of water pressure for the higher floors. He stated that he believes that there is a calculation per person but doesn't have that figure off the top of his head.

Bob Stowell stated that 70 gallons per person is typical for residential but he is not sure what it would be for a hotel. He will research it and come up with a number.

Steve Stancel stated that the department has been researching the water pressure issue in the Northend because it has been in the limelight lately. He said that in the Weeks Crossing area, as well as the Sixth Street area, there is plenty of water capacity. The reason there is plenty of capacity is because you have 12" water mains and they are fairly new. The problem with projects off of New Rochester Rd. or Old Rochester Road is that area is at a higher elevation than Weeks Crossing in terms of pressure. The bigger problem is there is a 6" water main that runs up Old Rochester Rd. which is very old. Not only is there a pressure issue beyond Sullivan Drive but there is a water capacity issue which is causing some of the consternation in that area. That problem doesn't occur at Weeks Crossing because of the 12" mains that services the Crossing area.

Doug Steele stated that they currently have a Request for Proposal (RFP) out for the design of a new water main down Old Rochester Rd., which would then go down Long Hill Rd. and loop behind Foster's. Part of that RFP is for the selected firm to look at the water pressure situation in the Northend. That issue will be addressed, studied and a recommendation will be made at the completion of the report.

Perry Plummer asked if this hotel would have an effect on the pressure in that area.

Doug Steele stated the mains in this portion of the City are sized adequately to provide the needed flows. The pressure is not going to change with increased development in the Northend until we look at the pressure issue separately. That will have to be corrected with either a booster station or an additional water tower. They are two different issues.

Tony McManus made the motion to table this item.

Dean Trefethen seconded.

VOTE U/A

Chairman Cole called a 5 minute recess at 7:40 PM.

Ron Cole left the meeting and Tony McManus took over the chair.

Tony McManus brought the meeting back to order at 7:45.

ITEM #6: Consideration and acceptance of a minor subdivision of land for McEneaney Survey Associates, (Owners Kenneth & Barbara Godin Assessor's Map A, Lot 36-10, zoned R-40, located on Parsons Lane.*(P06-11)

Dean Trefethen stated that he had a conflict of interest with this case and recused himself.

Kevin McEneaney stated that he is the applicant this evening. This parcel is about 10 ½ acres in size and they are wishing to subdivide this into two lots. One lot is 2.4 acres with their existing house and the other vacant lot is slightly over 8 acres. They will be utilizing the driveway that goes out to a cell tower for the vacant parcel. The utilities will also be underground and will go through that access and utility easement. The frontage is on Parsons Lane but there will be no access or utilities, it is strictly to meet the frontage requirement. This plan has gone to the Conservation Commission because the new easement required some revisions to an existing Conservation Easement that is on the Vermette property. He said that during the discussion with the Conservation Commission, Mr. & Mrs. Godin agreed to put an additional conservation easement on 2.7 acres of their property which abuts the Spaulding Turnpike.

Tony McManus said that he thought the conservation easement meant that there would be no further development of that land. How do you get a driveway across that if development is prohibited?

Kevin McEneaney said that is the reason that they went to the Conservation Commission to clarify that. Mr. Vermette, who owns two pieces side by side, was going to add a larger chunk of 20 acres to his existing house while keeping the remaining land, which is a vacant piece with the building site that was approved previously. It didn't change the easement at all with the exception of where the building area was going to be. That was cleared with the Conservation Commission. The original easement documents allowed for access points but it wasn't really tied down as to where they would be so they have

tightened up the language in the new document that is going to be recorded with the new conservation easement.

Tony McManus asked if the easement is being drafted to say that there will not be any more driveways out across the easement.

Kevin McEaney said it hasn't been finalized but could be made a condition of approval.

Marcia Colbath said that this has been before the Conservation Commission a couple of times and each time the easement has actually improved. She said that the land that Mr. Vermette put into conservation has been improved and they felt that this was a very good trade-off.

Doug Steele made the motion to accept the application.

Marcia Colbath seconded.

VOTE U/A

The public hearing was opened.

There were no comments.

The public hearing was closed.

Donald Andolina made the motion to approve with the following conditions:

1. Add all of the owners' signatures to the plat.
2. Provide the Planning Department with a digital version of the plat.
3. The applicant shall provide the Planning Department with a copy of the NH Department of environmental Services Subdivision Permit and add the permit number to the plat.
4. The applicant shall provide the Planning Department with the proposed access and utility easement with the owner of map A, Lot 36 for review prior to signing the plat.
5. The applicant shall provide the Planning Department with a conservation easement for the 3.71 acres easement area and an amendment to the existing Vermette conservation easement, which will be recorded directly after the plat is recorded.

Perry Plummer seconded.

VOTE U/A

Dean Trefethen resumed his seat.

ITEM 7: Old Business

a. Discussion and possible voter on a minor lot line adjustment of land for Brian Stern, located on Tolend Road. (P05-70)

Dean Trefethen made the motion to take this item off the table.

Doug Steele seconded.

VOTE U/A

The public hearing was opened.
There were no comments.
The public hearing was closed.

Dean Trefethen made the motion to approve the lot line adjustment with the following staff recommended conditions:

1. Add all of the owners' signatures to the plat.
2. Provide the Planning Department with a digital version of the plat.

Donald Andolina seconded.

VOTE U/A

b. Discussion and possible vote on an OSS subdivision for Brian Stern, located on Tolend Road (3 lots)(P05-71)

Dean Trefethen made the motion to remove that from the table.

Donald Andolina seconded.

VOTE U/A

The public hearing was opened.
There were no comments.
The public hearing was closed.

Steve Stancel gave the recommended conditions of approval and said at the site walk it was agreed that vegetation would occur between a very specific rock that is located on the property and then continue down to the red barn. He said that there does have to be some vegetation continuing from the back of the barn as well.

Doug Steele made the motion to approve the OSS and waiver with the following Planning staff recommended conditions:

1. Add all of the owners' signatures to the plat.
2. Provide the Planning Department with a digital version of the plat.
3. The applicant shall provide a copy of the proposed homeowner's association documents to the Planning Department for review and approval prior to the signing of the plat. Said documents shall address open space preservation, maintenance of the common driveway and water line, and the limits on clearing of vegetation within the 50-foot external buffer.
4. Provide the Planning Department with a copy of the NH Department of Environmental Services Subdivision Permit and add the permit number to the plat.
5. Approval includes the granting of the waiver to allow the existing house to remain.
6. Revise the plat to add an approved road name.
7. Revise the plat to show vegetation to be placed between the common driveway area and the Jacoby lot, to be agreed upon by the applicant, the Planning Department, and the owner of Map E, Lot 46.

8. The applicant shall agree to discuss granting a utility easement to the City during the negotiations for a potential conservation easement on Map E, Lot 47.

Marcia Colbath seconded.

VOTE U/A

c. Discussion and possible vote on a site plan and conditional use for Raymond Martineau, Jr., (Phase I) Assessor's Map I, Lot 56, located on 47 Back river Rd. (48-unit independent living congregate care (P05-48))

Dean Trefethen made the motion to take this item off the table.

Donald Andolina seconded.

Marcia Colbath recused herself because her sister in-law lives across the street and her husband does business with Mr. Martineau.

VOTE U/A

Atty. Chris Wyskiel, representing Mr. Martineau, said that the way that this site can be condominiumized can be approached from different ways. Tonight they are acting on a site review which means that if the owner of this land can build on his property and develop it as is, then it is approvable. The condominium form of ownership is just a different form of ownership. The Martineaus own the 31 1/3 acre site and all of it will be submitted to the condominium form of ownership. It will be taxed as one lot. The units will be separately taxed to those owners as required by the condominium statutes and State law. All of this site and the land is owned as common land so that any owner of the unit becomes a tenant in common and joint owner to the whole parcel of land. The purchasers of the big building that has already been approved and the 48 detached units will become separately owned and deeded to unit owners. The community building structure will be designated as limited common area. As limited common area it is designated for the use of the 48 units. There are two other concepts of limited common area that will be created. The concept of limited common area is distinguished from common area only in terms of who gets to use it. Limited common area is a part of common area in the condominium statute. That which is limited common areas are part of the common area, which is understood in terms of who owns it. All of this land is jointly owned by the owners of all 49 units. That which is limited common area can only be used by the owners of the units to which the limited common area is declared to benefit. The big building has an area designated as limited area that follows the perimeter of the paving to the parking areas and accessways that is designated for use only to Unit 1. The roadways, sidewalks and entryways to the other 48 detached units and the community building, to provide the services to make this a congregate care facility, is limited as common area exclusively for the uses of units 2 through 49. Therefore, there is a basis for people who own in 2 through 49 not to park in the area for Unit 1 and vice versa.

Atty. Wyskiel stated that the condominium declaration that has been created in draft form is not absolutely a final document. With the recording of the declaration, all units will be declared so there is no concept of convertible land – nothing in the future to be amended

to the condominium document – it's a one time filing and everything gets done at once. As the units are built to comply with the statute, an amended condominium site plan will have to be filed to show that the structures as they are built do conform to the footprints of this type of plan.

Atty. Wyskiel said two variances were granted in terms of the definition of the congregate care facility. The services are quite similar to the large building on site only the 48 units are detached. The market will drive the attraction to buy these units to a younger retirement age and that is where the services being provided differ in their required degree. The difference is in the food service. The Unit I building does not include kitchens, they have a commercial kitchen and meal are provided in a dining facility. The 48 units will contain kitchen facilities. The common building is designed with a commercial kitchen with dining services, a community room, office space, exercise space, refrigeration, food storage, deck dining, dining room facility, and storage of extra tables. Chris Wyskiel referred to Article 8, in his document where the declarant seeks to confirm in a contract with the operators of the Bellamy Fields Geriatric which will be the initial outsourced food provider for the dining services for the detached units. The declarant recognizes his responsibility to initially get the food service up and running and to subsidize it until there is a critical number that becomes economical to be sustained. There has been a concern that the condominium board could vote out the food service in the future so that it no longer meets the definition of a congregate care facility. He has included in his documents a summary of how the use is authorized under Dover Law. Both prior variances that are granted are clarified by case number and in section 8.4 he quotes the definition of Congregate Care Facility and explains how it would be very clear to any purchaser that they cannot vote to do away with this and may not under any circumstances be discontinued by the declarant, the board of directors, the homeowners association or by the vote of the unit owners and/or other mortgage owners without an appropriately authorized consent of the City of Dover. This is the warning given to all the owners.

Chris Wyskiel explained that there will be meals every day at the community building. The dining service provider shall require all new owners to pay a fixed fee as part of their condominium fee to assure the sustainability of providing food service, which at a minimum will provide 20 meals per month for each full-time unit resident. Tom Clark, Building Inspector, felt that language met the definition of a congregate care facility. The Planning staff's recommendation suggested that the required fixed fee shall be paid whether the dining services are used or not. It is a use it or lose it concept. At the recommendation of Planning staff, provisions may be made to roll over meals or reduce the fixed numbers for residents who live away for extended periods of time. Chris Wyskiel said that needs more tweeking. If you escape to Florida for Jan., Feb. or March and give notice to the provider then maybe you can bank some meals for future use. The last provision provides the express assurance that the 20 meal minimum was something that was economically determined to assure sustainability of the service but that doesn't preclude anyone from buying more meals.

Chris Wyskiel said he spoke with Steve Bird with regard to the applicant participating in the transportation system that the City is trying to propose to be used with the hospital and other facilities. If you buy a unit you will have a contract that assures that you are going to pay \$200.00 a month and will be guaranteed a minimum of 20 meals and if you want to pay for more you can. He said that it is a pre-cursor of the contract. Some people may have second homes and may travel and may want to dine at home. It is reasonable to think that they are not going to eat all their 90 meals a month in the community center.

Donald Andolina said the relationship between the owners of Unit 1 to the remaining units should be clarified in terms of voting and control of the condominium association.

Chris Wyskiel handed out a table that would be an attachment to the declaration and is the allocation, by size, of the percentage of common interest that each of the 49 unit owners would have and he went on to explain it.

Doug Steele asked how the board of directors would be set up.

Chris Wyskiel said it would be like any other condominium. The declaration proposed would require that a representative from Unit 1 be on the board. Chris explained that it would be a violation of the condominium declaration to vote to do away with the food service, therefore, it wouldn't meet the definition in which this zoning use is allowed so the city gets to enforce it. The City would enforce this by pulling the CO's.

Bob Stowell went over the list of outstanding issues and addressed them. He said they are waiting for some of the State permits. They have submitted a name for the drive as Holiday Drive. The revised plans address the wetland mitigation documentation, a landscape plan that addresses how they are going to stabilize the construction in the steep slopes and the stormwater maintenance plan for the detention ponds. He said that TFMoran did a corridor study along Rt. 108 and the intersection with Back River Road. Based on that, they agreed on a pro-rata contribution for that in the amount of \$12,000.

Dean Trefethen asked about stabilizing the slopes and then asked about the garages and the amount of parking spaces.

Bob Stowell stated that it would be found on page L-5 of the plans. He explained that all the units are proposed with garages. On the southern edge of the plan the units are proposed with two-car garages for the larger units the others are one car garages.

Discussion ensued with regard to the parking spaces and he stated that behind units 35 – 40 there are 10 spaces proposed for overflow parking. He explained that there are sidewalks and the project is supposed to be walker friendly.

Steve Stancel asked the applicant if he would be adverse to placing a conservation easement on the balance of the property for passive recreation.

Chris Wyskiel said that there are some wetlands back there but he did not feel that the owner would object to that.

The public hearing was opened.

There were no comments.

The public hearing was closed.

Steve Stancel stated that the two larger issues that were outstanding were if this project could be developed as a condominium and the second issue was in terms of the definition of Congregate Care and if this project meets the common dining facilities portion of that. They looked at a congregate care in Sugar Hill, in Wolfboro, and it is run similar to what is being proposed. At Sugar Hill there is a dining fee of \$217.00 per month and that is for 15 meals with single occupancy and then they add an additional \$145.00 for 10 meals for an additional resident of each unit. This proposal would require 20 meals for each person in the unit. He stated that there are people that may go to Florida for 4 or 5 months out of the year. They would be still paying that fee but it would allow them to bank the meals so instead of taking 15 or 20 meals in the months that they come back, they would take 40 or 50 meals for example. With that being the case, they feel comfortable that this project meets with the definition of a Congregate Care Facility. They worked very closely with Alan Krans and he drafted an opinion which indicates that he is confident that this can be developed as a condominium project. The Board may want to see the final condo documents and the final food preparation documents but normally, the Board leaves that up to staff and barring waiting for that, he is recommending approval with very specific recommendations.

Donald Andolina made the motion to approve and to allow the Planning staff to review the applicant's submission and fulfill all other requirement with the staff recommended conditions of approval as follows:

1. Add the owners' signature to the plan.
2. Add the surveyor and engineer signatures and stamps to the appropriate plan sheets.
3. The stormwater management and maintenance plan shall be reviewed and approved by the Planning Department and Dean Peschel of the Community Services Department prior to signing the plan.
4. The applicant shall provide the Planning Department with a copy of the DES Site Specific Permit and add the permit number to the plan.
5. Provide the Planning Department with a copy of the NH Department of Environmental Services Wetlands Permit and add the permit number to the plan.
6. The applicant shall prepare a lighting analysis for the parking areas and submit the plan to the Planning Department for review and approval.
7. The applicant shall prepare condominium documents for review and approval by the Planning Department, prior to signing the plan. The documents shall address the creation of the overall condominium association, the 62 and over age restrictions, the maintenance responsibilities for the utilities, roadway, and drainage facilities, and the provision of food service for the residents of the retirement cottages. The document shall be reviewed and approved by the City Attorney.

8. Revise the plan to specify that two is the maximum number of bedrooms per unit in the retirement cottages.
9. This approval includes the granting of a Conditional Use Permit provided that the applicant prepares a wetland restoration documentation report for the wetlands disturbed by the utility line installation. Said report shall be submitted to the Planning Department for approval prior to the issuance of the first certificate of occupancy.
10. The applicant shall make a contribution for off-site improvements to the Northern Study Area (per the Route 108 Corridor Analysis, prepared by TF Moran, dated 11/17/05), in the amount of \$12,000.00. Said contribution shall be made prior to the issuance of a building permit.
11. The applicant shall submit an executed sight distance easement from the abutting property owner.
12. The applicant shall submit an executed contract for the provision of food service as specified in the condominium documents prior to the signing of the site plan.
13. Provision of a Conservation Easement on the balance of the property subject to reasonable passive recreational uses.

Perry Plummer seconded.

Dean Trefethen thought that the Board should get tougher with developers on Conditional Use Permits that are being approved. He will vote for approval but felt that we should be tougher on adhering to our initial requirements up front.

VOTE 4 – 1

Against – Tony McManus

Tony McManus stated that he still thinks that this is a subdivision. He felt that our ordinance definition of a subdivision, which is dividing one lot into two or more lots with the purposes of condominium development, which is what this is. He has a problem with the fact that there is insufficient frontage on the lot. He has a problem that there isn't a Conditional Use Permit for the 20% slopes. He felt that there is a problem with the site distance because of the speed on that road. The traffic going into the intersection of Rt. 108 is still a problem. He has a problem with the congregate care. He felt that the limited condominium statute is saying that "this is my lot and you stay off my lot." He thought that was a very clear delineation that we are dealing with two separate parcels. He questioned the % of ownership because it seemed the other parcel owners would be able to control the whole condominium and including voting to do away with the condo association. With regard to the food service we are creating a commercial use in the Bellamy Woods facility, a zoning district that doesn't allow a commercial use. It is setting up a catering service or meals on wheels and those uses are prohibited by the ordinance. He said that he would be very surprised if people would sign up for 20 meals. He said that he's voting no but the vote is 4 – 1 and it passes.

Marcia Colbath resumed her seat on the Board.

ITEM #8: New Business

Steve Stancel stated that the public hearing was held by the City Council for the Overlay District last Wednesday. Chris Parker has put together a list of the issues that were brought up by the City Council that evening. He asked if the Board wanted to schedule a workshop next Tuesday night and discuss which ones, if any, the Board wants to change or look into further.

Chris Parker handed out a memo dated 2/28/06 with the suggested changes that the City Council would like to see made to the ordinance. He read each of the suggested changes. Chris Parker said if this goes forward it would be helpful to have the site review regulations go hand in hand approved by the Board so it can be presented as a part of the package that the Council gets. He thought that this could move forward to a workshop and the Council could be invited so this could be worked out together.

Dean Trefethen stated that the Council concerns were covered very well. He thought that the discussion on the ordinance itself and the intent of the ordinance got clouded because one of the developers handed out very specific plans and everyone started concentrating on those plans and lost sight of what the ordinance was doing. You either agree with the concept or you don't agree with the concept but there are details to the concept that may need to be tightened up. The subject turned to things like should there be a turning lane or should there be traffic lights. Those are the things that the Board takes care of on a normal basis for projects of any size. We do require developers to build turn lanes or add signals, or contribute to signals, etc. There was some blurring of the two issues going on and that contributed to the resistance. He said that he felt that some good points were brought up and a couple of them were reinforcing issues that we had already talked about, particularly the phasing issue and maybe we need to do something about that. There was no outright opposition to the ordinance and he felt that the Councilors were in support of the ordinance in general.

Marcia Colbath said that she is aware of a parcel on Route 9, which will fall under these parameters and it concerned her that it is in the middle of the industrial park. There is precious little industrial land. Personally, she would not want to see any kind of residential development in the City's oldest industrial park. She said that we need that type of area and we are seeing growth in that area that is providing taxes. She said that she is all for agriculture which is fine but residential in that area should be excluded.

Chris Parker stated that there are about 90 acres to this parcel. He clarified that our industrial zones do allow agriculture. To avoid a spot zoning situation, they took a look at all of the parcels. He said that this parcel on Route 9 has not been looked at as far as he knows. He said by including it in the overlay doesn't automatically say that it's going to be developed.

Marcia Colbath said that it does concern her that it is included. She said that industrial park has been there for 50 years and it is seeing growth which is a positive tax flow for this community.

Tony McManus stated that the Council has raised some issues, and we owe it to them to have a workshop to have a look at the ordinance.

Steve Stancel stated because if any changes we make are considered substantial then we have to hold another public hearing. Because of the 15 day notice, the meeting would have to be a special regular meeting if even for an hour. If the Board wanted to do that in anticipation of any changes, it could be voted on that evening for posting for public hearing on the 28th, otherwise, we are looking at April for sending it back to the Council. Maybe it would be May before they end up voting on it again. If we hold a special meeting next Tuesday, you can chose to vote to post changes if there are any made. He said that he felt that it's critical that we try to move it forward so that the Council is voting on this at least by the end of April or early May because there may be contract out there.

Chris Parker stated that this has been about 2 years in the making.

Tony McManus announced that there would be a special meeting at 7:00 on March 7, 2006.

ITEM #8: New Business

Dean Trefethen said that he was contacted by a couple of people who live in the Old Garrison Road area and have been wondering when we are going to put together a follow-up committee to deal with Old Garrison Rd. He added that he would be willing to chair that committee if that is what it takes to get this going.

ITEM #10: Adjournment

Dean Trefethen made the motion to adjourn.
Donald Andolina seconded.

VOTE U/A