

**DOVER PLANNING BOARD
MINUTES OF MEETING
AUGUST 9, 2005**

MEMBERS PRESENT: Dennis Ciotti, Frank Torr, Donald Andolina, Dean Trefethen, ,
Beth Thompson, Tony McManus, Ron Cole, John
Swartzendruber

MEMBERS ABSENT: Mindy Anderson, Eric Tooke, Pete Lavoie, Bryan Cahoon

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

Chairman Ron Cole brought the meeting to order at 7:02 PM.

ITEM #1: Citizens' Forum

There were no speakers.

ITEM #2: Approval of minutes.

Frank Torr made the motion to approve the minutes.

Beth Thompson seconded.

VOTE U/A

**ITEM #3: Consideration and acceptance of a minor lot line adjustment of land for
Gail & Alfred Catalfo, Jr., Assessor's Map 11, Lots 13 & 14, zoned RM-
10, located on Arch St.*(P05-44)**

Kevin McEneaney, represented the applicants and explained the lot line adjustment.

Frank Torr made the motion to accept the application.

Beth Thompson seconded.

VOTE U/A

The public hearing was opened.

There were no speakers.

The public hearing was closed.

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

1. Add all of the owners' signatures to the plat.
2. Provide the Planning Department with a digital version of the plat.
3. Change Note #8 to identify previously proposed street to an existing access easement.

Beth Thompson seconded.

VOTE U/A

ITEM #4: Consideration and acceptance of an OSS and mobile home subdivision of land for Frank & Maureen Wentworth, Assessor's Map I, Lot 25B, zoned R-40, located on Drew Road.*(P05-42(1 lot)

Beth Thompson made the motion to remove this item from the table.

Dennis Ciotti seconded.

VOTE U/A

Kevin McEneaney represented the applicant and explained that this item was before the Board at the last meeting of 7/26/05. He said that it had been left off the application that this was a mobile home subdivision. They are asking for 2 lots with a lot that would be an open space lot. He explained that there would not be an access off of Basil's Place. There is a common driveway for both of the lots.

Beth Thompson made the motion to accept.

John Swartzendruber seconded.

VOTE U/A

Abstained – Tony McManus

The public hearing was opened.

There were no comments.

The public hearing was closed.

Steve Stancel stated that the Planning Department recommends that the Open Space Subdivision and Mobile Home subdivision be approved 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. Provide the Planning Department with a copy of the NH Department of Environmental Services Subdivision Permit and add the permit number to the plat.
4. Revise the plat to add a note that these lots are part of a mobile home subdivision, which will permit the placement of a mobile home on the lots.
5. Revise the plat to add proposed tax map and lot numbers as assigned by the Tax Assessor's Office.
6. Revise the plat to add a note that the open space will be owned by a Homeowners Association and permanently preserved as undeveloped open space.
7. The applicant shall provide a copy of the proposed homeowner's association documents to the Planning Department for review and approval prior to the signing of the plat.

Ron Cole asked if the Board wanted to change #6 to read that the homeowner's association documents be acceptable to the Planning Department, with a revision to #6 as follows:

6. The Homeowners Association documents are to be submitted to the Planning Department for their approval.

Frank Torr made the motion to approve with the above stated conditions of approval with the change in #6.

Dennis Ciotti seconded.

VOTE U/A

Abstained – Tony McManus

ITEM #5: Consideration and acceptance of an Open Space Subdivision of land for Paolini Brothers Development, LLC, Assessor’s Map K, Lot 34, zoned R-12, located on Dover Point Rd.*(11 lots)(P04-60)

Kevin McEneaney stated that this item came before the Board in January and was conceptually approved. The yield plan showed 10 single family house lots and because of the OSS regulation and taking advantage of the bonuses, the density allowed 11 units, with access off of a private driveway.

Paul Connolly, Civil Works, explained where the water main was coming from. He explained that the sewer line would be brought to the site across the Follansbee property in a 30 foot wide utility easement. The drainage would run towards the Spaulding Turnpike and be managed through a network of pipes and ultimately to a reduction swale and then to the Spaulding Turnpike right-of-way. They have set up a network of 4 catch basins at the base of High Point Village Rd. where it intersects Dover Point Road. They are proposing one street luminary at the top of the hill in the cul-de-sac. He said that they had intended to show some planted buffering on the parcel adjacent to the Kretsepis parcel within the 30 foot external boundary buffer area called for in the plans. He said that unfortunately, it didn’t get on the plan. It is in their notes and it will not be overlooked.

Frank Torr made the motion to accept the application.

Beth Thompson seconded.

VOTE U/A

The public hearing was opened.

Tony Kretsepis, 15 Dover Point Road, stated that she was concerned with the blasting and with the drainage. She said that when she said that she wanted this area to remain residential, she meant that she expected possibly 2 or 3 homes and never expected a village. She was concerned with the number of children and cars. She was concerned with the traffic, busses, garbage trucks, the smell from the dumpster, fire trucks and ambulances and horns. She felt that there would be about 3 cars per family. Ms. Kretsepis stated that she wishes to have heavy vegetation on her property line. She has never asked anything of the City of Dover and has paid her taxes. Her house was built in 1948 and she has minded her own business and has had good neighbors and she hopes that it stays the same. She asked for spruce trees or cedar or any trees that can be salvaged on her line to provide an adequate sound barrier and visual buffering to discourage dogs and children. She asked that in be put in writing. She also asked that

stakes be put on her boundary line and if anything breaks during the blasting that it be fixed.

Karl Heller, 10 Dover Point Rd. , stated that he is not an abutter, just a concerned citizen. Dover Point Rd. is the last peaceful entrance to the City. He said that we are destroying Dover Point Road and it will be the Planning Board that will have to live with that. He felt that having all those homes is not the right thing to do. He hoped that this was not done in spite because it did not go commercial. He said that Dover is a great community and he would not want to see continuous building destroy it. This is the beginning of the end of a nice ride into town.

Marilyn Follansbee, 25 Dover Point Road, stated that they fought a long battle to keep the area residential. If it had become commercial, the traffic would be a lot worse. The developer bought the land and has the right to develop it. The number of houses is within their boundaries. When Mr. Paolini asked to put the sewer line through her property she said no, but kept her word that she would allow it if it was residential. She is in favor of this project.

The public hearing was recessed.

Chairman Cole set the site walk for next Tuesday, August 16th, 2005, meeting at 19 Dover Point Road.

Steve Stancel asked that the center line of the roadway be posted as well as the property boundary adjacent to Tony Kretsepis and the internal lot lines.

Frank Torr made the motion to table.

Beth Thompson seconded.

VOTE U/A

ITEM #6: Application for a site plan of land and Conditional Use Permit for Summit Land Development, Assessor's Map 31, Lot 4-D, zoned RM-8 & B-2, located on Third Street/Fourth Street. (P05-19)(13 units)

Bob Stowell, Trittech Engineering, stated that as the result of the site walk they have gone from 9 parking spaces to 13 spaces. They have reconfigured the traffic through the project in a way that will eliminate some cut through traffic.

Dean Trefethen felt that the rear of some of the buildings would be way down the existing slopes.

Bob Stowell said that in the northerly quarter some units will need significant fill. He said they are positioned to require the least amount of earth work possible. Some units will have walk out basements. It will take some excavation to make some walk out, and others will have to be built up as much as 4 feet.

Bob Stowell explained that they have eliminated the Harvey driveway and the parking as it exists and have re-established them in the configuration where they have 8 parking spaces.

Steve Stancel explained that they will receive an access easement in exchange for the parking spaces that are going to be created partially on the applicant's parcel and partially on their parcel. Right now they are parking on the railroad right-of-way.

Beth Thompson made the motion to accept the application.

Frank Torr seconded.

VOTE U/A

The public hearing was opened.

Dale ____, stated that he was speaking on behalf of his parents at 60 Fourth St. He said that they are trying to stuff a lot of units into a very small space. He said that the area is not very level and that the land is probably only 30 feet wide. He couldn't see how they could get all those condos on that slice of land and make it work safely.

The public hearing was closed.

Tony McManus said that he didn't see a 50' setback from the wetland areas.

Steve Stancel explained that this lot was subdivided within a 4 year period of our wetland change so it does not have to meet with the 50 setback of wetlands. He asked that the subdivision recording number be added to the plan.

Tony McManus asked if the wetlands between the units and the river were just poorly drained and not very poorly drained.

Bob Stowell said that they do have an area of very poorly drained from which they have a 75' setback. The building is within the 75' and it was part of the Conditional Use Permit request. The minutes of the Conservation Commission meeting were in the packets.

Don Andolina asked if the School Impact Fees apply to this development. Steve Stancel answered that they will be assessed per unit.

Dennis Ciotti asked about the slopes. Bob Stowell stated that there are areas that approach 30%. The placement of the units and the retaining wall that they presented to the Conservation Commission showed that they can control the erosion issues.

Ron Cole explained in response to the speakers that they have a very competent staff that deals with the traffic, drainage, wetlands and safety. Development is the price that we pay for being a growing community. He explained that when all the t's are crossed and the i's are dotted, and the Planning Department is content that everything meets the rules

and regulations, both local and state, the Board can't turn it down. There are very few gray areas where the Board can possibly make a decision to oppose a development. He said that they are trying to use infill development, which is development that is in the core of the community to protect the outlying areas of the community. He said that sprawl has been a four letter word for quite some time and we they doing what they can to preserve undeveloped land. He said that property owners have the right to do what they want with their property and they try to keep it within the legal bounds.

Beth Thompson made the motion to approve with the following staff recommended conditions of approval:

1. Add the owners' signatures to the plan.
2. Add the surveyor's seal and signature to the plan.
3. Add the engineer's seal and signature to the plan.
4. Provide the Planning Department with a copy of the NH Department of Environmental Services Wetlands Permit and add the permit number to the plat.
5. Approval includes the granting of a waiver to allow paving within 5 feet of a property line, which will allow the parking spaces for the abutting Howard and Harvey parcels to be installed as shown on the plan. That also includes a waiver of paving within closer than 10 feet from the front property line which allows the addition of
6. The applicant shall provide copies of the proposed access easements for the parking spaces reserved for the abutting Howard and Harvey parcels.
7. Approval includes the granting of a Conditional Use Permit upon the submission of a stormwater management system inspection and maintenance plan, to be approved by the Planning Department.
8. Revise the plan to add a "Do Not Enter" sign at the southerly end of the private drive.
9. Revise the plan to add a name for the private drive.
10. Revise the plan to add additional landscaping between unit #3 and Tax Map 31, Lot 3, to the satisfaction of the Planning Department. The applicant shall work with the Planning Department regarding the placement of additional landscaping on the plan.
11. The applicant shall provide the Planning Department with a copy of the architectural renderings.
12. The applicant shall comply with the recommendations from the Phase I and Phase II Environmental Assessment Reports prepared by Jacques Whiteford, and provide proof of compliance to the Planning Department prior to the issuance of the first building permit.

Donald Andolina seconded.

Dean Trethen said that he applauds the developer for working very diligently with the Harvey and the Howard property to provide them with parking. However, he felt that this project is just too much on too little. The part that he is going to say no to is the Conditional Use Permit. Although the Conservation Commission has recommended its approval to the Board, we are the ones that actually approve it and he is having a very difficult time with this aspect of this project.

ITEM #7: Consideration and acceptance of a Conditional Use Permit for David Della Penta, Assessor’s Map N, Lot 8-2, zoned R-40, located on Gulf Road.*(P05-43)

A decision was made to defer this item until **ITEM 8 b**. Woodwind Farm is heard.

ITEM #8: Old Business

a. Discussion on a site plan of land for Liberty Mutual, located on Sixth Street.

Malcolm McNeill represented Liberty Mutual. They are dealing with the Engineering Department regarding the engineering of the site. There is a formal meeting with the Engineering Dept. this Friday which will hopefully come to a conclusion on major engineering issues. There has been a lighting plan submitted. The traffic component is the most complex, as well as the most time intensive part of the project. The City has retained an outside consultant, CLC, who supplied all their information, as well as, supplementary information approximately two weeks ago. Because of the impact of this project on the Spaulding Turnpike they have been meeting with State officials. They have met with NHDOT regarding their conceptual plans that the Board saw at the last public hearing. A review occurred approximately 2 weeks ago. At the request of CLD, those comments will be integrated into their review. Because this project is on the Spaulding Turnpike there is also jurisdiction of the Turnpike Authority. They are meeting with them on Wednesday, August 10, with regard to improvements in the vicinity of the turnpike. With regard to DES, the primary impact issue is wetland impacts. The Conservation Commission gave a favorable recommendation to the DES of the impacts that were proposed. The site has been walked by Dr. Frank Richardson. They are hopeful and expect the permit during the week of August 15th. They recognize traffic as being the issue that drives this proposal. If there are other matters of consequence beyond traffic they would like to know that. He wanted to know because they are working diligently to get this approved in either August or September so they can proceed to a CO in the spring of 2007, and bring 2050 new employees to Dover. He said that he has been talking to City Administration with regard to financial impacts. Malcolm McNeill stated that he has indicated that the next time that they go to the State he would appreciate a representative of the City to be present.

b. Discussion and possible vote on an OSS subdivision of land for Woodwind Farms, LLC, located on Gulf Road.(P05-38)(5 lots)

Dean Trefethen took this item off the table.

John Swartzendruber seconded.

VOTE U/A

Atty, Chris Boldt stated that staff received a traffic report on behalf of Mr. Gabriel. He said that they have seen it and are prepared to respond to it and they like its findings.

Dana Lynch, Civil Works, explained there is an interconnection between this application and the Della Penta application. This is a 5 lot OSS subdivision with a proposal for a private road to be 1,000 feet long, and named Wisteria Lane. A waiver will be requested regarding the pavement width. They are entering the site with a 24 foot wide pavement but once they get across the wetlands, the pavement will taper down to a 20 foot width for the remainder of the length. This road will also serve the Della Penta application. The lots range in size from 40,651 sq. ft. to 52,014 sq. ft. The open space that they are providing is almost 170,000 sq. ft., excluding the utility and access easements. The lots will be served by a community well and individual septic systems. There will be a homeowners association that will be responsible for the private right-of-way with utilities, any landscaping features in that right of way, as well as, the open spaces. All of the lots on both their yield plan and their OSS plan meet or exceed the City's lot size requirements. The yield plan shows that they can accommodate 6 lots. All of the lots, deducting the conservation district, have at least 40,000 sq. ft. On the lot closest to the river, they are providing at least one acre of non conservation land also meeting that requirement. They also meet the contiguous upland requirement. They are proposing 5 lots which is one lot less than they are allowed. He handed out a copy of the Dredge & Fill Permit for the impact of 5,730 sq. ft. of wetlands to construct the roadway. They will be receiving their subdivision permit from the State shortly.

Dana Lynch stated that they have their driveway permit from NHDOT in conformance with the criteria set forth in the RSA's. There are 3 or 4 minor comments that they have discussed with the Assistant City Engineer. He said that these could be made conditions of approval.

Dana Lynch said that they have reviewed the TEC study which was requested and paid for by Dan Gabriel. His take on it is that the analysis was conducted for 50 mph speed vs. the posted speed of 40 mph on the roadway. They analyzed, not only the stop site distance, but the intersection site distance. The driveway location satisfied the minimum criteria for ASHTO at a speed 10 mph over the speed limit. He said with regard to items contained in 1 and 2 of the letter, regarding the passing zone modifications and the sign posting that both of these recommendations were previously discussed at TRC and they took the liberty of researching the mechanism by which these items could be addressed in light of the fact that Gulf Rd. is a State road. This process must be initiated by the City of Dover – the applicant can't initiate this process because it is a State road.

Dana Lynch explained the driveway to the Della Penta lot and the future residence there. The wetland impact for the single driveway and this one is the same. They are consolidating all of the 6 houses onto one access point on Gulf Road. Dana Lynch explained that if there is a change in number of dwelling units using that access point, they would have to go back to the State for a renewed driveway permit and those issues would be brought to the forefront.

Steve Stancel stated that they are requiring a future access easement onto the abutting parcel because they know that there is a relationship between this parcel owner and the

abutting parcel. That may or may not ever turn into a development but if it does, we will be looking at the development and how many lots that might be. Ideally they would like to see the projects connected but one of the things they would look at is the traffic impact at that time to both entrances and maybe they would decide to connect the two projects based on concerns they might have at that time.

Steve Stancel stated that he spoke with Officer Marn Speidel again today and he indicated that the posted speed is supposed to be 40 mph there. He said that TEC chose to use 50 because, as we know, the Police Department has indicated that a certain percentage of vehicles are driving approximately 48.

Dana Lynch explained that the 20 foot section of the roadway will be serving 5 homes and the traffic volumes are very low. The idea is to minimize the amount of impervious area on the property which then impacts drainage, etc. and it also has to do with appearance. The reason that they left it at 24 feet at the entrance was because sometimes people swing wide and if there is a little extra pavement it would help.

The public hearing was opened.

Charlie Reed, 262 Gulf Road, passed out a couple of handouts. One deals with the elements of design that talks about site distance which is what TEC and Officer Speidel looked at. He read from his handout pointing out several facts. This handout has been filed in the Woodwind Farms, Inc., File #P05-38. His main concern is coming down from Gulf Rd., which has been proven to be a 3% grade. He said that TEC's report is based on car operation and not explicitly considered for design of truck operation. He said that everything that TEC did doesn't bring in the fact that trucks are present on the roadway. He emphasized that Gulf Rd. is a major artery between Maine and NH with a considerable amount of truck traffic on it and that the traffic is moving faster than the posted speed limit. He read Officer Speidel's report. His major concern was with the stacking of the cars at the entrance and shortening the stopping distance that cars would need to come to a stop. He said that because they are on the inside curve of that intersection if a vehicle goes out of control they could potentially end up in their driveway where they might be entering or trying to exit out. Or they could have a head-on collision into vehicles traveling eastbound towards Maine. He then read from the TEC letter. He said that Officer Speidel based his report on what he actually saw. He spoke on how with various larger vehicles the stopping distance would be less 4 feet. When designing new infrastructure most engineers and planning boards would not design for the minimum requirement but for the maximum safety that can be provided for the people on that road. He said that this barely satisfies the minimum with one passenger car. It's fantasy land to think that people are going to go the speed limit and the Dover Police are going to put a police officer out there and enforce the speed limit. This driveway needs to go back to the top of the hill. He said that he and Dan Gabriel are concerned that putting this driveway at this location would further exacerbate their safety.

Jim Schulte, representing Charlie Reed, said that the Subdivision and Zoning Ordinances establish the minimum requirements. He has seen the Board act to require that particular

projects exceed the minimum requirements where there are particular concerns. In this case, it seems that public safety, not just for the abutters but for anyone who uses that road provides an overriding concern, which causes requiring something more than the minimum. There is plenty of site distance down towards Dover but looking back up the hill and off to the left, toward Maine, is where the problem exists. The concern is if you have vehicle coming from Maine getting down to this intersection and it has to wait because there is eastbound traffic coming toward it and it sits there, the site distance from the back end of that vehicle is much less than what the site distance is for the vehicle that he measured from. Mr. Lynch didn't attempt to do that because that is not what he is required to do. That is what Office Speidel did and that is what the TEC report did. If there are two vehicles waiting, Officer Speidel's report says that an accident is almost a certainty. Placing the driveway at this point and assuming that you are going to have vehicles stacked there, an accident is certainly going to happen at some point. When you connect this development to the Childs land that the same developer has an option on, so that you have more vehicles making a turn into this driveway, there is a great likelihood that you will have cars stopped there waiting to make a left turn into Wisteria Lane. That is what their concern is. This developer holds 2 driveway permits. One alternative would be to put the primary access at the top of the hill. If it calls for extra expense with regard to public safety, it would be warranted in this case. Another alternative is to say to this developer, who has holds an option on the piece to the west side of this property, to come in with a design for a driveway along a section of the road where there is 500 or 600 feet of site vision in both directions. The third alternative is to do some thing to increase the site distance on the opposite side of the road, which is where the distance problem is. In the State's right-of-way there are bushes and there is ledge. It is presumed that this developer could obtain permission to cut it back. If they were to remove the ledge and seed that so that the bushes don't grow back you could add 100 to 150 feet of site distance. That would be a positive to increase the safety for everybody out there. It is possible for this Board to impose that requirement upon them because they are the ones that are creating the issue.

Dan Gabriel, 670 Gulf Road, said that he has no problem with the number of houses. Either you agree or don't agree with this independent party report. He said that he made sure that the TEC state its position and conflicts, if any. He said that he had no contact with TEC prior to this incident. They came highly recommended to him by the State of NH Dept. of Safety and that is why they were chosen. What the applicant has provided is a 4 foot margin of error. If you are comfortable with that 4 feet and that it will never snow, or be icy, and that there will never be two cars stopped to turn left or a car stopped and one car behind it, or an UPS truck, etc. but if you think that the 4 feet is not enough, you need to tell this applicant that they should use the permit for the top of the hill. If the Board accepts the TEC findings, they will make this applicant conform to all the recommendations that are on this finding which includes cutting back the ledge from the top of the hill to increase the site distance an additional 100 to 150 feet.

The public hearing was closed.

Atty. Chris Boldt, stated that not all of the evils or concerns are by any way their creation. They are meeting or exceeding all the regulations. The TEC report stated that they exceed or satisfy the minimum criteria. It does state that there is an issue of brush and ledge removal and they agree on that. He passed around some photos that were taken before the site walk. Atty. Boldt went over each of the photos. He explained that the Childs, the Reeds and the Gabriels have a driveway maintenance agreement because that driveway services those three lots. That driveway construction maintenance agreement is recorded in the Strafford County Registry Book 21-41 Page 521. He explained that it required maintaining the drainage servicing that driveway. That drainage includes the area that they want us to expend resources to improve their property. He stated that the TEC report acknowledged that they would gain 150' if they did what they were supposed to do. He questions regulations that this can be imposed upon his client. They are happy to assist the City in its request to DOT to improve signage to eliminate the passing lane and if necessary, to reduce the speed limit. It is tough to obtain a response from NHDOT. He asked that it not be imposed upon them as a condition of the approval. He disagrees that there is an obligation to put the driveway at the top of the hill. You would be impacting more conservation area because of the steep slope area. They are giving up one lot that they are entitled to and they are not asking for any bonus that they may be entitled to. He said that they have an option on the adjacent land. Any development on that land by them, or by Mr. Childs, would have to come before the Board and would require a driveway permit and be reexamined to use the driveway that they are proposing. His client's option to that land is second behind the right-of-first-refusal of Mr. Gabriel. He asked that the Board approves the plan with the recommended conditions of approval of which they are happy to comply with. He said that they will support the City in its request to DOT for a change of signage and striping.

Jim Schulte felt that Mr. Boldt misunderstands the 2 documents. The driveway maintenance agreement does provide for the owners and the users of that driveway to maintain it but that is exactly what it is. They are required to maintain their driveway but they are not required to maintain the state owned land which abuts Gulf Rd. and runs up the side of the hill. The problem that this project is creating is a problem that whether the Gabriel/Reed driveway was there or not, there would be a traffic hazard for vehicles coming down the hill and turning left into this project because there is not sufficient site distance. Anyone driving down that road will be at risk if there is a vehicle or two stopped waiting to make a left hand turn.

Steve Stancel commended the abutters for their hard work and research. He said that he is not convinced that the current driveway at the top of the hill is completely safe. From his perspective, watching cars coming and going on the crest on that hill, he found it to be less than ideal. They have the applicant's engineer indicating that the driveway proposals meet ASHTO standards. Included on the desks is a memo from the State of NH, Alan Garland, who indicates that the site for the Woodwind Farm subdivision driveway permit #06125339 was checked in the field and meets all requirements for a new access to a State highway. He discussed the Police Dept.'s memo regarding this proposal with Chief Fenniman who indicated that they would not object to the driveway location provided the State was approached to eliminate the passing lane and that the speed limit was posted

and an intersection sign was properly placed along the roadway. They do have from TEC a document that whether the abutters agree or not, indicates that the sight distances do meet ASHTO standards. There could be ice on the road, there could be two tractor trailers parked there but generally speaking, the sight distance is adequate and safe for the site. He is going to recommend, given the information received tonight, that we adopt three of TEC's recommendations. He said that he is recommending approval of the project with the following conditions:

1. Add all of the owners' signatures to the plat.
2. Provide the Planning Department with a digital version of the plat.
3. Provide the Planning Department with a copy of the NH Department of Environmental Services permit for the Community Well and add the permit number to the plat.
4. Provide the Planning Department with a copy of the NH Department of Environmental Services Subdivision Permit and add the permit number to the plat.
5. Provide the Planning Department with a copy of the NH Department of Environmental Services Wetlands Permit and add the permit number to the plat.
6. Approval includes the granting of the requested pavement width waiver for the portion of the roadway that begins after the bridge/culvert structure.
7. Revise the plan to indicate that the roadway will be a private drive.
8. Revise the plan to indicate that the bridge/culvert structure be designed to accommodate a 24 foot wide roadway.
9. Revise the plat to add a note that the open space will be owned by a Homeowners Association and permanently preserved as undeveloped open space.
10. The applicant shall provide a copy of the proposed homeowner's association documents to the Planning Department for review and approval prior to the signing of the plat.
11. Revise the plan to address the three items contained in Assistant City Engineer Dave White's e-mail dated 8/5/05 as follows:
 - a. Having the respective utility company (psnh, verizon) review and design the layout of the utilities and show on the plan.
 - b. Detail or not the retaining wall and Box culvert type and manufacturer.
 - c. Show the watermain type and size for the community well.
12. The applicant will work with the City to request that the State of NH eliminate the passing zone on Gulf Road.
13. The Applicant will work with the City to request that speed limit signs and "Intersection Ahead" signs be placed at appropriate distances.
14. Remove the brush and ledge outcrops on the north side of Gulf Road on the inside horizontal curve within the State right-of-way in order to improve horizontal site distance. Once the brush and ledge is removed the area should loamed and seeded.

Ron Cole asked if the applicant was aware of this item 14.

Steve Stancel stated that he had discussions with the applicant who indicated earlier that they thought that the provision was already taken care of, in the previous driveway permit

from the State. He said that in reading through the permit, it doesn't appear to be the case so he is making sure that it is included in this applicant's condition of approval.

Frank Torr stated with regard to #14, it is State property and are telling a private individual to go on State property to address an issue. Frank Torr said he was concerned that the State might not give permission.

Steve Stancel stated that they will have to work with the State and get permission. He said that he doesn't see it as a situation where the State would deny it. We could change that to say request approval from the State.

Steve Stancel stated that from his perspective on the site walk it appeared to be primarily ledge and slope. It might be if the State doesn't want it done that it should come back to the Board.

Dean Trefethen asked what the time sequence would be for conditions 12, 13, and 14 and would they need to be done before construction, during construction, or before CO's.

Steve Stancel stated that they would be done prior to the first CO.

Atty. Chris Boldt wanted clarification of 12, 13 and 14. They would have to make that a request to the State. If the State does not agree, does it mean that they come back before the Board or have they complied with the request?

Ron Cole stated that was his interpretation. How does the applicant feel about #14.

Chris Boldt stated that he disagrees with the interpretation of their permit for the driveway on the Childs' property. It is his understanding from his client that Mr. Childs is of the impression that he probably should have done that. The good news is whenever you have two lawyers working on the same piece you are likely to get 3 opinions. He disagrees that it should be their entire burden since it is something that also improves the abutters' property. They have 4 lots which might become more valuable by the Board's imposition of these conditions on them. He respectfully requested that the cost be split. It should not be entirely his client's burden in all fairness.

Dean Trefethen felt that if 12, 13 and 14 are not satisfied, they will need to come back before the Board. He said that if you don't have those three items, this is a no-go.

Donald Andolina said that 13 needs to be made much clearer. This isn't just working together but it is getting the job done because of public safety. It's the Board's responsibility to make sure that that is accommodated.

Dean Trefethen said that that State will say that if we clear the brush and knock the ledge down we won't need to put the intersection sign or change the no passing zone. So just knock the ledge and the brush down and be done with it. His concern is that Item 14 be done before a CO. He felt that the greatest safety risk out there is going to be the initial

stages of construction when the trucks are out on the sides of the road and tractor trailer trucks are pulling in and out.

Ron Cole commended Mr. Gabriel and Mr. Reed for doing all that research. His suggestion is that we approve this application with the 14 recommendations and we let them figure out how they are going to do it. If any of the 14 items are not met, then the applicant has to come back before the Board.

Chris Boldt said that they are happy to comply with the 14 conditions. Their concern is the timing and the requirements of 12 or 13 which may or may not be granted. When they get rid of the brush and the ledge, they may not want to change the sign or the passing lane. If it is a condition of approval that the State grant that change, but we concede to the issue of removal of the ledge and the brush, which he feels is the major bone of contention can they stay with the language that the Planners have recommended on 12 and 13 adding 14.

Steve Stancel stated that the e-mail from Bruce Woodruff to Allan Garland requested that but they haven't received a response. He said of 12 and 13 that they will try to get it from the State. He believes that 14 is the item that we need to get prior to CO.

Dean Trefethen made the motion to approve with the 14 conditions of approval listed above.

John Swartzendruber seconded.

Tony McManus said that he voted against because he has a number of problems with the project. One is the location of the road because of the speed, the type of traffic and the site distance. Officer Speidel's report was very persuasive. He felt that removing the ledge would not address the problem of having several vehicle and trucks backed up in westbound lane waiting for a left-hand turn. The reason for the first access was because it was the safest. He said that he voted against it the first time because he felt the plan, as submitted, was unworkable. He is opposed to the roadway waiver. He felt with the 24' width that at least one or two lots would not meet the full area requirements. He was concerned with the slopes and that the wetlands have not been fully identified and the setbacks properly calculated. He felt that the Conservation District should also apply to the pond.

VOTE 5 – 2

Opposed - Tony McManus, Donald Andolina

Chairman Cole called a 5 minute recess.

Chairman Cole brought the meeting back to order.

ITEM #7: Consideration and acceptance of a Conditional Use Permit for David Della Penta, Assessor's Map N, Lot 8-2, zoned R-40, located on Gulf Road.*(P05-43)

Dana Lynch stated that he was here for impacts to wetlands necessary to construct a single family home. He introduced Scott Farentino, architect for David Della Penta. He said that they are seeking to build a world class single family home. This is a spectacular 13 acre lot that looks down the Cochecho River towards the confluence with the Salmon Falls and the Piscataqua Rivers. They are proposing to access this via the subdivision that we were discussing. The total wetland impact for this project is 1,870 sq. ft. They have the dredge and fill permit for the project. The grading and erosion control is rather elaborate for a single family home. The reason is because Mr. Della Penta wanted a very environmentally sensitive project. They are building another bridge which minimizes the wetland impact on the lower crossing. They need to provide a soil erosion and sedimentation control plan. They are working within the shore land protection zone. The house is well back from the shore but it is located within that 250 foot zone along the river and they have to apply for a Site Specific Approval from the State of NH. They will have to do drainage calculations, erosion control plans and all of the permit applications necessary to get a Site Specific Permit. They have their Dredge & Fill Permit and have gone before the Conservation Commission and received their endorsement for this work. The guest house will exist without the benefit of kitchen cooking facilities, therefore not constituting a second residence. He showed photos of the site.

Frank Torr made the motion to accept the application.
Beth Thompson seconded.

VOTE U/A

The public hearing was opened.

Tom Fargo, Conservation Commission Chair, said that the commissioners recommended that the applicant evaluate the use of pervious pavement.

Dana Lynch said that they have reduced the 14 ft. driveway width to 11 ft. with turnouts about every 400 ft. intervals, which will take about 3,000 sq. ft. of pavement out of the equation. They will be pursuing information regarding pervious pavement.

The public hearing was closed.

Steve Stancel stated that the applicant appeared before the Conservation Commission on May 16, 2005 as well as July 11, 2005. The Conservation Commission recommended approval with the recommendation that the owner consider using pervious pavement for the driveway and the Planning Department recommends approval of the Conditional Use Permit with the condition that the applicant obtains a NH Department of Environmental Services Wetlands Permit and Site Specific Permit. (The DES permit has already been received)

Frank Torr made the motion to approve subject to any conditions.
Beth Thompson seconded.

VOTE 6 – 1

Opposed – Tony McManus

ITEM 8. Old Business

c. Discussion and possible vote on a site plan for PRPC Development Group, LLC, located on Mast Road Extension (P04-46)(21 units)

Beth Thompson made the motion to take this item off the table.

Frank Torr seconded.

VOTE U/A

Malcolm McNeill stated that they are not asking for final vote but they are asking for a narrowing of issues. One is the concept of an easement from this site along the sideline of the recreational field to the sewer at Shaw's Dr. There was a vote in favor of that 7 – 1. In the interim they have attempted to finalize the easement with Mr. Lavoie but have been unable to resolve all of the issues. Therefore, they are not ready to proceed to the Council for easement approval. Their outstanding issues to be resolved are the easement and the walking trail. At the site walk there were neighbors that were concerned with the retention pond. The developer did agree to a subsequent follow-up study as well as the drilling of other borings. The testing was done and observed and commented on by Tom Fargo. Mr. Fargo's comments were in effect saying that the storm water management system will be effective as it has been designed. He read the letter which is dated August 3, 2005 that is enclosed in the file. Tom Fargo had two recommendations that they are agreeable to as follows: 1. The addition of one or two dry wells within the retention pond to further enhance infiltration. 2. Develop a stormwater management system operations and maintenance plan for the routine cleaning and inspection of the systems components.

Malcolm McNeill said that the retention pond has been looked at thoroughly and that the concerns of the abutters, should be satisfied by this comprehensive report by Mr. Fargo. He said that 10 or 15 years ago he was involved with the development of most of the condominiums around this site. The site is bounded on 2 1/2 to 3 sides by condo projects that are of greater density than this project. There was a concern about buffering. They will work with the Planning Department to consider appropriate buffering along the site. They feel that there should be additional vegetative buffering along the detention pond. He pointed out other areas of the plan where they will discuss more buffering.

Malcolm McNeill stated they will enhance and deepen that drainage swale although they feel that it is adequate. They are asking tonight to defer the action on the easement just because it hasn't been finalized and defer action on the walking trail from the cul-de-sac to the area of the ballfield. They have had discussions about liability and maintenance issues. They are not convinced of the desirability of that trail but it is something that the City has brought to their attention and it hasn't been resolved.

The public hearing was opened.

Ten Hebbard, an abutter, thanked Tom Fargo for taking the time to take an independent look at the retention pond. He said that Mr. Rhodes was also in agreement about having the dry well put in the retention pond so the melt off will have a place to go. He asked that the City Engineer write a letter indicating that he agrees that they will not have any impact of water on their property from this project. He said that they have spent \$90,000 having to do with water issues at Fords Landing, among other things. He has a dry basement and would like to see that continue. He was concerned that the existing blue spruces could be killed because of the topo of the land. He thanked the Planning Department and Tom Fargo, for going the extra mile.

Art Golden, Tideview Condominiums, stated that one of their concerns was the potential for destroying of their chain link fence that runs between their property and the new project. He wants to be sure that any fencing that gets torn down during construction will be replaced. He asked that adult trees or shrubs or vegetation be placed as the buffer.

The public hearing was recessed.

Frank Torr made the motion to table.

Dean Trefethen seconded.

VOTE U/A

Malcolm McNeill asked if the Board was satisfied with the report regarding the detention pond and the enhancement of the drainage swale.

Ron Cole answered yes.

ITEM #8: Old Business

- d. Discussion and possible vote on concept TDR subdivision plan for STF Dev. Corp. located on Portland/Atlantic Ave. (P05-36)**
- e. Discussion and possible vote on concept TDR site plan for STF Dev. Corp., located on Atlantic Ave.(P05-37) (32 units)**

Beth Thompson made the motion to remove both of these items from the table.

Frank Torr seconded.

VOTE U/A

Atty. Jim Schulte represented the applicant and stated that the Board is being asked to vote on the concept that they can take development rights from the sending area and increase the density of construction on the receiving area. Depending upon what your approval is, they will need to go to the Zoning Board for at least a Special Exception or a Variance and then come back before the Planning Board with specific proposals.

Atty. Schulte explained the plan showing the concept for a 5 lot subdivision which is approvable without the TDR. There could be potentially 20 units on this property. Chris Berry passed out some handouts to the Board. Atty. Schulte said that the plans reflect 12

additional units as a result of acquiring development rights from land off of Littleworth Road. Following the site walk there was discussion about different layout impacts upon the existing residences. One way to minimize the impact on those residences would be to put in a duplex which would reduce the project from 32 units to 30 units.

Atty. Schulte said that one concept was to construct 5 buildings on 5 separate lots. Each building would have more than 4 units so they would need a Variance for that. The argument for that is that it eliminates all development in a certain area and minimizes the impact on the property owners, while still maintaining the density that they were originally seeking as a result of the TDR. He explained that by buying the development rights on the parcel on Littleworth Rd., they are eliminating the ability to develop that property. The property owner has agreed to a restriction prohibiting any further development. He said that they would be acquiring all of the sending areas. They don't need them all for this project but would be reserving land to be used for some other project. They are asking the Board to approve the concept of allowing greater density in this zone by eliminating the opportunity to develop a parcel in an area that the City wants to protect. You are giving up the opportunity to put in 5 or 6 houses off of Littleworth Road in exchange for getting 10 or 12 more units in this project.

Dean Trefethen asked what they could do with the land that is being preserved.

Atty. Schulte said that you can use the land for agricultural purposes, probably for timber harvesting but can't put buildings on it or develop it.

Steve Stancel asked if they were in the process of mapping the wetlands from the sending area. Atty. Schulte said that they were.

Ron Cole explained that if the Board feels that the sending area is not acceptable, the TDR concept is off.

Dean Trefethen asked about the plan that would require a variance. You could get the 20 units that would be approved without the TDR.

Atty. Schulte said that they would need a Special Exception, but if you meet the requirement, as this would, it would be granted. Adding 2 or 3 units per lots is what the Variance would be needed for.

Steve Stancel said that the regulations say "that a perpetual easement or a restrictive covenant shall be recorded at the Registry of Deeds that preserves the designated open space within the sending area. Said easement or covenant may allow for the continuance of existing residential and agricultural activities and may allow for utility and access crossings in accordance with subsection (1.) below."

Schulte explained that the restriction would only affect the back portion of the land but would effectively eliminate development in the front.

Dean Trefethen asked if the sending area has to match the receiving area acreage for acreage or is it a ratio or a set amount.

Steve Stancel stated that it is a set amount so whatever you need in the receiving area, you have to achieve in the sending area.

Jim Schulte said that he believes that they are restricting more than they are using. This is an RM-10 zone and you have to protect at least 10,000 sq. ft. on the other side. They are actually proposing to protect 50,000 sq. ft.

Dean Trefethen thought that this was greatly skewed in the favor of the developer. He thought that it should be explored a bit further. He said that he would gladly give you an acre of R-40 for a ½ acre of RM-10 that he can stuff 4 more units in any day. He thinks that the ratio is out of proportion.

Steve Stancel stated that because the concept is new there is no doubt that it will require some tweaking. To require that you must meet the sending area density would be too much because nobody would go out and buy the sending area minimum requirement to have an additional unit in the receiving area. It would be skewed the other way.

Dean Trefethen said that an acre of land in the middle of nowhere benefits nobody.

Steve Stancel stated that it is why there is some subjectivity because this Board can always say no.

Jim Schulte said with this piece, we will end up preventing development of 5 or 6 houses. They are getting 10 or 12 houses on Atlantic Ave. but they are protecting that whole piece of land.

Tony McManus said that the developer is still saving some of that land to be able to use in a subsequent project. He said that he is trying to figure out if it is an adequate trade off with the congestion, lights, traffic and noise that it will create in the existing neighborhood. He said that 20 units would be a much more reasonable for that area.

Atty. Schulte pointed out that the sending areas are in the R-40 zones and the receiving areas are in the denser zones. 5.9 acres will end up being protected. For the same kind of money, it could be developed into 5 or 6 house lots.

Dean Trefethen said that he is sharing Tony's concerns also. It is a win, win situation for the land owner because he gets his money and he still has a house lot that he gets more money for and can use all of that land except that he can't build on it. He doesn't see the return for the City and doesn't feel that it is a reasonable trade.

Jim Schulte said that they see the density that is there on Atlantic Ave. All of the houses on Atlantic Ave could be duplexes and perhaps 3 or 4 units.

Beth Thompson said that she would rather see 20 units off of Atlantic Ave. and make an effort to preserved land some where else. We have to make an effort to preserve.

Ron Cole asked if the Board was trying to agree on if the parcel as a sending area and the other parcel as a receiving area works, or concerns on the particular piece of land.

Dean Trefethen said that, in his mind, the sending land achieves what the TDR concept is trying to do and the receiving land is too dense. He said if you look at the condos and apartment behind Store 24 on Back River Road, it conformed to all of the ordinances, but when you drive by that, he said he doesn't think that anyone would say that was a good decision. It's very big, but that scale is still much larger than what was there. He feels that this scale that is being proposed is much larger than what is there.

Steve Stancel stated that Millstone is not out of place compared to Sawyer Mills.

Ron Cole said that from a distance, it fits in but when you drive by it is daunting.

Tony McManus felt that the property off of Littleworth Road doesn't meet any of the criteria that would make this land worthy of special protection.

Jim Schulte said that the issue is that all of the receiving areas are all on this side of the Turnpike and there are not that many large potential receiving areas. All of the sending areas are going to be small. They have to come from at least a 5 acre parcel but all of the sending areas are going to end up being small. You are incrementally protecting this property and you are incrementally doing the infill that is one of the goals.

The public hearing was opened.

Gino Filicetti, 5 Atlantic Ave., agreed with Mr. McManus. The proposal is not congruent with the surrounding neighborhood. The Magnolia Lane development caused a large amount of concern and contention among the homeowners in the neighborhood. He submitted and read the petition of 53 signatures stating their opposition to granting the TDR rights. They feel that this project would do more harm than good to the character of this part of Dover. He said that this would leave a lack of green space. He said that they do meet the requirement of green space for these lots but in actuality, there is a significant destruction of natural habitat by cutting down a lot of trees and paving so much land. There is a potential for children to be hurt by building so close to the edge of the ravine and the lack of space for children to play. The density will put a strain on the school and the traffic. The Board will be making a decision that will affect all of Dover for the years to come.

Gene Alozo, 7 Atlantic Ave., agrees with everything that Mr. Filicetti said. He said that he still has the same concerns as the ones he stated at the previous meeting. He said that Gulf Road traffic is a big problem and that leads right into Atlantic Ave. He said traffic is very heavy at 6:00 AM and will only get worse. He said that he has concerns with the

traffic and the safety of the people. He said that there will be children walking in the street.

Tom Fargo, 14 Cobblehill Dr., stated that everyone on the Board is in favor of the concept as a tool to manage the growth in Dover. It is important to recognize the difference between transferring on the basis of sq. ft. to sq. ft. and transferring on the basis of unit to unit. He suggested that it depends on what the sending area looks like. He watched this discussion at the last Planning Board meeting and one of the issues is the value of the sending land. That is to protect land of significance natural resource value. We don't know what the value of the proposed sending area is of this or any other project. They have tools that can be used to assess those values and try to find the balance between sq. ft. basis based on some sort qualitative and quantitative evaluation. The tool is what the Open Lands Committee has developed. They assign points for various attributes for potential conservation land and come up with numbers. Perhaps something could be done to find this balance in manipulating the numbers that they use to tweak the Ordinance. With regard to this site, it might not be great but one of the issues that we recognize is that this is the first attempt to use the TDR and if you don't try to come up to make this work it will probably be the last attempt to do what we had set out to accomplish with this ordinance.

Allan Storms, 11 Atlantic Ave. , agreed with what Charlie Reed said about traffic and stopping distance. There are no sidewalks on Atlantic Ave. and you have dump trucks and mothers with baby carriages vying for the same avenue of travel. He said that 2 years ago 8 rooms were added to the Middle School and they were full in two weeks. He was a teaching intern at Dover High last year, a school for 1,500 kids max., and there are 1,700 in there now. He said that you are saying that you can't stop the development, but look around, others are doing it. He said that there are way too many units for this piece of land. He said that this is like a shell game so that if you approve one they can go on to another.

Bryan Hardwick, 129 Portland Ave., stated that his house will never be more than a single family home because the house that is there now just barely fits and it's not very big. Protecting land in a more desirable neighborhood in this case 5 houses for 12 units here. He hoped the Board looks at this like the development behind Store 24.

The public hearing was recessed.

Tony McManus asked if Tom Fargo was suggesting that the Open Lands Committee would be willing to do an assessment on this sending area property and give the Board some input.

Tom Fargo answered that they have developed a criteria evaluation type form. They could do this evaluation, basically anybody could. It would allow some quantitative analysis of the potential sending area and maybe make some reasonable adjustments to the density bonuses that are being granted. The ordinance, as it is written, doesn't allow for that but this is something that might be suggested as a tweaking to come up with a

compromise. He said that the Open Lands Committee can do it but anyone can go through their evaluation sheet also.

Tony McManus said that there must be some idea of the value and he felt that we should take advantage of that and postpone a decision until we get some feedback.

Ron Cole said that Boulder, Colorado has the biggest TDR Ordinance and has had it for at least 15 years. I'm sure some study could be done. He said that Mr. Paolini is the first person to step up to the plate and submit himself to a possibly arduous process. We appreciate this and hope that he hangs in there while we try to figure this out.

Dave Paolini explained how he came in with a concept of 20 units which they legally can do with a City street. He was approached with this and did not bring this to the City. They were told that the City did not want another City street. He went out and looked for parcels that would be acceptable. He thought that this parcel would be a great because it would stop a subdivision. He has 4 or 5 other parcels. The problem is because this is new; they don't know the steps that they should be taking. He said that he felt that this plan would be fantastic for everyone involved because it's providing conservation on one side of the turnpike, which is what you are looking for and it's providing infill in the RM-10 zone. He felt that this is great concept. He revamped the plan so it wouldn't be opposing to the abutters. This does meet all the criteria that was being looked for in the TDR. He asked if he has to bring in a selection of 10 parcels. He said that he feels that this parcel does meet the criteria. If he was looking for 60,000 sq. ft. he could go to a 40 or a 50 acre parcel out by the County Farm, purchase the development rights out there and it would get the City nowhere. There would just be 60,000 sq. ft. in the middle of 40 acres. This is actually stopping a subdivision whether the land is actually beautiful, he can't say, but it is stopping a subdivision. He honestly thought that this was a great concept.

Steve Stancel said that he is hearing that the Board is concerned with the quality of the sending area and that 32 units is too dense for this piece. It won't be a factor of finding a better sending area because he is hearing that the consensus is that 32 are too many units.

Tony McManus made the motion to table the application and stated that he would be willing to work with anybody of the Open Lands Committee to take a look at the sending area and the criteria.

Donald Andolina seconded.

VOTE 5 – 2 Opposed – Frank Torr, Dean Trefethen

ITEM: Old Business

f. Request for an Impact Fee Waiver for Millstone Properties, LLC, for units 50, 52, 54, 56, 58, 60, 63, 65, 69, 71, 73 and 75, located on Crown Point Drive.

Steve Stancel explained that this project on Crown Point Drive was approved by the Planning Board on September 24, 2002 and the plan was signed by the chair on May 7, 2003. The City Council adopted the Impact Fee Ordinance as Chapter 170-28.7 on January 22, 2003 and the Planning Board adopted the School Impact Fee on February 25, 2003. RSA 674:39 was amended by the legislature on June 7, 2004 and one of the changes was to remove any grandfathering from impact fees after a project is substantially complete. This waiver request is for school impact fees that were paid between December 19, 2003 and November 11, 2004. The waiver request was filed on June 21, 2005. At the time of the waiver application, the project was substantially complete. Since RSA 674:39 does not grandfather a site plan that is substantially complete from impact fees, the Planning Department recommends that the waiver be denied.

Jim Schulte, represented the applicant, and felt that the Planning Department is interpreting the amendment to the ordinance to say that if you have a project which was grandfathered and which therefore, was protected against the school impact fee, but you hadn't submitted your request for a waiver before the statute was amended, and then you lost your right. That is one view. The measuring point is at the time of the submittal of the waiver request. The statute was amended in June of 2003, 2004 and then they came in for one of the last few units that remained to be built. A chunk of the units were built before June 2004. He said that he can understand for the later units that they built after the statute was amended that they would not have a right to ask for a waiver but he feel that they should receive a waiver for those that they built before the statute was amended.

Steve Stancel explained that the concept is that the impact is created when the building is built. What it boils down to in this instance is that some of these permits would have been eligible for waivers in their opinion, if they had come in prior to June of 2004. They had every opportunity to do that, but they didn't.

Jim Schulte said that part of the reason for the delay is that when the project was approved, the developer came in and filed for building permit for everything but they had trouble sorting out with the Code Enforcement Office as to when the Building Permits were issued and what was grandfathered and what wasn't.

Tony made the motion that the recommendation of the Planning Department be accepted. Donald Andolina seconded.

VOTE 5 – 2

Opposed – Beth Thompson, Frank Torr

ITEM #10: Adjournment

Tony McManus made the motion to adjourn.

Dennis Ciotti seconded.

VOTE U/A