

**DOVER PLANNING BOARD
MINUTES OF MEETING
MAY 8, 2001**

MEMBERS PRESENT: Beth Thompson, Frank Torr, David Landry, Margaret Stevenson, Pete Lavoie, Jerry Reese, Anthony McManus

MEMBERS ABSENT: Brenda Whitmore, Charles Maglaras, Ronald Cole

STAFF PRESENT: Steven Stancel, Planning Director; Steven Bird, City Planner and Jacqueline Freeman, Recording Secretary

Frank Torr nominated Anthony McManus as Acting Chair.

Jerry Reese seconded.

VOTE U/A

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

Pete Lavoie asked for a moment of silence in honor of former Public Works Director Pete Bouchard and also for God's blessing on his wife Charlie, who is in failing health at Wentworth Doughlass Hospital.

ITEM #1: Approval of the minutes.

Frank Torr made the motion to approve the minutes.

Jerry Reese seconded.

David Landry had a correction on page 15, 5th paragraph, the word should be myriad.

VOTE U/A

ITEM #2: Consideration and acceptance of an application for a Conditional Use Permit for NH Soil Consultant, Inc. (Owner Acorn Associates) Assessor's Map N, Lot 8, zoned R-40, located on Gulf Road.

James Long, representing Steve Woods of Acorn Associates, stated they are proposing to replace an old concrete culvert with a new culvert made of plastic heavy-duty PVC pipe.

Jerry Reese made the motion to accept the application.

Peg Stevenson seconded.

VOTE U/A

The public hearing was opened.

There were no comments.

The public hearing was closed.

Steve Stancel stated that they received Conservation Commission approval on April 2 and they have also received State Wetlands approval. He added that the Planning staff recommends approval of this application.

Jerry Reese made the motion to approve the application.

Peg Stevenson seconded.

VOTE U/A

Request for extension of approval for Motiva on Silver St.

Tony McManus invited Malcolm McNeill to come up next for his extension request for Motiva.

Malcolm McNeill said that his present extension expires on May 13th. He said that the litigation that was brought by the abutters to this property has been tried but they don't have a final decision. The result of that case will determine the future course of this application. He said if the decision of the ZBA is affirmed they will come back as soon possible after that decision. He is asking for 60 days. He said if the court rules against them, that would cast a different light on this case. Their intent is not to delay but their intent is not to proceed when there is a cloud over the ultimate viability of the case.

Jerry Reese made the motion to grant the 60 day extension.

Beth Thompson seconded.

VOTE U/A

**ITEM #3: Consideration and acceptance of an application for a site plan of land for
Wentworth-Douglass Hospital, Assessor's Map 37, Lot 1, zoned O,
located at 789 Central Avenue.**

Frank Torr recused himself because his wife is a Trustee at the hospital and it may be perceived as a conflict of interest.

Daniel Dunn, Vice President of Operations at the hospital, stated that there are several phases in the project. He said that they appeared before the State CON Board and received unanimous approval for this project. The elements of the project are: 1. The renovation and fix up to the older parts of the hospital – replacing the windows, etc. 2. The addition on the Central Avenue side of the building, called the Douglas Building. They are filling in the Y-shape building with 4 floors consisting of about 2,000 sq. ft. per floor. Each floor has its own function. 3. The expansion of the Seacoast Cancer Center. The cancer center is very important to the region and to the hospital. It's a program that they serve as the regional referral center for medical and radiation oncology.

Jim Hagerman, Leo Daley Co., explained how they will be realigning the road directly in front of the Douglas Building. Because of the construction, they are losing 6 parking stalls, but they are still in the positive. He said that they have, with the last addition,

added a 100 car parking garage which is more than adequate for the current expansion. He said that they have submitted a lighting calculations and a landscaping plan.

Marty Kennedy, Vanasse Hagan & Brustlin, stated that he submitted a full traffic impact study last year. He said that this expansion totals 17,300 sq. ft. He said that from a traffic standpoint that is a relatively low traffic generator. He said that they have estimated that this expansion would generate an additional 20 vehicle trips in the morning peak hour and 25 during the evening peak hour. They have taken those additional trips and have added them to the previous analysis and the end results are about the same. There is no real difference in the analysis. He said that the staff asked them to go out and collect new traffic volume counts as opposed to using last year's counts to see if there have been any changes. They went out last night between 4:00 and 6:00PM and did an updated count at the traffic signal at the hospital. This morning they compared the counts to what they had from their base counts a year ago, and there was virtually no change. The difference between last night and the base numbers they had a year ago during the peak hours was 11 cars. From a traffic standpoint, the amount of traffic generated by this expansion is relatively low.

Jerry Reese asked if the new parking garage was built for a third story and if the cancer center would be adding more staff?

Jim Hagerman said that the garage was built to take an additional level. Dan Dunn stated that they would be adding 4 people.

Discussion ensued with regard to the entrance to the cancer center in relation to the new lobby and drop off and the various changes to the parking.

Jerry Reese made the motion to accept the application.

Peg Stevenson seconded.

VOTE U/A

The public hearing was opened.

There were no comments.

The public hearing was closed.

Steve Stancel stated that this plan is very close to being approvable. There are still some outstanding traffic issues that they would like to have finalized in the next two weeks before bringing this back on the May 22, 2001. He said that a list of some of the concerns were included in the packets. They are not completely comfortable with the trip generation number for this phase that were being used and would like to talk to Marty Kennedy a little further about that. Steve said it might require a level of service calculation to be redone, depending on what the ultimate numbers end up being. They are awaiting a transit plan, which is very close to being completed. He said that there is cooperation going on between the hospital and COAST bus service.

Dan Dunn said that he talked with COAST about bringing the bus drop off to the main entrance of the hospital.

Steve Stancel stated that they are still investigating possible improvements for the emergency drive, which may include lengthening the left and right turn lanes. Signal timing setting and optimization for the signalized intersection is still being discussed. He said that they recommend tabling until the May 22 meeting. He said that the necessity of a site walk would be up to the Board since they were there not too long ago.

Jerry Reese made the motion to table until the meeting of May 22. He said that he doesn't feel that he needs a site walk.

Beth Thompson seconded.

VOTE U/A

Frank Torr took his seat.

ITEM #4: Public Hearing to consider an amendment to Chapter 170, entitled "Zoning" of the Code of the City of Dover, by rezoning three parcels (Map 15, Lots 65, 66, & 66A) on Rutland Street from Restricted Industrial District (I-1) to Medium-Density Residential District (R-12).

Tony stated that this item was withdrawn from the agenda.

ITEM #5: Old Business

a. Discussion of Impact Fee Ordinance (General ordinance to allow off-site assessments)

Steve Stancel stated that a couple of meetings ago we started to discuss the possibility of impact fees in the City. The discussion evolved into a proposal where we would come back to the Board with an overall, general impact fee proposal that would make it legal for us to request off-site improvements. There was discussion because of a recent court case that limited the City's strength in terms of requiring certain off-site improvements. This impact fee proposal that you have before you would allow the Department to charge off-site improvements on a case by case basis. In the meantime the staff continues to work on more specific impact fees, such as schools and the North End Fire Station. He said that they hope to have something before the Board within the next four weeks or so.

Steve Bird stated that the last time that he spoke about impact fees there was a bill that was filed in the State Legislature to correct the decision from the court case, Simons vs. Derry. It's House Bill 512. He said that he went on the State's web site this afternoon and found out that the House has passed House Bill 512 on April 18th. The Bill came out of the Municipal and County Government Committee with a 15 to 1 vote in favor. It seems to have good support at the committee level, and the House followed suit and passed that on 4/18. This bill was filed to put towns and cities back on the level that they were at before the Simons vs. Derry case was decided by the Supreme Court in

November. Steve said that the ordinance that you have before you is in place for that ordinance. We want to be back at the level that we were before where the Planning Board can determine that there are certain off site impacts from certain developments and can require the developer to mitigate those impacts. Examples of that would be as we've done in the past such as making them put a right turn lane in at an intersection that is being impacted by the development, making them put some recreation facilities either on their property or equipment on an adjacent recreational area. The impact of the Derry case was that it was in question as to whether you could do that.

Steve said that he contacted some communities and got some examples of ordinances. The two that he found most useful were from the Upper Valley Lake Sunapee Area and one from the City of Rochester. Rochester is going through the same process. The ordinance that you have before you in draft form is to put us back in the same level playing field that we were before the case. It doesn't contain any specific formulas or impact fees, it simply allows us to say that we have an impact fee ordinance and allows us on a case by case basis to assess an off-site improvement fee for a particular development. He said that it is important to reiterate the community's ability to turn down an application if it is scattered and premature, which is a tool that a community still needs to have available to it.

Steve said what the Board has in addition to the Impact Fee Ordinance are some suggested amendments to the Subdivision/Site Plan regulations to incorporate among other things some scattered and premature language that we do not have in our regulations at this point. Steve said that we would have to hold a public hearing on the Impact Fee Ordinance and the next step would be to schedule a public hearing at the Planning Board level for the zoning amendment portion, which is the Impact Fee Ordinance. He said that in addition, there are some suggested amendments to the Subdivision and Site Review Regulations and a couple of other housekeeping measures that we've been holding in reserve until we had another public hearing.

Steve Stancel stated that this is going to require a citywide mailing because it's a citywide ordinance, which is costly. He said that if we vote tonight to post this and schedule it to a future public hearing, then because they're posted, they are in effect. He said that in the interim, we'll get the more specific impact fees ready and do a mailing for all of them at the same time so we are not doing two separate mailings.

Steve Bird said that he didn't look at the calendar for when the State Legislation would be finalized. He said that normally, there's a transition where all the house bills go over to the Senate and visa versa. He said that he would think that it would still be a few months down the road before the Senate would take any final action. Having it posted is good, because it protects the City in the meantime.

Steve Stancel stated that there are a few larger projects on the way through the pipeline so if this is posted before they are accepted, then we'll be ok.

Tony McManus stated that his understanding would be that even if the State Statute passes, communities are still able to pass their own ordinance and set specific amounts for different types of projects.

Steve Bird stated that the House Bill that is being considered would do the same thing that the ordinance that is before you would do – get us back to the level that we were before. There is already a State RSA in place that allows a community to adopt specific impact fees for different services. That’s where this second more complicated ordinance that we are working on is going to take us.

Peg Stevenson said that under “the authority” it says “the Planning Board may as a condition of approval.” She asked if everybody is going to be treated equally, or are some going to be able to get by without paying and some won’t. She wanted “may” to be clarified. Does that mean that some of the applicants may not have to pay?

Steve Stancel stated that that is essentially correct. It’s on a case by case basis. There may be some projects that come in that don’t have off-site impacts and there won’t have to be mitigation required. He said that there may be some that come in that have a lot of off-site impacts and there might be quite a bit of mitigation required, but it’s on a case by case basis.

Peg Stevenson said that when we say impact, there will always be an impact if there are more houses or more development – there will always be some impact whether it be more traffic. Will there be some impact fee that has to be paid anyway, regardless for every subdivision?

Steve Stancel stated that that is the next phase, when you itemize. Even when we get the itemized ones in place, there are going to be some projects that you will hit for additional separate off-site improvement costs.

Steve Bird said be for example, you have a subdivision that’s going to be emptying into an intersection that has a LOS C which is operating fine, but has some congestion. They may add so few trips to that intersection that when you add in their development and their post level development, the LOS will still be C. They would argue that their impact is negligible to that intersection. You may have a 100-lot subdivision that takes that C intersection and makes it an F. You need to do improvements to get back to an acceptable level. That’s one scenario where the two lot subdivision wouldn’t have to pay anything but the 100 lot would have to make some improvements.

Jerry Reese made the motion post the ordinance and refer it to a future public hearing to be set by this Board.

Margaret Stevenson seconded.

VOTE U/A

ITME #5: Old Business

Jerry Reese announced that the City Council appointed David Landry as a full time regular member of the Planning Board.

Frank Torr asked about the status of the recommendations for Woodman Park School.

Steve Stancel stated that he has received comments back from a few Board members.

Frank Torr said that he would like to see a response to Michael Gorton's letter. Particularly a legal opinion relative to the fact that when there is any change on any street, if it has to be approved by the Planning Board. To him, "any change" would be even a curb cut on Silver St.

Steve Stancel stated that they have asked Attorney Rob Ciandella to give the Department a legal opinion. The legal opinion that he is writing is asking if the Council controls the eventual improvements on Silver Street. He said that it is fairly clear that the Planning Board normally has control, except for in the case of a governmental entity. It's not clear as to whether the Council might ultimately control what occurs on their streets. That is what Rob Ciandella has been asked to address.

Frank Torr said that he is not trying to prolong the process, but he thinks that we need a clear understanding. We are probably going to cross this path in the future so we might as well have something on record as to what is the right thing to do.

Steve Stancel stated that it is interesting because up to this point, the City makes changes to the road system all the time and never goes to the Council and never goes to the Planning Board so there does need to be clarification.

Tony McManus asked if the opinion could be sent out to the Planning Board members when it is received and not wait until the next meeting.

Frank Torr said that it might be good to include it in the packet that goes to the School Board.

Steve Stancel stated that that is the intent. He said that the School Board is scheduling something after the 15th and we anticipate getting that legal opinion before then. He said that we are also sending the minutes to the meetings because they are rather in depth and if they want to take the time to read them, they can get the gist of everything.

ITEM #6: New Business

a. Lot Merger for Stasia Panopoulos.

Tony McManus stated that it doesn't take any action on the part of the Board but on your desk is a Notice of Merger on behalf of Stasia Panopoulos for property on St. Thomas Street. Tony said the Merger just has to be noted for the record.

b. Letter from the Dept. of Administrative Services to Steve relative to the plan for the Dover District Court that indicates that either the Planning Board or the City is entitled to hold public hearings.

Steve Stancel stated that the State is getting ready to go out to bid for the new court facility. There is a rendition of what the court is going to look like on the wall near the Planning Office. In talking it over with the City Manager and some of the City Councilors, it was decided that the State would provide their presentation to the City Council at tomorrow's City Council Meeting. He said that he would like to recommend to the Board members who are interested in this project that they are welcome at the City Council Meeting tomorrow where the State officials will be doing their presentation.

Jerry Reese asked for the schedule of the Impact Fee Ordinance.

Steve Stancel stated that the Impact Fee Ordinance is posted for a future public hearing, probably the end of June or early July. He said that at the same time we'll have a better idea of where we stand on the State RSA. He said that it takes 15 days to post a zoning change. It will take us probably 30 days to get the rest of the impact fees completed.

Steve Stancel explained that the zoning change proposal was suspended. He said that he expects it to come back within the next meeting or two. He said that there are some advantages to rezoning that area to residential. He said that in the meantime with regard to zoning change proposals, they are putting together a Growth Management Taskforce that is going to be taking a look at that. He said that they have several people lined up already. If anyone is interested on being on this board, they should speak with Ron Cole.

Steve Stancel stated that this Board has talked about doing a seminar on Smart Growth at the last meeting. He said that Jeff Taylor is interested in coming but he would like us to sponsor a regional event so he is not just coming for one town. He said that Steve Bird has spoken further with him and we have a potential date for late June.

ITEM #7: Adjournment

Jerry Reese made the motion to adjourn.

David Landry seconded.

VOTE U/A