

Dept. has approved the access to the three lots. The driveway and septic permits have been issued.

Steve Stancel asked the applicant to explain the proposed turnaround and for Pete Lavoie to explain the proposed upgrades to McKone Lane.

Tim Ayer stated that they made the entrance wide enough so the Fire Department could have a sufficient turnaround adjacent to McKone Lane. He said that McKone Lane continues approximately another 1,000 feet.

Steve Stancel stated that a question came up regarding whether McKone Lane was a public right-of-way. He said they've done a lot of research on it and beginning in the late '60's this road was listed with the State. The City has been receiving State Aid Funds indicating that it is a public accessway. He said that it appears that there are no records that this right-of-way was ever transferred to the City. He said that what did occur in the late 80's was a subdivision adjacent to this project, done by Raymond Martineau, that utilized McKone lane as frontage for three lots in an ADS and at that time it was determined that the road was public. He said that in 1989, Mr. Ayer came in and subdivided Map N, Lot 18 into two lots and again it was determined that McKone Lane was a public right-of-way. Steve said that they did request a legal opinion from City Attorney George Wattendorf, and in his opinion, it is a public road by prescription under RSA 229:1, which means that the public has been utilizing this road to pass and repass for a period of more than 20 years, beginning in 1968. Steve Stancel added that the City has been providing services on this road.

Ron Cole asked if there is a process where the City Council can accept this road.

Parks Christenbury said that because the City has been maintaining this road all along, we have accepted it by default.

David Landry said that he remembers seeing a sign that says Private Road. He said that there were many times that he was curious as to what was down there and he purposely didn't drive down there because of the sign that said Private Drive.

Tim Ayer said that he believes that it says McKone Lane and Dead End.

Tony McManus said that he remembers a sign that said Private Drive. He said that living in the neighborhood it was his understanding that you were not to go down there because it was Dan Ayer's driveway and there was nothing else down there except his house.

Beth Thompson made the motion to accept the application.

Frank Torr seconded.

VOTE U/A

The public hearing was opened.

There were no comments.

The public hearing was closed.

Steve Stancel asked Pete Lavoie to explain the City's plans for updating McKone Lane. He said that he should have added in the history of the road that when Mr. Martineau came in for his three lot subdivision, one of the conditions of approval was that at the time of the Building Permit, \$1,000 per unit would be paid to the City to go towards the eventual upgrade of McKone Lane. He said that once again that established a precedence.

Pete Lavoie said that he discussed with Mr. Ayer doing the same thing as Mr. Martineau, putting money aside for the road. As Building Permits are applied for, he would pay \$2,500 per lot to be put into an escrow account and that would give the City enough money to pave from where the turnaround would be to the main road. Pete Lavoie said that there would be some work done by the family with regard to culverts and any other drainage work that would need to be done. The thing is to try to keep the character of the road as a lane like what was done for Three Rivers Farm and to pave up to 20 feet wide. He said that he passed out an original tally that Mr. Ayer had done and \$2,500 per lot would help the City to pay for the improvements to the road. Anything that would happen later on could be handled the same way. This gives the City money to cover their fair share. Pete said that the road is passable and added that there are not many vehicles that use the road. He said that they had put a farmer mix kind of asphalt on years ago and that held up for a period of time.

Tony McManus asked if we required the Three River's Farm people to pave the entire length of the road.

Pete Lavoie said that they have discussed that and that was paved because they did a whole 10 lot subdivision.

Tony McManus asked if Mr. Ayer pays \$7,500, how far in from Henry Law Avenue would that allow the road to be paved.

Pete Lavoie said that they would pave up to the turnaround. He said that the minute anything else happens beyond there, they would get more money to complete it.

Tony McManus asked if the City has allowed any other developer in the City of Dover to build a road piecemeal.

Pete Lavoie said that the difference is that this street belongs to the City, it's not like a new development.

Tony McManus said that the City does not have a deed for the road and would the City once it's approved, expect Mr. Ayer to deed the road to the City.

Pete Lavoie said that the road does not belong to Mr. Ayer.

Tim Ayer said that the piece of road that they are proposing to improve is owned on either side by the Russeaus. He said that he has a State Line Sheet, listing McKone Lane of Division 6, Strafford County, State Inventory Road #100. He said that the City started collecting money from the State in 1963.

Pete Lavoie said that they collect money from the State for the road and it's listed as a Class V Road.

Tony McManus asked when Mr. Ayer worked for the Public Works Department.

Tim Ayer said he's guessing in the early 1970's.

Steve Stancel stated that what cemented it for him is the fact that there has been two other subdivisions on this road and each of those two times the road was treated as a public right-of-way.

Tony McManus stated that he is troubled enough about this. He said that he remembers when he was City Attorney back in the 60's, and they were wrestling with McKone Lane and he was not aware that it had been resolved. He said that he would move to table so he can have an opportunity to actually review it and do some research.

David Landry said that this is an unusual turn around assuming that it is a public road. He said that the Fire Department usually looks at these things and we end up with cul-de-sacs that he feels are greater than necessary. This cul-de-sac is on the wrong end of the street.

Steve Stancel said that he doesn't feel real comfortable with it but he feels that this is going to be a temporary turn around and that there will be further subdivisions down the road and, at that time, you will see a full fledged cul-de-sac and an upgrade of the balance of the road when that occurs. He said that at one point Mr. Ayer had come in with an eight lot subdivision, which would have encompassed the entire parcel showing a cul-de-sac with the upgrade of the road all the way to the end.

David Landry asked if there is anything on the books about continuing with minor subdivisions until it eventually becomes a major subdivision.

Steve Stancel stated that the regulations are clear saying that 4 lots within a 4 year period triggers a major subdivision. So if he does 3 now and does another subdivision within the next 4 years it will trigger a major subdivision. If he waits beyond the 4 year period, he can do another three. The major subdivision would trigger an ADS subdivision.

Frank Torr said that if his memory serves him correctly, there is a cul-de-sac by the Ayer house. It may not be a true cul-de-sac but it goes into a small circle and comes back down McKone Lane. He asked why the Fire Department is satisfied to go to that point when there is a cul-de-sac at the end. You don't have to make a special turn around if you have an existing cul-de-sac that comes right into the Ayer yard.

Steve Stancel asked if the collecting the \$7,500 from Mr. Ayer and taking the \$1,000 that we have from Mr. Martineau and paving the road ourselves up to the shared drive makes sense when we could have the applicant do that work as part of the subdivision.

Pete Lavoie said that this is guaranteeing the City that by the time the third lot is sold, there is money in escrow to do it. He added that he doesn't care who does it.

Steve Stancel stated that it seems unusual that the City is collecting the money and that they are doing the work, because we usually have the developer doing the work.

Tony McManus said that if McKone Lane is a public way then it is a public way for its entire distance, which would include the cul-de-sac by the Ayer's house. He said that this plan shows it cut off some distance in front. He assumes that they are taking the position that that area in front of the house and the cul-de-sac is no longer part of the public way. It seems to him that it is either all the way or no way.

Pete Lavoie said that you can see where the survey lines are on the plan.

Parks Christenbury said that the City Attorney is making his determination because the City has maintained this for 20 years. It is a unique situation. He said that while this is uncommon in Dover, it's fairly common in smaller communities. He said that in Dover we have owned roads outright. He will have to go with the City Attorney's opinion.

Pete Lavoie said that they will use those funds to come in from Henry Law and at least it's done to that point. The City can get the rest paved when there is other development

Dennis Ciotti asked how much it would cost to upgrade this road per lineal foot to City standards. He thought that collecting \$7,000 would not be enough to pave the road.

Pete Lavoie said that the road does not need that much work and that tractor trailers run that road every day. He explained that the money they will be collecting will be enough to do the first section at 20 feet wide.

Discussion ensued with regard to the cost of updating the road.

Dennis Ciotti stated that he feels that we are setting a dangerous precedence by approving this as it is presented.

Parks Christenbury said that as the City Attorney said, we own the road. This is not a developer putting in a new development and we are not putting in a road for his private development. He said that this is a case where we have a document that says that this is the City's road. If we want to we can table it and get further clarification. The fact of the matter is that our City Attorney says that this road belongs to the City of Dover. He said we've been maintaining it and receiving funds from the State.

Chris Parker said that he did check with the Assessor's Office and they show it as a public right-of-way. They have had it as a public right-of-way since the late sixties. He said if you overlay the planimetric, the physical buildings in the GIS, over the tax map you see that his driveway continues to the cul-de-sac well beyond where we show the edge of the right-of-way.

Tony McManus said that if McKone Lane is a public way it's a public way for its entire distance.

Chris Parker said that the tax line doesn't go to his house, it stops considerably closer than the cul-de-sac.

Steve Stancel said that Mr. Ayer would probably tell you that he has given permission to the City for the purpose of turning around. He said that if that is the case, then the argument doesn't work. Steve said that Mr. Ayer owns a deed description that does show the line L-21 and that's the difference. Steve Stancel said in response to Dennis Ciotti that it's not really \$7,500 to that point, technically, it's \$10,500 because Ray Martineau has or will eventually be giving us \$3,000. The point is that we will collect the funds even once it's paved.

Tim Ayer stated that on the State Line Sheet, it accepts McKone Lane as a Class V Road, he also has the documentation on Henry Law Avenue/Middle Road and Back Road that are both recognized as Class V. So McKone Lane is recognized the same as Middle Road, Back Road and Henry Law Avenue. He said that he would make some copies for the Board.

Frank Torr said that he is not sure who should do it but he thinks that it needs to be shown where the cul-de-sac is.

Ron Cole said that he wants to see where the cul-de-sac is and he'd like to see the method with which the lane has become a City road. In part it apparently has to do with the maintenance by the City and the plowing. He asked if the City is plowing right up to the Ayer house.

Tim Ayer stated that the original road comes down and stops where you see it on the map. He said that over the years they have made a loop around, not just for them but for the City trucks to turn around. He said that they are plowing their driveway, yes, but they are plowing enough so they can turn around. He said that it's like Bay View Road.

Pete Lavoie explained that on Bay View, the City owns up to Bob Callan's old house and they used to plow down to the farm and then turn around. He said that they now plow up to the road that Bob developed.

Tony McManus made the motion to table.

Dennis Ciotti seconded.

VOTE 5 – 3

Opposed – Parks Christenbury, Pete Lavoie, Beth Thompson

David Landry asked if we usually take money for upgrades on existing public roads.

Steve Stancel stated that it is unusual to take money and do the paving. He said that this is a unique situation in that there was a precedence set when Mr. Martineau came in and we chose to collect money, probably with the understanding that there would be future lots going in and we would collect more money and eventually the road would be upgraded.

Frank Torr stated that he always thought that McKone Lane could be made a Scenic Road. It's a dirt road and is a pretty good quality road and might fit the character of being a Scenic Road. Frank said that it would affect the development as it occurs and they would have to be aware of that.

Joyce El Kouarti said that she agrees that McKone Lane would be an excellent candidate for a Scenic Road.

Dennis Ciotti asked if there is City water and sewer in Henry Law Ave.

Pete Lavoie stated that there is City water.

**ITEM #5: Discussion and possible vote on Subdivision and Site Review
Amendments**

Steve Stancel stated they have held public hearings on these items in the past and thought that it might be time for the Planning Board to begin discussing them and either approving or disapproving them. He said that there may be some of them that you may not want to move forward until the time as the Council votes on the Zoning information such as most of the ADS proposals under the Subdivision Regulations. He said that none of the Site Review Regulations require any of the Zoning changes.

Site Review Changes

#1. Update parking requirements to match zoning Ordinance.

Steve said that this was a housekeeping change.

David Landry made the motion to approve.

Peg Stevenson seconded.

VOTE U/A

#2. Adds a section regarding invasive species

David Landry made the motion to approve.

Parks Christenbury seconded.

VOTE U/A

#3. Replaces current Architectural Design Guidelines with more fleshed out ones

David Landry made the motion to approve.

Peg Stevenson seconded.

VOTE U/A

David Landry stated that Chris Parker did a fantastic job tailoring Rochester's document to fit Dover and then tying it in with our zoning. David said that he thought that this was a nice example where Planning is more of a regional thing and not very political. He said that it worked out quite nicely.

#4. Creates restrictions on the placement and operation of Drive Thru's

Beth Thompson made the motion to approve.

Frank Torr seconded.

VOTE U/A

#5. Creates a restriction on access points for non-residential uses, which straddle a residential zone

David Landry made the motion to approve.

Peg Stevenson seconded.

VOTE U/A

#6. Updates Schedule of Fees

David Landry made the motion to approve.

Peg Stevenson seconded.

VOTE U/A

#7. Replace Public Works with Community Services throughout the document.

Frank Torr made the motion to approve.

Peg Stevenson seconded.

VOTE U/A

Subdivision

#1. Allows the Planning Board to reduce the minimum width of streets in certain cases.

Frank Torr made the motion to approve.

Dennis Ciotti seconded.

Steve Stancel stated that he wanted a point of clarification from the Board so they would all be in agreement in terms of interpretation. He said that he hopes that this doesn't

mean that the only way that we can reduce roads down to 24' is if there's a 100 foot setback from the front. He said that they still want to maintain the flexibility to reduce road widths as needed for other subdivisions. Steve said that right now it takes a waiver from the Planning Board for road widths and he wants to make it clear that even though they are putting in here that the Planning Board may allow a reduction to 24 feet if the subdivision is designed to provide a 100 foot setback from existing public rights of way, there might be other instances where they might want to reduce to 24 foot or maybe even less.

Frank Torr said that he would like to make sure that it is in the minutes in case there is some confusion down the road.

VOTE U/A

#2 Through #7

Steve Stancel stated that items 2 through 7 pertain to the ADS and they should wait for the Council to vote on these first.

#8. Removes the prohibition of street trees in the ROW

Frank Torr made the motion to approve.
Peg Stevenson seconded.

VOTE U/A

#9. Requires street trees be planted by developers to create a pleasing streetscape.

David Landry made the motion to approve.
Beth Thompson seconded.

VOTE U/A

#10 through #15

Updates fee structure - adds a section on scattered or premature development – requires digital as-built plans – requires a digital final subdivision plan – requires tie into the City GIS – replaces the words Public Works with Community Services.

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

VOTE U/A

Discussion ensued with regard to how the CIP would be addressed at the Council meeting and if anyone would be representing the Board.

Parks Christenbury said that regardless how he felt about the 41 Amendments, he feels that they are the will of the majority of the Planning Board and as a representative of the

Board, he will vote in the affirmative for all 41 and express that in many cases it was a unanimous vote. He said that the Board did a lot of hard work and it's the will of the Board and that is the position that he will take at the Council meeting. He encouraged the Board members to come to the meeting. He said that it was disturbing in the last two weeks to pick up a newspaper and see people that had the ability to pick up the phone and find out what the facts were, take portions of what the Board has done and misconstrue them. It wasn't fair to the Board because anyone of us could have clarified some of the accusations. He said that one gentleman wrote a letter to the paper, tore the Board apart, was factually incorrect in his assumption and two days after it was in the paper he sent him an email asking if he saw his letter and to call him and explain what the intent was. Parks Christenbury said that he should have called to find out before writing the letter.

Tony McManus stated that he thought that the memo that Steve Stancel wrote with regard to the Wetlands Ordinance and was enclosed in the packets was an excellent response and he assumed that it was made available to the City Council.

Joyce El Kouarti agreed with the Board that it is important to make a strong showing at the Council meeting.

Beth Thompson reiterated what everyone said. She encourages everyone to be there. She said that there are five protest petitions and four of them are geared towards the industrial land that is proposed for rezoning. She said that we all know what happened the last time we tried to rezone this and if this happens again, we may never have the chance to make anymore proposals for commercial/industrial land.

David Landry explained that when it comes to having a petition filed it completely changes the game. It requires 2/3 vote to affirm the Planning Board's decision as opposed to with no petition it requires 2/3 to overrule.

Parks Christenbury stated for a petition you have to have 20% of the abutters for each particular area that is being proposed for rezoning.

ITEM #6: Old Business

- a. Steve Stancel stated that **Opechee Construction, for Lafrance Hospitality**, the hotel at Weeks Crossing, is requesting an additional 60 day extension as they are still awaiting State NH DOT approval for the plans. **(P02-43)**

Peg Stevenson made the motion to approve the 60 day extension.

David Landry seconded.

VOTE U/A

Parks Christenbury stated that he wanted to thank Chuck Maglaras for all the years he has put in with the Planning Board. He said that Chuck's term is up and he does not wish to be re-appointed. Parks said that it is greatly disturbing what happened to him with the Ethics Board and the accusations because he has known Chuck since he was a little kid

and he is a person that had nothing but the best interest of the community at heart. For the grace of God there goes the rest of us. He will be very hard to replace. He wishes him well and he will miss him being on the Board. He said that there is an open spot on the Board and if anyone is interested, they need to put in an application.

Ron Cole stated that when an opening on the Board comes up he will generally make a recommendation to the Appointments Committee that an alternate be appointed to a regular member position and in this case it's Dennis Ciotti. Ron Cole said that Chuck served as Vice-chair and he was a great assist to him. The Chuck Maglaras's of the world are the engine room of the a Planning Board in the sense that he was brought up here. Ron Cole said that one of the reasons that he is not on the Board indicates the quality of the man's character. He said that Chuck opted not to look for reappointment because he felt to a certain extent that he was hurting the Board by being on it and was concerned that he would hurt the efficiency of the Board. Ron said that he will send Chuck a thank you note and he will be missed.

Frank Torr said with regard to the Ayer plan, he thought that the Board should have Atty. Wattendorf look at the description to see if that road includes a cul-de-sac. He said that he doesn't believe if it was a public road that it dead ended and there are no gates or bars and the fact that it was used by the public there was a means of turning around. He said that he remembers as indicated earlier, there used to be a Private Property – No Trespassing sign at the entrance. He said that he feels that we should have a recommendation from Steve Stancel to go in the direction of a Scenic Road.

Ron Cole said that he doesn't see a necessity for a site walk but if you have any interest in that road that you should take a drive down there. It is a City road.

Dennis Ciotti said that he and his family drove down McKone Lane a couple of years ago and promptly got shooed out of there because they were told that it was a private road and the gentleman that shooed them out was Mr. Ayer.

David Landry asked if they could get a recommendation back from Atty. Ciandella on this.

Ron Cole said that it is the feeling of the Board that we check with Atty. Ciandella on this matter, as well as, Atty. Wattendorf.

ITEM #7: New Business

There was none.

ITEM #8: Adjournment

Frank Torr made the motion to adjourn.

Beth Thompson seconded.

VOTE U/A