

**DOVER PLANNING BOARD  
MINUTES OF MEETING  
MAY 10, 2005**

**MEMBERS PRESENT:** Donald Andolina, Ronald Cole, Frank Torr, Dean Trefethen, Mindy Anderson, Dennis Ciotti Anthony McManus

**MEMBERS ABSENT:** Erik Tooke, Beth Thompson Pete Lavoie, Bryan Cahoon John Swartzendruber

**STAFF PRESENT:** Steven Stancel, Planning Director and Jacqueline Freeman, Recording Secretary

Chairman Cole brought the meeting to order at 7:03 PM.

**ITEM #1: Citizens' Forum**

Richard Auclair, 99 Belknap St., was concerned with the bike path that is being planned behind their home on the old railroad bed and wanted more information. His major concern is that the City is in debt and Belknap St. is in need of repair. They went to the Public Works Department and it was not slated to be paved for the 10 to 14 years. He wanted to know why a bike path is in the works when the City can't maintain the infrastructure that they already have. They put sidewalks in last summer and they were not plowed in the winter, making them useless. They do not want to open up their back yards to the public because it is the only private area that they have. They want more information on the trail. They spoke to the Police Dept. with regard to patrolling the bike path and they were not even aware of it and they did not have the manpower to patrol the path. They want assurance that funds are set aside for a police officer. He thinks that opening up this path in the Silver St. area is opening a can of worms. They asked Bruce Woodruff what the maintenance costs for the trail would be and he couldn't provide them with any figures and said that there was nothing scheduled for the cost for long-term maintenance. Mr. Auclair said that they have just about all the abutters involved. They want to find out where the funds are coming for the purchase of the railroad bed. He said that when registering a vehicle \$5.00 of that registration goes toward that project. He said the \$5.00 should go towards bringing the roads up to status. Another concern is of the potential of condos and single family homes being built in spite of the wetlands. When they spoke to Mr. Woodruff they were told that the area behind them was considered wetlands at one time but because they are man made that the decision could be reversed. They want the project put out in the open.

Ray Noiles, 40 Rutland St., said the abutters should have been notified about this project. If there is a bike path planned to go behind his property, he felt that he should have been informed. He said if it isn't a legal responsibility of the City, then it should have been a moral responsibility.

Steve Stancel stated that this is a project that has been in the City's Master Plan for years. The grant application for the funds has been in the process for several years. There have been different public hearings. The project entails a trail system from Central Ave.

(Sawyer Mills area), all the way through to the Fourth St. train station and then it would continue down beyond Sixth St. and all the way to Watson Road. Also, from the train station, you would be able to connect to the riverwalk and go into the downtown area and the new waterfront redevelopment. The funds are now about \$900,000 to \$950,000 to do the project. It is 80% funded by federal dollars that cannot be used to repave City streets because they are specifically earmarked for things like pedestrian ways, etc. The studies have shown that for every dollar spent on a city-wide trail system, the City gets back \$5.00 - \$6.00 in terms of people coming into the City using the trail system or the existing citizens using the trail system and then stopping at various places spending money or enjoying the City. The City has been obtaining sections of the right-of-way whenever they become available. Whenever any project comes before this Board they have strived to obtain various access easements to continue the trail. For the Police Dept. to say that they are not aware of the project, he can assure everyone that there are members of the Police Department who are in tuned with the City's Transportation plan and are aware of the project. The police have obtained a four-wheel drive vehicle just for the trail system if and when it does occur. Whether or not a full-time person would be allocated to it is a question that still needs to be answered. He explained that they are in the design phase and what you see behind your houses are the engineers identifying the wetlands and existing rights-of-way, etc. Once the plan is in place they will be having neighborhood meetings and bringing the plan forward and getting input. It is a project being administrated by the Planning Dept. the Transportation Advisory Committee. The City Council last year has allocated funds for purchasing an old railroad bridge across the river as part of the funds.

Steve Stancel stated that it hasn't been discussed as to whether it would come to the Planning Board or whether it would go from the Transportation Advisory Committee to the City Council. That is something that we can look at. There is private ownership of portions of this right-of-way and they do have plans to put housing units in there. If it meets zoning, you probably will see some housing units on some of the old railroad rights-of-way.

Mr. Straton, 46 Rutland St., was concerned with how the railroad right-of-way would be accessed for the condos. He said that between Silver St. and Fisher St. there is no access to the chunk of land that is in the back. He was concerned that the land would be taken by eminent domain. He said that land taking by eminent domain is supposed to be for the greater good and not just for the benefit of the developer.

Mary Parker, Belknap St., was concerned with the development of the property even though there are wetlands. She asked if there could be both a bike path and development. She heard from her daughter that people use the existing path to smoke pot on the way to school. She was concerned that that would be what she would have in her back yard. People who live close to the paths know what is going on. She said there is a difference between a rustic path and the bigger paths in the bigger Cities that are out in the open and have patrol.

Steve Stancel stated that, ideally, they would like to purchase the right-of-way in its entirety. It is a negotiated process. He can say that the developer does have plans to put housing units. He will be able to put something on it but the numbers of units is still debatable. There is access off Fisher St.

Lou Munez, 40 Fisher St., will be impacted like his neighbors. He lives in front of the proposed access. This is a rustic area. He chose to live in Dover because it is an old rustic town with values. People want to come here, raise their family, live and retire. He bought property from the Austins who told him of the battles they had with the town when wanted to put in some fill. They were told it was wetlands. In the back of his property he has waterfowl, foxes, and hawks. He spoke of the kids smoking pot or drinking beer. He has been cleaning the area for 6 years and is aware of what goes on back there. He was concerned with the loss of his privacy. Now he is finding out there will be a path and they are being told there will be condos. He said that the existing roadway is no wider than his driveway. He said that the city has to take a stance and say no to developments that want to change neighborhoods and impact the privacy of those who live there. He said that Dover is the second oldest City in America and the oldest city in NH that has the motto of "Live Free or Die." Progress is progress but not at the expense of those who have lived in the City for years.

Rich Auclair stated that he does not see how the City is going to recoup \$5 or \$6 for every dollar they invest by the bike path. He asked about the salaries to operate the 4 wheel drive vehicle around the clock. He doesn't want to wait for 15 years for the repair of his road. He stated that his taxes have gone up 50% in the past 5 years. He cannot see that adding a bike path will bring some economic boom for the City but sees the opposite. He spoke about the debt that needs to be addressed. Maintain road first. He said that he understands that the bridge that the City bought is in bad condition.

Steve Stancel stated that this is all premature. The project needs to be designed and before holding a neighborhood meeting where they will lay out all the costs and will answer all of the questions.

Richard Auclair said before we spend a dime on this project we should know about it. He said that the City hired an engineering firm for \$90,000 and there is still no plan for this. He wants to know where his tax dollars are going, what the plan is and what the long-term maintenance costs are. He said that the citizens are supporting the riverwalk project now and not the City.

Joanne Muniz, 40 Fisher St., asked if this was a done deal and the trail is going to happen anyway. She asked where she can find information on the type of grant this is, where it came from, and who funded it under the freedom of information act. She has a concern that the City is bringing a trail through a residential area and will be using a four-wheel drive vehicle to patrol it which is the number one noise maker.

Ron Cole urged the departments that are involved, prior to doing much of anything else, to hold a city-wide meeting to bring people up to speed as to what is going on and allowing people to air their concerns. He said that he will leave that to the Planning Dept., the Recreation Dept. and the Community Services Dept. and he would be happy to facilitate that meeting.

Steve Stancel stated that they are attempting to come up with some basic concept and preliminary plans before having a neighborhood meeting so that they have something to

show the neighbors. With that, they can react to something other than rumor and conjecture. When we have a basic plan and a cost, a meeting will be held and it won't be the first and it won't be the last.

Marsha Colbath, Vice Chair of the Conservation Commission, stated that the neighbor's input is very valuable. She said that Mr. Woodruff, who is in charge of the project, has been deployed to the Middle East. She assured the neighbors that no one is trying to leave them out of the loop. She said that Mr. Woodruff stated that there would be multiple meetings with the abutters. He said that the railroad beds are lots of record and, yes, there is an imminent threat of development.

Ron Cole stated that he would follow up on this. He assured everyone that nothing is going to happen until it is done properly.

**ITEM #2: Approval of the minutes.**

Frank Torr made the motion to approve the minutes.

Dennis Ciotti seconded.

**VOTE U/A**

**ITEM #3: Consideration and acceptance of a minor lot line adjustment of land for Northam Builders, Inc. (owners Philip Hatcher & Margaret Kieschnick) Assessor's Map 17, Lots 95D & 95F-2, zoned R-12, located on Woodland Road.\*(P05-26)**

Bob Stowell, TriTech Engineering explained the lot line stating that the new line would allow for a buffer of the pool.

Frank Torr made the motion to accept the application.

Dennis Ciotti seconded

**VOTE U/A**

The public hearing was opened.

There were no comments.

The public hearing was closed.

Mindy Anderson made the motion to approve with the following conditions:

1. Add the owners' signature to the plat.
2. Provide the Planning Department with a digital version of the plat.
3. Add the surveyors' seal and signature to the plat.
4. Revise the plat by labeling the proposed property lines as "new boundary lines."
5. Revise the plat by updating the effective date of the flood maps in Note #10.

Donald Andolina seconded.

**VOTE 5 – 1**

**Opposed – Dean Trefethen**

**ITEM #4: Consideration and acceptance of a minor lot line adjustment of land for Emerald Woods Development, LLC, Assessor's Map F, Lots 22A-22 & 22A-23, zoned R-40, located on Emerald Drive.\*(P05-27)**

Bob Stowell, TriTech Engineering, represented the applicant. He explained that the foundations were poured and one did not meet the setbacks and was about one foot too close to the side lot line. This will provide the proper setbacks for the encroachment.

Frank Torr made the motion to accept the application.

Dennis Ciotti 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 with the following conditions:

1. Add the owners' signature to the plat.
2. Provide the Planning Department with a digital version of the plat.
3. Add the surveyors' seal and signature to the plat.
4. Revise the plat by updating the effective date of the flood maps in Note #10.
5. Revise the plat to change the road name to Emerald Lane.

Donald Andolina seconded.

**VOTE U/A**

**ITEM #5: Public hearing to hear requests for Extraction Permits.**

Steve Stancel stated that he and Tom Clark went through the conditions of approval that Bruce Woodruff had drafted and it struck them that there were several conditions that required 20 day and 30 days to accomplish. In his opinion, he would feel more comfortable if instead of approving with the condition that everything be done in that timeframe, that we go through the conditions this evening but then table all the permits and have them come back on June 14<sup>th</sup>, 30 days from now, and have everything done. They get their permits, but if everything is not accomplished-they don't get their permit. This would be instead of doing the conditional process. He said that they were very clear to the pit operators last year that they were going to be very strict this year.

Tony McManus stated that he was going to raise that issue also. He said that he feels that it is the proper way to do it. He said that he was going to make the suggestion that if they had not met the requirements of the application as of tonight they would be denied the permit. He said that the staff's suggestion is a more practical one under the circumstances.

Frank Torr suggested that the Planning Board take a tour of the recycling facility including the City's pit.

**a. Public hearing and consideration of a request for an extraction permit by Severino Trucking Co., Inc., Assessor's Map H, Lot 58, zoned I-4, located on Mast Road.**

The public hearing was opened.

There were no comments.

The public hearing was closed.

Steve Stancel stated on several of the permit applications the applicants have requested waivers for a couple of the requirements. One is a waiver requirement to dig test pits that extend to either the seasonal high water table, ledge or minimum of 6' below, including location of soils data. The applicant states on the excavation plan that the waiver is warranted because the existing monitoring wells show groundwater elevations. Also the applicant requested a waiver of the requirement to prepare and submit an annual report documenting compliance with the requirements of Zoning in Chapter 170 Groundwater Protection. His question to the applicant is why do they need the waivers.

Tom Severino said that they really is no need for waivers or extensions. He said that they try to eliminate those too. These waivers are such that they are the technical letter of the law to dig test pits and there is no other avenue. He said that the monitoring wells establish the water table so there is no need to do test pits. The City implements water monitoring and sample the water 3 times a year. Maybe it needs to be written differently so that it is not so specific. He said that they have gone to great lengths to make sure that they have adhered to everything that they need to for approval.

Tom Clark said that both staff and Conservation Commission members performed a site inspection of the gravel operation on Monday, April 11, 2005. The application materials are complete with the exception of the annual report. The excavation and reclamation plans are complete. Even though area 1B is slated for completion of reclamation efforts sometime in the spring, it is recommended that the existing bonds remain in place until next year's permit application. He is read from his memo of April 20, 2005. He felt that at this point it should be modified.

The Planning Department recommends the extraction permit be extended to June 14, 2005, subject to the following:

1. The annual water elevation data from the water test wells be submitted.
2. That the applicant prepares and submits the annual report documenting compliance with the requirements of Zoning, chapter 170 section 170-28, Groundwater Protection.
3. That the applicant initiates the process of stabilizing the side slopes around the cell tower and Pease beacon areas.

Frank Torr stated that there is an extremely high face to the bank that is being excavated and there is no protection at the top. There is a trail that goes into there which should be blocked. Children can get up there and if it came down they would be buried. The main face is probably at least 60 feet high and goes straight down. It mentions on the plan that in the spring of 2005 there would be a fence put up. They cut the trees at the top of the bank and now the tree line is moved back probably 300 or 400 feet. There is an orange fence that is down in most places and won't prevent anyone from entering. There is standing water at the base of the slope behind the City property where the municipal garages are. He asked who has the liability on the property, where it is City property being mined by a private contractor.

Steve Stancel stated that he didn't know and will ask the applicant. He said that any areas that are greater than one to one slope, even temporarily, are supposed to have some type of

barrier. He said that he is not sure on this piece, if because the front portion of the lot is fenced, if that covers the back or not. He will look into that.

Frank Torr said the slope that has been reclaimed has been planted in sand and he is not sure how well that will grow. There were steady streams of trucks coming into the pit dumping material next to the City detention pond.

Steve Stancel stated that he spoke to Dean Peschel today because there had been concerns expressed about the type of materials that are being trucked on the site and was assured that the type of materials that are onsite have gone through the NH Dept. of Environmental Services for approval to assure that the type of materials are not a danger to the well sites. Steve Stancel said that they have to look into any standing water on the site.

Frank Torr stated that last year we were concerned with the erosion of sand. Now with the City having excavated that area on a calm day, there is a strong wind as a result of the openness of the area. He asked if there has been any thought of putting a screen on both sides of the City property to help prevent that. He said regarding the development that is being proposed on Mast Road that the people living there will not be very happy.

Tom Severino pointed to where he was operating. He said that they did replace a lot of the orange fence with a wooden fence with metal stakes. He explained how he protected certain areas. Regarding the material being imported it is not Severino importing the material, but the City. They do keep in touch with Dean Peschel. They work in conjunction with the City to over excavate the slopes so that they can put the material back into the slopes. He said that the area mentioned was all hay mulched and seeded two weeks before that and there was a dozer on it. It was graded and 6" of loam was placed on it. They won't try to grow grass on sand. They are restoring it as if they were restoring one of their projects. He explained how they restore certain areas of the slope to a two to one and loam it and hydro seed it in a sequential process. He said that there could be more screening and they should fence some of those areas and it is their liability. The City has their certificate of insurance. He said where the kids could gain access, could be more secured. He said that they go to great lengths to make the pit as neat as they can. The last person that wants an accident is themselves. They have not established their final grade elevation so they have started to make that final cut. He thinks they were too deep and it is scheduled to be refilled with the sand from the bank. He said that there was standing water because it has been so dry that after all of the rain, it did not have a chance to perk out. He pointed out the 60-foot face on the map. They just cleared it and stripped the loam to restore the slope. He explained that it should have been blocked and then fenced. He said that they can't keep the fence at the top because it is in progression every day. He said that more efforts would be made to secure it.

Donald Andolina stated that they spoke about fencing, cleanup, reclamation and hours of operation last year. He said that when they walked the site last year, he felt that when they left the site that they had an agreement that these things would be taken care of. Now it is the same issues as last year. He said that a way to correct this is to withhold an issuance of any permit until it gets done.

Tom Severino said that he disagrees. He has personally gone to great lengths to loam and hydro seed. He explained how they were light years ahead of what the pit was years ago. They listened to the concerns and they didn't want the Board to have any comments and that why the wooden fence went up. There are always areas that can be tightened. They have done everything that has been asked of them. He said that there will be areas in the working face and they try to protect the area but you can't physically protect the face that is being worked. No one should be able to drive up there. Can a kid climb over a fence, yes!

Mindy Anderson stated that this is an excavation pit, so kids shouldn't be in there anyways. She said that they should not be haggling over fences and withholding permits where it seems to her it is a pretty tight ship.

Ron Cole said that he is taking into account the fact that Bruce Woodruff is not here and the fact that our Planning Dept. is extremely busy. He said that he doesn't see any outstanding issues that cannot be clarified in the next 30 days.

Dean Trefethen stated that in this application he doesn't feel that there are any major problems except for the annual report which would have answered most of the questions.

Tom Severino said that he believes that the report is done and the City has that report. He said that he will get to the bottom of this. He said with the grace period to June 14<sup>th</sup> they will rectify that.

Tom Clark stated that the Planning Department recommends the existing extracting extraction permit be extended to June 14, 2005 subject to the following:

1. The annual water elevation data from the water test wells be submitted.
2. That the applicant prepares and submits the annual report documenting compliance with the requirements of Zoning, chapter 170 section 170-28, Groundwater Protection.
3. That the applicant initiates the process of stabilizing the side slopes around the cell tower and Pease beacon areas.

Tom Clark said that he believes that the test pits are still a question. He said that the waiver is warranted because the monitoring wells do show that elevation. He's not sure if that should be included.

Steve Stancel said that they have a question on how big a deal is it to dig test pits on an annual basis when you have the equipment on site.

Tom Severino explained that when the monitoring wells went in it was an avenue that they are 20, 30, 40 feet deep they can plunge down. They took water samples and have a copy of the letter with the monitoring well # on it, the depth of water with the elevation were and they are all fine. He said that most of the pit is 100 feet above the water table.

Ron Cole stated that he would like to have a motion for everything to be extended to the 14<sup>th</sup> of June.

Tony McManus made the motion to adopt the recommendations of the Planning Department with regard to Item #6a. as amended.

Donald Andolina seconded.

**VOTE 5 – 1**

**Opposed – Dean Trefethen**

Dean Trefethen asked for a clarification on what we are voting one.

Mindy Anderson asked for a revote on that because of all the misunderstanding.

Ron Cole stated that the recommendation is to table the approval of all extraction permits until June 14<sup>th</sup>. The amendment is that the Planning Board will do a site walk of the gravel pits prior to that meeting.

**VOTE 5 – 1**

**Opposed – Dean Trefethen**

Steve Stancel explained with regard to the pits that the drive to get the drive to get this accomplished by the deadline can only be driven by the Planning Board.

**b. Public hearing and consideration of a request for an extraction permit by Mast Road Sand and Gravel, Assessor's Map H, Lot 53, 54, zoned I-4, located on Mast Road.**

Paul Martel stated that he would address any questions. He said that there are a couple of recommendation's that have not been met but they will be within the 30.

Donald Andolina asked if Dean Peschel checks all materials that comes in the pit. He asked if he was aware that the Planning Department is recommending that he notify Mr. Peschel, which is not optional.

Paul Martel stated that the material he gets is from local pavers who deliver 6 or 7 yard of hot top or gravel. It is almost impossible to have Dean Peschel come in on a daily basis to look at each load. Most of the material that is brought in is basically hot top or concrete that he crushes into gravel. Paul Martel said that he is about 10 feet above the water table. He said that he will have the data within 30 days.

Tom Fargo, Chairman of the Conservation Commission, and a professional hydro geologist, stated that he did the inspection of the installation of the monitoring wells on the site of the City pit a number of years ago as a volunteer. He has been involved with the pit since 2001. Two years ago, the Planning Board established a subcommittee to review the gravel extraction requirements. The ordinance that establishes the extractions follows almost word for word RSA 155E., the state law regulating gravel pit operations. He said the subcommittee went through the state law and they did was to say to say who was responsible for doing things and at what time. The regulations for slopes, buffers, etc., come right from State law. The only thing that happens in Dover is the requirement of the Groundwater Protection Ordinance. This was to ensure that their pit operations do not excavate below the water table. He said that there are 2 wells in the Mast Road area. The test pits and the monitoring wells were intended to say what is the elevation of the highest seasonal high water table and what is the elevation of the bottom of the pit so that there

isn't over excavation and water accumulating in the bottom of the pit. He said that they need to know where the data is coming from. He has volunteered for the past 4 years to look at the data and has never seen it. He said that a lot of the questions here could be explored on a site visit. He encouraged the Planning Board to go out to the pits before June 14<sup>th</sup>. He would be more than happy to go along and point out the things that he is concerned about and addressed in his memo that was enclosed in the packets.

Ron Cole asked why the City doesn't do the testing.

Tom Fargo said that it is private land and we don't have the authority to do that.

Don Andolina asked if the water table data exists.

Tom Fargo said that he doesn't know.

Steve Stancel stated that it does for the Severino pit it does.

Don Chandler, 65 A Bellamy Road, stated that one year ago he came before the Board to talk about a problem with sand blowing over his property and Mr. Martel's pit was the closest. It was a severe problem at the time. He had a group meetings with Mr. Andolina, Mr. Martel, Mr. Severino and a couple of other people to talk about a solution to make sure that the sides were put to grade and covered with a cap. It seemed to make a tremendous difference in reducing the amount of sand that was blowing. He said that as he looks down into the pit Mr. Martel has capped and put to grade his property and Mr. Severino has done a good job. One of the requirements of mining is to reclaim the land and, in his opinion, it has made a world of difference in regard to his property. At the time of their meeting it was clear that Mr. Severino would be mining the high spot sitting off in the distance and they were talking about the current appearance. One of the things that will happen as it is being mined is that all the properties on the southeast side will be exposed to the wind blowing down the central part of the pit. He said that reclaiming the pits appropriately helps a great deal in reducing the sand blowing. He appreciates that the pits are a bit dirty but there are mechanisms in place to greatly reduce it. He asked the group to be very aggressive in making sure that the pit owners follow those requirements. The cap should be reseeded, the part next to their property hasn't been reseeded yet and he thinks that would greatly slow down the erosion. That is something that should be done as a requirement and be actively pursued.

The public hearing was closed.

Tom Clark said that they were thinking of having an employee witness a test pit.

Ron Cole stated that we could have test pit day and go visit all the pits.

Tom Clark stated that Planning staff met with both the pit operator and his engineer to discuss requirements in March of this year. Planning staff and Conservation Commission members performed a site inspection of the gravel operation on Monday, April 11, 2005. The slope stabilization work that was required last year is progressing again now that winter conditions are over. The application materials are complete with the exception of

the annual report. The excavation and reclamation plans are complete. There has been no significant area reclaimed per standards, therefore it is recommended that the existing bond remain in place until next year's permit application. The Planning Department recommends the current permit be extended to June 14, 2005, subject to the following:

1. The applicants reinstall a fence or other suitable barricade along the perimeter of the pit that has fallen since last year that exceeds a grade of 1:1.
2. The applicant do a test pit that extend to either the seasonal high water table, ledge or a minimum of six feet below the maximum proposed excavation depth, including submittal of location and soils data.
3. The applicant prepare and submit an annual report documenting compliance with the requirements of Zoning, Chapter 170, section 170-28, Groundwater Protection.
4. That the slope stabilization reclamation work was to have been completed by last fall must be complete by the June 14<sup>th</sup> and to initiate the process of stabilizing the vertical side slopes around the perimeter of the property, most notably along the northern boundary line with MacLean all prior to June 14, 2005.

Tony McManus made the motion to accept the recommendation of the Planning Department as amended.

Donald Andolina seconded.

**VOTE 5 – 1**

**Opposed – Dean Trefethen**

**c. Public hearing and consideration of a request for an extraction permit by Brox Industries, Inc, Assessor's Map C, Lots 12-A, 13, 14, zoned R-40, located on Glen Hill Road.**

The public hearing was opened.

David Cluff, Plant Manager, felt that the request for groundwater elevations was redundant due to the City monitoring all around them. He said if Bruce Woodruff was here he could probably clarify some of the issues. He said that they have 3 or 4 monitoring wells and their land is open for more. The water standing in their area is what the City of Dover has in their pit next door. The City pumps in millions of gallons of water and is trying to keep a pond next door. He said that his plans that were submitted show the slopes, the reclamations, elevations, water tables, etc.

Ron Cole asked about the letter from Mr. Rowe stating that Brox did not stay 3 feet from his boundary line. According to Mr. Rowe, there hasn't been any reclamation of the land adjoining his lot.

David Cluff stated that the history on that property is that anything that Mr. Rowe is talking about occurred prior to them attaining that land from a tax sale. The excavation laws of 155 E, required a distance of 10 feet from an approving abutter and 25 feet from a disapproving abutter. At the time that the pit was open in Barrington, the land was owed by 'owner unknown by the Town of Barrington, at which time they were within 10 feet of the property. After that it was sold to Mrs. Rowe at a tax sale and they became a disapproving abutter of an existing excavation already beside them. Any of those complaints that they have now have not occurred since they owned the property.

Steve Stancel asked if any reclamation occurred adjacent to the property.

David Cluff stated that they have done the Dover side. They have two pits and they have done slopes. They have had a lot of discussions on the reclamation and there are two sides to the reclamation issue. They are next door to the Dover pit and Dover is trying to introduce water into the soil. He said that it is very difficult.

Steve Stancel asked about the quarry work in Barrington. He asked if they need a permit from the town of Barrington for that.

David Cluff said yes. Barrington follows 155 E. He said that they received zoning variances from Barrington back in 1986 when Pete Bouchard was the Public Works Director.

David Cluff said that they have owned that piece of land since 1984. In 1984 when it was started as a gravel pit and it migrated into the quarry operation in 1986. The City of Dover's representative to all the meetings was Camp Dresser and McGee. He said that they do not have a third lower bench. That would be a request in the future because it is a dry ledge and in the event that they want to go to that next bench they would present all the necessary hydro geological data.

Don Andolina asked if there was any foreign material in the pit.

David Cluff stated that they had not. He said that they probably had a half a load. Their pile of rubble is in Barrington. He said they don't normally haul things in.

Tom Fargo said for clarification sake, Dave Cluff mentioned to him that they were looking at adding a third bench to the quarry in Barrington. He said that he suggested that they might have to pump the third bench because it might be below the water table within the rock. Tom Fargo explained what a third bench was. He said that he is interested to know what the ramifications of opening up the third bench would be on the gravel wells that are on one side. They have to have some pumping because they might be below the water table in the rock. He was concerned that water may be diverted from gravel wells that are on one side of this site into that pit. He was concerned that the Campbell well may go dry or loose capacity.

The public hearing was closed.

Tom Clark stated that Planning staff met with both the pit operator and discussed requirements in March of this year. Planning staff and Conservation Commission members performed a site inspection of the gravel operation on Monday, April 11, 2005. The application materials are complete with the exception of the annual report and the test pits/data submission. The excavation/reclamation plans are complete although only as one plan set (applicant is requesting a waiver from preparing separate excavation and reclamation plans.) There has been no significant area reclaimed per standards, therefore it is recommended that the existing bond remain in place until next year's permit

application. The Planning Department recommends the current permit be extended to June 14, 2005, subject to the following conditions:

1. The applicant do test pits that extend to either the seasonal high water table, ledge or a minimum of six feet below the maximum proposed excavation depth, including submittal of location and soils data.
2. The applicant submit the annual report on this data.
3. The applicant re-install a fence or other suitable barricade along the perimeter of the pit (that has fallen since last year) that exceeds a grade of 1:1.

Tony McManus made the motion to accept the recommendations of the Planning Department as amended.

Donald Andolina seconded.

**VOTE 5 – 1**

**Opposed – Dean Trefethen**

Chairman Cole called a 5 minute recess.

Chairman Cole call the meeting back to order.

**d. Public hearing and consideration of a request for an extraction permit by James Griffinf and Tyra Inc., Assessor’s Map H, Lot 60, 62, zoned I-4, located off Mast Road.**

Paul Griffin stated that he was representing Tyra, and that nothing had changed in the pit

The public hearing was opened.

The public hearing was closed

Tom Clark stated that Planning staff met with both the pit operator and his engineer to discuss requirements in March of this year. Planning staff and Conservation Commission members performed a site inspection of the gravel operation on Monday, April 11, 2005. The application materials are complete with the exception of the annual report and a test pit/data submission. The excavation and reclamation plans are complete although only as one plan set. The applicant is requesting a waiver from preparing separate excavation and reclamation plans. There have been no significant area reclaimed per standards; therefore it is recommended that the existing bond remain in place until next year’s permit application. The Planning Department recommends that the extension of the existing excavation permit until June 14, 2005, subject to the following conditions:

1. The applicant do a test pit that extend to either the seasonal high water table, ledge or a minimum of six feet below the maximum proposed excavation depth, including submittal of location and soils data. The hydrologist, Mr. Jack McKenna has dug test pits the weeks of April 18<sup>th</sup>, and indicates he will submit the results in a report mid-May. (The City has yet to receive those)
2. Re-install a fence or other suitable barricade along the areas of the pit that exceed a grade of 1:1.
3. The owner shall contact Dover Community Services about the plan to relocate the City’s water main and the 400 foot primary well radius to the plans.

4. The applicant initiate the process of stabilizing the vertical side slopes around the perimeter of the property, most notably along the boundary line adjacent to the access road and the City's water main.

Tony McManus stated that Tom Fargo's report refers to materials that have been brought into the site that is of questionable quality.

Tom Clark said that it would be addressed under the Pruven application.

The public hearing was closed.

Tony McManus made the motion to accept the recommendations of the Planning Department as amended.

Donald Andolina seconded.

**VOTE U/A**

**e. Public hearing and consideration of a request for an extraction permit by Proven Aggregates, Inc., Assessor's Map H, Lot 59, 59A & 61, zoned I-4, located on Mast Road.**

Richard Proulx, Vice President of Pruven Aggregates, Inc. He said that they are a grandfathered pit. They like to be a good neighbor and will address some of the issues brought up in the Planning Board memo. Regarding the recent alterations of service within 50 feet of the Bellamy River; they were repairing their water line. The pump house is a permitted pump house and they have an Army Corps of Engineer's permit. With regard to the concern of the scrap yard, they have moved over a 100 ton of steel off the property. The reason that it looks worse from the road is that they are using it as a staging area to move the stuff to NE Metal Recycling, which is in Madbury. They just had their annual surprise inspection on safety and they received no fines. Their barricades were up to Federal standards. They got their test pits, and requested the results for tonight so we would not have this issue. They have not brought in any materials on the City of Dover's land and they do not plan to bring in any foreign materials. The primary well radius, as they see it is on the Pruven property, in Madbury. With regard to the slope stabilization and he has begun re-stabilization of this slope. He will be moving more material this week and next until it is at a proper slope and that is also in Madbury. The test pits were dug by a certified hydrologist and the report is due any day. All the test pits shown are done above groundwater as required.

Dean Trefethen asked Mr. Proulx on how the Board recertified his status as grandfathered.

Mr. Proulx stated that they are an existing non-conforming operation and have been in operation since 1952.

Richard Proulx Sr., President of Pruven Aggregates, gave the history of the pit and stated they have been in continuous operation for over 50 years. They are a contiguous property to a permanent plan, which is part of 155 E.

Dean Trefethen said that he has the right to make the statement but the Planning Board has to get past this for future years.

Steve Stancel stated that it's the City's position that this is not a grandfathered pit. Last year we did put in writing the reasons why we felt that it was not and you did not respond, or go to the ZBA, therefore, he believes that the argument has gone by.

Richard Proulx, Sr. said that he never received a letter from the City stating any reasons. He said had he received said letter, his attorney would have been into the middle of it. He said that this is the first that he has heard of it.

Steve Stancel stated that this is not the forum to discuss whether they are grandfathered or not, it is not the decision of the Planning Board.

Atty. Polock stated that since this issue has come up in the past, he can say that there have been two submissions by the company after last year's certification, and in advance of this year's certification setting forth the position of the company. This year for the first time there is reference to the letter that was filed in the staff's recommendation, in terms of a recertification condition. It references a letter of April 13<sup>th</sup> from the company, which explains the distinction between the permit operation and the grandfathered operator. The company for the past several years, to diffuse what is clearly likely to become a contested issue has voluntarily complied with all of the conditions levied. All items are in compliance with the exception of the hydrologist report, which will be here any day. What Dover is doing is certifying that they are operating the pit in compliance with the State law. They ask that the recertification be granted.

Ron Cole stated that the requirements of this pit are the same that we are making of the other operators.

The public hearing was closed.

Tom Clark stated that Planning staff met with both the pit operator to discussed requirements in March of this year. Planning staff and Conservation Commission members performed a site inspection of the gravel operation on Monday, April 11, 2005. The application materials are complete with the exception of the annual report and a test pit/data submission. The excavation/reclamation plans are complete although only as one plan set. The applicant is requesting a waiver from preparing separate excavation and reclamation plans. There have been no significant area reclaimed per standards, therefore it is recommended that the existing bond remain in place until next year's permit application. The Conservation Commission Chair is very concerned about recent alterations of the surface within 50 ft. of the Bellamy River near the applicant's water pumping station and the possibility that there is a definitional junkyard located at the front of one of the parcels, near Mast Road. Tom Clark stated that he agreed that most of it is in Madbury and he knows that they have made pretty good progress in removing it. Given positive movement on these issues by the night of the meeting, the Planning Department recommends extension of the existing permit until June 14<sup>th</sup>, 2005 subject to the following conditions:

1. The applicant re-install fences or other suitable barricade along the areas of the pit that exceed a grade of 1:1 to warn of danger or limit access to the site per NH RSA 155E:4-a, VI.
2. That the applicant do test pits that extend to either the seasonal water table, ledge or minimum of 6 feet below the max proposed excavation depth, including submittal of location of soil data.
3. Add the 400 ft. primary well radius to the plans.
4. The applicant initiate the process of stabilizing the vertical side slopes around the perimeter of the property, most notably along the boundary line adjacent to the access road.

Frank Torr commented that he has spent one summer in the 1980's working on the gravel pit legislation. That is when the grandfathering occurred. Any pit in existence at that point in time was grandfathered as a result of that. It's State law.

Tony McManus made the motion to accept the recommendations of the Planning Department as amended.  
Donald Andolina seconded.

Dean Trefethen asked if there would be another inspection before the 14<sup>th</sup> with regard to Item #8.

Tony McManus suggested that they will do another inspection prior to June 14<sup>th</sup>.  
**VOTE U/A**

#### **ITEM #6: Old Business**

##### **a. Discussion regarding minor revision to approved plan of haven Farm at Alden Woods (lot line adjustment), located off Boxwood Lane and Wildwood Lane\*(32 lots(P04-42)**

Bob Stowell, stated that they have a minor modification of a plan that hasn't been recorded yet. This doesn't affect the lot sizing of the open space area but they have slightly reconfigured it.

Mindy Anderson made the motion to accept the application  
Dennis Ciotti seconded.  
**VOTE U/A**

The public hearing was opened.  
Tom Fargo said that the Conservation Commission endorses this plan.  
The public hearing was closed.

Frank Torr made the motion to approve the revision.  
Mindy Anderson seconded.  
**VOTE U/A**

Steve Stancel wanted to clarify some of the issues with the trail system that came up earlier in the meeting. He sensed that there is a perception that the Planning Department has put together this plan in a vacuum. He wanted to remind everyone that this plan grew out of a Master Plan process with significant public input, at the time. There are groups all over the City that are interested in putting this program together. They have applied for Federal funds to do the project and that went through a very extensive public hearing process as well. It went before the City's Transportation Advisory Committee, came before this Planning Board for the recommendation to apply for the funding back in the late 90's. Since that time, the project has been placed in the City's ten year plan and the City CIP. It has been out in the public for everyone to see year after year. Year after year the Planning Board has approved the funding for the project and then it has gone to the Council for approval. He said that we are at the point now where the City Council approved hiring the engineer to design the project. The engineers are just now flagging the wetland areas and attempting to identify the right-of-way and are beginning to come up with a concept plan. It is their intention to hold a public hearing with the neighborhood as soon as possible. At this point, we don't have all the answers to the neighbors questions that they have. We need to have some type of a concept to begin the discussion. That plan will certainly not be a final plan. The deal is not done. There is a process that is occurring here that intends to take into account participation in the project.

Tony McManus asked about the condominium development that they are talking about. Do we have anything at this point?

Steve Stancel explained that the person that owns the property has developed some concept plans and he has seen those plans. We don't necessarily agree with those concept plans but to be candid, he believes that there can be some development occurring there. It would be between Fisher and Silver Street.

Don Andolina asked if they had to submit a conceptual plan at the time of applying for matching funds.

Steve Stancel stated that there was probably a plan created from the GIS to show a line where the trail was. What we need to do is to begin to come up with the material to use for the trail, how wide will it be, where will it go, will there have to be trees removed or other vegetation. Until we know that, we don't know what the impacts will be to the abutters.

Steve Stancel stated that the abutters' concepts will be taken into consideration. They anticipate that the cost will be close to the \$900,000. This will create alternatives for travel throughout the City so that people can move from one place to another without necessarily having to be on a City road. It is for recreation also. This is one of the positives for a community. He understands that there is concern about security and we need to address those issues.

Chairman Cole stated that he got blindsided by everyone walking in here tonight. He said that Steve Stancel is under the impression that he overstepped his bounds, and perhaps he did with respect to offering himself as a facilitator and saying that there should be some sort of an immediate meeting. He said that he is willing to apologize because he did not want to shine the Planning Department in a bad light at all. The analogy that he made

toward Back Road was merely an analogy that the people on Back Road felt that they were not part of the process at all. They felt that anybody in this building is against them and not willing to cooperate. He said that these people feel that way as well. He asked that anyone who was here earlier this evening or any one concerned with the trail system contact Steve Stancel. He said that he has known about the trail for a number of years and has been a strong proponent. He said that rather than have an immediate meeting; people should get in touch with Steve Stancel at the Planning Department.

Frank Torr stated that just any project that has come near the railroad bed, the Planning Department has done an excellent job to make sure that there is access. He agrees that it has been a very open process and anyone who has followed the Planning Board meetings should be aware of it.

Tom Fargo stated that he has two things to present. The original grant application for the trail went through Strafford Regional Planning Commission and they developed a couple of illustrations. The other is the discussion of review of the gravel pits.

Ron Cole said that his thought is the week before the 14<sup>th</sup>, there would be a site walk to visit every pit. **The date was chosen of June 9<sup>th</sup>, at 5:00 meeting at the City's reclamation center on Mast Rd.**

#### **ITEM #8: Adjournment**

Dean Trefethen made the motion to adjourn.

Donald Andolina seconded.

**VOTE U/A**