

**DOVER PLANNING BOARD  
MINUTES OF MEETING  
MAY 11, 2004**

**MEMBERS PRESENT:** Margaret Stevenson, Dennis Ciotti, Frank Torr, Anthony McManus, Dean Trefethen, Pete Lavoie, Beth Thompson, Donald Andolina, Eric Tooke, Ron Cole, (late)

**MEMBERS ABSENT:** John Swartzendruber

**STAFF PRESENT:** Steve Bird, City Planner; Bruce Woodruff, City Planner and Jean Glidden, Recording Secretary

Anthony McManus, Vice Chair brought the meeting to order at 7:00 PM.

**ITEM #1: Citizens' Forum**

No one spoke.

**ITEM #2: Approval of the minutes of April 27, 2004**

Frank Torr made the motion to approve.

Beth Thompson seconded.

**VOTE U/A**                      **Abstained – Peg Stevenson and Dean Trefethen**

**ITEM #3: Consideration and acceptance of a site plan of land for Trittech Engineering Corp. (Owner Jesse Andrew Galt & John Galt), Assessor's Map 28, Lot 9A, located a 753 & 755 Central Avenue. \*(P04-17)**

Bob Stowell, TriTech Engineering, stated that the property is just south of the hospital. It is a large residence with an attached two-bedroom apartment. They wish to convert the apartment into office space. The parking lot will contain 17 parking spaces for the combined use. The stockade fence will be expanded to the southern part of the property to provide screening where the Technical Review Committee has requested.

Beth Thompson made the motion to accept the application.

Dennis Ciotti seconded.

**VOTE U/A**

The public hearing was opened.

Priscilla Wallace, lives next door to the Galts house, was concerned with the fence. She said that they already have a fence and it will look funny with the space between the two fences.

The public hearing was closed.

Steve Bird explained that because the parking is for an office use it is required to be screened from any existing residential use and that is why there is a fence on the northerly and easterly side. Screening doesn't have to be a fence but in this case, this is what was recommended at TRC.

Discussion ensued with regard to the material of the screening.

Frank Torr made the motion to use 7' vegetation rather than a stockade fence.  
Donald Andolina seconded.

**VOTE 2 – 5                      Opposed – Tompson, Ciotti, Stevenson, Trefethen, Lavoie**

Beth Thompson made the motion to approve with the following conditions:

1. Add the owner's signature to the plan.
2. Add the surveyor's and engineer's stamp and signature to the plan.

Dennis Ciotti seconded.

**VOTE U/A**

**ITEM #4: Public hearing for a request for a rezoning of a 20-acre area of Dover Point Rd. The area is on the west side of Dover Point Road between Dover Auto World and the Cemetery from R-12 to B-5. Tax map lots included are: K-31, K-32, K-33, K-34, K-35, K-36, K-37, and K-38.**

Atty. Malcolm McNeill represented Robert and Jamie Paolini. This is not a new proposal, in the past it was not passed by the Council by a close vote. The acreage of the change is 13.151 acres. B-5 is the type of zoning that was put in for the Weeks Crossing area. Malcolm McNeill had a big photo of the area, which he described. He explained that anything that would be adjacent to the cemetery would require buffering. The area is contiguous with other commercial uses. Dover Point Road has traffic counts of 14,200 cars per day and is a major access into the City. He said that this area has rezoned itself in terms of its characteristics. There are eight lots in the area and five of the lots are either controlled by the proponents or are in favor of the rezoning change. This is approx 2/3 of the land mass that is being sought to be rezoned. He passed out a comparison of the B-3 zone and the B-5 zoned and explained the differences between the zones. He said that they did not choose B-3 because Adult Bookstores and Multi-unit residential uses could be done in this area. The rezoning is to further the communities public statements, both in its Master Plan and in other materials, that this community needs more property that is zoned for commercial uses. He said under the zoning ordinance there is a necessity that 15% of the property in the B-5 zone must be in open space and the applicant must file a detailed landscape plan. It is not spot zoning to add business uses in areas that are basically business in terms of their zoning already. He said that they believe if this site stays at R-12 under the present zoning, 14 new residential lots and 11 new houses could be built. Applied Economic Research considered this site in the last rezoning, their comments: "Because of its location with respect to major roads and existing business districts, it is recommended that the City recommend rezoning this area

to a business district." With regard to commercial developments, they are not going to come into this area and seek variances. The hard decision goes to the Board and ultimately to the City Councilors. Under the circumstances of this case, with the Planning Department recommendation in favor of it, the Master Plan recommendation, with the arduous components of this site that are more commercial than they are residential, it is a commercial area and not a residential area. They feel that it is reasonable to recommend the rezoning of this site. The utilities are all there for commercial and the roadway has been worked on with regard to upgraded utilities, this proposal is not a spot zoning.

Tony McManus asked if anyone wanted to speak in favor of the rezoning.

Lon Meneer, 31 Dover Point Rd., stated that he is for the rezoning. Within ½ mile of his house there are three auto dealerships, two convenience stores, Thornwood Market across the street, one major seafood restaurant, one ice cream shop and an office park. He wants to sell his property and because of the encroachment of the existing commercial properties along with 15,000 vehicles going past his house, it is very hard to sell it as a residential property.

Tony McManus asked if there was anyone present who wanted to speak against the rezoning.

Tony Kretsepis, 15 Dover Point Road, showed an old map of the area that was agricultural. She said that when she got married everything turned from agricultural to business. She said that they tolerated variances; the first was the A & W and then businesses came in because they were good neighbors and allowed it. She said that spot zoning is a blithe. She feels that this rezoning was short sightedness that would result in uncontrolled urban sprawl that is becoming more and more evident up and down the seacoast. She requested that this rezoning be denied.

Karl Heller, 10 Dover Point Road. He said that it has not been taken into consideration that they will have to live across from whatever is being developed, including the noise and displacement of everything while that building process is happening. He said that this is his second time coming before the Board to fight to keep his home the way it is. He worked hard to improve his home. The neighbors take pride in their homes and in the fact that they are a gateway into Dover. He asked if the City needs another Miracle Mile. He said that he is here fighting for his rights again and feels that the existing businesses are sufficient. He is requesting that the rezoning proposal be denied.

Marylyn Follansbee, brought a petition signed by those who have not signed over their property to Mr. Paolini. She said that the homes in the area that is up for rezoning are established residences. Don't take that away from the residents. She said that in a B-5 zone you can have a gas station without any variance and in a B-3 zone it does require a variance. Twenty-three to twenty-four years ago Matt Williams stood in front of the Planning Board and stated that this area would go commercial within 10 years. They have had to fight to remain residential. Many of them have put a great deal into their

homes. She said that they live in a great City where the residents can state how they feel without fear and she is grateful for that. There are 8 lots in the rezoning and she knows that Tony Kretsepis, herself, Mr. Viola and Mrs. Small would like it to remain residential. She said that there are 4 that wish it to remain residential and 4 that would like it to go commercial. That is not a majority. She said that the residents on the other side of the street would also like it to remain residential. She said that they accept the existing businesses and they expect the businesses to accept them; it's a two-way street. She would like to have the zoning remain as it is.

Kevin Murphy, Stark Avenue, considers this area to be part of his neighborhood. He said that this is a residential zone with misplaced businesses as opposed to a commercial area with misplaced residences. Traffic is a major concern. Cars already travel at excessive speeds and it will become more dangerous with the addition of the Woodland subdivision. He asked about traffic studies to examine the impact of the rezoning. His children wait for the bus on Stark Ave., which is very dangerous, particularly in the winter because there are no sidewalks on one side of Stark Ave. It was stated at the last Planning Board meeting that the proposed area should not be used for residential purposes because it borders both Dover Point Road and the Spaulding Turnpike. He asked how Mr. Paolini is currently developing two residential lots on the same side of the street less than a half mile away. He asked why the decision that was made to deny the rezoning in 2003 was not being respected and if High Street in Somersworth was what the City wants for Dover Point Road.

Robert Gafney, 54 Dover Point Road, stated that he hasn't heard what business is going in and how will it impact the traffic. The residents should find out what they are going to be getting. He added that Mr. Doam wanted it known that he just built his dream home and was not planning having businesses put right across the street and is not in favor of the rezoning.

Tony McManus stated that they received correspondence from Aine Baker, 35 Dover Point Road, dated May 10, 2004 stating his support of the proposed rezoning.

Malcolm McNeill stated that with regard to the gas station analogy, gas stations are permitted in the B-3 zone by Special Exception. He said that some of the very best arguments have been made by the people against this rezoning regarding the change in traffic, the change in characteristic and the change from a residential environment into a commercial environment. Every time a proposed rezoning comes forward it inevitably exists in a zone that is zoned residential. It is also inevitable that the value of their property is going to go up. It is also inevitable that the people who live there oppose the rezoning. If zoning is ever going to change in this community to effect the balance that people run for office for, and the people write Master Plans for, this is a piece of property that qualifies for that kind of change.

The public hearing was closed.

Tony McManus stated that this proposal and the next proposal for rezoning on Tolend Road will be on the next agenda at the next Planning Board for the actual vote in order to give the Board some time to consider the arguments.

Ron Cole arrived at 8:05 PM and took over as Chair.  
Tony McManus went back to his seat.

**ITEM #5: Public Hearing for a request for a rezoning of a 17.3 acre area of land located off the Spaulding Turnpike between Tolend road and Columbus Avenue from I-4 to R-20. The land portion of tax map lot G-19B.**

Attorney Malcolm McNeill represented Tolend Road LLC, David Sears and Eric Katz. He explained how this development and rezoning works into the Master Plan. They are proposing the rezoning of 17.3 acres off of Tolend Road. For many years this property has been for sale and because of the absence of utilities, particularly sewer, this area has not developed. The applicant also owns the property above this area that is presently zoned for residential. They have developed a site plan for 33 conventional houses that could be done with existing septic. The applicant has successfully developed 55 and older housing elsewhere, which is the intent here. If the rezoning is accomplished, the applicant would propose to do a cluster, age-restricted project of approximately 65 to 70 homes. This project can not be accomplished, without sewer. The applicant is proposing to bring sewer 3,000 feet to the area they are seeking to rezone. This sewer would make all of this area that has not been developed industrially available for sewer at no cost to the City of Dover. The proposal would cost in the range of \$300,000 to \$400,000 which the developer would absorb entirely, and would permit parties to hook into the sewer for other areas around the site without any tie-in fees. This would make sewer available to 240 acres in the I-4 zones. An R-20 and R-40 zone would also be affected by this, but it produces an opportunity that hasn't existed before without any cost to the City. The City has long sought to develop this area industrially. He said that there is no adverse effect of a 55 and over project. He said that the Planning Department finds that this is a desirable result because of Industrial land that would have utilities available to it and the prospect of the rezoned land being used for a fiscally appropriate purpose. He gave an example of the sewer being brought from the Crosby Rd. Industrial Park to Ezra Green. There were portions of the Crosby Rd. Industrial Park that were not built out and because of the sewer; there are now two industrial buildings there. The CIP contains no provision for this type of sewer extension. He said that he feels that this is in the best interest of the City.

David Sears stated that the subdivision would be 33 conventional homes, non age-restricted without sewer, or with the sewer there would be 70 units of age-restricted, 55 and older. The streets would be private.

Malcolm McNeill stated that the development would be a cluster development with walking trails and an open space is 76%.

The public hearing was opened.

Tom Fargo, 14 Cobble Hill Drive, stated that his concern was that he doesn't see a guarantee that the 55 and older plan will go forward. If you rezone it and this developer decides for whatever reason in the future to not complete the plan as proposed, that parcel would then be opened up for conventional residential development, which would have a fiscal impact.

The public hearing was closed.

Chairman Cole stated that Mr. Stancel will present his recommendations at the next meeting on May 25th.

**ITEM #6: Public Hearing to hear request for Extraction Permits.**

Bruce Woodruff explained how a subcommittee of this Board presented their findings to change the ordinance that was in place. He met with all of the owners and he sees a level of coordination and cooperation and opening up the lines of communications that haven't been there in past. They met twice and visited the pits for inspection twice with the Code Enforcement Officer, the Chair of the Conservation Commission and the City Engineer. They have established an ongoing accountability that was never there before. He said that some of the applicants have not increased their bonds yet. They are giving most of the applicants 30 days to increase their bonds to \$2,500 per acre. That is up from the previous requirement of \$1,000 for reclamation. He said that most of the applicants will be asking for a waiver. He recommends that it be given this year but next year he feels that it should be made clear that they have to submit a separate reclamation plan and a separate operational plan, which will make it easier for the City Engineer to do his job.

Tom Fargo, Chairman of the Conservation Commission, stated that according to the new ordinance, the Conservation Commission is obligated to review the applications and provide comments to the Planning Board, which is consistent with RSA 155.E that the Zoning Ordinance is based on. He said that they did accompany Bruce Woodruff of a quick tour of the facilities. The reason that the CC is concerned with the gravel extraction is because the gravel pits are in the areas of the City that are also Secondary Groundwater Protection Districts and in proximity to the City wells. He said as time goes on these extraction operations are becoming less extraction and more material processing type of operations. He said that it is the materials that are being imported that have concerned him. He said that the applicants cannot excavate to the bottom of the pit within 4 feet of the water table. This dimensional distance is based on the requirement that if septic systems could be installed in these areas that they meet the minimum requirements for septic discharge above water table.

1. Severino Trucking Co., Inc., Assessor's Map H, Lot 58, zoned I-4, located on Mast Road.

Kevin McEneaney represented the applicant. The pit is owned by the City of Dover and Severino has an agreement with the City to run the extraction operation. They did the

best they could to comply with the new regulations. He explained the plan and said that they have no problem with any of the conditions of approval.

Frank Torr was concerned with the importation of materials and with the lack of inspection of the materials.

Tom Severino stated that they are aware of that condition and if they were to import material to the pit, they understand that they need that material to be reviewed. The majority of the material that was imported to the pit was under City forces. They merely push that material over because their equipment is there.

Pete Lavoie stated that the materials are coming off of their construction sites and is all clay and soils that cannot be used to backfill with.

Tom Severino said that the surplus material coming in can be viewed from the recycling center. If you look at the contour lines on the plan, the only thing being refilled with the City's imported material is from the top of that cut to put the sloped area back in. The floor of the pit is not going to be covered with any material; it is merely just the slopes around the perimeter of the pit.

Discussion ensued.

Tom Fargo reiterated that his comments are precautionary. He said that on this particular site, the imported materials are being used to stabilize the slope and he thinks that it is appropriate.

Frank Torr suggested that the side line setbacks be changed to 10 feet rather than 5 feet.

The public hearing was opened.

There were no comments.

The public hearing was closed.

Bruce Woodruff said that the site inspection was held by the City of Dover and there were no significant areas of reclamation on the pit noted. He suggested that a requirement be added for the three pits that are in the City's Secondary Groundwater Protection Zone; that a note be added to the reclamation plan that a percent calculation of what their site slopes with any clay-like impervious materials would be, as compared to the total land area that has percolation type soils.

1. Hours of operation shall be restricted to 7:00 AM to 5:00 PM weekdays and 7:00 AM to 2:00 PM on Saturday, with gates to the site opening no earlier than 6:30 AM.
2. The applicant requests a waiver of the requirement to provide final topography of the reclamation area at contour intervals of 5 feet or less (170-30.3(B.3)).
3. The applicant request a waiver of the requirement to show final surface drainage patterns, including the location and physical characteristics of all artificial and/or

modified drainage facilities (170-30.3 (G.4). Refer to the applicant's waiver request letter dated April 15, 2004.

4. All on-site refueling operations shall comply with the Best Management Practices contained in NHDES Technical Bulletin WD-WS-22-6.
5. Importation of off-site construction-site soils into the pit for storage or for use in reclamation shall be prohibited unless the applicant can demonstrate the material is not contaminated. The City's Environmental Projects director shall be responsible for making any such determination. The applicant shall notify Mr. Dean Peschel at 516-6094 prior to any such importation.
6. Since the pit floor elevation has only recently been established, the applicant request a waiver of the requirement to 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 (170-30.3)(A.12). Refer to the applicant's waiver request letter dated April 15, 2004. Planning suggests the waiver run for a period of 60 days from the date of this approval. The test pits and data submittal should be submitted by the end of the waiver period.
7. Areas of the pit where slopes exceed a 1:1 grade require suitable barrier fencing to be implemented within 30 days of this approval.
8. The applicant requests a waiver of the requirement to prepare and submit separate plans for excavation and reclamation. Applicant indicates that all requirements of both plans are shown adequately on one plan set.

Peg Stevenson made the motion to approve with the 8 conditions and the amendments to #5 and #7.

Frank Torr seconded.

**VOTE U/A**

**2. Mast Road Sand and Gravel, Assessor's Map H, Lot 53, zoned R-40, located on Mast Road.**

Kevin McEneaney represented the applicant. He said that the test pits are to be completed and in for review within the next 60 days. The bond is in the process of being approved for the updated amount for bonding purposes for reclamation and that should be done within the 30 day requirement. He has no problem with the conditions of approval.

Tom Fargo, Conservation Commission stated that this pit is in the Secondary Groundwater Protection Zone. He said that he observed that the applicant is creating a stump dump along the side boundary. He said that he doesn't see any imminent threat associated with the disposing in this area. It appears that the stumps are all being placed above the water table. He said that it appears that the stumps are being placed to stabilize the slopes similar to what Severino is doing with the building material.

The public hearing was opened.

Donald Chandler, 65 A Bellamy Road, stated that currently his property line is about 18 feet from a very sheer 5 to 8 foot drop off and the then, at the very best, 1 to 1 slope some distance down to the bottom of the pit. He said when there is a south or a west wind that comes up through the pit it deposits significant amounts of sand on their property. The sand is penetrating about 60 feet into the property. They planted pine trees in the back yard and now they are all dead. He said that when they look down into the pit there is a bunch of fill, concrete debris, stumps, one tire and a piece of furniture. There is no stabilization of the slope. When the wind is really blowing they cannot see the back quarter of their property and it is not usable. There have been many complaints on record since April of 1999. He would like to hear that something is going to be done to mitigate this. He said that if the Board would go to visit on a windy day he can show the Board some areas that would be hazardous to your health if you were trying to do some work outside. He said that speaking of the quality of life in Dover, there have been a continual sequence of complaints such as dust coming from the pit and it continues. He said that it is time that the reclamation be started on the pit particularly in the area close to the people on Bellamy Road. Until there is a reclamation plan in place and a time table, he would request that this application be denied.

Peter Lesapio, 69 Bellamy Road, stated that he would like the Board to refer to his comments in the minutes of April 13, 1999. He must clean out the gutters twice a year and the dust and sand is getting worse. The sand and dust is working into the roof shingles and he is seeing fungi. He said that he would like to reiterate what Mr. Chandler has said. The pit is affecting all the homes along the road. It appears that the reclamation process has never been adhered to and he would like to see that happen.

The public hearing was closed.

Bruce Woodruff stated that the Board could choose to require the applicant stabilize the slope to save the trees. It is trees and vegetation that help some of the sand from continuing off the property line. He said that there is evidence of imported material and many stumps. The same issues came up last year and Mr. Peschel did a report that looked at the materials and stumps and gave the pit a clean bill of health. This is a dead issue with regard to this pit. He gave the following conditions:

1. The reclamation and operational plan documents last submitted in 2002 shall be considered as part of the permit and the hours of operation hours are as follows: 7:00 AM – 5:00 PM on weekdays with the gates opening at 6:30 AM, and 7:00 AM - 2:00 PM on Saturday.
2. Limit excavation at the property lines of disapproving abutters to no closer than 50 ft. The letter from a disapproving abutter is on file.
3. Continue the condition from the lot line adjustment plat that states no excavation shall take place beyond Cold Springs Road (So-called).
4. Install a fence or other suitable barricade along the areas of the pit that exceed a grade of 1:1 within 30 days of approval.
5. The applicant requests a waiver of the requirement to 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 (170-30.3 (A.12)). Refer to the applicant's waiver request letter dated April 15, 2004. Planning suggests the waiver run for a period of 60 days from the date of this approval. The test pits and data submittal should be submitted by the end of the waiver period.

6. The applicant requests a waiver of the requirement to show final surface drainage patterns, including the location and physical characteristics of all artificial and/or modified drainage facilities (170-30.3 (B.4)). Refer to the applicant's waiver request letter dated April 15, 2004.
7. The applicant shall amend his continuous bond from its current \$10,000 amount to reflect the new requirement of \$2500/acre within 30 days of this approval.
8. The applicant requests a waiver of the requirement to prepare and submit separate plans for excavation and reclamation. Applicant indicates that all requirements of both plans are shown adequately on one plan set.
9. Importation of off-site construction-site soils into the pit for storage or for use in reclamation shall be prohibited unless the applicant can demonstrate that the material is not contaminated. The City's Environmental Projects Director shall be responsible for making any such determination. The applicant shall notify Mr. Dean Peschel at 516-6094 prior to any such importation.

Bruce Woodruff stated that what is unusual about the blowing sand is that there are four pits in a row that are in the direction of the prevailing winds. The fourth pit is in Madbury and is directly in that line. Since a lot of trees were taken down there is a lot of blowing sand.

Ron Cole stated that he is perplexed by this continuing issue. He said that we are dancing around the subject but no one has any positive recommendations. He asked if anything could be done to modify this situation or if we just have to wait for the pit to close.

Bruce Woodruff stated that there is one step that can be taken, and that is to save some of the trees that are about to fall over, by having the pit owner stabilize the slope. He said that you can make it a condition of approval and have the Code Enforcement Officer take care of it. Another thing is that you have to tell these applicants that they have to plant vegetative buffers or to put up berms. It is a tough thing to be an abutter.

Ron Cole stated that he will set up a committee of 3 or 4 people and somebody from the neighborhood to see if the suggestions of some kind of a vegetative break would be workable to mitigate the situation.

Frank Torr made the motion to approve with the recommended conditions.  
Beth Thompson seconded.

**VOTE            6 – 2            OPPOSED- Dean Trefethen and Peg Stevenson**

Ron Cole stated that within the next week he will appoint a committee and since the City is one of the offending parties, he will ask someone from staff to sit in on it to try to make some sense of it.

The Board opted to skip to Item #8 since it would be a quick item.

**ITEM #8: New Business**

**a. Request for an Impact Fee Waiver for Dalton & Myra Jagh, Assessor's Map C, Lot 50D, located at 78 Watson Rd.**

Steve Bird explained that this lot was part of a lot line adjustment plat approved by the Planning Board on August 13, 2002, prior to the Planning Board's vote to adopt the school impact fee. The plat was signed by the Planning Board Chair and recorded at the Registry of Deeds on August 16, 2002. The building permit for the house on the parcel was issued on June 30, 2003. RSA 674:39 states, in part, that subdivision plats that have been approved and recorded are exempt from zoning ordinance amendments for four years, provided that substantial completion of the improvements on the plat have occurred and that active and substantial development has begun within 12 months. The authority for impact fees was adopted as Chapter 170-28.7 in the zoning ordinance. Due to the fact that this lot was approved prior to the adoption of the school impact fee and is protected from zoning changes under RSA 674:39, the Planning Department recommends that the waiver be granted.

Peg Stevenson made the motion to approve.

Donald Andolina seconded.

**VOTE 7 - 1**

**Opposed - Dean Trefethen**

**3. 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.**

David Clough, manager for Brox since 1984. There are 2 pits that are very active and one pit that does not have a lot of activity. The three parcels were grandfathered as they existed prior to 1979. They have no problem with the bond issue. David Clough explained all the particulars of the pit. He stated that the times of operation are 6:00 AM to 4:00 PM. He explained that the access to these pits is on the Rochester/Dover line away from any abutters. He said that occasionally they have some activity on the weekend. He said that they use their own trucks and go out to Route 125, as opposed to going through a neighborhood. He said when they have a night paving job they could run around the clock but they go out through Rt. 125. He said that they have one abutter across the street and they have a good relationship and they let them know what is going on all the time.

Tom Fargo stated that there is no monitoring data but it looks like the bottom of the pit is about 10 feet above the seasonal high water table. He would like to see it monitored but he is not too concerned. He said that some of the materials are in Barrington which brings it outside of the jurisdiction of this group but it is still in the City's Secondary Groundwater Protection zone. He has no big issues.

The public hearing was opened.

There were no comments.  
The public hearing was closed.

Bruce Woodruff stated that they carried out a site inspection was held. There is no evidence of reclamation in the pits as of yet. There are no imported materials in any of the three pits. He gave the following conditions of approval:

1. The applicant requests a waiver of the requirement to 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 (170-30.3 (A.12)). In addition, a waiver of the requirement to submit annual report on this data is also requested.
2. The applicant requests a waiver of the requirement to prepare and submit separate plans for excavation and reclamation. Applicant indicates that all requirements of both plans are shown adequately on one plan set.
3. The applicant shall amend all three of his continuous bonds from the current amount upward to reflect the new requirement of \$2500/acre within 30 days of this approval.
4. Install a fence or other suitable barricade along the areas of the pit that exceed a grade of 1:1 within 30 days of approval.
5. Importation of off-site construction-site soils into the pit for storage or for use in reclamation shall be prohibited unless the applicant can demonstrate the material is not contaminated. The City's Environmental Projects director shall be responsible for making any such determination. The applicant shall notify Mr. Dean Peschel at 516-6094 prior to any such importation.

Peg Stevenson made the motion to approve with the recommended conditions of approval.

Frank Torr seconded.

**VOTE U/A**

Chairman Cole called a 5 minute recess.

Tony McManus left the meeting at 9:45 PM.

Chairman Cole called the meeting back to order.

**4. Public hearing and consideration of a request for an extraction permit by James P. Griffin and Tyra, Inc., Assessor's Map H, Lot 60, zoned R-40, located off Mast Road.**

Paul Griffin represented Tyra Inc. He said that there are certain things that they will have to work on and would answer any questions. He said that they have other pits around them on three sides and the fourth side runs down to the Cochecho River.

Tom Fargo stated that they saw an operation similar to Severino. He said that he does not have tremendous concern. He said that there was some material in the bottom of the pit but they will be removed at some point.

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

Bruce Woodruff stated that the inspection was carried out. There was no significant reclamation observed. He gave the recommended conditions of approval as follows:

The Planning Department recommends approval of the extraction permit, subject to the following conditions and waivers:

1. The applicant shall provide proof that the payment due on the existing bond has been satisfactorily paid within 10 days of this approval.
2. The applicant shall amend his continuous bond from its current \$14,000 amount to reflect the new requirement of \$2500/acre within 30 days of this approval.
3. The applicant requests a waiver of the requirement to 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 (170-30.3 (A.12)). In addition, a waiver of the requirement to submit annual report on this data is also requested as the applicant has retained a hydrologist to prepare a report. Refer to the Addenda submitted, dated March 31, 2004. Planning suggests the waiver run for a period of 60 days from the date of this approval.
4. The applicant requests a waiver of the requirement to prepare and submit separate plans for excavation and reclamation. Applicant indicates that all requirements of both plans are shown adequately on one plan set.
5. Install a fence or other suitable barricade along the areas of the pit that exceed a grade of 1:1 within 30 days of approval.
6. The applicant requests a waiver of the requirement to provide final topography of the reclamation area at contour intervals of 5 feet or less (170-30.3 (B.3)).
7. Importation of off-site construction-site soils into the pit for storage or for use in reclamation shall be prohibited unless the applicant can demonstrate the material is not contaminated. The City's Environmental Projects director shall be responsible for making any such determination. The applicant shall notify Mr. Dean Peschel at 516-6094 prior to any such importation.

Dean Trefethen asked if the hours of operation were grandfathered.

Paul Griffin stated that the hours of operation are grandfathered but they open at 6:30.

Frank Torr made the motion to approve with the staff recommended conditions.

Beth Thompson seconded.

**VOTE U/A**

- 5. Public hearing and consideration of a request for an extraction permit by Proven Aggregates, Assessor's Map H, Lot 61 and 59, located on Mast Road.**

Richard Proulx, Vice President of Proven Aggregates, stated that his father had a previous meeting and could not be present. They are a grandfathered non-conforming use. He said that they don't have any problem with what is expected of them.

Tom Fargo stated that there was something that was submitted to the DES and would like an explanation of that permit application.

Richard Proulx stated that it is an Army Corps of Engineers Permit and they will provide a copy. He said that it was given to his grandfather.

The public hearing was opened.

There were no comments.

The public hearing was closed.

Bruce Woodruff gave the recommended conditions of approval as follows:

Planning staff recommends approval of the extraction permit, subject to the following conditions and waivers:

1. The owner shall comply with Best Management Practices document submitted to the Board with the previous permit submittal.
2. The owner shall submit a reclamation bond or other security in the amount of \$2500/acre of non-reclaimed area within 10 days of this approval.
3. The owner shall install fences or other suitable barricades where slopes exceed a grade of 1:1 to warn of danger or limit access to the site per NH RSA 155E:4-a, VI within 30 days of this approval.
4. The applicant requests a waiver of the requirement to 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 (170-30.3 (A.12)). In addition, a waiver of the requirement to submit annual report on this data is also requested as the applicant has retained a hydrologist to prepare a report. Refer to the letter submitted, dated April 14, 2004. Planning suggests the waiver run for a period of 60 days from the date of this approval. This condition complies with NH RSA 155E:4-a, VIII.
5. The applicant requests a waiver of the requirement to prepare and submit separate plans for excavation and reclamation. Applicant indicates that all requirements of both plans are shown adequately on one plan set.
6. The applicant requests a waiver of the requirement to provide final topography of the reclamation area at contour intervals of 5 feet or less (170-30.3 (B.3)).
7. The applicant shall submit the updated NHDES permit within 60 days of this approval.
8. The April 14, 2004 letter to the Planning Board Chair becomes a part of this permit.
9. Importation of off-site construction-site soils into the pit for storage or for use in reclamation shall be prohibited unless the applicant can demonstrate the material is not contaminated. The City's Environmental Projects director shall be responsible for

making any such determination. The applicant shall notify Mr. Dean Peschel at 516-6094 prior to any such importation.

Beth Thompson made the motion to approve with the staff recommended conditions.  
Frank Torr seconded.

**VOTE U/A**

**ITEM #7: Old Business**

**a. Discussion and possible vote on a major subdivision for changing Places, LLC, located on Columbus Ave. (P03-68) (17 lots)**

Reuben Hull, Civil Design Engineering Consultants, stated that he is looking for some guidance in resolving some outstanding issues before bringing his project back for a continued public hearing and vote.

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

**VOTE U/A**

Reuben Hull stated that they have had a site visit with the neighbors. He went to the plan and explained the location of this project. They have added Wallace Drive to the plan to show how close some of those residences were to the project. They have moved what is now known as Lucy Court, and have shortened it by about 25 feet. These three homes around the cul-de-sac have all been pulled in away from the lot lines. This was in response to the site visit with the neighbors. Landscaping and lighting has been reduced from the previous plan. They have added a five-foot landscape easement on each side of the roadway, which will allow for additional street trees to be planted on the individual lots. The drainage report has been completed. He said that he wanted to do surface drainage which is an emerging technology and is mostly open drainage. The drainage is kept on the surface and you do it through ponds and swales that are located within the right-of-way, the cul-de-sacs, along the lot lines and dispersing it throughout the site. They came away from TRC without question that this roadway needed to be designed with curbing and catch basins on at least one side. With that they could not do the drainage that they wanted to do. They are looking for guidance and direction. He said that TRC wants them to provide an easement for a future right-of-way off of the cul-de-sac but it was not specified off of what cul-de-sac. He explained the location of the abutting developments at the easel saying that there were three locations where they could make an access easement. He said that he doesn't believe that this would be logical planning for this project. They would like to maintain the layout of the lots as they have it without providing a roadway easement but the developer is open to providing pedestrian easements or connections between the cul-de-sac and the open space that is going to be provided to the north and also what will be the sewer easement. The sewer that Atty. McNeill spoke of at the beginning of the meeting that runs from Cambridge Tool, follows the turnpike and comes 3,000 feet to a point near their site. They will provide an additional 1,300 feet to get it to their lot line.

Dean Trefethen felt that, from a homebuyer's standpoint, the proposal would be problematic. In his neighborhood they have drainage ditches along Mast Road and he is constantly seeing his neighbors dumping their lawnmower clippings in the ditch. He understands what Reuben Hull is trying to do but he feels that the land owners will feel that they can do what they want and will want to fill in the drainage. He stated that he is not in favor of the waiver for the road. Every morning every one of these cul-de-sacs have the parents stacked up in their cars. He said that he might consider reducing the road width once you get into the development a ways, but the first few 100 feet of that road has got to be wider. Kids don't walk to school and can't be left alone anymore and the parents are out there every morning with their kids. He asked if the pitch of the road and the road drainage would be away from the curbed side of the road.

Reuben Hull explained that the storm drains would be on both sides, the curbing side in the pavement and then in the ditch line on the opposite side.

Dean Trefethen was concerned that there is very little room for error in the placement of the houses. The setbacks in many cases are inches from the corner of the houses leaving the homeowners few options to expand their homes. He feels that there are too many lots in this subdivision and he is particularly concerned with the Lucy Court area. He said that we have to protect the Wallace Woods folks but at the same time we have to protect the future homeowners. He said that there is at least one or two too many lots.

Reuben Hull explained that the trees that are on the plan are outside of the right-of-way and within that landscaping easement. There would be restrictions that would go along with that in terms of maintenance. It would be the same as the maintenance that would go along with the cul-de-sac. He explained that if the trees are in the right-of-way, the City would be responsible for the maintenance and the upkeep of those trees. There would be something in the deed that would restrict what can or can't be done in that 5 foot area.

Dean Trefethen stated that there is no one who is going to enforce this. He said that he is concerned that too many restrictions are being placed on the homeowner.

Reuben Hull stated that there are 2 or 3 car garages within the footprint of every one of the homes. They are either. The homeowners will be restricted by where the building envelope is and in most cases, there is some room for flexibility. The developer is sensitive to all the issues and they want a neighborhood that the residents are going to enjoy and also want to be able to respect the wishes of the neighbors behind them. The drainage easements would be smaller ones on each lot, rather than three of them concentrated on three lots.

Pete Lavoie asked if there is no homeowner association how is the detention pond that is spread across three property lines going to be maintained.

Reuben Hull stated that it would be done by some sort of joint homeowner's document or easements to the City to maintain as it will be City drainage coming off of the road.

Pete Lavoie if you were going to eliminate a lot he wished it would it to be on the small cul-de-sac which is just a nightmare.

Reuben Hull stated that the geometry is the same as any other cul-de-sac so it should not be any different than the cul-de-sac at the other end.

Tom Fargo spoke about the impact to the wetlands. He said that they defer the drainage to the engineering department because they are going to have to deal with it. The storm water draining from one property to another is a nightmare if you are not managing the stormwater through pipes. Even though we like to see the non-structural approach, we recognize that in this environment that it is difficult to deal with. He asked what size trees he would put in.

Reuben Hull said that they were selected from the list that was provided by the City arborist.

Steve Bird was still looking for input from the Board to see if a road waiver desirable.

Ron Cole stated that he didn't feel that they needed one.

There were no other comments.

Reuben thanked the Board for its indulgence and he will take all the comments under advisement.

**ITEM #9: Adjournment.**

Frank Torr made the motion to adjourn.

Beth Thompson seconded.

**VOTE U/A**