

**DOVER PLANNING BOARD
MINUTES OF MEETING
APRIL 11, 2006**

MEMBERS PRESENT: Ron Cole, Anthony McManus, Perry Plummer, Dean Trefethen, Doug Steele, Marcia Colbath, Ron Stock, Kirt Schuman, Frank Torr, Donald Andolina, John Swartzendruber

MEMBERS ABSENT Bryan Cahoon

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

ITEM #1: Citizens' Forum

Craig Williams, Middle Rd., stated that the proposed district on Dover Point Rd. sits on several aquifers that get more and more important. The corporation made public the amount of the purchase price for the property and the price that has been offered. The City should consider buying that property to protect that wetland area, as well as make a recreation area. The developer keeps pushing an entrance on Middle Rd. while stating that they need the State highway in the front for the Overlay District. He felt that was disingenuous. He said that having the Middle Rd. entrance will require the removal of 100 year old trees. Middle Road will not handle the traffic well and the Court St. intersection will be even worse. He asked that the aquifer be protected. The City should buy the land at the price being offered, either by eminent domain or by agreement to protect the aquifer and create some recreation. He said it is less than what was paid for Tuttle's for just an easement.

David Scott, Ward III Councilor, 220 Back Road, stated that he has received many calls on the Overlay District from people in the Dover Brook area, Dover Point Rd., Middle Rd. and other areas. The meeting that was held at the Library by the developer was helpful and it looks like a good project. He suggested neighborhood meetings be held to help diminish emotional and inaccurate concerns for future projects. A concern was the dedicating of 10 acres to increase Dube Auto. The concern was that it may give a bad view. He spoke to Charlie Reed and he has seen that the 10 acres will probably not have a negative impact. He thought that the people in Ward III would find that acceptable. The second concern is that a trailer park cannot be built in this area. He thought if you put into the agreement that it must be built to International Building Codes, it would take care of it. Density was another concern. It looks like the density suggested takes the full acres and uses that to determine the residential density. He felt that the 30 acres should be use as the residential density.

Malcolm McNeill represented the proponents of the zoning change. He thanked everyone who joined them at the Library and stated that he appreciates Councilor Scott's concerns about buffering. If there were to be a restriction of no manufactured housing on the Elliott Rose site just to make neighbors more comfortable, it would be acceptable. He can't speak for the Jensen's project, as their views and their form of housing is different. Discussions with the Planning Department have been ongoing for at least 6 months with

regard to the wording of this ordinance. He felt that there had been reasonable compromises made on both sides. He said Chris Parker's modifications are acceptable and well thought out. He reminded the Board that they already recommended this once. This is the trend of the future and will provide sufficient protections to the City and to abutters.

ITEM #2: Approval of the minutes.

Donald Andolina made the motion to approve the minutes.

Dean Trefethen seconded.

VOTE U/A

ITEM #3: Consideration and acceptance of a minor lot line adjustment of land for Donald Day and Estate of Theodore K. Eaton, Assessor's Map D, Lot 17D & 17E, zoned B-4, located at Heather Lane.*(P06-15)

Kevin McEneaney represented the applicant and stated that this property went from R-40 zoning to B-4 zoning making both lots non-conforming. The shed owned by the Days is on the Eaton property. They kept the exchange of land at equal amounts so the lot sizes didn't change.

Frank Torr made the motion to accept the application.

Donald Andolina seconded.

VOTE U/A

The public hearing was opened.

There were no comments.

The public hearing was closed.

Doug Steele 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. Add the surveyor's stamp and signature to the plat.

VOTE U/A

Dean Trefethen asked that Items a. and b. be heard before ITEM #4.

a. Request for an Impact Fee Waiver for Sharon & Nathan Harris, for 23 Waterloo Circle, Assessor's Map M, Lot 76-19

No one represented the case.

Steve Stancel stated this lot was part of the Captain's Landing subdivision approved by the Planning Board on September 8, 1998. The plat was signed by the chair on April 21, 1999 and recorded at the Registry of Deeds the same day. Substantial construction of the road began within one year of recording the plat and the first building permit within the subdivision was approved on April 4, 2000. RSA 674:39 was amended by the legislature on June 7, 2004 and one of the changes was to remove any grandfathering from impact fees after a project is substantially complete and four years have passed

since recording. In this case, a building permit was applied for on March 27, 2003, before the change to RSA 674:39 was in effect. Since the building permit was applied for within four years of recording the plat and before the amendment to RSA 674:39 was in effect, the Planning Department recommends that the waiver be granted.

Donald Andolina made the motion to grant the waiver.

John Swartzendruber seconded.

VOTE U/A

b. Request for an Impact Fee Waiver for Robert & Janet Carrier, for 29 Hough St., Assessor's Map 3, Lot 30.

Ron Cole and Marcia Colbath recused themselves.

Tony McManus took over the chair.

Ron Stock took Marcia Colbath's seat.

Robert Carrier explained that on November 30th, 2005, they purchased the property at 29 Hough St. The building was an existing 3 unit property in disrepair. Their intention was to fix up the property and create a nice living environment for those that rent and for themselves, as abutters. They only intend to make the building into a duplex. The building was a 3 unit property for at least 20 years. In the purchase process they discovered that the property was zoned as single family and the apartments were illegal. They worked with Tom Clark to bring this property up to code and legal. They are 90% done and have been asked to pay a \$3,226.00 impact fee. They request the fee be waived because they feel there is no impact. There was a similar situation back on Cushing St. that parallels what they are doing and that waiver was granted.

Dean Trefethen asked if there was a chance that he could go back to the previous owner in a civil matter.

Robert Carrier said that he doubts that would happen as the previous owner moved to NY.

Donald Andolina felt that the City shares in the responsibility for not collecting the impact fees when they should have been collected. Someone buying a piece of property in November of 2005 should not have to pay \$3,226 as it should have been assessed to the previous owner. He will vote against this.

Dean Trefethen said that the property was going through continual assessing which is supposed to include on-site visits, in-house visits, etc. It's baffling to see a structure like this remain undetected. He asked what could be done in the future to avoid this situation.

Steve Stancel said that it seems strange but if the Assessor does identify that there are 2 or 3 units, they are not allowed to turn that person in to Building Inspection. He said that he forgot the term but Tax Assessors are not able to do that.

Steve Stancel stated from a practicality standpoint, it seems that the waiver should be given, however from a Planning standpoint the 3 waiver options in the zoning code is what we have to go by and based on that it was determined that the Impact Fee Waiver not be waived.

Dean Trefethen made the motion to grant the waiver.

Donald Andolina seconded.

VOTE U/A

Ron Cole took his seat as chair and Tony McManus went back to his seat.

Marcia Colbath took her seat and Ron Stock went back to the audience.

c. Request for a an extension for Tolend Road Properties, LLC, located on Tolend Road.

Malcolm McNeill stated that he represented Tolend Road Properties LLC, and on April 7th, he forwarded a request for a further extension of permits, which were extended. This project is 72 units of over 55 housing that took approximately two years to obtain permitting. It provides for over 50% of the site to be open space and a portion of it to be used for recreation purposes, if the City elects. It requires Tolend Rd. LLC to build, at its own expense of between \$400,000 and \$500,000, a sewer line to service industrially zoned property in the area and also to donate back to the City a land exchange of approximately 15 acres, which would not be sewerred if this project does not go forward. They previously requested the extension because they were attempting to mediate this case with the seller, which was not successful. When he became aware that they were not going to be successful mediating a settlement, he notified the Planning Department and indicated a need for further extension. In the interim, both sides have filed law suits in Rockingham County. He feels that it would be entirely inappropriate to respond to the materials that you have received from Attorney Allen with regard to this project because he has not seen this material until today, despite the fact that he's council of record and should be copied on all the materials that gets sent here.

Atty. McNeill said that it is the desire of Tolend Road LLC, to finish this lawsuit, obtain the transfer of this real estate and build this project. It is the desire of the other side to not do that. The issue between the parties is a dispute over money. When there is a dispute over money those are the types of things that get resolved in court, not before Planning Boards. One of the conditions of approval related to this project was that they bond sewer improvements and that a sewer be built within 150 days of obtaining all necessary permits. There is also an additional requirement in the conditions of approval that the owner sign the plan. The owner refuses to sign the plan. They request a 3 to 6 month time period extension which is the time period that the clerk of the Superior Court gave to him as the time period to litigate this case. If this project is not built the sewer that they committed to build will not get built, the various land swaps that they promised will be placed in jeopardy, and the fiscally positive project will be a questionable value and may not proceed. They are asking for 6 months to try this case. He will report back periodically with regard to how they are doing. He wanted to be sure that the Board was assured of the good faith effort on the part of the developer and himself to try to get this project done and make it work.

Steve Stancel pointed out that there is a letter from Atty. John Allen on the desks. The letter indicates that they represent the owner of the property and they are advising that any prior authorization to speak, file documents or otherwise represent his client or the property before the Dover Planning Board by Tolend Road Properties, LLC or any one connected with Tolend Road Properties, has been withdrawn. Whenever a developer applies for a project before the Board and he doesn't own the land, he needs to receive permission to move forward. He spoke with Allan Krans, the City Attorney and had conversations with Atty. McNeill. Atty. McNeill has indicated that he is willing to add a petition for Injunctive Relief that he is going before the Strafford County Superior Court to ask the question of whether or not Atty. Allen can withdraw his allowance of Tolend Road Properties representing the property owners. The City attorney and he recommend that the Planning Board proceed and do the 180 day extension with the condition that it's subject to the determination of the Superior Court on the issue of the ability of the applicant to proceed over the objection of the land owner. If it comes back that Atty. Allen is correct and can withdraw at this late stage, then it would have to come back before this Board for further discussion or extension.

Tony McManus said that he can't understand that Atty. McNeill has ever been here speaking on behalf of the owner of the property but on behalf of the developer.

Malcolm McNeill stated that the permits were issued to Tolend Road Properties, LLC. This has been a project that has gone forward in excess of two years and entirely open and public process. The permits were never appealed. The owner of the property never came in here and objected to anything that they were doing. The issue at this stage of the game is whether there is an agreement. He said that he has filed a request for an injunction of the Superior Court because they are concerned that the owner may be intending to sell the property out from under them. He feels that it is separate from the Board's decision.

Frank Torr made the motion to grant a 180 day extension.
Donald Andolina seconded.

Steve Stancel explained that when an application comes before the Planning Board a property owner has to sign the application so that developers are not running around trying to get projects developed on land they don't control. They obviously had approval from the owner to move forward. Now that we have a letter from Atty. Allen saying that they are withdrawing that authority, it is not clear to them if they do have the legal authority to extend this. Atty. McNeill agreed that he would add to the injunction a request for relief on this issue and that was important to Atty. Krans and himself because it protects the City from Atty. Allen turning around and suing the City with regard to the authority.

Frank Torr asked to amend his motion to include the fact that the condition is based on the action of the Superior Court.

Donald Andolina accepted that as a second.

Tony McManus said that it seems that when the owner signs the application, he's doing that on his own behalf. He said that he never understood that Atty. McNeill was here representing the owner. The owner has said that whatever authority he has given to Atty. McNeill he revokes and they don't understand that signing your name to the application authorizes anybody to speak for you, it's still your application. He doesn't have objection to the motion as it stands but if the owner of the property wants to come before the Board and make some kind of offer he feels that's appropriate. We have the application signed by the owner and we don't have anything from the owner saying that he is withdrawing his application.

Malcolm McNeill said that he doesn't want any kind of misunderstanding that he indicated that the court had scheduled a temporary hearing, at his request, on the issue of whether Mr. Goldberg may attempt to sell this property to somebody else and that hearing is scheduled for May 1. He said that he is not the party advocating that this gentleman has any ability to do what he is requesting in his attorney's letter. He can bring the message that the Dover Planning Board has asked him to tell the court that this issue has been raised. He doesn't want to be misunderstood but he is not going to the Superior Court to advocate that that Mr. Goldberg should be in here pulling the rug out from under his client. He would be happy to bring the letter from the Planning Board to the court at the May 1 meeting.

Steve Stancel asked if the extension read 180 days subject to any potential Superior Court decision regarding the applicant's ability to proceed over the objection of the land owner.

Frank Torr made the motion to grant the 180 day extension subject to any modifications determined by the Superior Court.

Donald Andolina seconded.

VOTE U/A

ITEM #4: Old Business

a. Discussion and possible vote on a site plan for Jim Hageman, Leo A. Daly company (Wentworth-Douglass Hospital), located on Central Avenue. (P06-10)

Frank Torr recused himself.

Kirt Schuman took his seat.

Dan Dunn, Vice President of Operations was present to take questions.

Steve Stancel stated that this was tabled at the last Planning Board meeting because we were still reviewing the final plans and they are now ready to recommend approval.

Dean Trefethen removed this item from the table.

Donald Andolina seconded.

VOTE U/A

Steve Stancel gave the recommended conditions of approval as follows:

1. Add the owners' signature to the plan.
2. The applicant shall revise the plan to add the date that the wetlands were delineated.

3. The applicant shall revise the plan to add common site plan notes #4, 6, 9, 10, 12-16 and 19-23.
4. The applicant shall prepare a site plan for the temporary parking lot on Map 28, Lot 2 and submit it to the City for review by the Technical Review Committee and the Planning Board within the next 12 months. The site plan shall address stormwater control, landscaping, access points, and lighting.
5. The applicant agrees to have their traffic consultant study the traffic signals at the Old Rollinsford Road/Central Avenue intersection to potentially modify the signals to increase the green time on Central Avenue. The study will be coordinated with the Planning Department. Any improvements shall be completed prior to the issuance of a certificate of occupancy.
6. The applicant has agreed to contribute the sum of \$40,000 to the City of Dover for the funding of a study of a long-term solution to improve traffic flow on Central Avenue. This contribution shall be made prior to the issuance of a certificate of occupancy.
7. The applicant has agreed to contribute the sum of \$7,000 to the City of Dover for the funding of the Dover Transit Service Project (FasTrans) to assist in addressing transit issues. This contribution shall be made prior to the signing of the plan.
8. The developer shall eliminate the island and no left turn provision on the northern exit entrance to the site plan.

Dean Trefethen asked for an explanation of condition #8.

Steve Stancel explained that it was mentioned by the applicant's traffic consultant that they wanted to recommend that there be no left hand turn lane coming out of the hospital. Bruce Woodruff and Dave White one of the City's engineers had concerns about that because they felt that it would probably push additional traffic to the southern exit during peak periods, as well as other periods of time which would trigger the signal to go red on Central Ave. and thereby impeding the flow on Central Ave. further. It was determined that we just as soon have the inconvenience of waiting to turn left on the north entrance as opposed to adding additional red signals on the Central Avenue corridor.

Tony McManus asked the hospital to consider an alternative to paving the temporary lot.

Tony McManus made the motion to approve with the 8 conditions listed above.

Donald Andolina seconded.

VOTE U/A

b. Discussion and possible vote on a site plan for Tri County Realty, Inc., located on Central Ave./Williams/Henry Law Avenue. (P06-07)

Steve Stancel recommended that this remain on the table as they are still in the process of studying the parking situation.

Frank Torr took his seat on the Board.

Kirt Schuman went back to the audience.

c. Discussion and possible vote on proposed amendment to the Dover Zoning Ordinance to add an overlay district.

d. Discussion and possible vote on proposed amendment to the Site Review Regulations relative to the proposed Residential Mixed Use Overlay District (RCM).

Dean Trefethen made the motion to remove these items from the table
Tony McManus seconded.

VOTE U/A

Chris Parker listed each suggestion made during the last public hearing and then included both the initial language and the Planning Department's response to each section. He went through the cover memo and went through each section and to get consensus from the Board as to whether they want it included or not. At the end there will be an amended amendment.

Paragraph E, subsection 1. The consensus was that it was a yes the way it was written

Paragraph D subsection 1e. Non-Residential uses:

xii Coffee shops with drive thru service

He explained that there was a request that a new use of coffee shops with drive thru service be added.

The Planning Department does not support this but recommends an alternative which says: Eating/Drinking Establishments no larger than 1200 square feet. The Department feels that the Planning Board should not create a special use of a coffee shop, where in the past coffee shops have been governed the same as other eating and drinking establishments. Using the size of the establishment to determine whether a drive thru service is permitted would achieve the intent of both the developers and staff. The size would prohibit certain chains that want to their trademark building.

Donald Andolina said that he would be opposed to having anything to do with a drive-thru.

Dean Trefethen said that the ETP doesn't allow any restaurant. He asked if drive-thrus are allowed on the Durham Rd. parcel that is B-4.

Chris Parker answered that the Durham Rd. zoning does not allow drive-thru. In the B-3 on Dover Point Rd., you could have the drive-thru in front of the ETP parcel.

Marcia Colbath said that she agrees with Donald Andolina. She said that she would not support this as they are trying to create a village. She pictures a restaurant where people would sit down chatting is what we are trying to encourage.

Tony McManus said that he would not want drive-thrus either.

Chris said that it is a consensus that drive-thrus is a no.

Paragraph E.

Chris Parker said that the suggested language that he heard at the last public hearing was “Non-residential uses must exceed 35% of the original tract and the residential must not exceed 40%. He said that the Planning Department does not support this suggestion because they feel this is a non-residential growth tool and they feel that the non-residential should have a larger percentage than the residential.

No one on the Board opposed this suggestion.

Paragraph F, subsection 2.

2. Dimensional Requirements

Chris Parker said that the Planning Department supports the recommendation.

Dean Trefethen asked if he could give the height of an existing building that is a reference point for the 50 feet.

Chris Parker said that the former Thornwood Farm Building which is now the Richardson Group building, on Dover Point Road, is approximately 47 feet tall. He explained that the B-4 and the ETP both currently allow the height of 55 feet.

Dean Trefethen said if the Overlay doesn't pass, someone could go in and build office buildings and they could be 55 feet high.

Tony McManus said that he still would like to see some residential units in combination with the commercial development to create a village. If you are going to allow residential to a commercial retail building to a height of 55 feet, he wouldn't have a problem with that. To him 55 feet for just a retail/commercial office building in a village concept is way out of scale. He said that's a high building of 5 stories. He said that non-residential building height is precluding the ability of the developer to combine residential and commercial retail in the same building.

It was suggested that the language be changed to non-residential/mixed use buildings.

Tony McManus thought that it would help.

Steve Stancel said that the non-residential use/mixed use works. One of the things that he needed to clarify is that it is an Overlay District. When this started out it was not a village district ordinance, it was Mixed Use/Commercial/Residential. Every concept plan that we've seen shows that. While this would allow you to still do a village concept, he wants to be sure that it is clear in everybody's mind. He said that, realistically, you are not going to see residential units intermingled with non-residential.

Tony McManus said when the Board started talking about mixed-use development that is what he had in mind that there would be a real mixed use. He said that what we have for plans is a residential clump in one place and a strip mall that are connected by a road. To him it is not mixed-use. He said just zone one half of the project residential and the other

half commercial and get it over with. He felt the intent of the overlay district was to have a real mixed-use and the developers should be given the opportunity to do that.

Steve Stancel stated that he is not sure if it is fair to the developers that have spent a couple of years on this. Understanding that there is flexibility and what they have shown us is not set in stone but what they have shown us is not a village district.

Tony McManus said that he is looking at this in terms of what is going to be in the best interest of Dover long term and not what is going to satisfy a particular developer.

Dean Trefethen said that the Board would need to be hard negotiators when the actual proposals come in. It will be up to the Board to get the best development possible but the enabling ordinance must first be in place.

Chris Parker said that he sees both as mixed-use. What Tony McManus is talking about is really more co-mingled as opposed to interconnected. Both are mixed-use and both are allowed here.

Dean Trefethen said that it will be written as **A. Non-residential Buildings/Mixed-Use**

Paragraph E.

Chris Parker said that currently it says that 100% of the required open space must be usable uplands. They are suggesting that 50% of the required open space must be usable uplands and reasonably accessible.

Marcia Colbath said that she supports the 50% as long as the upland is designated in such a way that it is usable space where people can walk and is not isolated in pockets of wetlands that people can't get to.

Chris read the Open Space definition in the Subdivision Regulations which they thought was the same intent.

Marcia Colbath said if it came to the Board and we noticed the uplands was inaccessible we would be able to deny it.

Dean Trefethen felt that it covered everything.

Paragraph E.

Chris Parker read that the development plan may be phased for a term of 5 years. The phasing plan shall contain provisions which promotes the mixed use of the site consistent with section 170 28-2A. For the purposes of this section, development shall include 1. Construction of structures; 2. Environmental remediation; 3. Site preparation and demolition; 4. Roadway, utility, or recreation common area design and construction and 5. Bonding of other security for onsite development. The above section notwithstanding, the phasing plan must demonstrate that no residential development shall be occupied

prior to completion of 50% of the non-residential development. That is the existing regulation.

The first part outlining the 5 areas of phasing would remain and the suggested second part is as follows: the phasing plan requires that no more than 50% of the residential development area may be occupied prior to the completion of active and substantial as defined therein of 50% of the non-residential development. The Planning Department agrees with the additional 50% residential saying that you can build 50% of the residential but you can't build the remainder until 50% of the non-residential portion is actively and substantially completed. The department does not support the use of the word "area" after the word development in both cases. They want it to be 50%, meaning the unit number, while 50% of the non-residential being the square footage in area of use, as opposed to the area if you could draw an arbitrary line and count that as the area.

Dean Trefethen said that he agrees with that.

Chris Parker stated that he will probably use a, b, c, d, e, so that it is known that the 5 criteria are not prioritized.

Steve Stancel clarified that 50% of active and substantial does not mean that you have 50% of your buildings up on the site. It means 50% of the 5 criteria. That could include environmental cleanup, site preparation and demolition, etc. He said that the term active and substantial as defined herein, refers to numbers 1 through 5. At one point there were some members felt that 50% completion meant that 50% of the buildings were up and that is not what is being said here.

Tony McManus said that he thought that Chris Parker was referring to units and residential and sq. footage on the commercial/retail.

Steve Stancel said that it would be a negotiated thing between the Planning Board and the developers. It is not like there is no leeway but there is the flexibility that could mean that the environmental is cleaned up, and that the roads are put in and one of the things that they keep hearing from the developers, is that it's almost impossible to get financing for a spec on commercial development. It's the Planning Board's decision but he wants it to be clear what is being approved.

Frank Torr said that he is not quite comfortable with that. He felt there should be more substantial development that should take place. He said that there is no question there is an environmental problem that has to be cleaned up. The developer is going in knowing that he must have some financial plan in place, in his mind at least, to take care of that. He felt the Board would be letting the developer off the hook by not becoming more restrictive by requiring some percentage of construction, not parking lots or having the environmental issue addressed, but actual buildings.

Chris Parker said that you have to realize that the sq. footage numbers are going to be vastly different on the Mast Rd/Durham Rd. piece where you might have 50 units and they have about 150 sq. ft. of commercial. For the Dover Point Rd. piece you have a situation where they are going to have 60 units but they are going to have double, if not

triple, of sq. footage non-residential. There is a non-fair balance. They tried to make it fairer to both by putting in the allowance for the infrastructure.

Frank Torr said that if you used the ratio of units vs. sq. footage, you might come out with a fair balance. He said that he attended the neighborhood meeting last night and that was one of the discussions put forth by the developer that he was aware that he could only develop 50% of his residential units.

Perry Plummer stated that the Board has to approve the projects and those things can be looked at at that time. If you have two projects that are vastly different you have to weigh that differently.

Steve Stancel stated that if you leave the term active and substantial as defined herein, you do. If you say you have to have to have 50% of your structure completed prior to the 50% of the residential being in, you do not have that flexibility. He said that we would have to change this wording and that's fine as long as everybody's in favor.

Dean Trefethen said that he agrees with Frank Torr and Perry Plummer that as a Planning Board we do get another bite of the apple but only if it passes through the City Council and this particular criteria was a major issue when it was discussed at the City Council last time. 50% is a hard concept to get across to people who don't do this kind of stuff all the time. He felt that it is part of the concern expressed by the public and it's part of the concerns expressed by the Council.

Tony McManus said that he also agrees with Frank Torr. What he is hearing of the developer is the statement that we know we can make a profit on residential but we are not sure we can make a profit on the commercial. If a developer wants to come in and do this type of development, it's a package and it has to be a commitment up-front to what the City is looking for in terms of the project. If they don't think they can do it financially, then they shouldn't come in with a proposal and then ask the City to back off from what we think is appropriate to help them with the financing.

Perry Plummer said that he agrees with everything that's been said but he is just looking for some flexibility so when a project comes before the Planning Board after this is approved, the Board can determine how best to insure that the commercial gets built and occupied.

Frank Torr said that he would go along with that as long as the Planning Board has the jurisdiction to require the commercial portion to be built. It's interesting that the Durham Rd. project seems to have tenants in line, if they haven't lost them as a result of the time element to pass this ordinance. He said that we have not heard definitive information on tenants for the Dover Point project.

Steve Stancel said he is hearing that the "active and substantial" is removed and indicate that some percentage of physical development had occurred. "Area" has been taken out.

Chris Parker said what he has written down for the phasing plan is that no more than 50% of the residential development may be occupied prior to completion of 50% of the non-

residential development? What that allows is that 50% of the residential can get building permits and occupation permits but then 50% of the non-residential has to be completed, not necessarily occupied, but has to be completed prior to them starting on the remainder of their residential.

Ron Cole said that you are giving additional impetus to a developer to make sure that while they are building they are also going to be soliciting occupants for the commercial portion.

Marcia Colbath said that the intent of this ordinance was to encourage the non-residential portion and the residential was kind of the prize. There is enough non-residential potential development out there that the developer can put some work into it and find some stores to occupy this space.

Steve Stancel said that there is a big difference between 50% of 150,000 sq. ft. and 50% of 300,000 sq. ft. in terms of trying to fill that and the number of years that it might take to do that.

Dean Trefehen asked Chris Parker if he was proposing that to remove the word “area”, as well as the words active and substantial.

Chris Parker said that was his interpretation of what has been said.

Dean Trefethen said if 50% of the non-residential development could include parking lots and dumpster enclosures, etc. we might never get a building up.

Chris Parker said that in taking the word “area” out you preclude that. By taking the word “area” out and taking out “active and substantial”, you are not saying sq. footage and units.

Steve Stancel said that you could add 50% of physical non-residential development.

Dean Trefethen said that he was going to suggest 25% of the non-residential structure because to him a parking lot is not a structure. His understanding of the Durham Rd. development is that they are not going to have any problem doing it because he thinks they are ready to go. The Dover Point Rd. project is a larger development and therefore the 25% equalizes that out a bit. He said a lot of money is invested when someone puts up 25% of their commercial structure, so they probably are going to see it through.

Chris Parker says he has written, “the phasing plan shall provide that no more than 50% of the residential development may be occupied prior to completion of 25% of the non-residential structures.”

Steve Stancel stated that it is more flexible than the 50%. You could also say between 25 and 50% and that allows the Planning Board more flexibility between those two percentages.

Dean Trefethen and Frank Torr indicated that they were satisfied.

Chris Parker read as follows: The phasing plan shall provide that no more than 50% of the residential development may be occupied prior to completion of between 25% and 50% of the non-residential structures as negotiated.

Chris Parker read Paragraph E

Chris Parker read the proposed changes and said separate lots that were owned separately but the owners wanted to come together as one development, the existing language says it can be done, but you have to merge them into one lot first. If you should want to separate them later you can. The new language says you can leave them separated because why go through the merging and separating but at the same time, it also says that once you come in for an application and get approval, the individual lots no longer have the ability to get separate approval. Once those lots come in to make 50 acres and get one unified approval, you can't come in and say you don't want to be part of this anymore.

Paragraph F, subsection 1.

Chris Parker read the existing language and then the suggested language. The idea is to allow the Planning Board the flexibility of determining whether a road is private or public. It lends itself to the Dover Point project where Thornwood Lane, which accesses that property, is currently a public road. You wouldn't want to have a public road terminate and become private after a certain point when it becomes part of the commercial project. On the other hand, you probably would want to have the residential roads be private.

Discussion ensued on the makeup of a private road.

Dean Trefethen asked if the Board could require that private roads conform to public road standards.

Donald Andolina thought that should be done.

Marcia Colbath agreed with Donald Andolina and spoke of a private road development that occurred 20 years ago and now the residents are realizing the costs to redoing their roads. She's concerned that when residents realize the cost of redoing the private road they will all end up in front of the City Council.

Tony McManus stated that private streets were ticking time bombs.

Donald Andolina asked who would pay for the bringing the road up to specks.

Steve Stancel pointed out that you don't want public roads in a manufactured housing 55 and over. He said that they want private roads. He said that you want private roads internally in your retail and office spaces. Realistically, what we are talking about is perhaps the main access roads or perhaps if we had a road that went from Middle Road to Dover Point Road. Those are the types of roads that you would be primarily concerned with being public. He said that private road system in Dover works great and we just

have to have the wherewithal and the backbone to say no when private projects try to become public.

Dean Trefethen said that the City Council has not approved any private road conversion to public roads. "Just say no."

Tony McManus made the motion to forward to the City Council the recommendation for adoption with the amendments that have been discussed.

Dean Trefethen seconded.

Ron Cole stated that some wording was changed. The consensus was no to drive thrus. No to the condition that non-residential use must exceed 35% and the residential must exceed 40%. Change of wording for the mobile home parks reference. Agreed to dimensional requirements and adding a mixed use after a. non-residential/mixed use buildings. 50% open space shall be usable uplands. Phasing plan no more than 50% of the residential development may be occupied prior to completion of between 25 and 50% of the non-residential structures as negotiated. The Planning Board will have the ability to decide at the Conditional Use Permit stage whether the roads will be private or public. The development lot may be separate lots owned by separate owners coming in as one combined plan.

Donald Andolina commented that there needs to be something after the "as negotiated" such as "as negotiated with the Planning Department, Planning Board or whatever it would be.

Steve Stancel stated that it would be the Planning Board.

VOTE U/A

Site Regulations

149-14.2 Design Standards for Development in the Residential Commercial Mixed-Use (RCM) Overlay District.

Chris Parker said that one comment on the site regulations is that the landscaping was not well defined.

Tony McManus left the meeting at 9:00 PM.

Ron Stock took his place.

Chris Parker read the various changes to the document.

Dean Trefethen said with regard to 7. Landscaping, and Grading Section, in section G. A minimum of 2 trees and four shrubs. If an area of the land already has vegetation on it that meets the requirement would that cover existing vegetation and if we want to make sure that a proper buffer is created we could ask for more density.

Chris Parker said that it would. If you were to look at the existing vegetation and it meets the minimum then we would be able to negotiate to augment. If it's an open field, it's not

going to have these features and we want to add them. Chris said that they didn't suggest any placement because it may be needed more in one area than another.

Chris Parker said that the title of Paragraph D. was altered from Residential to Residential Site Planning. For consistency he added headings and read from #5. Landscaping.

Dean Trefethen said that he has a problem with the term "first deciduous."

Chris Parker explained that if they were going to have more than one deciduous tree they are just requiring that one of them would be at least two-inch caliper measured four inches above the ground.

Dean Trefethen said that he has a problem with "first" and felt that anything smaller would probably not survive.

Chris Parker said that he can get rid of the word "first" then every tree planted would have to be that size or bigger.

Frank Torr stated that he should have indicated that he got a ruling by the City Attorney that he didn't have a conflict of interest voting on both amendments.

Dean Trefethen asked if it is the Board's intention to approve these regulations tonight and attach them as a reference point for the Council to be looking at.

Chris Parker said that it is his desire to pass these regulations conditional on the ordinance passing. When the ordinance is sent on to the Council they will be given this in the packet as well. He said that one of the comments received from the Council was that they didn't want these to be passed later and wanted to be sure that something was in place.

Dean Trefethen made the motion to approve these amendments conditionally pending adoption of the Overlay District.

Frank Torr seconded.

VOTE U/A

Frank Torr complimented Chris Parker for the good job.

Ron Cole reminded everyone that they would be starting the Master Plan process ASAP. His plan is to appoint a couple of subcommittees to start taking action on this. He asked anyone who was interested to contact the Planning Department if they wish to serve on one of the subcommittees with regard to the master plan and he is looking for as much citizen participation as possible. It tends to work better that way. Call 516-6008.

ITEM #7: Adjournment

Donald Andolina made the motion to adjourn.

Ron Stock seconded.

VOTE U/A