

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

MEMBERS PRESENT: Marcia Colbath, Perry Plummer, Donald Andolina, Doug Steele, Tony McManus, Frank Torr, Ron Stock, Bryan Cahoon, John Swartzendruber, Dennis Ciotti

MEMBERS ABSENT: Kirt Schuman, Ron Cole, Dean Trefethen

STAFF PRESENT: Steven Stancel, Planning Director; Bruce Woodruff, City Planner, and Jacqueline Freeman, Recording Secretary

Vice-Chair Tony McManus brought the meeting to order at 7:00 PM. Tony McManus announced that the cable service is down because of the weather and the meeting would not be televised.

ITEM #1: Citizens' Forum

There were no comments

Tony McManus announced that Item c. under Old Business, open space and major subdivision for MPJ Development, LLC, would not be heard and would likely be on the agenda in two weeks.

ITEM #2: Approval of the minutes.

The minutes were not available because of the holiday and would be enclosed in the next Planning Board Packets.

ITEM #3: Consideration and acceptance of a minor subdivision and lot line adjustment of land for LaFrance Hospitality, (Owners Gavin & Christianna Jackson, Peter Russell Revocable Trust, Richard & Donna Brownley, Gerald Cormier) Assessor's Map 39, Lots 76, 77, 77A, 93, 97, zoned B-5, located on Hotel Drive/Old Rochester Rd.*(P06-28)

Mark Woglom, Opeechee Corporation, represented LaFrance Hospitality, did a brief overview explaining that they are taking 5 parcels of land that are adjacent to Hotel Drive, three of which are currently residential homes within the B-5 zone, merge them together as one lot and, taking a portion of the commercially zoned land that is on the Cormier piece as well as a piece that fronts on Hotel Drive, creating one lot, just over 2 acre lot.

Donald Andolina made the motion to accept.

Frank Torr seconded.

VOTE U/A

Tony McManus stated that he would hear the presentation on the site plan and then hold a public hearing on both items.

ITEM #4: Consideration and acceptance of a site plan of land for LaFrance Hospitality, (Owners Gavin & Christianna Jackson, Peter Russell Revocable Trust, Richard & Donna Brownley, Gerald Cormier) Assessor's Map 39, Lots 76, 77, 77A, 93, 97, zoned B-5, located on Hotel Drive/Old Rochester Rd.*(P06-29)

Mark Woglom explained the plan from the easel, pointing to the locations of various businesses and residential units. Initially they were going to do a 4 story hote similar to the Comfort Inn. They were going to go for a Variance for a height of 55 – 57 feet comparable to the Variance that was granted for Comfort Suites. The Planning staff felt that the proposed building was not sensitive enough to the residentially zoned land. The Variance was withdrawn. There will be a single driveway across from the entrance going into both the 99 Restaurant and the Comfort Suites Hotel. He said that the building screens the parking lot from the residential abutters. They had a neighborhood meeting to receive input from the abutters and to incorporate their ideas. They kept a large stand of large mature trees along Old Rochester Rd. He then showed a rendering of the building with the trees superimposed on it. It is a 93 unit, 3-story hotel building with a pitched roof. It will be a Hampton Inn franchise. There are 96 parking spaces which is in conformance with the zoning ordinance, plus one extra. They will provide a sidewalk along Hotel Drive, as well as a sidewalk on Old Rochester Rd. The residential neighborhood had requested that they not have fencing and preferred vegetation as screening. The drainage will be a closed drainage system. He said that they employed architecture that has a more residential character. The hotel will be a Hampton Inn, which is owned by the Hilton Hotel franchise. They have submitted a traffic study that looked at all the intersections in the area. When they did the traffic study several years ago at the time the 99 and the Comfort Inn went in, they had to make assumptions of what the trips generated would be. Since that time they have gotten actual counts and then projected the trips. All of the trips including the trips for this is less than they initially proposed. They owe staff an updated report on the timing of the traffic signals.

Frank Torr made the motion to accept the application

Donald Andolina seconded.

VOTE U/A

The public hearing was opened on both the lot line adjustment and the site plan.

Mike Blanchette, 23 Evergreen Valley Drive, thought this plan is better than the original version. He said that he asked the Police Department for a report on the incidents at the Comfort Inn. They get 2 or 3 calls per month, on average. He said that one call resulted in one of the biggest drugs bust in NH. He said his neighborhood has about 35 homes. They do not directly abut the project. His concern is that it will bring more Police calls right in his front yard. He submitted a list of the Police Calls.

Ron Costello, 18 Evergreen Valley Drive, asked about the signage on Old Rochester Rd. He asked if it was possible that the plans might change after this meeting and would he be notified. Also, what recourse would they have. He asked how high the stone walls would be.

Mark Woglom stated that there would be no signage proposed on Old Rochester Rd. The stone walls would be decorative.

Tony McManus stated that there would be site walk scheduled and it's possible that suggestions would be made for changes between now and then. He told him to check with the Planning Department. There would be a continued public hearing

Ann Long, 13 Sullivan Dr., is not an abutter but lives in the neighborhood. The drug bust was a concern. She doesn't want a less than safe neighborhood. Water was a concern. The mature trees that would be destroyed was a concern as they act as a natural sponge. Evergreen Valley is a valley and water does run down. She was concerned that taking away trees that absorb water and putting in asphalt would cause flooding. The water pressure in the area was also a concern.

Richard Lafrance, owner of the Comfort Inn and suites, stated that the safety of their guests is vital to the success of the hotel. They have for the most part very wonderful guests. There is a wonderful mix of families and professional business people. The Hampton Inn will have a similar mix of guests. When you have unwanted people in the hotel they test you out to see how you are going to react. They have very strict guidelines for their staff to help insure the safety of the guests. There is nothing worse than having some negative publicity. They are also very concerned. If there are any concerns from the neighbors, they can call the hotel directly.

Mike Blanchette stated that there are about 50 kids in his neighborhood. The bust was one incident but there are lots of noise complaints, violence that has happened that is documented in that report. There is history to that hotel. He bought his house before the Comfort Inn. He is concerned for the value of his property and for the safety of his children.

Mark Woglom stated if the Board finds it appropriate and finds the merger plan was sufficient, they would like approval of the merger plan to get it recorded. Their goal is to get under construction as soon as the site plan is approved but they do need to make some real estate transactions. The stone walls are going to be decorative and will be approximately 30" in height and a true natural stone. In meeting with the abutters there was a neighborhood group who expressed a preference not to have fencing. They did meet with the owners of the Demers property and in their area they did a series of staggered solid vinyl fencing with pine trees plantings in between which is the screening that they preferred. With regard to flooding and drainage, they do a detailed drainage study as part of their submittal. They have designed their property so that there is no increase in runoff onto adjacent properties. They are going to channel that stormwater through the series of water quality inlets and into a very large septic system so the water

leaches back into the ground. He said there has been a concern of water pressure and they have submitted actual flows from the Comfort Inn which has an increased quantity of rooms over the Hampton Inn that they are proposing. They submitted that to the engineering staff who has a water model of the entire City and they have responded that the flows will have a negligible impact on water pressures. Staff has reviewed their numbers and felt that they would not have an impact that would adversely affect the neighborhood. He asked the abutters to walk through the Comfort Inn and they will find it is a very professionally run business. You can get some bad eggs and you can't say for absolute that you won't have some, but since they have had some problems they have changed some check in procedures and request people to show credit cards as opposed to giving cash. They don't want the bad eggs either.

John Swartzendruber left the meeting at 7:30.

Dennis Ciotti asked how many employees they would have and if they will have full time security.

Mark Woglom stated that it is very customary for a hotel to have 1 parking space per unit. The only time they fill up is at night. At night you have two people – the front desk person and a security person to address any concerns that the guests may have. A certain percent of the guests will bring a family and rent two rooms. As it relates to the employees and parking you'll find that there's adequate parking.

Mr. Lafrance said that there would be 15 to 25 employees, approximately 12 – 18 full time positions. They do provide benefits for their employees. They have many corporate clients that are driven in by a corporation.

Ron Stock stated that the 99 Restaurant has overflow parking on the grass. Would the overflow parking from there be prohibited from parking at the hotel?

Mark Woglom stated that there are no provisions for permission for the 99 to park in their facility as they need to have adequate parking.

Mr. Lafrance stated that they do not have a second person on the evening shift that would stay late into the evening. They would not have a security person unless there was a specific request and that has only happened a handful of times.

Dennis Ciotti was concerned with lighting on the residential side of the hotel.

Mark Woglom stated that there will not be any lighting on the residential so there is no impact to the abutters. It would not be a problem to add lighting. He told the neighborhood group that there would not have lighting. There will be lights within the hotel so there will be some degree of light.

The public hearing was recessed.

Doug Steele announced that the City has hired a consultant to investigate the water pressure in the Northend of the City. On July 20th at 6:00 PM they will be holding a meeting for residents in the Northend to give their input. Notices are being mailed out. It will be held at the Public Works Facility. He said that it is not only to study water pressure but the design for a new main. The funding is available for the new main. The study cost came in at \$50,000 for design and study.

Steve Stancel stated that the problem is beyond Sullivan Drive because it quickly turns into an antiquated 6" water line that continues down Old Rochester Rd. Most of the complaints and concerns are from that area because of the size of that line. The other pressure issue is because of the elevation of this property in relation to Garrison Hill which is where the water tank is. Hopefully the City will have a proposal by December as to the long range fix for the Northend.

Steve Stancel stated that there are a couple of on-site improvements that are taking place in the City. One is the upgrade of Exit 9 area in conjunction with Liberty Mutual. The City has talked to the applicant about their fair share contribution to that. The City will also talk to the applicant about their fair share contribution to either the water study or the potential fix. Those are negotiated issues as we go through the process.

Frank Torr asked if the three buildings slated for demolition were being considered for reuse in the City's program.

Steve Stancel stated that the issue would be finding available house lots that the City could subdivide. He spoke of the subdivision that the City created when Liberty Mutual built that used Federal funds and a grant.

Steve Stancel stated that the Board should treat both items together as his concern is that the perception would be that by approving the lot line adjustment, the Board would eventually approve the hotel.

Frank Torr made the motion to table item #3 and #4.

Marcia Colbath seconded.

VOTE U/A

The Site walk was scheduled for Monday at 5:30 PM with the parking at the Comfort Inn parking lot.

ITEM #5: Consideration and acceptance of a lot line adjustment of land for Lawrence Dubois, (Owner City of Dover & Ann Pope) Assessor's Map 31, Lot 69 & 72, Zoned RM-8/B-2, located on Fifth St./ Lincoln St.*(P06-34)

Kevin McEneaney represented the applicant. The City Ward House lot is a very narrow lot and the Pope Lot is a sort of L-shaped property with the frontage on Lincoln St. There is a slight encroachment of the Pope house onto the Ward property. To alleviate

that they are proposing an equal area exchange whereby 40 sq. ft. will be exchanged between the two parcels. He spoke on the proposed easement which will be used for a turn out area for the proposed parking lot which is the next item. He gave the history of the Ward House property.

ITEM #6: Consideration and acceptance of a site plan of land for Lawrence Dubois (Owner City of Dover), Assessor's Map 31, Lot 69, located at 17 Fifth St.*(P06-33)

Kevin McEneaney explained that the City put the Ward House property up for auction sometime last year. It didn't sell so the City listed it with a broker. Now Mr. Dubois has a Purchase and Sales Agreement on the property. Mr. Dubois also owns an office property on the corner of Fifth and Chestnut St. He only has 2 parking spaces on Chestnut St. and there are 2 or 3 on-street parking spaces on Chestnut St. The plan is to remove the building on the Ward House property and construct a 10 space parking lot. Most of the property would be paved because of the size of the lot. He explained the plan pointing out the easement and going over the drainage. They are asking for three waivers. 1. Waiver of the 5 foot setback to 1 foot. 2. Waiver of the 10' front setback to 3 feet. 3. Waiver of the isle width of 22 feet to 19 ½ feet. It will be a private lot. He said the deed for the common driveway was created in 1894 and the description in 1894 was that there would be a driveway in common use with both lots 4 ½ feet on either side of that common line for a total width of 9 feet. The existing driveway that is there now is totally located on the City property. The Withams, who are abutters, can park in that area. Mr. Dubois has agreed to allow them to utilize 2 spaces as designated spaces for their parking for that particular unit so he would only have 8 spaces available. The Withams currently have one space to park in and this would give them additional space at no additional cost to them. It would be an easement sort of situation and they would have sole use of those spaces.

Frank Torr made the motion to accept the application for Items #5 and #6.
Donald Andolina seconded.

VOTE U/A

The public hearing was opened on both items.

Margaret Witham, an abutting neighbor, stated that the property has been in her family for over 50 years and she now owns it. The driveway in her deed states that she has the right-of-way and that it would never be taken away from her. There is parking for 2 vehicles in the gravel area. With Mr. Dubois putting in a parking lot, there will be cars parked directly outside her door. She doesn't want to give up her right-of-way because it is deeded. She is against the project and doesn't want to lose her parking spaces and also doesn't want to be parking in a parking lot that is private. There are two vehicles involved.

The public hearing was closed.

Kevin McEneaney explained that the right-of-way was created presumably for the horse and buggy and foot traffic because the first car was manufactured 1891. The description said that it is to be used in common as a driveway and doesn't mention parking. It was probably intended to go back to a stable or a carriage house. Ms. Witham will have 2 spaces maintained by Mr. Dubois at no expense to her. With regard to the access to the rear of the property, the lot is designed so that the cars would be facing toward Chestnut Street. Where she would exit her property would be in the travel area of the parking lot and there would be no cars parked in that area. There will be 20 feet between the rear of the vehicles to her property line.

Steve Stancel stated that they were prepared to recommend approval tonight but this afternoon the issue with the abutter came forward so he recommends it be tabled so the details can be worked out.

Marcia Colbath made the motion to table.

Doug Steele seconded.

VOTE U/A

The Board decided that they would view the lot individually.

ITEM #7: Old Business

- a. Consideration and possible vote on a subdivision of land for VC Dover Investments, LLC, located on NH Route 108/Mast Road(P06-24)(2 lots)**
- b. Consideration and possible vote on a site plan of land and Conditional Use Permits for VC Dover Investments, LLC, located on NH Route 108/Mast Rd.(P06-25)**

Frank Torr made the motion to take these items off the table.

Donald Andolina seconded.

VOTE U/A

Frank Torr stated that he is a distant cousin of the Torrs and he also is a manufactured park owner but has no conflict.

Steve Stancel stated that approximately 1 month ago a preliminary public hearing was held and tabled for a site walk. Tonight is another public hearing as a second step in the process. The Planning Board will need to give a Conditional Use Permit allowing the mixed use to move forward. The applicant will then move forward with approval for phase 1, which would be the commercial aspect on the front of the lot and then come back to the Planning Board for approval of the next phase, the residential portion. The applicant is attempting to create a master plan for both the commercial and the residential concept for the Board's approval This is the second hearing before the Board. There will not be any recommendations for approvals of the Conditional Use Permit or any approvals this evening this is primarily informational.

Bob Duval, Engineer with TF Moran, spoke about traffic. They have prepared a traffic study that included 3 other projects that are at various stages of approval, but are perceived to contribute traffic to the 108 Corridor. The Martineau development, Holiday development as well as 21 units on Mast Rd. Extension, PRPC as well as 21 units on Back River Rd., which has been withdrawn. They have all been factored into this study. The project consists of a 105,000 sq. ft. shopping center including 36,000 sq. ft. grocery store and various other components and 84 single family homes of 55 and older residential development in the rear. He went over the trip generations from the study. He went over the improvements to the intersections and the location of the widening of the roads. He pointed out the easements that would have to be acquired from adjacent property owners to widen the lane for trucks making the corner.

Bob Duval handed out blow-ups of the proposed pedestrian crossing. This was discussed with NHDOT District 6 and Bruce Woodruff. The dilemma is that there is a signalized intersection on Mast Road and the driveway location is too close to be signalized and it doesn't meet warrants to trigger signalization. They felt that people would want to cross in front of the development, rather than go down to the intersection. The dilemma is do we encourage that movement by putting in a crosswalk away from the light or do nothing and not encourage them to use the signalization. The reality is that people will try to cross there with or without a crosswalk. What the district has agreed to do consists of constructing two poles on either ends of the proposed crosswalk location and two poles that would suspend across two flashing beacons and then a pedestrian sign in the center of the wire indicating that this is a crosswalk. There would be two pedestrian activation buttons. If someone wants to cross they will push the button and the beacon will start flashing and drivers will see a flashing beacon that someone wants to cross. The beacon won't be flashing all the time because drivers tend to ignore them.

Dennis Ciotti asked if there were any lights under the beacons casting down on the road. He added that the crosswalks in the City are a major concern lately.

Bob Duval said that typically they don't have lights but they can look into that.

Perry Plummer stated that they want to end up with the best option. He said that downtown there is the fake brick and asked if that was something people would notice that more.

Doug Steele stated that DOT would have more of a say than him but the current brick crosswalks have worked out well with plowing and haven't worn due to traffic.

Marcia Colbath suggested signage indicating that there are crosswalks ahead.

Steve Stancel stated that the crosswalk detail is going to be a negotiated issue. The City doesn't have total control over it. The staff would prefer to have a raised island instead of a painted island as a pedestrian safety area. It would also act as a traffic calming measure.

Debra Brewster, Project Engineer with TF Moran, said that there are three supporting arguments that they need to show to this Board for the Conditional Use Permit. The first requirement is that the applicant demonstrates that the development complies with design guidelines that are outlined in Chapter 149: 14.2. They feel they have proposed appropriate percentages. Commercial development that is greater than the 40% is required by the Zoning Ordinance. They have provided a residential aspect that is less than 35% and the remaining is open space. They have a good mixture of mixed use development. For the commercial development they have office, medical, restaurants, grocery stores and they have dry good retail. They have shared access points, one off of 108 and the other off of Mast Road. There are shared driveways and they are bringing a circulation pattern that has a contiguous landscape and streetscape program that binds this development together. They have decorative lighting. There are Pedestrian amenities in the walking trails and vehicle circulation and the parking. The second argument is that this mixed use development will pose no detrimental effects on the surrounding properties. On the west side is the industrial zone and there are industrial activities on the north. This development will not adversely affect those operations. Eastbound on Mast Rd. they approach the B-4 Commercial zone all the way into the intersection and this mixed use development is consistent with the zoning. They designed this commercial zone in conformance with the B-4 regulations. They took the more conservative approach and took the 75' side yard setback rather than the 50' side yard setbacks. To the east they have the existing Jensens' community, which is very compatible and complimentary to what they are proposing. On the west side they are looking at reserving the 14 acre tract as open space. There are some residential uses in Madbury and they feel that the open space is a benefit in buffering the B-4 zone and the residential zone in Madbury. On the west there are residential houses along Freshette Rd. and they feel that the residential development that they are proposing would be better than if it were an industrial use. They feel they have demonstrated that this development will not adversely affect the surrounding properties.

Debra Brewster stated that they have submitted a fiscal impact analysis that demonstrates that the project is at least cost neutral for the City at the present opening year and then at 10 years in the future.

Duane Cruesse, TF Moran, handed out a copy of the property tax impact summary from the impact analysis and explained that the property is in current use. The current use value was roughly \$225,000. Once it comes out of current use and is built out with the mixed use development the numbers come out to roughly \$26,000,000.00 in assessed value in Year I. He has spoken to Wil Corcoran in the Assessor's office and he says that it is a low number. The average unit in the residential development will be \$225,000.00 and there are 81 units. He went over the items in the report saying that he took the numbers from the Proposed Budget 2006. He explained how the community owns the land and there is a monthly payment of \$450.00 that covers all the property maintenance and the land taxes but the buildings are separate. He said that the project starts out fiscally positive and it just gets better.

Steve Stancel stated what should be factored in should be any of the potential affects of the new Elderly Exemption Regulations that the City has. There is a percentage of the assessed value that may end up being exempted.

Steve Stancel stated that they are recommending that the public hearing be opened again to gain input, tabling it and then recessing for a future meeting. There is a meeting scheduled next week with NHDES in regard to wetland impact. There is a need to address access from residential to retail with elevation differences on the original plan. They asked the applicant to redraw the length of parking stalls and aisle widths to try to mitigate the amount of pavement as well as impacted wetlands. There has been a concern with the amount of wetland impact and buffer encroachment from the Conservation Commission. He said that they would also like to finalize the review of the traffic study and provide additional comments. It will be a matter on how soon we get the new plans or if we can review the Conditional Use Permit on the 25th or not.

The public hearing was opened.

Joan Schriver, 42 Cherry Lane, Madbury, urged the Board to give attention to the regional impact. She looked at the traffic study. Mast Rd. extends to Pudding Hill Rd. in Madbury and connects to Rt. 155. The Pudding Hill Rd. is now being improved and the bridge abutment is being altered. She felt that the traffic study should extend to this impact in Madbury. She urged the Board to consider that projects of that size will have of regional impact. This is like a whole village being introduced and it will affect the wells in Dover. The pavement will reduce the accessibility of groundwater. Madbury has only septic systems and private wells. They would be concerned with a development of this sort and its impact. There will be a need for more police in Madbury with increased traffic. It will affect the area with auxiliary kind of extension that can develop along Rt. 108 and will change the character to probably more commercial development. She urged the Board to be neighborly and there might be a benefit in terms of infrastructure.

The public hearing was recessed.

Frank Torr made the motion to table.

Marcia Colbath seconded.

VOTE U/A

ITEM #7: Old Business

Tony McManus announced that Item c. has been removed from the agenda for this evening but will appear at a subsequent meeting.

d. Consideration and possible vote on a site plan of land for South Dover Investment Group, LLC, located on Dover Point Rd. (28 units of Congregate Care)(P05-63)

Kevin McEneaney represented the applicant. This came before the Board on April 25th and went to a site walk. Steve Stancel indicated that he had a concern that the Zoning Board, when they approved the Variance for this use, had looked at a different set of plans in that it was a different elevation of the building and a different footprint. He wanted to make sure that the ZBA was aware of the change in the footprint and the size of the building and requested that they go back to the Zoning Board for clarification. That was done in June and received a unanimous reaffirmation of the original approval. He went over the underground parking for 33 spaces, all units will have their own kitchens but there will also be a common kitchen facility and meeting and recreation room. There will be about 6 one-bedroom units with the remainder being two-bedroom units. The two outstanding issues was the traffic analysis and the method of the food service to be supplied for the approval.

Frank Torr stated that there should be some notation along the way with regard to the turnpike noise.

Tony McManus asked if there would be staff in this building.

Kevin McEneaney stated that they are anticipating an on-site manager and the food service will be more of a catered situation. Some of the food will be brought in and prepared on site. There will be a dining facility sufficient for the units in there.

Kevin McEneaney went over the parking requirements. He said for the congregate care use is one space per unit for a total of 28 spaces. They have provided for 46 spaces which includes 4 handicap spaces. The employees have been factored in. The required number would be including the staff would be 42. Thirty-three of the spaces are located in the building. He said that the trees that are in the r-o-w would not impede the vision getting out onto Dover Point Rd. but he will have the Planning Department take a look at that.

The public hearing was opened.

Marilyn Follansbee, 25 Dover Point Rd., stated that she is in favor of this project saying it is a good fit for the neighborhood and the Overlay District that will be going in across the street.

The public hearing was closed.

Steve Stancel stated that the staff recommends tabling the project to give the staff the opportunity to finalize the outstanding issues. The biggest issues are the provision of food service and how that would work and access management on Dover Point Rd., as well as a lighting plan.

Donald Andolina made the motion to table.

Dennis Ciotti seconded.

VOTE U/A

C. Review of Extraction Permit status.

Steve Stancel stated that he felt that all the pits are in compliance except for potentially two.

Bruce Woodruff stated that he and Tom Clark did weekly visits and sometimes multi-weekly visits. He said that there were six areas that were not in compliance as of the last memo for the Griffin pit. One item was to reinstall a fence suitable as a barricade along the top of a ridge. Mr. Griffin indicated that he bermed an area but he said that he isn't sure where that is and he may need to explain that to the Board. There is no fence and the way that he sees it, there is no way to put a berm and it needed to be fenced. He added that there may be confusion on where that is. A requirement of the Severino/Proulx/Griffin pits was to install secure locks and for locking the gate and to install a paved area to get rid of the sand. The paving has been done as of Monday. The lock for the gates has been fabricated. We now need an update as to when they are going to be installed. They didn't make the deadline for those three pits but it will be up to the Board. With regard to the two piles of refuse that were on Mr. Griffin's land – most of that has been removed but some remains. This condition hasn't been met. With regard to removing the silt layer in the flooded pit areas and backfilling with City approved high permeable materials – there has been no action taken on the Griffin pit. He said that today, the water levels are so high that no equipment could go down there. He said that he will let the two pit owner address the issues themselves. With regard to preparing along-term drainage and surface runoff management plan and instituting it, although that isn't implicit in the condition within 60 days that has not been met although he did receive a July 6th memo from Altus Engineering with regard to Mr. Griffin's pit indicating that he was on vacation until July 17th and he is going to get that plan to the staff as soon as possible. It is up to the Board as to what action they want to take. Mr. Griffin's \$75.00 permit has not been paid. That is the extent of the Griffin pit.

Bruce Woodruff stated with regard to the Martel pit there is a lot of water and more than he has ever seen before. That is the only outstanding item in that pit.

Bruce Woodruff stated with regard to the Severino pit the paving was done, the gates are going in and there is lots of water that spans the property line between Martel and Severino.

Bruce Woodruff stated with regard to Mr. Proulx's pit it's the same update with regard to the paving and the lock on the gate. The gate furthest to the north is being locked on the days that he goes out there late in the afternoon. With regard to removing the silt layers on the Proulx excavation, that's been ongoing during the 60 day period. Mr. Proulx has been bringing in high permeable material in trying to fill and berm the area to cut off the water. That has stopped over the last 2 or 3 weeks because no equipment could go down there. It would not be good for the environment and certainly not good for the equipment. With regard to the Long Term drainage and surface water management plan, he received a July 9th e-mail indicating they were working on it and the Planning

Department received, late this afternoon, a written plan written by Jack McKenna. The permit fees had been paid.

The Brox Pit is all set.

Tony McManus asked if the Griffin Permit has been suspended as of the 9th.

Bruce Woodruff stated that the approval was clear that the Board was granting 60 day permits and if the conditions were not met by July 9th, the permit lapsed. The formal process of issuing a Cease and Desist is in order. There is no activity in either one of those pits with regard to mining activities because you can't get any equipment in there. There are other places where mining activity is taking place but not in these two operations.

Tony McManus asked if it was fair to say that the amount of standing water is related in some degree to the excavation below the level that the Board requires above the high water mark.

Bruce Woodruff said if you want to believe the engineered plans that were submitted in May, the pit floors with the exception of one, the Proulx pit, is at or above 92 feet elevation, which is what the Board wanted. Those pit areas were raised to that level and the plans reflected that. This indicates when you look at the report from Jack McKenna that the average water table was around 88 feet, they should be ok. Mr. Woodruff said that he isn't a hydro geologist and he can't say why the water is doing what it is doing which is why we need professionals to formulate a plan that gets implemented to meet both the regulations and the environmental concerns.

Tony McManus asked if McKenna has a explanation on why this is happening.

Bruce Woodruff stated that he believes that the Griffin Well is not on line and that may well affect the water table and there may be several other factors.

Steve Stancel said that he has two issues. It's a bigger issue than the water table itself, particularly in the Griffin pit and it has been noted in the Proulx pit as well. There were lower permeable materials being used on the bottom of the pit and that is affecting the level of water and that's why they were told to remove that material. Now, they may not be able to remove that material because of the depth of the water, but that is what it is. The second issue is that they have had all the time in the world to hire an engineer and produce this document. It is not until we continually put the deadlines in place. He has a very strong recommendation, at least for the Tyra pit and he'll reserve judgment on the Proulx pit until he hears other statements this evening.

Dennis Ciotti asked if Mr. McKenna could reestablish the water table out there and in his professional opinion raise it. He said that two years ago the Board laid the law down and now two years later it's always the same stuff and the Board needs to put its foot down.

Enough is enough. A Cease and Desist still gives them 30 days. There is a well out there and it's time to add some teeth.

Bruce Woodruff stated if the pit owners go forward with their work we can make that a requirement.

Donald Andolina asked what the courses of action are.

Steve Stancel stated that, in his opinion, there is definitely a violation of two of the conditions and the Board only extended the permit 60 days and that has expired. The staff recommendation is that the expired permit not be extended and all excavation is to be immediately halted until a new permit is applied for and received. If they are not working the pit, he said that is not a big hardship for him, however a Cease & Desist shall be delivered immediately and they asked the City Attorney to research the steps required to call upon the bond as needed to effectuate outstanding conditions. The City attorney will also research Section 170:30.4 F – Penalties to determine any violations to regulations for potential fines and or other legal action.

Frank Torr asked what the process is to reapply. He said that they have submitted a hydrogeological report which apparently there is a problem with because 88 feet isn't what the water table is right now. It is much higher apparently.

Steve Stancel stated that they would have to supply that as part of their new application. There will be a public hearing. They would be starting from the beginning.

Steve Stancel stated that it would be his position that they would need the permit before they could open up. They would still be allowed to fix the issues that are outstanding but they would have to come back with the application in order to begin the extraction process.

Mr. Griffin said that there is huge misunderstanding. The only piece of refuse that they had on the property was a couch that was immediately removed. He said that there is a misunderstanding where the property line is. What Bruce Woodruff was speaking about is on the Proulx property. He said that they have not brought one pound of material from outside his property lines into that pit. There was some material that was brought into the Proulx pit and that has since been approved by Dean Peschel. The City approved their long term drainage and water runoff management plan. He said that in early May he sat down with Jack McKenna and explained to them that he wanted them to set up this long range plan as he was asked to by the Planning Board. It was not done at the last minute. He said around the end of April they were starting to see the old contours then the Mother's Day rains came along and they've had a deluge ever since and everything is under water. He passed around some photos. The other item was barricading of the 1 to 1 slope area. They have pretty much dug out this pit so all their property lines are now at grade level and there is no 1 to 1 anywhere. He had some photos to show the Board. He said in September or October they brought everything up to elevation 92 and in doing such they displaced some water then they had the three hurricanes and the water just

didn't go down until this past April. The engineers that they hired cannot do anything until they could actually drive around the material at the floor of the pit and do some test pitting. He said that he doesn't know what the answer is but they do have a team of professionals. He said that he felt that they have complied with everything they have been asked and doesn't know what else he can do. They can't work the pit because of the water so they haven't sold any material from that pit this year.

Steve Stancel stated that he recommends that the expired permit not be extended and that all excavation is to be immediately halted until a new permit is applied for and received. A letter of Cease & Desist shall be delivered immediately. The City attorney will be requested to research what is required to call upon the bond as needed to effectuate outstanding conditions. The City attorney will also research Section 170:30.4 F Penalties, to determine any violations to regulations for potential fines or other legal action.

Perry Plummer asked where the existing permit has lapsed and if the board had the authority to extend it now that it has lapsed.

Seteve Stancel stated given the fact that there wasn't a meeting between July 9th and tonight that if the Board technically wanted to they could extend it.

Doug Steele said that 60 days ago the Griffin Pit was the pit that he had the main concern with and he continues to have it. He hasn't seen any improvements and he understands that the water table is high and it's difficult to get work done. He agrees with Steve Stancel's recommendations.

Donald Andolina made the motion to accept the recommendations of the Planning Department as follows:

1. The expired permit not be extended and that all excavation is to be immediately halted until a new permit is applied for and received.
2. A letter of Cease and Desist shall be delivered immediately.
3. The City attorney will be requested to research what is required to call upon the bond as needed to effectuate outstanding conditions.
4. The City attorney will also research Section 170:30.4 F Penalties to determine any violations to regulations for potential fines or other legal action.

Dennis Ciotti seconded.

VOTE U/A

Richard Proulx , Vice President of Proven Aggregates, stated that enclosed in a packet that he handed in tonight is a letter that Dean Peschel sent him today. He has been working on this since 5/17/06 and that is plenty of time for Dean to get back as to whether the material is ok. The Mine Safety and Health gentleman stopped by his pit for a visit and his card is also attached in the packet. The gentleman informed him that if he could not get an ambulance down in the pit in case one of his operators has a heart attack he could not have his equipment go down there. That was made quite clear. He's a little

stuck right now. He will go down in the pit up to that point and keep on taking the silt away so the water will drain. He has no problem in doing that. Part of the reason that he didn't hand this in until today is that he was waiting for the letter from Dean Peschel. He needed that in order to properly document this. Quite frankly, in the past he would have just gone ahead without written approval and done what the Board had asked because he doesn't feel like being in this position every year. The Board made it quite clear that there was to be an ok in writing from Dean Peschel and it wasn't received until today. Unfortunately, he lost a piece of time that was best suited to build a dam and get the silt out when it was dry before the floods.

Dennis Ciotti said that Jack McKeenna's letter in April states what is needed to correct the problem and the letter today from Dean Peschel says the City had received no notice that anything's been done. Can he prove that he has done anything since April.

Bruce Woodruff said that the Code Enforcement Officer and he go out weekly and there has been work done on the bottom of the pit to try and remove the water. Dean Peschel's letter has to do with the huge bank that covers the water line. The two are mutually exclusive.

Tony McManus said that one of the things in the packet was a letter dated December 10, 2002, a copy of which was sent to Dick Proulx, identifying one of the problems in the pit. He was talking about the Griffin pit at that point but a copy was sent to Mr. Proulx regarding the importation of highly impermeable soil over large areas of gravel pits in the well head protection zone which shall not continue. A year ago the Board was having the same conversation regarding the fact that there was not sufficient coverage of the high water table to meet the City requirements. He added that we still have the same problem from his point of view.

Richard Proulx, stated that he has been putting highly permeable material back. After the meeting, the Board made it quite clear that he could not complete the way he was doing things and had to have things in writing from Dean Peschel. Without getting cooperation from the City it was hard for him to be held to the requirements. He said that he doesn't want anything moved on his property at this point without having a letter from the Board. It is not worth it.

Steve Stancel stated that this is a bit different in that the Planning Board gave a one year permit to this pit operator with the condition that these issues be cleared up within 60 days. He said the Board may suspend or revoke a permit if the Code Enforcement Officer determines that any provision of the permit has been violated. A letter from Tom Clark indicates that he feels that there are two provisions of the 60 day window, if the Board chose, could be used to suspend the permit. This suspension is subject to a motion for rehearing so Mr. Proulx could appeal in accordance with regulations to the Zoning Board of Adjustment. The option this evening is to extend Mr. Proulx for another 30 or 60 day period to address the two items in the letter, or based on these two items, you can chose to suspend the permit. It doesn't sound like Mr. Proulx is extracting from the pit now anyway and it would be a matter of Mr. Proulx coming back to have the Planning

Board reinstate the permit. It is a rather simple process once it was shown that these two items were addressed.

Doug Steele stated that he would be in favor of an extension in this case. They have made a good faith effort to make the improvements. There was also a separate issue with the contaminated soils that came in on the property and they were very cooperative and concentrated on getting that taken care of. Due to the amount of rain that we have had he feels that an extension in their case is warranted.

Steve Stancel stated that he would recommend that the extension be 60 days so it could be reviewed at the end of that period. He said within the 60 days they could get the study from the hydro geologist back.

Dennis Ciotti said that he would go along with the 60 day extension provided that there are two caviats that at the end of 60 days they are 100% compliant and that Dean Peschel gets out there tomorrow and inspects the pit and gives a written letter that he has inspected it. The letter that Mr. Proulx got today doesn't indicate that Dean has been out there to inspect the property either.

Frank Torr stated that he believes that we are going to have a wet summer so we will have the same conditions existing probably 60 days from now. Another factor is what happens to the other two pits that got approval that have a high water table in their properties. One being the City of Dover and the other one next door to that The City pit operated by Severino,has been pushing gravel from the top to the bottom of the pit and then blending it in with the sand. That operation should have stopped. He wasn't sure if it has or not.

Perry Plummer asked if it would make any sense to grant a 60 day extension with a 30 day update so we would know if there is issues of water.

Dennis Ciotti made the motion to grant a 60 day extension as long as Dean Peschel gives written approval, with a written 30 day update and a 60 day update that all has been taken care of.

Frank Torr seconded.

VOTE U/A

New Business

Discussion ensued with regard to Speak Out Dover.

ITEM #10: Adjournment

Frank Torr made the motion to adjourn.

Dennis Ciotti seconded.

VOTE U/A