

**DOVER PLANNING BOARD
MINUTES OF MEETING
OCTOBER 12, 2004**

MEMBERS PRESENT: Mindy Anderson, Donald Andolina, Dennis Ciotti, Pete Lavoie, Dean Trefethen, Beth Thompson, Tony McManus, Frank Torr, Ron Cole

MEMBERS ABSENT: John Swartzendruber, Bryan Cahoon, Eric Tooke

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

Tony McManus brought the meeting to order at 7:04 PM.

ITEM #1: Citizens' Forum

No one spoke.

Mindy Anderson took a seat on the Board.

Ron Cole arrived and took over the Chair and Tony McManus went back to his seat.

ITEM #2: Approval of the minutes.

Frank Torr made the motion to approve.
Beth Thompson seconded.

Tony McManus stated that on page 7 and on page 11 Bob Heins should be Hynes.
VOTE U/A

ITEM #3: Public Hearing to consider a petition seeking the designation of Back Road as a Scenic Road as provided in Chapter 143 of the Dover City Code and RSA 231:157.

Chairman Cole advised everyone that the subject is the Scenic Road designation and that the traffic, safety and transportation issues will be taken up by the Transportation Subcommittee of the City Council. He asked that all remarks be focused on the Scenic Road designation.

Steve Stancel reminded everyone that the Transportation Advisory Committee meeting is scheduled for Tuesday, October 19, at 6:30 PM, and at that meeting the width of the road, the traffic and other items will be discussed. He added that the City Council will be holding a public hearing on the Scenic Road designation at their November 10th meeting. The Planning Board and the Conservation Commission will be making recommendations to the City Council regarding whether Back Road should become a Scenic Road or not.

Chapter 143, Scenic Roads indicates that the City Council may designate any road within the City, with the exception of a Class I or Class II Highway, a scenic road. If designated as a Scenic Road, any repair, maintenance, reconstruction or paving shall not include any cutting or removal of trees, tearing down or destruction of stone walls except with prior written consent of the Planning Board, after a public hearing. Zoning 170-28-4 entitled Scenic Road Overlay District, would apply also. That means that all land within 25 feet of the right-of-way is included in the Scenic Road Overlay District and requires that the existing vegetation buffer shall be maintained and preserved in its natural state except for damaged, diseased or unsafe vegetation and clearing vegetation for a driveway or clearing for agricultural uses. This was put in place approximately 2 years ago because of people buying a lot on a scenic road and then cutting every tree down and destroying the scenic character of the road.

The public hearing was opened.

Ann Fredette, 109 Back Road, stated that she can't imagine what the intent would be for a road that carries 350 or more vehicles per day. She asked if everyone will have to get permission to cut or change their property within the 25 feet of frontage. She said that it sounds like a good reason for tax a abatement.

Rick Hebbard, 97 Spruce Lane, and a member of the Planning Board Subcommittee for Class VI Roads, said that the Scenic Road designation has been thought of before all of the construction started.

Greg Hunt, 295 Back Road, said that he drafted the petition and circulated it among the neighbors along the road. Their concerns for the road are not something that was pulled out of the air but is in the spirit of established guidelines. In a nutshell, it is to recognize the value of the road, the aesthetics and environmental nature, and the historic and scenic nature of the road. He pointed out that the City was settled in 1623 and Back Road was part of the original connector. It might be one of the ½ dozen oldest roads still following the same course in the entire Country. He said that one of the reasons that this came about is a result of the consternation of how the reconstruction of the road was approached. Their purpose for the petition is for the recognition of a historic, environmental asset of the City. They are asking for a reminder of due process when projects like this are undertaken in the future. This should serve to remind everyone to stay involved as concerned citizens and to watch what is happening in the community. This designation does not inhibit the maintenance of the road, the reconstruction of the road, paving of the road but it does require due process and public notification. Their consternation began with the tree cutting without prior notice.

Joan Windham, moved to Dover in 1948, stated that the gondolas went up the river behind her parents' house; there is a tree over 125 – 150 years old planted for a little girl; the Indians were once in this area. She said that the history that she knows was given to her by old people. She spoke of the wildlife that is still seen in that area.

Rick Merrill, 292 Back Road, stated that it is very unusual for them to be at odds with their neighbors on this issue. There are some scenic areas on Back Rd. and some that are less than scenic. He felt that that designating Back Road as a Scenic Road would jeopardize the road construction. It comes down to demographics. He said that when he was a child there were 13 houses in a 1½ mile stretch that is now Back Rd. He said that he now counts 57 houses including the three cul-de-sacs that serve Back Rd. There are also at least ½ dozen lots for sale which means even more traffic out there. The road has never been in worse shape as it is right now. He said that progress happens and this is the 21st Century and anything that would jeopardize the reconstruction and widening of the road to him is a mistake. It is way overdue.

Bob Fredette, 109 Back Road, stated that he isn't sure that a road that has over 300 vehicles passing on it should be considered a Scenic Road. He said that there are three developments; Emery Lane, Cullen Bay and Mallard Lane that all empty onto Back Road. There are delivery vehicles, school buses, etc. and he is not sure it is a Scenic Road. He said that a lot of people don't agree that it is a Scenic Road and he asked the Board to take both sides into consideration.

Kyle Sandall, 75 Back Road, questioned if it was designated as scenic if it would stop any further widening of the remainder of the road. At the last Council meeting it was decided that the neighbors and the City Council would discuss what should be done regarding widening and he was told that a decision would be made over the winter. He wanted to be sure that this would not short circuit the process by approving this too soon.

Steve Stancel, explained that designating it as a Scenic Road would not prohibit any future development or widening of the road. What would occur is that there would have to be a public hearing held before this Board before any approvals could occur.

Rick Hebbard, explained that Public Service needed to cut down 4 trees on Old Garrison Road and they had to come before the Board and let them know which trees they were going to cut down and to notify the abutters. This is basically the process. He pointed out that Route 16, that goes up through Franconia Notch, is a Scenic Road and the State gets millions of dollars from all the people who come up to see it.

Greg Hunt read Chapter 143-1, 143-2 and 143-3. He said that they are asking for due process. Regarding subdivisions, they would have to come before the Board anyhow so that isn't creating something new. Before a major change takes place on that road, there are trees out there that were saplings when Dover sent their sons to the Civil War. They are pieces of the character of the town. They are not asking to impinge on anyone's property rights or property values but what they are asking for is a change is to take place and to have everyone involved in the process.

The public hearing was closed.

Ron Cole asked the Board about a site drive or site walk, etc.

Frank Torr stated that he did ride down the road and the part that the City has completed is an excellent job. He said that he thinks that it is still a Scenic Road but he doesn't think that it has to be designated that because it is an intrusion into private property rights in his opinion. He said that he is opposed to naming it a scenic road. He said that it has its beauty now and he is not sure what development is going to do to it. Any buildable land is going to be developed at some time. The demand is there and will continue to be there.

Dean Trefethen said that there seems to be two Back Roads, one that is very much in favor of this and there is another that is not in favor of this. That makes the decision very difficult and he would prefer to err on the side of caution. His first reaction is to not approve this.

Frank Torr said that safety is an issue. He said that you cannot have two vehicles passing and a pedestrian on the road. He said that he drives cautiously and he pulled over considerably to let a runner pass by. He said that good manners on the road might remedy the situation but that doesn't happen. The safety factor has to take precedence.

Tony McManus stated that he doesn't know if this has ever been challenged by a court case but the Legislature passes the bill assuming that it was constitutional and that it did not amount to a taking. As long as it is on the books and is available to the City, certainly, there are roads that would benefit from the Scenic Road designation. Even if it was designated as a Scenic Road, the engineers could redesign upgrades that would provide the necessary safety, while at the same time, maintain the integrity of the designation.

Beth Thompson stated when businesses are looking to relocate to the community and when they are looking for places for their employees to live, Back Road is on her route. Residential development is not in the spirit of a scenic road and therefore, she doesn't see that this is a valuable road to identify as scenic. She said that she doesn't feel that it is appropriate.

Dennis Ciotti sees this road as another Catch 22 for the City of Dover. He has traveled that road for many years and has been scared to an inch of his life many times. It's a public nuisance for the City, as a whole, for anybody to travel out there because it is a dangerous road. On the other hand, it is one of the most beautiful roads in Dover. Designating this as a Scenic Road will not alleviate the safety problem out there and will not alleviate any developer putting in a couple of developments and taking away what these people are trying to accomplish. He felt that both sides are right.

Don Andolina asked if there were statistics in the Police Department that could be looked at with regard to the safety of this road. We know it's narrow and that people drive too fast.

Pete Lavoie stated that the Police Department does have records of the accidents and the causes.

Steve Stancel stated that they can get the statistics but the conversation should be redirected. We are not here to decide whether Back Road is safe or not, we are here to decide if it should become Scenic or not. He said that he could go either way on it and he said that six people speaking this evening have not given us a mandate either way. It's important that the road can be safe if it is designated as a Scenic Road. It would require coming to the Planning Board for an extra step, which may or may not be a hassle but it doesn't equate to future upgrades not taking place. Steve said that it is a beautiful road and there is either a historic nature to it, or there isn't.

Tony McManus made the motion to adopt the Scenic Road designation.
Donald Andolina seconded.

Dean Trefethen stated that there are other processes coming up. He said the Traffic Advisory Committee has a meeting coming up to discuss this and this vote may be premature.

Don Anolina asked if this could be tabled until the Transportation Advisory Committee meets and makes its recommendations.

Tony McManus thought that the ultimate decision is up to the City Council. The first step is for the Board to make a recommendation and the Council can do what they want with it when they get it. He said that Dean Trefethen's concerns will be addressed by the Council and should not be addressed by us.

Dean Trefethen said that he would agree with that except that there are many things that the Planning Board recommends action to the City Council and that recommendation has a stronger input.

Steve Stancel interjected that the Conservation Commission has decided to table until after the Transportation Advisory Committee meeting on October 19th.

Frank Torr made the motion to table.
Donald Andolina seconded.

VOTE 7 – 1

Opposed – Tony McManus

Ron Cole announced that under **ITEM 11: Old Business, d. Haven Farm at Alden Wood**, located off Wildewood Lane, would not be addressed until after the neighborhood meeting took place.

ITEM #4: Consideration and acceptance of a minor subdivision of land for David Bibber, Assessor's Map E, Lot 67A, zoned R-12, located at 1 Whittier Falls Lane. *(1 lot) (P04-51)

Jason Pohopek represented the applicant and explained that it was a simple one lot subdivision.

Frank Torr made the motion to accept.

Beth Thompson seconded.

VOTE U/A

The public hearing was opened.

There were no comments.

The public hearing was closed.

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

1. Add the owner's signature to the plat.
2. Provide the Planning Department with a digital version of the plat.
3. Add the surveyor's signature and stamp to the plat.
4. Revise the plat to add two GIS points.

Frank Torr seconded.

VOTE U/A

ITEM #5: Consideration and acceptance of a Conditional Use Application for William Coneys, Assessor's Map M, Lot 52-8, zoned R-20, located at 17 Ivans Lane. *(P04-49)

Frank Torr stepped down.

Paul Connolly, Civil Works, stated that the Coneys would like to build a swimming pool on a small portion of land that is just over the 20% slope. They have gone before the Conservation Commission and have since received approval. He stated that the reason that they could not put the pool closer to the house is because it would be a safety issue. They don't want anyone to be tempted to dive from the deck into the pool.

Dennis Ciotti made the motion to accept the application.

Donald Andolina seconded.

VOTE U/A

The public hearing was opened.

There were no comments.

The public hearing was closed.

Donald Andolina made the motion to approve with the condition that the applicant shall comply with the erosion and sediment control plan as submitted.

Mindy Anderson seconded.

Tony McManus stated that it is a reasonable request but wanted to point out that when the Board looked at this subdivision it was obvious that there were slopes and wetland problems. He said that you run into problems when people want to put in sheds, garages and pools. He said that once we do it for one, we will be in a pickle not to do it for others regardless of the circumstances. He said that there is plenty of room to put the pool someplace else. He felt that it is better to say no to the first one and therefore, will be voting no.

VOTE 5 – 2

Opposed – Dean Trefethen, Tony McManus

Frank Torr took his seat.

ITEM #6: Consideration and acceptance of a minor lot line adjustment of land for Rita Frechette Living Trust, (Owner Peter Russell Rev. Living Trust) Assessor's Map 39, Lots 93 & 95, zoned B-5, located at 20 New Rochester Rd. *(P04-50)

Jim Schulte represented Peter Russell. He stated that Mrs. Frechette will transfer to Mr. Russell a portion of her land so that both properties will meet all of the zoning setback requirements.

Frank Torr made the motion to accept the application.

Beth Thompson seconded.

VOTE U/A

The public hearing was opened.

There were no comments.

The public hearing was closed.

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

1. Add the owner's signatures to the plat.
2. Provide the Planning Department with a digital version of the plat.
3. Revise the plat to add the minimum building setback lines to both lots.
4. Revise the plat to add two GIS points.
5. Revise the plat to add the name "Hotel Drive" to the access road.
6. Revise the plat by adding the Strafford County Registry of Deeds recording number to reference plan #1.

Frank Torr seconded.

VOTE U/A

ITEM #7: Consideration and acceptance of a minor subdivision of land for Dover Building Partners, Assessor's Map H, Lot 18, zoned RM-20/R-20, located on Knox Marsh Rd. *(P04-45)

Reuben Hull, Civildesign, stated that this is the Village at Bellamy Commons condominium project, on Knox Marsh Rd. He gave a brief history of the project. He said that through a number of meetings they merged the two parcels. The original intent was that Unit 45 would have had some commercial use to support the project. The commercial viability of the project did not work out and so they went to residential. Merging the two parcels set up the opportunity to change unit 45 into a four-unit condo by taking all the land to the east, which was the R-20, and using the density of that lot, combined with the larger lot gave them the 48 total units consisting of the original 45 units, plus the three that were added through the consolidation of the two parcels. The original plan related to the documentation for the condo association, allowed for Unit 45 to be taken out but it did not have the easement way for additional units to be put back in to the condo association. Short of going back to every homeowner that has already bought into the project and has already recorded deeds and has already recorded mortgages with a 1/44th interest in the project, they then would have to go back and change every one of those deeds to every one the existing unit owners and have them agree with them to change it from 1/44th to a 1/48th interest in the condo association. They are proposing a subdivision that will parcel out Unit 45, which was always allowed under the original condo association and put a lot line between the 4 units and the 44 units. The project does not change anything that has already been approved. The 4 units will have an access easement across the larger project.

Dean Trefethen asked if the condo association would be sharing dumpsters, snow plowing, etc.,

Reuben stated that there will be an equitable way of dividing out the 4 units into what was already approved for the 44 units. There will be documentation in place that will describe how the services work, etc. Each of the owners of the original plan will still have the 1/44th interest in their parcel. The new owners will each have a 1/4th interest in their piece and then that homeowners association, as a single entity, will have responsibilities to the larger condo association as a single entity. That will be laid out and will have to be recorded with the deeds and with the new subdivision.

Reuben Hull said that the developer still has the overall control of the lot and can exercise how those arrangements between the two associations are going to work. Those numbers will be equitably divided for the sharing between associations, on top of what is going to be already in place. It will be the same as the easement itself. The easement for access will be from the larger parcel to the benefit of the smaller parcel. The smaller 4 units will have a responsibility in terms of the landscaping, plowing and the other ongoing maintenance issues that are in there, since that is a private way.

Donald Andolina asked what the shared services would be.

Reuben Hull stated that it would be the landscaping, and plowing and maintenance of the road. There is city water and sewer so that would not be an issue.

Donald Andolina made the motion to accept the application.

Beth Thompson seconded.

VOTE U/A

The public hearing was opened.

Vivian Alby, 3 Footbridge Lane, stated that she was one of the first to buy in the development. She said that there is total chaos and non-communication. She said that the 4 unit is the host of their development. She said that she is by herself because they are not associated yet. She was concerned with all the problems that can happen if they are by themselves and not a part of the larger development. If the 4-unit association rules are different, there will be immediate conflict. She said that they share water sprinklers. She spoke with the management of their development and said how they are very confused. When they bought they were given a stack of by-laws that they had to agree on until their association was formed. No one that lives there abides by them and there is no one to talk to about it. The construction has been havoc. They have trucks that have parked on their lawn and they have lived with dirt and dust on a daily basis. They need to stay united. She said that there was supposed to be a pedestrian trail and it is a two lane highway with huge gates and a huge road. She emphasized that they need to be united.

Chris Dubaclo, 2 Footbridge Lane, spoke about the parking and stated that there is a unit in the center that has to park their cars parallel because there is no parking for additional cars. She said that the garages are not large enough to fit two large cars, therefore the second car must park outside of the garage. She is concerned that there are only 3 additional spaces for visitors. She is also concerned with the unit that is parking parallel because of the possibility of the possibility that fire apparatus would not be able to get through.

The public hearing was closed.

Steve Stancel stated that there are some issues that the Planning Department and Community Services will follow up on to see if things were constructed according to the original plan and if not, why it was not.

Ron Cole asked Reuben Hull about the access road.

Reuben Hull explained that there were two pedestrian trails that were approved, one connects with the gravel road in Bellamy Park, the second is a trail that has been extended into the park to connect with some of the cross-country trails which has just been done within the last 10 days. He said that he believes what the abutter was speaking about is the proposed second parcel as part of working with the City in terms of giving vehicle access to Bellamy Park, separate from Bellamy Road, which is not the safest situation. The developer did the bulk of the work in getting that in place for the City, as an alternative access point for the park.

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

1. Add the owner's signature to the plat.
2. Provide the Planning Department with a digital version of the plat.
3. Add the surveyor's signature and stamp to the plat.
4. Revise the plat by adding two GIS point.
5. Provide the Planning Department with a copy of the proposed access easement, which shall stipulate that no parking is permitted within the easement area.
6. Provide documentation for shared uses and maintenance issues with existing condominium development prior to signing of the plan.

Beth Thompson seconded.

Chairman Cole stated that he is confident that the Planning Office will work with the speakers and he urged them to contact Steve Stancel.

VOTE 7 – 1

Opposed – Dean Trefethen

ITEM #8: Consideration and acceptance of a minor lot line adjustment of land for Back River Road Realty Trust, (Owner Karen Hoeksema) Assessor's Map 16 & 20, zoned R-12, located on Back River Road.* (P04-33)

Chairman Cole stated that following this is ITEM #9, the subdivision and the two items can be joined together for commenting purposes.

Malcolm McNeill represented the applicant and stated that it is appropriate that they be joined in terms of their consideration because one is dependent upon the other. He stated that the applicant acquired a parcel for a centralized access into the site and explained the boundary line adjustment. He said that a yield plan was provided and it has been subject to two TRC reviews and also has been reviewed by the Conservation Commission. He said that the R-12 zone requires lot sizes of 12,000 sq. ft. The total land mass is 14.91 acres. He said that the results were a realistic number of 18 lots. On a cookie cutter basis at 12,000 sq. ft., it would generate 33 lots but realistic planning demonstrates the ability of putting in 18 lots. From that they have come up with a project that proposes 20 new, detached units with over 60% of the lot being open space. He said that there is a bonus for open space in excess of 60% and a 5% bonus for protected view sheds which they have maintained of the river area. This resulted in the ability on this site of putting in 21 units. There are 20 new units and they are proposing to retain by waiver, an existing house on the street. He referred to the Westwood Circle case. They are proposing the existing house along the street and 20 detached condos. He said that the road will be a private road. There is not one wetlands crossing on the site. They went to Conservation Commission with regard to the steep slopes. There has been a traffic study on the intersection of Durham Road. The peak hour is 26 cars per hour, which is not a significant impact. There may be other development along Route 108 that comes along sooner or later but they believe that this impact is modest and capable of being handled by the existing intersection. He added that the intersection has improved; either the timing or other characteristics have improved.

Bob Stowell, stated that they have spent a lot of time working with staff on this project. He said that they have gone through several iterations with regard to the open space. There is a significant amount of open space that abuts the residents on Back River Road. He said that Steve Stancel pushed for this. He said that there is a small private pump station on the site that will be maintained by the homeowners association and will pump the sewerage from the development to Back River Rd.

Kim Eric Hazarvartian stated that they assessed the traffic impact for the development and conducted their assessment for 21 units. He said that they used trip generation information published by the Institute of Transportation Engineers and their handbook and gave a summary of their report.

Bob Stowell stated that there is a 100 foot setback from existing roadways and there is a 30 foot setback to the perimeter of the property for house construction. They have an existing house that doesn't meet those requirements. Their feeling is that the main purpose of the 100' buffer to an existing roadway is to maintain the existing character of the neighborhood. They are asking for the waiver to allow the existing house to stay. Bob Stowell explained that they do not have any plans for the two existing access ways to the lot. He said that it is the way that the parcel was configured and he figured the intention was to access the back land. He said that they did not find them adequate under current standards but they are part of the parcel. The possibility of the abutters acquiring the property was discussed. They would be happy to talk to abutters if there is an interest because they do not serve any function as part of the development. Bob Stowell stated that the existing Hoeksema property has frontage on the road but it was not a viable access point for development because of adequate site distance and a steep exit to Back River Rd. They purchased a lot that had site distance in excess of 300 feet, which is adequate for that speed limit.

Beth Thompson made the motion to accept **ITEM #8**.

Frank Torr seconded.

VOTE U/A

Al Belhumeur, 36 A Back River Rd., wanted to see how his lot was involved.

Celest Feren, 20 Back River Road, wanted to see where Lot #20 was located on the plan as she had not seen any plans previous to this evening.

The public hearing was closed.

Steve Stancel explained that the lot line adjustment separates the existing Hoeksema house from the balance of the property and gave the staff recommended conditions of approval.

Tony McManus made the motion to table until after the site walk.

Mindy Anderson seconded.

VOTE 6-2

OPPOSED - Beth Thompson, Frank Torr

ITEM #9: Consideration and acceptance of a major subdivision of land for Back River Road Realty Trust, Assessor's Map 16, Lot 20, zoned R-12, located on Back River Road. *(P04-34_(20 lots)

Frank Torr made the motion to accept the application.

Dennis Ciotti seconded.

VOTE U/A

The public hearing was opened.

Celeste Feren, 20 Back River Rd. stated that she was concerned with the wetlands and the traffic. She was concerned that the new property owners would come in and try to further erode the wetland and slope areas. She said that between 3:00 - 3:30 she can't get out of her driveway because there are so many people on Back River Rd.

Sandra Truax, 32 Back River Rd., asked if these were houses or condos and asked if there would be any building in the open space in the future.

Malcolm McNeill stated that they were detached condo units that are single family dwellings.

Chairman Cole recessed the public hearing.

The site walk was scheduled for 9:00 AM on Saturday, October 16, 2004 – meeting at 22 Back River Rd. Ron Cole announced that the public is welcome to attend the site walk.

Celest Feren asked if the developer would pick up the garbage bags that have accumulated behind the property before the scheduled site walk.

Steve Stancel explained that because this is an OSS, the open space will be protected in perpetuity and there can't be any development. He said that the Planning Department is not in favor of the waiver and they are not completely convinced or in favor of the 3 unit bonus. He said that the driveway has to be at a 10% grade. The City spent a great deal of money putting traffic signals at 108 & Durham Road, as well as connecting the signals to all the other signals in the corridor so that they work together. He said that they are asking for contributions from each of the developers to go into concert for a corridor study in the area to look at the ultimate fix. There is a need to add lanes and the other constraint is the underpass of the turnpike. These are issues that we need to look at and plan for in the further.

Tony McManus made the motion to table.

Mindy Anderson seconded.

VOTE U/A

ITEM #10: Consideration and acceptance of a manor subdivision of land for Saunders & Westcott Assocs., LLC, Assessor's Map A, Lot 19, zoned R-40, located on Varney Road (P04-47) (17 lots)

Tony McManus recused himself.

Kevin McEneaney represented the applicants. He explained that the project is an OSS that is 50 acres in size. He said that the yield plan produces 22 lots. He added that they are eligible for a 15% bonus. He said that a total of 25 lots is allowed. They are proposing 16 lots, 15 of which are new lots. He said that there is an 850 foot roadway. The open space being provided is 31.17 acres. 62% of the property is in open space and 47% of that is uplands. He said that the lots will be serviced by individual septic systems and wells. The road is intended to be a public road. He said that there will be a homeowners association which will own and maintain the open space and will also have restrictive covenants on the open space. He said that they are asking for a waiver of the 28 foot road to a 24 foot road, which has been a standard in the last two or three years.

Christian Smith, Beals Associates, went over the drainage for the project. The reason for the design of the large loop of the road is that they are trying to minimize impact to the wetlands and the buffer. He said that they would be collecting storm water through swales and culverts. He said that they did a comprehensive drainage analysis and they are still waiting to hear comments from the Engineering Department. They have taken Reyners Brook into account when sizing their culverts. They have specified erosion controls that have been reviewed by TRC. The total wetland impact is just over 2,600 sq. ft. They have done their best to minimize wetlands impact. They have submitted a Site Specific Permit application, as well as a NH DES Subsurface Systems Bureau application for subdivision approval and they now need to file the EPA Phase II Stormwater Protection Permit.

Frank Torr made the motion to accept the application.

Beth Thompson seconded.

VOTE U/A

The public hearing was opened.

Margaret Buckingham, 7 Varney Road, had major concerns with the impact this project will have on the wetlands. She said that her property drops off fairly steeply and she has heard that in years past that the area floods. She said that she has a hard time getting out of her driveway because of traffic. She wants to be sure that someone has checked the site distance and the impact that this will have on traffic. She requested that if this is approved, that a buffer be left between the project and her property and that it be left completely natural with no trees being cut down.

Burt Nelson, 41 Cordeiro Drive, spoke about the beaver dam behind his house. He was concerned with communications because every time his neighbor called in there seems to

be a different plan. He has concerns with traffic and with the speed on the road. He was concerned with the open space. He asked where to call to get the best information.

Chairman Cole told him to call the Planning Department and explained how the plans evolve and the OSS concept.

Gordon Smith, 7 Apache Street, stated that he walks on the property and it is beautiful. He hoped that they would make a public footpath so the public can enjoy it also. He said that there are two beaver dams on the site.

Dean Trefethen stated that he would like to have the entrance of the roadway a bit wider than the 24' to accommodate cars that stack up to wait for the school bus.

Frank Torr made the motion to table.

Beth Thompson seconded.

VOTE U/A

The site walk was set for 10:30 AM, Saturday October 16, 2004. The meeting place will be at the entrance, just past the culvert.

Chairman Cole called a 5 minute recess at 9:40 PM.

Chairman Cole brought the meeting back to order at 9:45 PM

Ron Cole stated that Mr. Andolina did not sit as a voting member for the last couple of meetings while they wrestled with some issues regarding the potential of his vote being challenged if he was perceived to be in violation of the City Ethics Code. Ron Cole said that after substantial investigation, he has come to the conclusion that there is little or no potential for any vote taken by the Planning Board in which Mr. Andolina participates to be challenged. In consultation with a number of people, City Officials, elected and appointed, he contacted Don Andolina and asked him to sit on the Board as a full member again. He added that unless someone has questions, there will be no more discussion on this issue.

Tony McManus took his seat on the Board.

ITEM #11: Old Business

a. Discussion and possible vote on a driveway waiver for Paula Reid, Lexington St. (P04-43)

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

Frank Torr seconded.

Sam Reid stated that Mr. Gillis, his neighbor, had expressed some concerns with regard to water ending up on his property or in his basement. Since then, he has reached an

agreement with Mr. Gillis. The agreement affirms his legal responsibilities that if there is an unnatural accumulation of water on Mr. Gillis' property, he has agreed to take remedial steps to remedy the problem. The agreement is signed and is part of the City records. So he is asking for the waiver in order to give him a turning radius.

Beth Thompson made the motion to approve subject to the signed agreement with Mr. Gillis.

Dean Trefethen seconded.

VOTE U/A

b. Discussion and possible vote on a lot line adjustment for 192 Washington Square LLC, located on Washington St. (P04-30)

Mindy Anderson stepped down.

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

Frank Torr seconded.

VOTE U/A

Chairman Cole stated that we will be discussion b and c at the same time.

Jim Schulte represented the applicant and said that the City has received the deed from the state of NH for the property between Washington St. and the north side of the Cochecho River. He explained the easement and said that the City will reserve a 7 foot easement. They are in agreement with the recommended conditions of approval set by the Planning staff. He said that they are asking for a couple of waivers for paving within 5 feet of the lot line, a Conditional Use Permit and a waiver of the requirement to construct recreational facilities on this site. He added that in lieu of on site recreation, there will be a \$2,000 contribution to the City's recreation fund. They will be providing an operational maintenance plan for the stormwater drainage system, which is required by the EPA. Two of the decks on the condo units as shown on the landscape plan encroach too far into the setback and for unit #6 they will be moving that to the other side of the condo unit and will also be reducing it in size so it will meet the setbacks. For the last unit #7, they are going to take the deck off the back and swing it around to the side so all the decks will meet the setback requirements. The lighting plan is being updated. They are asking for approval of the lot line adjustment and also the site plan for the 7 town house condos. He said that they have received a Variance from the ZBA for the front setback.

Tony McManus stated that the quit claim deed reference clause refers to real estate recorded in Hillsboro County Registry of Deeds and another clause refers to real estate recorded in Strafford County Registry of Deeds.

Jim Schulte stated that he will get that fixed. He said that the buildings will be similar to the ones across the street except that these probably will not have garages underneath. They will be providing 14 parking spaces. He said that when they originally proposed

this plan they proposed 10 more spaces but, as the result of the drainage system, which the City Engineer required with a detention area at the end of the parking lot, they couldn't get more spaces in. The only way to get more spaces would be to raise the buildings up and put parking underneath.

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

1. Add the owner's signatures to the plat.
2. Provide the Planning Department with a digital version of the plat.
3. The applicant shall complete the purchase of the City property to the satisfaction of the City Attorney and prepare and record revised deeds for both parcels.
4. Revise the plat to show the area of the access easement that the applicant has agreed to grant to the City. This easement will be approximately seven feet wide along the western property line.
5. Provide the City with an access easement for subject property in a format acceptable to the Planning Department and record the easement.

Frank Torr seconded.

VOTE U/A

c. Discussion and possible vote on a site review of land for 192 Washington Square, located on Washington St. (P04-31) (7 units)

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

Frank Torr seconded.

VOTE U/A

Steve Stancel gave the recommended conditions of approval.

Donald Andolina made the motion to approve with the following recommended conditions of approval as follows:

1. Add the owner's signature to the plan.
2. Approval includes the granting of a Conditional Use Permit, with the condition that the applicant submits an operation and maintenance plan for the stormwater system that is acceptable to the City Engineer.
3. Approval includes the granting of the two requested waivers.
4. Revise the plan to add a name for the private drive, said name acceptable to the City.
5. Revise the plan to reduce the size of the decks so that they encroach no more than three feet into the side setback.
6. Provide the Planning Department with a lighting plan and analysis that complies with Chapter 149-14E-2.
7. The applicant shall contribute to the City the sum of \$2,000 for off-site recreation facilities, in lieu of providing recreational facilities on the property. Said contribution shall be paid prior to obtaining a building permit.

8. The applicant shall comply with the conditions contained in the memo dated 10/6/04 from the Assistant City Engineer.

Tony McManus seconded.

VOTE U/A

Mindy Anderson took her seat on the Board.

d. Discussion on Haven Farm at Alden Woods, located off Wildewood Lane. (P04-42)

Was left on the table.

e. Discussion and possible vote on the revocation of the Excavation Permit for Dover Sand & Gravel, (Owner Pruven Aggregates, Inc.) Assessor's Map H, Lot 61 and 59, located on Mast Road.

Rick Proulx stated that this is the first time that they have ever had to go after a bond. The best case scenario for them to get a bond is 6 to 8 weeks. He said that his father, who is away, has assured him that he will have a Letter of Credit in place by October 26, 2004, which should fulfill everybody's desires. It is just a matter of moving money into the bank and he doesn't see anything holding that up.

Steve Stancel stated that the memo recommends pulling the permit. He said that they have given the applicant ample opportunity and time to produce the required bond or Letter of Credit but he is inclined to give him two more weeks.

Frank Torr made the motion to allow them to go until the 26th of October to get the letter of credit.

Beth Thompson seconded.

VOTE U/A

Tony McManus inquired about the gravel pit photos in the packets.

Steve Stancel stated that the reclamation is well underway at the Martel pit so they are recommending not having a public hearing.

ITEM #12: New Business

Steve Stancel pointed out the brochures that the Strafford Regional Planning Commission put out called Vision 2020 – Strafford Region. Steve asked the Board to review the information and if they have any comments to call Strafford Regional. Gerry Mylroie will be present at the November 9th Planning Board meeting to give additional information.

Steve Stancel stated that the CIPs are on the desks. Traditionally, the Planning Board reviews the CIP items and holds a public hearing and then makes a recommendation to the City Council in November. He suggested a workshop on the 26th and we could have a representative from the City or the Manager's office to present the CIP in detail to the Board. He suggested having a workshop at 6:00 PM prior to the meeting of the 26th.

Discussion ensued with regard to having a joint workshop in conjunction with the City Council.

Frank Torr stated that he was not sure how the Board could address the letter from the abutter to Haven Farm, but it should be addressed in some manner. He added that we need to encourage people to participate and this discourages any participation.

Chairman Cole stated that he knew that the offender has given a personal apology to the person who was offended. He said that he knows the person involved and it is the first time he has heard of an over reaction by this individual and he was surprised that this occurred.

ITEM #13: Adjournment

Mindy Anderson made the motion to adjourn.

Donald Andolina seconded.

VOTE U/A