

**DOVER PLANNING BOARD
MINUTES OF MEETING
JUNE 13, 2000**

MEMBERS PRESENT: Anthony McManus, Jeff Mason, Frank Torr, Jerry Reese,
David Landry, Pete Lavoie

MEMBERS ABSENT: Ron Cole, Margaret Stevenson, Reuben Hull, Paul Beecher, Jeff
Peasley, Chuck Maglaras

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

In the absence of the Chairman and Vice Chair, Tony McManus made the motion to
appoint Jerry Reese as temporary Chairman.

Jeff Mason seconded.

VOTE U/A

Jerry Reese brought the meeting to order at 7:01 PM.

ITEM #1: Approval of minutes.

Tony McManus made the motion to approve the minutes.

Pete Lavoie seconded.

VOTE U/A

**ITEM #2: Consideration and acceptance of an application for a minor subdivision
of land for Dover Economic Development Corp. (DEDC), Assessor's Map
C, Lot 11-1, zoned I-4, located on Venture Drive.**

Dana Lynch, with Civil Works, represented the DEDC. He said that this is part of an
ongoing effort to develop Enterprise Park. He said that the alignment of the proposed
roadway follows the original road alignment of the previously permitted wetlands
crossings. There are no plans on who will build, but they are starting the process. He
said they are cutting a 1.3 acre parcel out of the parent parcel which is approximately
17.3 acres. They will install the sewer and water and rough grade the gravel base for the
full 300 feet of the road but will only pave the first 100 feet.

Frank Torr made the motion to accept the application.

Tony McManus seconded.

VOTE U/A

The public hearing was opened.

There were no comments.

The public hearing was closed.

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

1. Add owner's signature to the plat.
2. Add engineer's stamp and signature to all the roadway plans.
3. Revise plat to add the 50 foot Conservation District along Reyner's Brook.
4. Revise plat to add common subdivision plan notes #20 & 21.

Jeff Mason seconded.

VOTE U/A

ITEM #3: Consideration and acceptance of an application for a minor subdivision of land for the Marion Korn Trust, Assessor's Map H, Lots 22A, zoned R-20, located on Bellamy Road Extension.

Paul Connolly, with Civil Works, stated that the parcel has frontage on Littleworth Road and on Bellamy Road Extension. He said that they are seeking to cut the parcel into two separate parcels. Both parcels will be served by municipal water and sewer. He said that they have allowed for a 20' wide utility easement on the proposed lot so at some point in the future, the existing home can be tied through the proposed lot into the Bellamy Road Extension sewer. There is no existing municipal sewer in Littleworth Rd. in this vicinity.

Jeff Mason made the motion to accept the application.

David Landry seconded.

VOTE U/A

The public hearing was opened.

There were no comments.

The public hearing was closed.

Jeff Mason made the motion to approve with the following conditions:

1. Revise plat to add existing and proposed water lines.
2. Revise plat to add existing and proposed sewer lines
3. Revise plat to add note regarding wetlands on site.
4. Revise plat to add common note regarding the Building Inspector assigning street addresses.
5. Revise plat to add a note to indicate that boundary information shall be provided to the City Engineer's Office in a digital DXF format upon approval of this proposed subdivision.
6. Revise plat to show location of existing septic system.

Frank Torr seconded.

VOTE U/A

ITEM #4: Consideration and acceptance of an application for a Conditional Use Permit for Walter Rous, (Owner Richard & Nora Close) Assessor's Map L, Lot 96-M, zoned R-20, located at 254 A Dover Point Road.

Walter Rous stated that he is the designer and contractor for the house and is representing the Closes. He stated that they are running a sewer line down to the existing City sewer that runs across the bottom of the property near the river. He said that the problem is that they are traversing a steep slope. He said that they want to alter the contours of the slope to provide an easier route for the sewer line, and to create a pathway down to that easement to access the waterfront. He stated that steps will be taken to prevent erosion, if necessary, and to use a silt fence if it is recommended. He said they will probably be putting in good material and not replacing the clay soil.

Frank Torr made the motion to accept.

David Landry seconded.

VOTE U/A

Abstained – Tony McManus

The public hearing was opened.

There were no comments.

The public hearing was closed.

Frank Torr made the motion to approve with the condition that erosion control measures as required by the City shall be placed on the site.

Pete Lavoie seconded.

VOTE U/A

Abstained – Tony McManus

ITEM #5: Consideration and acceptance of an application for a minor lot line adjustment of land for Richard & Bertha Lord and Jennie Leathers, Assessor's Map I, Lots 3 & 3A, zoned RM-12, located on Mast road Extension.

Kevin McEneaney stated that this is a simple lot line adjustment on Mast Road Ext. where they are conveying a 3,000 sq. ft. parcel from the Leather parcel to the Lord parcel.

Tony McManus made the motion to accept.

Pete Lavoie seconded.

VOTE U/A

The public hearing was opened.

There were no comments.

The public hearing was closed.

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

1. Add owners signatures to the plat.
2. Revise plat to add existing lot areas to note #3.
3. Revise plat to correct the map and lot label for the Lord lot from "E/3A" to I/3A".

David Landry seconded.

VOTE U/A

ITEM #6: Consideration and acceptance of an application for a site plan of land for Motiva Enterprises, LLC, Assessor's Map 11, Lot 4, zoned RM-10 and B-3, located at 169 Silver Street.

Malcolm McNeill stated that he is representing Motiva. He said that the engineering work has not been completed and the traffic issues have not been completely resolved. He said that the site consists of 1.6 acres on Silver Street. There presently is a gas canopy on the site and there is no proposal to change that location. He said they propose to recess the lights into the canopy to reduce the effects of lighting on the adjoining property. The building on the site which houses the office as well as convenience types of sales is about 1300 sq. ft. That building is being proposed to be moved back 56 feet from its present site. He said that additionally, the building that is there will be demolished and the side wall of the building will be moved 14 feet further away from the abutter than is presently the case.

Atty. McNeill explained how this property is located in two zones. He said that a portion is in the B-3 zone where the uses are permitted. The use that is being changed, the administrative office of the gas station and the convenience store facility, are permitted uses in the zone. He said a Dunkin Donut facility is being proposed for the building which is also a permitted use. He said that the adjoining zone is RM-10 and under the Dover Zoning Ordinance, one can go 50 feet into that zone with regard to the more restrictive use. The old accessways is grandfathered and has been there since, they believe, 1960. He said that they are not proposing any changes in the existing accessways other than to make it more attractive with a buffer. He said that everything that they are doing is to make the site more buffered from the existing residential property. The concerns for this property don't relate to the Dupont site which has been recently modified. The sensitivities with regard to this site are more focused toward the residential area than the commercial area and yet everything they have done with this site is to move what they perceive to be the offending uses away from the residential area and closer to the area that is less impacted.

Mr. McNeill stated that a car wash is being proposed for the site. He said that they have retained a noise consultant who will speak at the next hearing with regard to the effects of noise from this facility. The car wash is fully permitted on this site and is totally in the B-3 zone and is 212 feet from the adjoining property. He said that they don't wish to change any of the conditions that have been grandfathered with regard to this site, nor are they doing anything that is inconsistent with the grandfathering and nor are they putting any uses on this property that require any Zoning Board of Adjustment relief. He said that they will build a 6' high wooden stockade fence in addition to the fencing that is presently there and will be adding the landscaping that is shown on the plan. He said that the traffic will have the option to go to the existing fueling stations, or to park in any one of the parking spaces to either go into the store or to step inside to buy a donut. The other option is to use the drive-through lane for Dunkin Donuts. He said that they are providing adequate queuing. He said that there would be a menu board to the rear of the property totally in the B-3 zone, and the pick up window is around the side. That drive through lane will be buffered with plants and appropriate curbing to further buffer this

use from the other use. He said that another option will be if someone wishes to go into the site and decides that they made a mistake and wishes to leave, there is a bypass lane to the rear of the drive through where someone can just past through and go out of the site. He said that the last option would be a car wash that can be activated with either a token or other device that one can buy. He said that there is not a person there, just the mechanics of the carwash. The traffic study will disclose that they have had meetings with representatives of the Turnpike Authority, with the Planning Department, McIntosh College, and with the TRC. The proposed hours of operation of this store and gas station are 24 hours, the car wash and Dunkin Donuts facilities are proposed to be operated from 6:00 AM to 10:00 PM. It is anticipated that there will be 6 employees on the site, three with the gas and convenience store side and three with the Dunkin Donuts. He added that the donuts will not be baked on the site. He said that they believe that they are making reasonable efforts to address buffering issues, and that all the uses are permitted. He said that they are asking that the Board accept the application and schedule a site walk. He said that the gasoline station is a use that is there and will be there and there may or may not be a history to this. He said that they are attempting to put a convenience store, a Dunking Donuts and a car wash in an area that is entirely permitted. He said the gas station is either grandfathered or arguably a permitted use because of the longevity of its use there.

Don Rhodes, Norway Plains Associates, stated that they have done a traffic study for this site, which includes counts of what is out on Silver St. today, the turns in and out of the existing filling station as well as estimates of what the additional use will add to the turning traffic. He said that the biggest change in the traffic will result from the Dunkin Donuts, especially in the morning when 200 or more, additional cars will go in and out of the site. He said that most of them will be right turns. The Dunkin Donuts will draw traffic primarily from what is on Silver St. today. He said that the increase will be about 200 trips, and half of that is vehicles turning in and the other half is vehicles turning out. The usage of the site will be an additional 100 or more vehicles. He said that they suggested that the City might consider developing the pavement width that exists on Silver Street today to provide space for a right turn lane. He said that the details of that are not resolved yet, as they are involved in discussions, both with DOT and with the City staff. He said that within the next week or two they expect to have a much better idea of where things stand. The City has requested that they look at this from a coordinated point of view, not only at this project but what would be beneficial for the McIntosh College project and that entire section of Silver Street.

John Keegan, Ayoub Engineering, said they did the site plan and the calculations for the storm water and the sewer pump system. He said they are going to install an 18 X 15 car wash which has averaged out to about 250 cars per day and will use about 10 gallons of fresh water per car wash. The rest of the water about 50 gallons, will be recycled for each wash. That water will go into a pump chamber and be discharged after being pretreated though an oil water separator. The storm water on the site was analyzed using a TR55 method where they took the existing conditions and compared them to the proposed conditions and then mitigated any increases in the peak runoff rates. It's a

recyclable car wash and the storm water has been mitigated on the site with Best Management Practices.

Malcolm McNeill stated that they are not in a position to give up an entryway, given the size of the site. Whether there will be a change in traffic flow remains to be seen.

Don Rhodes stated that the traffic study did indicate that it might be a good idea to keep the entryways based on where things stand right now, it really depends on where things end up in the overall look at Silver St. He said that it depends on where the corridor improvements get done. Don told Frank Torr that he would compute the number of cars for the stacking for the car wash and Dunkin Donuts.

Frank Torr asked Steve Stancel if he could clarify the 50' area going into a nonconforming use.

Steve Stancel read Chapter 170-10. Interpretation of district boundaries. E. Steve said that is why the building is being pushed back beyond 100 feet. He said when the project came in for TRC back on April 22, they were showing the building and the drive isles closer to the side setback and we required them to move them back to the 50' setback.

David Landry made the motion to accept the application.

Pete Lavoie seconded.

VOTE U/A

The public hearing was opened.

Barbara Trout, Silver Street Extension, stated that there is construction on the 8E entrance/exit to the Spaulding Turnpike. She said that there is a stop light which has artificially changed the traffic pattern, which is much better right now. She said that she is concerned that they are basing the traffic study on the existing traffic flow. Also, cars turning into McIntosh, Dupont or the Texaco station backs up traffic so they cannot get out and turn left. She said that adding 200 cars in the morning could mean that they will have to leave either an hour earlier or an hour later.

Bernard Duffy, 161-163 Silver St., stated that he and his wife have put up with the adjoining business for years and now they have found a way to get into the 50 foot side setback. He said that the traffic is atrocious, 250 cars will be washed, not counting what Dunkin Donuts will bring in there. He said that the School Committee is going to put a parking lot on the grass area at Woodman Park School which will add more cars. The culinary arts school at the motel is a first class restaurant and will add more traffic.

Dennis Duffy, son of Bernard, and lives in the duplex closest to the side of the gas station. He said that he wants to express his opposition to this project. He said that maybe this project is permitted but it does not mean that it is wanted. He said that the gas station has been there for a long time but their neighborhood has been there a lot longer. His concerns are that they are using residential property and going into the 50' setback.

He spoke about the traffic back ups and said that this project is being built to draw more people. He said that they have put up with a lot of noise, bells from the gas station, engines from tractor trailers that pull over on the side of the road to run in, dumpsters in the morning, public telephones ringing in the middle of the night, and excessive lighting. He said that he questions what this will do to his Father's property value. He said that the lighting lights up the whole block. He is concerned with the runoff and the environmental impact this will have. He said that people are opposed. It's their neighborhood and they don't want it.

Marion Nosiff, 3 Towle Avenue, said that she is appalled that no one has mentioned the children. She said she lives almost abutting the Woodman Park athletic field. In the summer there is no traffic guard at the light at the corner of Towle Ave. and Silver St. She said that the kids do not pay any attention to the traffic pattern. Dover is growing by leaps and bounds. She said that she feels that there will be more than 200 cars per day, and 50 cars per day would be unacceptable. She urged the Board to be very thoughtful before they pass any permit for such a building on Silver St. She said that the atmosphere of that part of Silver St. is not business. She said that she is not sure that they are ready for a Dunkin Donut.

Carolyn Foley, 129 Silver St., has lived there with her sister and a friend for over 47 years. She said that they have had to replace their windows with shatterless glass because so many of the old one have become cracked caused by so many trucks. She said that they live on fixed incomes, but they are willing to loose a few dollars rather than see something that will entice so much more traffic. They would like to see a little of the aesthetic value that still remains in that area remain.

Eleanor Duffy, 161 Silver St., is concerned with the noise level and the traffic. She said that if they are out in their driveway, they can hear the broadcast of the football games at Dover High. She said she cannot image what it will be like for 24 hours having traffic in and out, giving orders and using a public phone. She said that the house at the corner of Arch and Silver is for sale and the realtor's ad describes the house as being in a historic district of Dover. She said that she doesn't think that anyone is going to pay in excess of ¼ of a million dollars for a house that is 4 houses removed from a Dunkin Donut, a car wash with vacuums etc. She said that the traffic will be a safety factor and asked the Board to reject the application.

William Gillis, Lexington Street, was concerned with the traffic. He stated that Silver Street has the worse traffic in this area. He spoke of the difficulty of making turns out of the gas stations and the McIntosh site. He said that the two Dunkin Donuts that are already in Dover are backed up into the street and predicts this one will be also.

Sheila Duffy Mone, agrees with Mr. Nossiff regarding the children, she is a teacher. She is very concerned with the noise this project will add. She said that they all live on Silver Street, an aesthetically pleasing area, and they would like to keep it that way.

Constance Slader, 102 Silver St., stated that Silver Street's residential character is an asset to the City. She said that it is a gracious, lovely corridor into the heart of the City. She urged the Board to do all that it can to maintain those boundaries and limit commercial development.

Tom Ahearn, 205 Silver St., stated that he has two small children and when they go to Woodman Park School to play in the playground it is life threatening getting there. He said that they don't do it anymore because of the traffic.

Councilor Nossiff, stated that he has an interest in the neighborhood because his Mother lives there. He agrees with Mr. Duffy, it will dramatically change that whole area of Dover. He said that it would be worth the while of the City to spend some tax payer money and do an independent traffic study. The practical reality of Dunkin Donut is dramatically different than what is presented in terms of a traffic study which may be flawed because of the construction in the area. He feels that the traffic will be backed up into Silver St. with the drive through window situation. He was concerned with the 50' buffer, and stated that the City needs to find out what the nature of the agreement was and the expansion of a non-conforming use with the lighting and electronic ordering box outside of the drive through window. He said that that can be heard from as far as a mile away. He said that he is not sure that a drive through window may be an expansion of a non conforming use. He asked the Board to proceed very slowly.

Corby Pheeney, 195 Silver St., stated that she walks 3 times a day with her dog and at the same time she picks up trash along the way. She said that the trash has not been addressed tonight. She said that the trash consists mostly of lottery tickets, lids to coffee cups and plastic bottles. She said that they are a residential neighborhood.

Donald Bryant, stated that he and his wife live on the corner of Arch and Silver Street. He is very opposed to the project because it starts the progressive deterioration of the neighborhood. The expanded use with the lights and noise will soon become unbearable to live residentially and people start moving out and it becomes a commercial area. He said that even if this project does meet all requirements of the Zoning Ordinance, it does not have to be approved. He read the part of the Site Review Ordinance 149-5. He said he does not believe that this is in the best interest of the City. He said that the traffic study only came in yesterday and he has had not time to realize the implications. He said that Bruce Woodruff stated that he had serious concerns with this study. He said that there is a question of law which in itself makes this project illegal and unwarranted. This land is in two different districts partly in B-3 and residential RM-10. He said what is being considered here is a question as to whether the current use, as Atty. McNeill has referred to as a grandfathered use, is entitled to be expanded. He said that this is a dramatic expansion of the existing use and in no way is this use grandfathered. He said that all of the entrance to this site is in the RM-10 district. He said that if the entrance is grandfathered, it is only grandfathered for what is there now, it is not grandfathered for the expansion. He read the Zoning Ordinance 170-10 E. He said that this is a question of law which is a valid issue which would be sustained by the Superior Court if the case

went that far, which would prevent this project from taking place. He urged the Board not to approve the application.

Theresa Foley, 129 Silver Street, stated that she agrees with everyone's concerns.

Jeff Mason moved to suspend the public hearing pending a site walk so this can be addressed at a future meeting.

Tony McManus seconded.

Frank Torr said that he would like to see research done on the possible agreement with the gas station at the time that the station was built. He said that the Zoning Board approved it with conditions on 6-25-66 and the Planning Board approval came after that and he would be interested to see if there are other agreements.

Steve Stancel stated that they have done some research and there aren't any site plans for the gas station. He said that back in 1966, it was not common to come before the Planning Board. He said that he will certainly accept any written agreements that were made outside of the ZBA.

Frank Torr asked if the City could have some legal research done?

Steve Stancel stated that the Code Enforcement Officer is the one that is charged with determining whether or not a particular application meets with zoning. It is his interpretation that the uses that are going on the site are allowed uses per zoning of today. He said that in regards to the accessway into the site, it is actually a decrease in non-conformity because they are pulling most of the pavement and most of the use away from the lot, and that is his interpretation. The avenue to question that interpretation, is to go to the Zoning Board of Adjustment for an Appeal from an Administrative Decision which anybody in the audience is welcome to do.

Frank Torr asked if the Planning Board members could request the City Council to do some research to verify the opinion of the Building Inspector?

Steve Stancel stated that the Planning Board can go to the ZBA themselves.

Frank Torr said that the point about the traffic survey is very valid. The traffic has changed since the work has started on Exit 8. He asked if the Board has the ability to hold up everything on this until there is a legitimate traffic survey done and if the Board has the ability to hire a traffic study done by an outside contractor.

Steve Stancel stated that this Board, can require an outside analysis and it can be billed to the applicant at no cost to the City. That is something that the Board could suggest this evening. Steve added that the traffic survey itself was done last summer, and that is how long this project has been in the pipe line. The thing that the staff have not had the opportunity to review yet, is whether we believe that that traffic study that was done a year ago is adequate.

Jerry Reese asked for the vote to suspend the meeting.

VOTE U/A

Steve Stancel stated that he would encourage anyone who is questioning the interpretation of the allowance of the uses to move forward with going to the ZBA. Steve said if there is a appeal from an Administrative Decision filed, he doubts that the Planning Board would be making any decisions until that decision came down. He said that this project went to a Technical Review Committee meeting on April 27, 2000, and there were several concerns expressed by the staff at that time. He went over some of the TRC notes. He said that McIntosh College recently came in with an expansion for 25 additional rooms to the Holiday Inn and they are putting in a culinary facility as well. Steve said they are attempting to look at the corridor as a whole with both of the expanded uses. He said that they have been in touch with NH DOT and there have been some discussions, where at a minimum, you will see a left turn lane beginning at the Silver Street off ramp and continuing down Silver Street to Towle and Silver and that is if either of these project move forward. He said that they have discussed the closure of one of the entrances and a combination with an entrance with the abutting user. There are some legal issues involved with that but they are continuing to move forward. He said that they did require a letter from a certified soil scientist regarding wetlands on site and that has been received and is available for review. He said the electronic ordering board for Dunkin Donuts is an issue that has yet to be resolved. He said that they are concerned with the noise level. He said that they are requiring a site lighting plan. He said that they have requested that the developer provide some decibel level data in regard to the car wash. He said that they recommended tabling for a site walk. Steve said that he spoke with Ron Cole and he indicated that he is available any night next week, except for Friday.

Jerry Reese asked what the Board felt was a good night for the site walk.

It was determined that the site walk would be held on Monday, 26, 2000, at 6:PM, at the Texaco station. Jerry Reese invited the public to attend and ask questions.

Frank made the motion to table.

David Landry seconded.

VOTE U/A

ITEM #7: Old Business

a. Discussion and possible vote on Ezra Green Farm ADS, located on Littleworth Road.

Frank Torr made the motion to remove this item from the table.

David Landry seconded.

VOTE U/A

Attorney Malcolm McNeill, representing the applicant, said that it is an ADS on 100 acres with 2/3 of the land being in open space. They are providing for walking trails and parking for the public use and donating a significant parcel of land across the street for use for a water treatment plat. The open space will be kept in its present state except for the walking trails. They will be providing easements to adjoining properties for utilities at no cost, at the request of the city. They are also providing a connecting point for the abutting development. He said that they are requesting waivers from the 100' setback from the street, the length of the cul-de-sac and to reduce the street size from 28 to 24'.

Tony McManus asked about parking on the street with regard to the narrower width.

Don Rhodes stated that there will be no parking on the sidewalk side of the street.

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

1. Waivers requested for length of cul-de-sac, 100 foot front buffer required by ADS regulations, and reduction of pavement width from 28' to 24' are approved.
2. Provide the Planning Department with a copy of the State Wetlands Board permit and add the permit number to the plat.
3. Provide the Planning Department with a copy of the Site Specific permit and add the permit number to the plat.
4. Provide the Planning Department with a copy of the NHDOT driveway permit and add the permit number to the plat.
5. Revise plat to correct proposed tax map and lot numbers by adding Map F.
6. Payment of a Community Services Capital Equipment fee of \$14,383 prior to the issuance of the first Building Permit.
7. Resolve issue regarding the sleeve under Route 9 for water and sewer with NHDOT and city Engineer.
8. Revise plat to show underground utilities.
9. Revise plat to specify the subgrade improvements for the road cross section.
10. Complete any necessary improvements to the Crosby road pump station as determined by an engineering capacity analysis.
11. The proposed public walking trail shall be constructed by the applicant and completed prior to the issuance of the first occupancy permit.
12. A portion of parcel G-35D, known as the Theodoras parcel shall be transferred to the city of Dover prior to the issuance of the first C.O. Said parcel shall have sufficient uplands for the purpose of placement of a water treatment plant (approximately 1 acre). Including corresponding access and utility easements. Lot line adjustment to be responsibility of the developer.
13. Engineering issues as follows:
 1. We have requested that the end section of the 30" culvert that crosses Littleworth Road be improved. Norway Plains has stated that they will work with the State DOT on this.

14. Per Conservation Commission recommendation, language be placed in deeds of lots containing wetlands regarding regulated activities.

Jeff Mason seconded.

VOTE U/A

Frank Torr complimented the developer for a fine job.

ITEM #8: New Business

Malcolm McNeill stated that he is requesting an extension of approval of 60 days for the Richmond Co. plan, Indian Brook Plaza. He said that the 60 day limit is frequently difficult because of State permits and just wrapping up projects. He said that his project is closing very shortly and construction will begin.

Frank Torr made the motion to grant the 60 day extension.

Pete Lavoie seconded.

VOTE 3 – 2

Opposed – Jeff Mason and Tony McManus

ITEM #9: Adjournment

Frank Torr made the motion to adjourn.

Jeff Mason seconded.

VOTE U/A