

CITY OF DOVER

DOVER PLANNING BOARD – MINUTES

Meeting Type: Regular Meeting
Meeting Location: City Council Chamber's 288 Central Avenue
Meeting Date: **Tuesday, November 9, 2021**
Meeting Time: **7:00 pm**

Members Present: Dennis Ciotti (Councilor), Hayley Harmon (Vice Chair), Dave White, Kyle Pimental, Frank Torr, Tom Clark, Steph George (Alternate), Dave Landry, Mark Speidel, Erinn Reville (Alternate), Jackie Walker (Alternate)

Members Not Present (excused): Gina Cruikshank (Chair)

Members Not Present (un-excused): None

Staff Present: Donna Benton, City Planner

The Chair called the meeting to order at 7:02 p.m and noted he (M. Speidel) would sit as Chair for G. Cruikshank and E. Reville would sit for him.

1. CITIZENS' FORUM

Citizens Forum Open.

No One Spoke.

Citizens Forum Closed.

2. APPROVAL OF THE PRIOR MINUTES

October 26, 2021 Regular Meeting Minutes

Motion: F. Torr moved to approve the minutes as submitted. Seconded by D. White. Vote: U/A

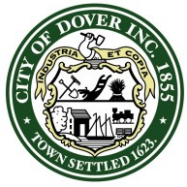
3. OLD BUSINESS

4. NEW BUSINESS

The Chair noted items 4A and B will be heard together.

- A. Consideration and acceptance of a Conditional Use Permit for Settlement on 6th, LLC., Assessor's Map B, Lot 5, zoned R-40, located on Sixth Street. (Proposal is for a 14 lot open space subdivision with a 900 foot long road and associated driveways and drainage facilities, creating 131 sq. ft. of temporary impact and 1,613 sq. ft. of permanent impact to a wetland and 12,394 sq.ft. of wetlands buffer impacts). *(P21-44)
- B. Consideration and acceptance of a Subdivision/Site Plan using Transfer of Development Rights for Settlement on 6th LLC., Assessor's Map B, Lot 5, zoned R-40, located at Sixth Street. (Proposal is to construct a private roadway with access to a proposed 11 single family lots (including purchasing 1 using TDR) plus 3 open space, non-buildable lots) *(P21-43)

D. Benton noted that this is only the second TDR open space subdivision in the R-40 since the TDR ordinance was amended in 2018. Staff and the applicant reviewed concepts and were originally asking for additional TDR units. Based on those concepts and the environmental constraints, the request tonight has been reduced to only one unit. The Board will be asked to vote separately on the CUP, the TDR, and the Subdivision. The Board may have noticed in the packet a lot line adjustment plan and application. This will appear before the Board in December as it was an oversight on tonight's agenda and there is a recommended condition of approval. This application appeared before the TRC most recently on October 14, 2021 and was endorsed by the Conservation Commission on September 13, 2021.



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Christopher Berry of Berry Surveying and Engineering represented the applications. Earlier this year they conducted an existing conditions plan of the site, and wetlands and soils were mapped. The plans have been revised since the initial concept reducing the number of units as well as the environmental impacts. The wetlands permit has been approved by DES and the Alteration of Terrain permit is in progress. A sewer discharge permit will also be required.

Motion: D. White moved to accept the applications and noted that this is not a development of regional impact. Seconded by D. Ciotti. Vote: U/A

Public Hearing Opened

No one spoke. No calls or emails were received.

Public Hearing Closed

C. Berry explained why a sewer hook up to Cottonwood is not feasible due to wetlands.

STAFF RECOMMENDATION- CUP:

The Wetlands Protection District ordinance provides for Conditional Use Permits to allow impacts to wetlands and wetland buffers if standards related to demonstration that no practicable alternative exists, impact avoidance was considered, impacts were minimized, and mitigation has been sought.

This project is consistent with those standards, and staff recommends approval with the following conditions.

Staff understands that the applicant considered the criteria when designing the plan and has altered the plan since the initial concepts to be able to consider alternatives, avoid as much wetland and wetland buffer as reasonably possible and minimize impacts such as with the shared driveways, reduced buffers and lot areas utilizing the TDR ordinance. The applicant further explains their process and how the criteria have been met in the narrative attached to the CUP application.

STAFF RECOMMENDATION:

The Planning Department recommends the Planning Board vote to grant the Conditional Use Permit with the following conditions to be met prior to issuance of the CUP:

1. The Transfer of Development Rights request be approved.
2. Subdivision request be approved.
3. The applicant shall supply the Planning Department with a copy of the NHDES Wetland Impact Permit.

Motion: D. White moved to approve the Conditional Use Permit with conditions, as the request is consistent with the regulations. Seconded by D. Ciotti. Vote: U/A.

STAFF RECOMMENDATION- TDR:

D. Benton noted that the plan is consistent with the TDR ordinance in Chapter 170-27.2.G and that the Planning Department recommends that the Planning Board vote to find the criteria of the TDR ordinance has been met with the following conditions:

1. Payment of TDR fees.
2. Add a note to the plat that the Board found the criteria of Chapter 170-27.2.G(8) have been met.

Motion: F. Torr moved to approve the Transfer of Development Rights request to purchase one unit with conditions, as the request is consistent with the regulations. Seconded by D. White. Vote: U/A.



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STAFF RECOMMENDATION- Subdivision

The Planning Department recommends that the Planning Board vote to approve the subdivision with the following conditions:

Conditions to Be Met Prior to Signing of Plans:

1. The Planning Board approve
 - a. The TDR application.
 - b. The Conditional Use Permit.
 - c. A lot line adjustment plan to remediate the existing encroachment.
2. The applicant shall provide
 - a. A revised current use plan to the satisfaction of the City Assessor.
 - b. The letter to serve from Eversource and City of Dover.
3. The Planning Director, in consultation with the City's General Legal Counsel, will review and approve the homeowners association to ensure private road, stormwater infrastructure maintenance, buffer and common space, conservation district maintenance, prior to converting ownership and maintenance obligations, and deed/easement requirements per Section 170.27.2.
4. Provide physical and digital copies (including CAD) of complete plan set which additionally shall include:
 - a. Add signature and stamp of CWS, LLS and PE
 - b. Add owners' signatures for recording at Strafford County Registry of Deeds
 - c. Add permit numbers

Conditions to be Met Prior to Construction Activities:

5. A site construction sign with the contact information for the general contractor must be located and approved by the City Engineer or Planning Director.

Conditions to be Met Prior to Building Permit:

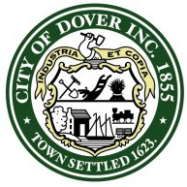
6. The new dwellings shall be assessed and pay the current Water and Sewer Investment Fees in place at the time of application for service.
7. The applicant shall provide a letter of credit or other form of security acceptable to the City for any unfinished work.

Conditions to Be Met Prior to Occupancy:

8. Issuance of the Certificate of Occupancy.
9. Any applicable easements shall be recorded.
10. Documentation that the HOA has been created and is in place.
11. Impact fees per unit shall be paid per the invoice attached to the Notice of Decision.
12. Prior to the last Certificate of Occupancy being issued, the Engineer of Record shall meet with the Association and review the as-builts for the project.
13. Land use change tax has been paid.

Motion: D. White moved to approve the Major Subdivision with conditions, as the request is consistent with the regulations. Seconded by D. Ciotti. Vote: U/A.

- C. Consideration and acceptance of a Transfer of Development Request for Dover Coast, LLC., Assessor's Map 28, Lot 13 & 14, zoned Gateway G&O, located at 725 Central Ave and 4 Brick Road. (Proposal is to purchase 12 units). *(P21-54)



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D. Benton noted that the applicant has been to TRC and has done quite a bit of progress on a full site plan, some of which is included in the packets by the nature of the request. The applicant is securing additional parking off site further down on Brick Road and still needs to come back to TRC with fully engineered plans for that parking lot. At this time, the Board is requested to vote on the Transfer of Development Rights request which is to purchase 12 units to total 15 units in the multi-family residential building with associated parking.

Arthur Guadano, AG Architects, PC represented the application to combine two lots and build a three-story plus walk-out basement 15-unit apartment building. They are seeking to purchase 12 TDR units. (14 2-bedroom units and one 1-bedroom unit) Parking will be met by 17 spaces behind the building and across Jefferson Dr will be purchased with 12 spaces there.

Motion: D. White moved to accept the application and noted that this is not a development of regional impact. Seconded by D. Landry.

T. Clark asked for clarification on the ownership of 4 Brick Rd. The property is currently in probate and the applicant has an agreement with the owner. They have a purchase and sale for 10 Brick Rd for the parking lot. T. Clark was concerned about acting on the application before the applicant owns the property.

D. Benton clarified that the applicant has to come back before the board with a full site plan. Tonight's vote is just for the maximum number of units. Everything will have to be in order when they come back for site plan approval.

Scott Silver, Dover Coast LLC confirmed there is a purchase and sale agreement in progress for 4 Brick Rd. The previous owners passed away from COVID and the property is going through probate with their children.

T. Clark withdrew his objection.

Vote: U/A

Public Hearing Opened

Peter Menounos, 720 Central Ave expressed concerns about the traffic.

No calls or emails were received.

Public Hearing Closed

T. Clark is concerned about the number of units requested. It's far above the number allowed by right.

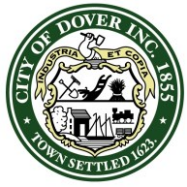
D. Ciotti agreed with T. Clark and noted the proposed building is too large for the area. It is also a high-traffic area.

D. White believes this is a perfect location to use the TDR and for an infill project. If the applicant used only the existing lot, they could provide multiple units with one parking space per unit. By purchasing the additional lot, they are providing more housing as well as two parking spaces per unit. The location is close to downtown and services which make it ideal for a project with increased density.

K. Pimental is concerned about the number of units- not the size of the building. Traffic is a concern.

F. Torr agrees with D. White. The proposal is a massive improvement from what's there now. There were no traffic issues with the project that went in behind.

D. Landry noted the traffic issue is pre-existing, and should be looked at by the traffic commission. The density and size of the building are not an issue for him. It's not directly downtown, but it is close and walkable. The extra parking area is more than what's been offered on other projects.



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E. Reville agreed with D. Ciotti and T. Clark that the proposal is too large of a building for the density. She is concerned approving this will set precedence to other properties. D. Ciotti noted each project is looked at individually. All other buildings in the area are two stories.

M. Speidel asked about snow removal and trash, building height, and affordable housing options for some units. Mr. Guadano addressed the questions.

STAFF RECOMMENDATION:

D. Benton noted that the plan is consistent with the TDR ordinance in Chapter 170-27.2.G and that the Planning Department recommends that the Planning vote to find the criteria of the TDR ordinance has been met with the following conditions:

Conditions to Be Met Prior to Granting of the TDR:

1. Payment of the TDR fee
2. Site Plan come back to the Planning Board for review and approval.
3. Lots 13 & 14 be merged.

D. Benton clarified for the Board the two options for the applicant in this zone are to either apply for affordable units or to request to purchase TDR units. TDR fees would be waived if they created HUD rent-restricted approved units.

Mr. Guadano responded to board member comments.

Motion: D. White moved to approve the TDR request and the purchase of up to 12 units with conditions, as the request is consistent with the regulations. Seconded by F. Torr.

E. Reville noted Dover is the fastest growing city in NH and we should start looking at building height as a way to incorporate more density.

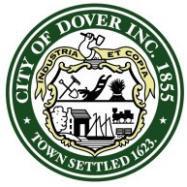
Vote: 6-3 with D. Ciotti, K. Pimental and T. Clark opposed.

D. Consideration and acceptance of a TDR Request for Knox Marsh Development, LLC. (Owners: Knox Marsh Development and Gary and Kim Bates), Assessor's Map H, Lot 46 & 50, zoned R-40, located at 51 & 65 Bellamy Road. (Proposal is to purchase 22 units via TDR for a 31 total units). (P21-65)

D. Benton noted that this project has also come to TRC once but needs to return for a follow up TRC. Tonight's vote is to allow the applicant to purchase up to 22 units via TDR to total 31 units. The Board may recall that it approved a 4 unit subdivision on one of these subject lots so if the Board sees the number 18 referenced, that is the difference between what has currently been approved and what they are seeking tonight. The applicant would need to come back to the Planning Board for the lot merger and full site plan and if approved, at that time the previous approval would be considered null and void.

Christopher Berry, Berry Surveying and Engineering represented the application. Part of the project was approved by the board as a private road with 4 units. The abutters approached the applicant to work together on a larger project. He explained the methodology of how they laid out the project.

The original project was 4 units that matched the character of the neighborhood with small homes. They are now looking to extend that Sophie Dr project onto the Bates land and continue with additional single-family homes and 4-unit structures that look like single-family homes which are centered away from the housing on Bellamy Rd with a 30ft buffer along the property lines. There is an existing duplex on site which will be renovated and incorporated into the project. There is an existing barn on site which is proposed to be



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converted into four units. The view from Bellamy Rd would remain the same with the duplex the only visible structure.

All single-family homes are proposed at 1,400 sq. ft. The applicant is looking to restrict 25% of the project for HUD housing rates. The applicant will work to provide housing to Dover residents prior to opening to the market.

K. Pimental asked if the rent restricted units will be so in perpetuity. Yes, they will be deed restricted.

Motion: D. White moved to accept the application and noted that this is not a development of regional impact. Seconded by H. Harmon. Vote: U/A

Public Hearing Opened

Helen Labrie, 55 Bellamy is concerned about traffic especially in relation to the high school traffic. She does think the development will be visible- especially to her as a direct abutter. She wondered what environmental impacts there might be for pollution and wildlife. She works at Dover school district and the classrooms are already full.

Patrick Labrie, 55 Bellamy thanked the developer for sitting down with him to go over some concerns. He doesn't understand why Dover needs more development. Traffic is bad, the schools are full and he is concerned about infrastructure. Other towns should take over development. He expressed concerns about rain gardens and if they work to handle storm water.

Donald Chandler, 65A Bellamy Road is concerned about traffic especially from Sophie Dr. It's dangerous for the students to cross the road to get to the school and this subdivision will be attractive location for families to live. There should be a safer solution for kids crossing there.

D. Benton addressed some of the public comments. The traffic study has been submitted and is being reviewed at TRC.

C. Berry noted as the project goes through the TRC process, pedestrian enhancements can and should be addressed for that area since it is such a walkable area.

K. Pimental listed the current affordable market rental rates for the public.

T. Clark noted just because the TDR ordinance allows for the purchase of more units, doesn't mean we have to sell the additional units. We have to look at density. 31 units is too many units at this location.

One of the applicants spoke about affordability. He is glad the board member listed the rental amounts. These affordable units would qualify for single or two-income families who work as nurses, teachers, city employees. The way the project is affordable for the developer is to have more units so that they can make up the difference from offering affordable units.

Public Hearing Closed

STAFF RECOMMENDATION:

D. Benton noted the plan is consistent with Chapter 170-27.2 of the Zoning Ordinance which allows for developments to buy additional units through the process of Transfer of Development Rights and that the Planning Department recommends that the Planning Board vote to find the criteria of the TDR ordinance



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has been met, and the applicant may proceed with laying out up to 31 units on a Site Plan with the following conditions:

Condition to Be Met Prior to Granting of the TDR:

1. Payment of the TDR fee
2. Site Plan come back to the Planning Board for review and include notes about size restrictions
3. That 25% of the 31 units have the HUD rent rate and/or pricing restrictions

Motion: F. Torr moved to approve the TDR request and the purchase of up to 22 units with conditions, as the request is consistent with the regulations. Seconded by D. White. Vote: 6-3 with T. Clark, D. Ciotti and D. Landry opposed.

- E. Consideration and acceptance of a Minor Subdivision for Dahn H. & Norma M. Tibbett, (Owner: Jahn H. & Susan G. Janetos), Assessor's Map N, Lot 13, zoned R-40, located at Oak Street. (1 new lot) *(P21-78)

D. Benton noted the applicant is requesting to subdivide lot N/13 into two lots. The lot would be serviced by public water and private septic. As a Minor Subdivision, this application did not appear before the TRC.

When staff received the minor subdivision plans and saw the existing barn was to remain as the only building on the lot, they reached out to the applicant requesting more information on the use of the barn and the lot. The applicant responded with the three letters dated September 30, 2021, October 18, 2021, and October 26, 2021. All have been supplied to the Board. Staff has heard that the owner will be present at the meeting to speak to the farm/haying use of the barn further. The Board can then determine if they have enough information to accept the application as complete to review.

The applicant originally requested the Board grant a waiver from the requirement to survey the lot boundary lines, including the proposed lot line, but is now willing to have that be a condition of approval. They also seek a waiver to not reference the US Geological Survey for topography, rather they use LIDAR. Finally, the property is within 100' of public sewer on Elmwood Avenue, and while no waiver was requested, it is required if they seek to use private subsurface septic systems. Staff notes the need for a waiver, but no explanation or request was provided for this until just before the meeting.

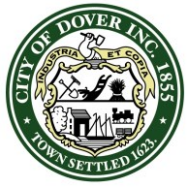
Kevin McEneaney, McEneaney Surveying, represented the application. The new lot will be 1.5 Ac and will have the barn on it. The other lot is 34.3 Ac. He confirmed they will do the survey and are only requesting the two waivers. The barn will be an agricultural use and won't have any occupancy need for sewer hook-up. He clarified the owners of N-13F.

Discussion occurred about water at the barn. There is no sewer, there is no well or city water supply on site. The barn will continue to function as it has for haying purposes.

The applicant addressed the question why they are subdividing this lot. Right now, the property is owned in joint ownership by four individuals. One person will retain the smaller lot and the larger lot will ideally be sold off to a separate buyer.

Motion: F. Torr moved to accept the application and noted that this is not a development of regional impact. Seconded by D. White. Vote: U/A

Public Hearing Opened



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Jeff Andress, 2A Country Club Estates is an abutter and spoke in favor of the proposal. The barn is 100 years old and there is a better chance of the barn being preserved if this lot can be divided before the larger parcel is sold to a developer.

Ann Marie Day, 104 Gulf Road is an abutter and is in favor of the barn being subdivided out so it can be preserved.

George Heilshorn, 108 Gulf Rd is an abutter and noted the area is vibrant with habitat and a rich history. The barn is a memento of days gone by and it's an important piece to preserve.

Public Hearing Closed

D. Ciotti asked what the utility easement is for on the plan. Is that for servicing the 34-acre lot when it's developed?

Mr. McEneaney explained the easement is for access to the abutting lot 13-F. The board and applicant discussed future sewer access to the 34-acre lot. There are a few options, but it is not through that easement. D. Ciotti is concerned that the easement is shown on the plan on the barn parcel, yet the applicant plans to keep the parcel in current use. Mr. McEneaney wasn't sure about the location of the easement and will need to check.

Jahn Janetos, applicant and owner of parcel 13-F clarified the easement is to service 13-F. The lot line should be at the southern end of the fence which puts the easement on the 34-acre lot. That is not what shows on the plan, but it should be revised. The surveyor said he will make the adjustment.

Mr. McEneaney suggested the board make a condition of approval that the lot line be adjusted to keep the easement in the same location, but it will be on the larger parcel.

Since that will adjust the square footage of each parcel, the board suggested tabling the item for a new plan to be submitted.

Motion: D. White moved to table the application including waiver requests to December 14, 2021.
Seconded by D. Ciotti. Vote: U/A.

5. STAFF COMMENTS

- D. Benton updated the Board on:
 - Staff attended the Northern New England planning conference. Some of D. Benton's and C. Parker's takeaways were included in the Planning e-newsletter.
 - Staff received a good amount of interest in both open Assistant City Planner positions and will begin interviewing next week.
 - the latest TRC: the waterfront development both CPI's mixed use project as well as the public right of way and park, both will be coming back for second TRCs. The TRC also reviewed a site plan for Q, LLC on Quality Way and 51 Bellamy Road that the Board reviewed the TDR for tonight.
 - Applications for CDBG projects are due at 4pm on the 19th and are available on the Community Development page on the Planning Department's website.

6. MEMBER COMMENTS

- The Chair signed the subdivision plans for 50 Education Way and revised for Venture Drive and Site Plans for Atlantic Broadband.



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- D. Benton welcomed new Planning Board alternate, Jackie Walker.
- Tom Clark requested men take off their hats at the podium.
- E. Reville asked if TDR could be reviewed to cap a percentage of how many units can be purchased over what's allowed.
 - D. Landry noted this is the time of year for the board to think about what to focus on next year and that should be one of the items including whether the TDR is appropriate in the R40 zone.
 - K. Pimental noted he was more open to the project tonight which offered affordable rates. He wondered if we could look at the end of the year how much money has come in from TDR and what land acquisitions have been made with it.
 - D. Ciotti noted there is \$1M in the TDR funds. Perhaps if applicants don't incorporate rent restricted units to their projects, those TDR funds could go towards funding a homeless shelter.
- K. Pimental suggested the board members look ahead at the Waterfront plans that will be coming before the board soon. Dennis and Kyle will not be able to sit for those Planning Board meetings since they are on the Waterfront Committee.
- M. Speidel noted NH just received funds for roads, bridges, and water infrastructure. He asked what share Dover can expect. D. Benton wasn't sure of the amount, but noted Dover has several projects ready and can apply for funding for multiple projects that should be good choices for those funds.

7. ADJOURNMENT

Motion: D. White moved to adjourn at 9:28p.m. Seconded by F. Torr. Vote: U/A