

**DOVER PLANNING BOARD
MINUTES OF MEETING
JULY 8, 2003**

MEMBERS PRESENT: Margaret Stevenson, Anthony McManus, Parks Christenbury,
Beth Thompson, Pete Lavoie, Dennis Ciotti, Ron Cole, Frank
Torr

MEMBERS ABSENT: Allen Schintzius

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

Chairman Cole brought the meeting to order at 7:00 PM.

ITEM #1: Citizens' Forum

No one spoke

ITEM #2: Approval of the minutes

Beth Thompson made the motion to approve the minutes of the last meeting.
Dennis Ciotti seconded.

VOTE U/A

Chairman Cole moved to take Item #5 first and then go on to Item #3. The Board agreed.

**ITEM #5: Consideration and acceptance of an application for a driveway waiver for
Charles & Norma Baron, Assessor's Map 22, Lot 27, zoned R-12, located
at 122 Henry Law Ave.*(P03-33)**

Kerry Forbes stated that he is a real estate broker and was representing the Barons. He said that the Barons are the only people in that neighborhood that do not have an individual driveway to their house. He said that the City engineers turned down their request because of very poor sight distance and the fact that they could access the property from a right-of-way off of Wallingford St. Kerry explained how the Barons tried to get exclusive use of the right-of-way and were not able to do so. Kerry stated that there is 350 feet of sight distance on Henry Law Avenue and three of the neighbors have driveways with less sight distance.

Frank Torr made the motion to accept the application.

Beth Thompson seconded.

VOTE U/A

The public hearing was opened.

Sandra Diesel, 116 Henry Law Avenue, stated that the parcel is on level ground and spoke in favor of the driveway waiver. She stated that she submitted a memo that she wanted the Board to read.

Cheri Allen spoke in favor of the waiver.

The public hearing was closed.

Steve Stancel stated that the Planning Department found the same site distances and given the speed limit feel there is adequate sight distance and they recommend approval with the condition that the new driveway shall be the primary access and parking area for the property.

Peg Stevenson made the motion to approve with the condition that the driveway shall be the primary access and parking area for the property.

Parks Christenbury seconded.

VOTE 4 – 3

Opposed – Tony McManus, Pete Lavoie, Dennis Ciotti

ITEM #3: Public hearing to amend the Zoning Map of the City of Dover by changing from Medium Density Residential (R-12) to Thoroughfare Business (B-3) an area of 1.6 acres located at 26 Dover Point Road, consisting of the portion of Map K, Lot 26 that is within 300 feet of the centerline of Dover Point Road.

Chairman Cole stepped down because he is employed very close to this area and he did not want to be involved with this item.

Tony McManus took over the meeting at this point.

The public hearing was opened.

Atty. Steven Dibble, of Newmarket, stated that he was representing Matt Williams Jr. & Hellen Williams. He said that the Williams were put in a predicament when the City Council voted on the rezoning earlier this year. Mr. Dibble said that their parcel which is approximately 5 ½ acres extends from Dover Point Road and into the ETP zone. The rear 4 acres is zoned ETP and it is a free standing piece in the sense that the rest of the ETP zone is many dozens of acres. He said that the parcel in question is presently zoned ETP in the rear two-thirds and R-12 in the front third by reason of the fact that the City Council voted to rezone ETP in the rear but did not approve the rezoning of B-3 for the properties fronting directly on Dover Point Road and within 300 feet of the center line. This leaves them with the predicament of having light industrial use in the rear of their parcel and, essentially, no way to get there unless you are going to have traffic, employees, and construction traffic through a residential area. He said that this sort of access is going to require some sort of an easement given over the front portion of the property to access the ETP portion. Their position is that the zoning of the front 300 feet to B-3 was a good idea when it was proposed and it should have been enacted by the City

Council. He said that this makes an orphan out of the property that is to the rear zoned ETP. He stated that some 23,000 cars per day go through Dover Point Road. At present in the R-12 zone and with the frontage requirements, the only thing that could go there is a single family dwelling. He said that they are asking for this Board to recommend to the City Council that the property be rezoned in a very small and insignificant manner in order to alleviate some of the dislocation that is caused to the entire property by orphanizing the rear piece and dictating that the front be residential with a factory in the back yard. He said that it is illogical and should be zoned according to the plan of the Planning Board.

Marilyn Follansbee, 25 Dover Point Road, lives across from the area in question. She passed out a petition to the members of the Board. She said that she e-mailed Mr. Stancel when she heard that this was going on and he assured her that he would give the e-mail to the Board members. She said that she has been in Dover for about 30 years and this is about the fourth rezoning that they have been to. All but one of the abutters have signed the petition stating that they do not want this change. She said that on January 15th the City Council decided that they would leave the zoning as it was. As far as this particular zoning goes, she cannot see why a street is needed to get back to the "orphan lot", because there is a way by Thornwoods that is a perfectly good road which can twist around and go into the parcel. She said that there is a cemetery across from Thornwood and a house that belongs to the Williams across from it. She said that that area will probably need to be widened when Thronwoods gets going again and she hopes that it will. Because of fender benders, she thinks that a traffic light should be put in. Mrs. Follansbee stated that if a road is put in where Mr. Williams would like to, it could eventually come out by Thornwood and would give a U for kid to zap around. She stated that she sees no reason why industrial traffic should be directed by their homes. There are 3 homes that would have that driveway right beside the new road or near it. She said she knows that there are people who would want it to be zoned business and she can't blame them, because they would get more money if they sell their land but she doesn't feel that it is right. She said if the City of Dover benefited from this change, she could understand a little better but she can see nothing but more traffic on Dover Point Rd. and more accidents. She would like to see it kept as residential.

Mr. Dibble said that he had several copies of a letter from an abutter, indicating that the abutter favors the rezoning and an email indicating that the letter that you see from Mr. Menere is still his viewpoint even though it was written for the previous rezoning effort. He said with regard to the rear piece, that they do not control any of the abutting properties. This is simply Matt and Helen Williams with a property that has now been turned into a light industrial use and with an R-12 use on the frontage with no way of getting to the rear parcel other than going over their own parcel and that is why they have to plan for that easement.

Marilyn Follansbee, stated that Mr. Menere is a very good neighbor and they respect each other's positions. She stated that there may be two different lots as far as the ETP goes and Thronwood, but it does belong to the same family and she said that she was sure that

if they wanted to they could get the road that goes to Thornwood through so it did reach the ETP area.

The public hearing was closed.

Discussion ensued whether anyone wanted to vote on this tonight.

Parks Christenbury said that he would rather wait to be better informed by the next meeting.

Steve Stancel stated that the next meeting was scheduled for July 22, but the City Council will have the room. He suggested that the next meeting be moved to the following week, which is the 29th of July.

Tony McManus stated that he would like to take some additional time on this item also and scheduled it to be continued to the meeting of July 29th.

ITEM #4: Consideration and acceptance of an application for a minor subdivision of land for McBeau LLC, Assessor's Map 24 Lots 129, zoned RM-10, located on Portland Ave.* (P03-35) (2 lots)

Kevin McEneaney represented the applicants and stated that he also has an ownership interest in this property. He said that there is an existing four-unit building on the frontage of the property. He said that this property will be included in the middle lot of this subdivision. He said that the most southerly lot is mostly taken up in conservation district in that 90% is slopes and wetlands and there is a brook that runs through it as well. He said that in the RM-10 zone, because they have a four-unit structure on the middle lot, it requires them to do an open space calculation based on the average of the open space of the developed lots within 200 feet of this particular lot. They provided that information. The average for the developed lots within 200 feet is 61% open space and the calculation for the open space for the middle lot which is 24-129, is 67% so they meet that criteria. He said that between two of the lots is a common driveway access easement and they intend to put one driveway for those two lots. He explained that a portion of the land was undevelopable because it is within the Conservation District. He said that he has been in discussion with Mrs. Donnelly, map 24, Lot 130, and she desires to have the back area behind her house conveyed to enlarge her lot to enhance her parking. In that section of the Conservation District, there may be an area and she might ask for a Conditional Use to put in a small parking area. He felt that it would be appropriate because the parking is a concern up there.

Peg Stevenson 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.

Parks Christenbury made the motion to approve with the following conditions:

1. Add the owners' signatures to the plat.
2. Provide the Planning Department with a digital version of the final plat.
3. No further subdivision of the lot with the exception a potential lot line adjustment with Map 24, lot 130. (Kevin McEneaney will create a note on the plan that will be satisfactory to the Planning staff)

Peg Stevenson seconded.

VOTE U/A

ITEM #6: Consideration and acceptance of an application for a site review of land and Conditional Use Permit for George & Nicholas Mourgenos, Assessor's Map 11, Lot 36B, zoned I-2, located on Knox Marsh Rd. *(03-28)

George Mourgenos, 86 Mount Vernon St., stated that along with his sons Nick and Gregg, they are proposing a car wash consisting of two automatic bays (touchless) and two self serve-hand bays. He said that they feel that a business would fit very nicely in that location and compliment the area. He said that it would be very convenient for the people in the area as the nearest car wash is 2.2 miles away and consists of just one bay. Mr. Mourgenos stated that it is important to them to have an attractive looking business that will benefit the City and the surrounding area and their family as well. He added that small business is the backbone of our Country. Pictures of the proposed building were shown to the Board.

Frank Detonaso, with Carwash Services, stated that he has been in the power wash building and servicing part of the industry for 30 years. He said that this facility will have recycling for both the automatic and the weak water in the self-serve (that is the water that runs in the winter so the lines don't freeze).

Art Nickless, Norway Plains, explained the lighting for the project.

Parks Christenbury asked about the hours of operation.

George Mourgenos stated that they plan to stay open 24 hours but they are not sure yet.

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.

Peg Stevenson asked if the coin vault would be alarmed. George Mourgenous stated that it would be.

Parks Christenbury stated that this business will be an outstanding asset to the community.

Frank Torr made the motion to approve with the following conditions:

1. Add the owners' signatures to the plan.
2. Provide the Planning Department with a copy of the rendering of the building consistent with the submitted photos.
3. Provide the Planning Department with an adjusted lighting analysis to prove compliance with Chapter 149-14-E-2(b).
4. Revise the plan to add a detail of dumpster enclosure
5. The recommendations from the Conservation Commission that the applicant be required to prepare an operation and maintenance plan for the carwash operation and stormwater runoff. The plans should be reviewed by the Conservation Commission Chair and approved by the Planning Department before the issuance of a Building Permit.

Beth Thompson seconded.

VOTE 6 – 1

Opposed – Tony McManus

ITEM #7: Old Business

a. Discussion and possible vote on a site plan for GC/AAA Associates, located at 903 Central Ave. (P03-27)

Kevin McEneaney represented the applicant and explained that it is a site plan for an addition to an existing building that is south of Wendy's and north of the Sherwin Williams site. The addition is 6,000 sq. ft. of office space and the new home of Atlas Title. He went to the easel and explained the reason for the change in the traffic flow and the addition to the parking. Kevin stated that they were required to provide 52 spaces but will be providing 57. Kevin stated that this project is in the Secondary Groundwater Protection Zone which requires them to do certain things if they exceed the 20% maximum coverage in this zone. He said that they have 45% coverage with what they are proposing. He said that they conducted a drainage analysis and the staff, engineering and Conservation Commission have reviewed it and have come up with a solution to treat the runoff and also to recharge the acquirer. He went over to the easel and explained the drainage system for the site.

Kevin McEneaney stated that the Conservation Commission approved the plan with one condition that they provide an operation and maintenance plan to the staff for review. At the last meeting they were waiting for some information from NH DOT. He said that to the south there is a large basin that the State constructed as part of the Weeks Traffic Circle reconstruction. He said if the State information that they are waiting for come back, it may sufficient that they will be able to do away with the recharge pond in the

back and keeping the two basins. He said that he just wants the Board to know that that might be a possibility.

Steve Stancel stated that if it is ok with the Board if the information does show that the State's facility could handle the additional runoff and recharge that it could be handled administratively, it would save the applicant a trip back to the Planning Board.

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

Frank Torr stated when he drove to the site he noticed there was an access to the back of the Sherwin Williams building.

Kevin McEneaney stated that there is no formal cross easement for access. He said that you can see from the plan they are proposing landscaping in that area. He said there will no access from one site to the other and explained that there is a strip of State land between the two properties.

Steve Stancel stated that there appears to be some cut through traffic that occurs either from or onto this site both from the Sherwin Williams and from the Dover Bowl area. He said that there are some advantages to that because getting in and out of this site can be difficult at times and a secondary access would be advantageous. He said that that is why they have suggested to the owner that he follow through with a more formalized process in developing a secondary access to the Dover Bowl property.

Bill Shaheen stated that if there is asphalt in the back of Sherwin Williams it should not be there and it is not advantageous to them. If the City wants them to leave it there, they will because that is where they get their deliveries but they do not have any advantage from people from the back of Sherwin Williams coming onto their property. Mr. Shaheen said if it takes pressure off of Central Avenue they don't mind it being there. As far as Dover Bowl goes it is a tremendous advantage. One of the owners of Dover Bowl has since deceased and they are dealing with the estate, hopefully, they can more formalize the right-of-way between the two sites which will be advantageous to both parties.

Tony McManus stated that planting some shrubs and flowers in the area of the concrete walk, along side of the building would be more attractive instead of just having pavement as an aesthetic suggestion.

Parks Christenbury made the motion to approve with the staff recommended conditions as follows:

1. Add the owners' signatures to the plan.
2. Provide the Planning Department with a lighting plan and analysis in compliance with Chapter 149-14-E.

3. Revise the plan to show the location of the future driveway interconnection with the Dover Bowl property. Within 18 months of the date the site plan is signed, the applicant shall provide a written status report to the Planning Board on the progress made with formalizing the interconnection.
4. Applicant be required to prepare an Operation & Maintenance plan for the stormwater management system. The plan should be reviewed by the Conservation Commission chair and approved by the Planning Department before the issuance of the building permit.

Beth Thompson seconded.

VOTE U/A

B. Discussion and possible vote on a major subdivision, located off of Cornerstone Drive (P02-26) (18 lots)

Steve Stancel stated that this project came before the Board in late May and since that time the applicant has been working in an attempt to address all the issues that came up at the site walk and the public hearing.

Atty. Malcolm McNeill, represented the applicant. He introduced Jeff Coronate, with Jones & Beech. He said that there was a site walk and a Conservation Commission meeting yesterday and there were no objections to the project. He said that this is six less lots than what was approved and they are adding open space. He said that on June 13th the Planning Department generated a memo outlining 17 issues that they were asked to respond to and they did on June 24, 2003. He said that he has looked at the proposed conditions of approval and they concur with them with one caveat. He said that Item #7, which asks for a row of 7 feet tall arborvitae. He said that they do not object to buffering the Madden property and the 7 feet tall level, it is just that they have been advised that arborvitae in this setting is not the best form of vegetation. He said that they would like to propose the removal of the word arborvitae and put in the word buffering and that buffering would be subject to the approval of the Planning Department. He said that there area several plants that would be better and if Mr. Stancel would make that decision, it would be fine with them. He said that they were going to top coat Cornerstone Drive because they would be utilizing it for the construction of the project but the City is requesting that they improve the other road that they will not be using but they agree to do that as part of the approval process.

Atty McNeill stated that this project was approved in the latter part of 1989 and early 1990's. The project is not a condominium but happens to have open space that is owned in common by a homeowner's association. The homeowners documents were recorded in 1990 and made provision for the open space. The open space is permitted to be used for septic systems and the other common areas are the roads. These roads are private and don't require the City's maintenance. He said that they made every reasonable effort to bring sewer to this site. The pump station at the jail is at capacity and not in a position to be utilized by this project. Alternative means to get there and to the other properties have been frustrated because it would not make it financially feasible for them to bring sewer

across their property. There are common systems there now, all of these systems must be approved by the State and all of the Site Specific Characteristics have to be approved by the State. He said that the DES Permit in regard to the road crossing is also pending. The issue is not whether the 24 lots that were previously approved are destined, he feels there should be no question about that and under any scenario the fact that 27 to 28 lots have been completely built out, over 50% of the project has been built, he said that there can not be any legal question as to whether the project is vested in that form. The issue is if the project is changed within the footprint that was approved, is it vested. He said that he has attempted to address that in his memo to Steve Stancel of June 20, 2003. He believes because the changes are a contraction within the existing footprint, that both the impervious surfaces are reduced, the open space is expanded and they are within an area that has been previously approved and could be built out. He said in his memo if they were expanding the project then the vesting would be a different issue. He said that the previous plan had a provision that there be no lot line adjustments. He discussed this at length with Steve Bird and they were hard pressed to understand why the language was included with regard to this provision, but it's a condition of the Planning Board so it's a condition that you can choose to continue or change and they feel that any amendment of a plan may involve lot line adjustments. He said that the abutters are concerned with drainage and septic issues and the developer can be held to the State permitting requirements and the City with regard to the engineering. Anyone buying into this project should have known that it was approved for 24 additional lots.

Peg Stevenson made the motion to take this item off the table.
Frank Torr seconded.

VOTE U/A

The public hearing was opened.

Ron Stewart, 12 Cornerstone Drive, stated that he has standing water on his lawn and feels that the septic systems will drain toward his lot. He said that he has spoken to DES and so far they can't find any records of any wetlands permits. He asked how something can be grandfathered that was never given in the first place. He said that they have a homeowners' association that is responsible for fixing problems and now they will be responsible for all this when this developer is gone. He felt that the only solution because of the way the land was left is to get City sewer because the septic systems will just flow into everyone's back yards.

Jeanine Ulaskiewicz, an abutter, stated that she would have liked to have received the list the Planning Board recommendations that were given to the developer so they could have been better prepared with comments this evening. She asked about the notification to abutters because she stated that they never were notified.

Steve Stancel stated that the notification is to all direct abutters and those across the street. If there is an association, just the association president and secretary and vice-president generally receive the notice, as well as, the direct abutters and that did occur back in May. He said that they do not re-notify people because it is the responsibility of

the abutters to follow the application through the process and to come into the office to check the file for new items and new documents. He said that they did go the extra mile and notified the people who spoke at the first public hearing so that there was some heads up besides the normal publication of the agenda.

Jeanine Ulaskiewicz stated that one of her biggest concerns is that it doesn't exacerbate their existing problems. The existing homes already have a drainage challenge and she wants to be sure that it doesn't make it worse. She also wanted to know what recourse she would have if it did make it worse. She asked if there would be a bond on the project and in what amount and if there was any way to word the bond if this project goes forward, that the bond not be released until the homeowner association had sufficient notification and opportunity to respond to any issues before it is released. She said that the previous bond was released while they were still trying to work out many problems with the developer. She said that lots 34, 42, and 43 have significant wetlands right on their property and 26 and 34 have almost nothing else except wetlands. She asked that it be on their deeds as to what they can and can not do on their property. She said that they would have been better served if it had been put on their deeds.

Steve Stancel stated that because of problems that they have had in the past, recently they have required a notation in the deeds indicating that there are wetlands on the site and referring them to the approved plan to protect the new home purchasers.

Keith Madden, 190 County Farm Cross Road, stated that he checked the revised plan and had some concerns. He said that the revised plan shows approximately 10 feet of the buffer is on his lot. He said that the piece of land that was encumbered is the piece of land that was sold to Sixth Street Associates in a separate transaction that is recorded and a lot line adjustment plan was also recorded and coincides with the 10 foot strip. He said that he was pleased to see the plantings in the buffer zone and would like to add that it be some sort of evergreen tree added to the clumps of lilacs etc., so there is some sort of screening during the winter months. He said that he would like to see a requirement that landscaping or plantings that are installed are guaranteed for two years. He said that the applicants submitted some septic designs and he would like the well radiuses to be added because there is a note saying that there are no wells within 200 feet of the proposed septic systems and that is not correct. He showed where his well is probably about 125 feet away and his neighbor's well is probably 120 feet away. He said that the septic systems seem to meet the requirement from the State of NH, however, that 75 foot radius does not disseminate whether that is for 1 home or 5 homes. He said the closest leachfield is designed for 5 homes, which is a heavy concentration right near the boundary line and near his well. He would like the Board to add as a condition that the well be tested in the area and if it shown at some future date that the well become contaminated that the association pay for the replacement.

Michael Ulaskiewicz, 15 Nicholas Circle, stated that he bought his home in 1993 and their basement flooded shortly thereafter. Their property is saturated with water and he has never seen any wetlands permit for these houses. He can't see how they can grandfather this Project as it was never accepted. He said that there was a major rain

three years ago and their house was surrounded by water and their front step was covered with 4 inches of water. He said that the map doesn't show where the water really goes. He said that the water will go to the low spot which is his house and that is his concern.

Jane Stewart, 12 Cornerstone Dr., at large member of the homeowners association, said that she would have liked to have seen the Planning recommendations so she could have been up to speed. She was concerned with the grandfathering of the plan.

Steve Stancel stated that there is no law that says 51% you are vested and 50% you are not. The general rule is that the majority of the infrastructure improvements in the project has been constructed. He said that it is somewhat subjective.

Jane Stewart asked if the plan has to be followed completely in order to be vested.

Steve Stancel stated that the applicant's attorney has presented a legal opinion which the Planning staff agrees with that the original approval doesn't have to be followed if the new proposal is an improvement, which this proposal is a big improvement over the original.

Jane Stewart, stated that they are not sure if this is an improvement. She said that other builders have looked at the project and found that it was not a feasible project to build on. Now they are giving a builder carte blanche. She said that this land is clay because the top soil has been removed and she finds that there is nothing for the leach fields to drain into. She said that they are getting gaseous smells from Rochester and she is not sure how harmful they are. She asked the Board to review their decision on the grandfathering. She said that the DES has not even received an application from the developer for the building of the homes and feels that there needs to be some clarification. She feels that the City has let them down in this area. She would like to have it written down that she would be offered a line of trees that would go down the side of her property on Cornerstone Drive so she didn't have to view the houses. She said that she was promised some sort of bushes of substantial size by the builder and she would like a two year guarantee on them also. She said that they have roads that were never built to code, garages that were never built and there were no parking areas where there should have been. The original plans were never followed. She said that it was said that the roads would be torn up and totally redone and they would like to have that in writing. She said that they were also told at the site walk that the deeds to the homes would state that there are wetlands. She said that back in the original minutes of the 2001, Tom Fargo, also felt that this plan should be null and void and he agreed that the builder should have to stand by the new wetland bylaws.

Jerry Dreggo, 10 Cornerstone Drive, stated that he purchased the house 1 year ago as a first time home buyer. He said that there is a sump pump in the basement because of flooding problems. This concerns him because he will be able to see the leach fields and the elevation will be almost 8 feet high and he can see how the water will come right into his yard and flood his basement again. The flooding issue is his biggest problem.

Nathan Paradise, 2 Cornerston Drive, head of the Cornerstone Homeowners' Association wanted to say regarding Keith Madden's proposal about his well that he has a legitimate concern but wanted it know that the association has no money for anything like that now or in the foreseeable future. He would propose something like a trust fund be set up with the builder's money for the owner of that lot. They are busy enough repairing roads and septic pumps that were poorly installed.

The public hearing was closed.

Malcolm McNeill stated that the position of the owner of this project is no different than the owners of the lots that are part of this development. The declaration that established this project in 1990 provided that the common open space could be utilized for septic systems. There is also a provision in the document that the roadways would be maintained by the association. One of the conditions of approval that the Planning Department is proposing relates to their improving with a top coat Cornerstone Drive and the other drive surface and they have agreed to do that. They won't reconstruct the road but they will be responsible for any damage that occurs as a result of their construction. They agree that that should be bonded and they will do that. He said that there is also the question of vesting. Atty. McNeill stated that the most recent case in NH on vesting and is dated December 9th, 2002, and he was at the Supreme Court when this was argued and he was also at the Rochester Planning Board when this case was heard and the Rochester Planning Board determined that the project of Walter Cheeney was not vested. The Supreme Court of NH reversed that decision. He said that in regard to the wetlands concerns, they have changed since this project was approved and they have to go back to get a wetlands permit for a crossing for this site. They clearly have to get a permit for the septic systems that are on this site and they clearly had to go through the City's engineering department with regard to the drainage issues. He said that he will be held to the 2003 standards with regard to the various drainage issues that have been discussed. He said they believe that evergreen buffering is appropriate and said that he is not aware of the two year guarantee standard that exists here but will suggest that the responsibility for landscaping is the responsibility of the homeowner's association but they will do the appropriate buffering in the beginning to comply with what they believe are the reasonable conditions. With regard to Mr. Maddens setback issues with regard to the 10 foot buffer, they think that it is a private matter between them and Mr. Madden that they will work out with him but he doesn't think that it is within the Board's jurisdiction.

Mr. McNeill stated in terms of bonding the drainage, they have to comply with the DES requirements. The ultimate control is over the issuance of the building permits and certificates of occupancy. They clearly believe that the review of the City has been comprehensive with regard to drainage. He said that they have tried to reduce the impervious surfaces and cut six lots out of the plan. If there are questions about septic systems in people's backyards, they will buffer them and get the appropriate permits. In terms of the controls that will protect the abutter and the City, they think that they are in place. If there is anything missing with regard to well distances and things of that nature, he suggested that the new level of review that exists at the DES will not let that pass. The final thing with regard to vesting, they are talking about municipal vesting, they are not

talking about DES vesting and they feel that that exists in this case. He said that they had an initial conference with all of the abutters at the Library about 5 or 6 months ago and he thinks that the abutters have been very reasonable in the manner and civility that they have raised their concerns and they wish to give them reasonable assurances of the permitting process can give them.

Ron Cole stated that the abutters are living in a pretty wet area and bought their houses with not being aware of the fact that this was going to occur. He said that what he is hearing is that it is more of a cry out for things that occurred or did not occur 15 years ago. He said that we are being painted as a Board for things that were not taken care of for whatever reason at that particular time. He said that the Board is trying to work with both the developer and the current residents to make sure that whatever the developer is doing does not increase the problem that is already existing.

Joe Coronati, stated that the site is clay and there is very little dense vegetation because there is very little top soil. He said that they are putting in 5 leach fields at the top end of the site and people think that it will push water down into their basements and he feels the opposite is true because they will be putting 4 feet of sand that will be absorbing storm water, as well as sewer water. The size of the system is gauged on the soils under the systems and that's why the systems are as large as they are because they are on top of clay so they have to be larger to be able to hold the storm water and the wastewater that flows into them. The theory that these fields will push stormwater into the abutter is not accurate and that the opposite will happen. The developer will want to sell homes with yards which will require bringing in loam and landscaping. And currently out there is very little groundcover which adds to the drainage problem. He said that the roadway is entirely curbed and any stormwater that falls on the pavement itself or from the driveways on the north side of the road are going to be uphill of the road so the stormwater from those driveways will run into the road and down the catch basin or down the gutter line into the catch basins. It is their feeling that the stormwater situation will improve because they will be taking stormwater from the roads and septic areas away from everybody.

Tony McManus stated that the delineation of wetlands on the plan is probably accurate according to the definition but when you go out there and see the conditions on the ground, you know that you are not talking reality when you limit your discussion to what appears on the map as to what the problems are with drainage and runoff and flooding for the houses that are already there. He thinks that Malcolm is correct in regard to the vesting because of the Rochester decision, which he thinks is an unfortunate decision for Planning Boards, but they can't have it both way. If they are going to come in and say they are the successors to the developers and have the right to develop this, to his mind they have the obligation to correct the problems that the original developer created before they start the new development. He has concerns about the length of the cul-de-sac that is there and the extension from the cul-de-sac that leads to four additional house lots with a 20 ½ foot driveway with regard to getting emergency vehicles down there to deal with the people in those four house lots.

Dennis Ciotti said that he would like to add a #11. His concern is the buffer on the Madden property and the property next door and the proximity of the septic systems and the wells. He would like to see the wells tested and the results recorded and the surety bond held by the contractor because it is a five-home septic system. There is 10 times the possibility of the septic systems leaching into the abutting wells.

Dennis Ciotti said that any of the abutting wells should be subject to those tests.

Discussion ensued with regard to well testing and insurance policies for the septic systems.

Parks Christenbury said that was significant on the part of the developers to have the wells tested.

Peg Stevenson stated that she tends to agree with Tony McManus' position. She said that these people are living with all of the problems of the previous developer and now if the new developer is coming in and follows through with the permit the previous developer had, then he has a responsibility for the problems that already exists to be fixed. She said that she would not be able to vote in favor of the project the way it is tonight.

Nathan Paradise stated that he hasn't given up with the City sewer because there are 26 existing homes and maybe they could find out what the difference in the cost is and maybe something could be worked out to bridge the gap.

Ron Cole stated that bringing in sewer is huge money, the City doesn't have any, the residents don't have any, the developer doesn't have any based on the amount of houses going in. It's a wonderful idea but it won't happen.

Beth Thompson stated that she supported the project. She said that she spoke with the developers and City staff and all of them assured her that the situations would be kept the same or be remedied. It is a vested project and at a lesser scale than originally brought forward.

Dennis Ciotti 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 copy of the NH Wetlands Bureau Permit and add the permit numbers to the plat.
3. Provide the planning Department with a copy of the septic system design permit from the NH Department of Environmental Services and add the permit number to the plat.
4. Revise sheet C3 of the plat to specify the size of the proposed trees and bushes.
5. Any new homes constructed shall be part of the existing Homeowner's Association.
6. The applicant shall repave Cornerstone Drive and Nicholas circle and round out the corners at the Nicholas Circle and Cornerstone Drive intersection prior to the issuance of the first occupancy permit or provide a letter of credit to the City to cover the cost of said improvements.

7. The applicant shall install a buffer at least seven feet tall as landscaping along the Madden property line as well as along the northern property boundary adjacent to the larger leach field prior to the issuance of the first occupancy permit.
8. The City shall coordinate with the Homeowners Association prior to dissolving any bond or letter of credit.
9. Notations be placed in the deeds of new lots indicating the presence of wetlands on site with reference to an approved plan.
10. That State Septic Applications shall match the plans as presented.
11. Abutter wells tested for abnormalities.

Pete Lavoie asked behind lot 47 if a swale could be put in that would direct the flow that could come from the septic system and direct it to the culvert.

Joe Coronati stated that that it would only take a 6 inch deep channel, which is something that the developer was trying to work out with the owners at the site walk. It could be a condition of approval.

Pete Lavoie asked if they could build the swale before the construction starts so that the association would see the affect of that swale before any homes were built.

12. That a drainage swale be place adjacent to or on Lot 47, 49, 48 along the lot line (work out with owners) to direct the flow from the septic area prior to the issuance of the first building permit

Beth Thompston made the motion to approve with the 12 conditions:

Frank Torr seconded.

VOTE 5 - 2

Opposed - Tony McManus, Peg Stevenson

ITEM #8: New Business

Impact fee waiver request from Sherman and Regina Woolaver, Map 32, Lot 15, 345A Washington St., single family dwelling the fee was \$3,195.00. This lot was approved by the Planning Board of February 25th and the School Impact Fee was signed on May 7th and the building Permit was applied for on May 22 and based on the RSA they recommend the approval of the fee waiver.

Frank Torr made the motion to approve.

Beth Thompson seconded.

VOTE U/A

Parks Christenbury stated that when the Appointments Committee meets again Allen Schintzius will be moved up to a permanent member and there will be three new alternates to the Board. He said that there is an attempt by Councilor Whitmore to reconsider the rezoning for Columbus Ave. in August for a revote of the Council. The paperwork is not filed in the appropriate manner and the protest does not meet any of the State standards and he feels it would behoove the members of the Board that supported

that original zoning to contact the Council members to tell them that it is an area that we don't want to go into and Steve Stancel would be happy to address you on the particulars. He just wanted everyone to be advised they are trying to pick off the rezoning one at a time. He thinks that this one is highly irregular as to how it is being done.

Steve Stancel announced that the next Planning Board Meeting will be on the 29th of July and not the 22nd because the Council is meeting in this room on the 22nd.

ITEM #9: Adjournment

Frank Torr made the motion to adjourn.

Beth Thompson seconded.

VOTE U/A