



CITY OF DOVER

DOVER PLANNING BOARD – MINUTES

Meeting Type: Regular Meeting
Meeting Location: City Council Chamber's 288 Central Avenue
Meeting Date: **Tuesday, December 13, 2022**
Meeting Time: **7:00 pm**

Members Present: Gina Cruikshank (Chair), Tom Clark, Frank Torr, Kyle Pimental, Fergus Cullen (Councilor), Erinn Kaspari, George DeBoer (Alternate) and Jon Elliard (Alternate)

Members Not Present (excused): Mark Speidel, Ken Mavrogeorge, Hayley Harmon (Vice Chair),

Members Not Present (un-excused):

Staff Present: Donna Benton, Director of Planning and Development

G. Cruikshank called the meeting to order at 7p.m. and announced that K. Pimental would sit as Vice Chair for H. Harmon, J. Elliard would sit for K. Pimental and G. DeBoer for K. Mavrogeorge.

1. CITIZENS' FORUM

Citizens Forum Open

No one spoke

Citizens Forum Closed

2. APPROVAL OF THE PRIOR MINUTES

- November 8, 2022 Regular Meeting Minutes
- November 15, 2022 Special Meeting Minutes

Motion: F. Cullen moved to amend the November 15th amendments to note G. DeBoer in attendance and to revise the page numbers and then approve November 8 & 15 Meeting Minutes. Seconded by: G. DeBoer.

Vote: U/A

3. OLD BUSINESS

None

4. NEW BUSINESS

The Vice Chair stated items 4A-4C would be heard together.

- A. Consideration and acceptance of a Lot Line Adjustment for JSR, LLC (Owner: JSR, LLC), Assessor's Map D, Lots 11-5 & 11-5-SND, zoned IT, located at Quality Way and Venture Drive. *(P22-57/LOTA-2022-0002)
- B. Consideration and acceptance of a Conditional Use Permit for JSR, LLC (Owner: JSR, LLC), Assessor's Map D, Lots 11-5 & 11-5-SND, zoned IT, located at Quality Way and Venture Drive. (Proposal is to impact 7,935 sq. ft. within the wetland buffer to gain access to the site and develop a stormwater treatment cell). *(P22-56/COND-2022-0005)
- C. Consideration and acceptance of a Site Review for JSR, LLC (Owner: JSR, LLC), Assessor's Map D, Lots 11-5 & 11-5-SND, zoned IT, located at Quality Way and Venture Drive. (Proposal is to construct a 10,080 sq. ft., Commercial Building for Contractor Bays/Office Space). *(P22-55/SITE-2022-0011)

D. Benton introduced the project which required a lot line adjustment, environmental conditional use permit, and site review for a 10,080 s.f. commercial building with contractor bays and office space. The lot line adjustment adjusts the conservation easement in place which is why staff is proposing some of the conditions of approval for the Conservation Commission and Director of Charitable Trusts at the State Attorney General's office approve. Last night the Conservation Commission endorsed the change. This project went to TRC on August 11 and October 27th and Conservation Commission endorsed the CUP at their September 12 meeting.



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Christopher Berry, Berry Surveying and Engineering, represented the applications and explained the proposed development and the need for the lot line revision and waiver.

Board members asked a few clarifying questions which were answered by Mr. Berry.

Motion: F. Torr moved to accept all applications and declared no regional impact. Seconded by T. Clark.
Vote: U/A.

Public hearing opened.

Christopher Parker, Deputy City Manager and representative of the Office of Business Development encouraged the board to approve the project as presented.

John Donais, 16 Durham Rd expressed some concerns about disturbing the wetlands.

Public hearing closed.

Mr. Berry addressed public comment noting the wetlands definition was changed to be in line with the state and Army Corp of engineer's definition. He clarified there are no direct wetland impacts proposed for this project. They are proposing wetland buffer impacts.

STAFF RECOMMENDATION - Minor Subdivision:

The plan is consistent with §157-17 of the City of Dover's Land Subdivision Regulations, which provides for the adjustment of existing lot lines between two or more lots.

The Planning Department recommends that the Planning Board vote to approve the lot line adjustment with the following subsequent conditions:

Subsequent Conditions to Be Met Prior to Signing of Plans:

1. Provide physical and digital copies (including CAD) of complete plan set for recording at Strafford County Registry of Deeds which additionally shall include:
 - a. Planning File Number P22-57
 - b. The owner's signatures
 - c. The LLS stamp and signature
 - d. Add proposed conservation easement area
 - e. Add rights-of-way widths
 - f. Developer must seek and receive written approvals of the Conservation Commission, City Council, and the NH Charitable Trust Director concerning amendment of conservation easement area.
 - g. Add note to plan that prior to any deed proof of Conservation Commission approval, City Council approval, and NH Charitable Trust Director approval is to be provided to the Planning Department.
 - h. City Council and Southeast Land Trust (SELT) acknowledge in writing proposed change to sending areas and conservation easement.

Motion: F. Torr found the proposal is consistent with Land Use regulations 157-17 of Land Use Subdivision code and moved to grant final approval of the lot line adjustment subject to the subsequent conditions set by the Planning Department. Seconded by T. Clark. Vote: U/A



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STAFF RECOMMENDATION-CUP:

The Wetlands Protection District ordinance §170.27.1.F. 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.

Planning Staff feels that the applicant considered the criteria of practical alternative, avoidance, minimization, and mitigation and propose to create minimal wetland buffer disturbance on the site. The use of alternative materials to plastics, the inclusion of silt sock and retaining walls, and treatment of an area not currently treated were all findings of the Conservation Commission endorsement.

The Planning Department recommends that the Planning Board make the necessary and supporting findings of fact, and vote to grant final approval of the Conditional Use Permit with the following subsequent condition, as the plans meet the standards outlined.

Subsequent Condition to Be Met Prior to Issuance of CUP:

1. Approval of Site Plan (P22-55) and LLA (P22-57).

Motion: F. Torr found the proposal meets the criteria of Wetlands ordinance 170.27.1.F and moved to grant final approval of the Conditional Use Permit subject to the subsequent conditions set by the Planning Department. Seconded by T. Clark. Vote: U/A

STAFF RECOMMENDATION-Waivers:

Section 153-21 of the Site Plan Review Regulations states the "Planning Board may waive specific provisions of these regulations. The Planning Board may only grant a waiver if the Planning Board finds, by majority vote, that:

- (1) Strict conformity would pose an unnecessary hardship to the applicant and the waiver would not be contrary to the spirit and intent of the regulations; or
- (2) Specific circumstances relative to the subdivision, or conditions of the land in such site plan, indicate that the waiver will properly carry out the spirit and intent of the regulations."

Roadways used to be its own Chapter but are now part of Chapter 157 so a waiver is being requested from Chapter 157 for this Site Plan.

Chapter 170-27.2.F.(4) allows the Planning Board to waive setbacks for parking, paved areas, and buildings to promote intensive development of suitable sites. The Planning Board would acknowledge that relief with their vote on the waiver requests.

Staff feels the 3% slope within 75' is reasonable in this case with very little traffic on the site and the use being more industrial in nature.

Staff is also comfortable with the setback relief due to avoiding the wetlands and using the suitable area on the site.

Therefore, the Planning Department recommends the Planning Board make findings and vote to grant final approval of the waivers after making findings with the following subsequent condition:

Subsequent Condition to be Met Prior to the Signing of the Plans:

1. Add a note that the Planning Board approved waivers from Section 157-32.G and the front and side setbacks per 170-27.2F(4) and found that the criteria of Chapter 153-21.A. have been met.



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Motion: F. Torr found the proposal is consistent with 153-21 of the Site Plan Review Regulations and moved to grant final approval of the waivers from Section 157-32.G and the front and side setbacks per 170-27.2F(4) subject to the subsequent conditions set by the Planning Department. Seconded by T. Clark. Vote: U/A

STAFF RECOMMENDATION-Site Plan:

Chapter 153-4 of the Site Review Regulations of the City Code provides for site review by the Planning Board of new construction of various types. With the Conditional Use Permit and waivers, this plan is consistent with the requirements laid out in 153- 14 for a site plan in the IT district, and complies with the zoning.

The Planning Department recommends the Planning Board vote to grant final approval of the Site Plan with the following subsequent conditions, as the plans meet the standards outlined:

Subsequent Conditions to Be Met Prior to the Signing of Plans:

1. The Lot Line Adjustment (P22-57) including approvals for amending conservation areas and Conditional Use Permit (P22-56) are granted.
2. Provide physical and digital copies (including CAD) of complete plan set which additionally shall include:
 - 4.1 The stamp and signature of the PE, LLA, CWS, Architect, and LLS on the final plans
 - 4.2 Owner's signature
 - 4.3 Add permit numbers when obtained.
 - 4.4 Add notch along snow storage area and amend storm water operation and maintenance plan.

Subsequent Conditions to Be Met Prior to any Construction:

- 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.

Subsequent Conditions to Be Met Prior to Issuance of a Building Permit:

- 6 Water and sewer investment fees shall be paid at the time of request of service.

Subsequent Conditions to Be Met Prior to Occupancy:

- 7 Issuance of a certificate of occupancy.
- 8 Impact fees shall be paid per the invoice included with the Notice of Decision or Enegov Portal.
- 9 The applicant shall provide a letter of credit or other form of security acceptable to the City for any unfinished work.

Motion: F. Torr found the proposal is consistent with Chapter 153-4 of the Site Review Regulations and moved to grant final approval of the site plan review subject to conditions set forth by the Planning Department. Seconded by T. Clark. Vote: U/A

~~C. Consideration and acceptance of a Minor Subdivision for Canney Brook Engineering and Consulting, CBF2 LLC., (Owners: Canney Brook Engineering and Consulting, CBF2 LLC. and Helen F. Preston Revocable Trust of 2009), Assessor's Map K, Lot 6, zoned R-40, located at 105 Middle Road and Back Road. (2 new lots) *(P22-09)~~

THIS ITEM HAS BEEN WITHDRAWN



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The Vice Chair noted Items 4D through G would be heard together.

- D. Consideration and acceptance of a Minor Subdivision for Summit Land Development, (Owner: 7 West, LLC), Assessor's Map H, Lot 11, zoned Gateway, located at Durham Road. (Proposal is to subdivide the current lot into two lots.) *(P22-75)
- E. Consideration and acceptance of a Conditional Use Permit for Summit Land Development, (Owner: 7 West, LLC), Assessor's Map H, Lot 11, zoned Gateway, located at Durham Road. (Proposal is to construct a three story 42,480 s.f medical office building creating 950 s.f. of wetland buffer impact associated with two drainage pipe outfalls.) *(P22-38)
- F. Consideration and acceptance of a Conditional Use Permit for Summit Land Development, (Owner: 7 West, LLC), Assessor's Map H, Lot 11, zone Gateway, located at Durham Road. (Proposal is to construct a medical office building 146± ft. from the front property line where a build-to-line of 5' to 20' is required, and a frontage build-out of 38% where 60% is required) *(P22-76)
- G. Consideration and acceptance of a Site Review for Summit Land Development, (Owner 7 West, LLC), Assessor's Map H, Lot 11 zoned Gateway, located at Durham Road, 250' north of Daley Drive. (Proposal is to construct a 14,160 s.f. 3 story medical office building with associated parking and access.) *(P22-39)

D. Benton explained that the applicant is looking to build a 14,160 s.f. footprint medical office building on a vacant lot near Exit 7 of the Spaulding and Durham Road. In order to do so, a minor subdivision is before the Board for review tonight to subdivide one lot into two, a conditional use permit to allow 950 sf. of wetland buffer impact associated with two drainage pipe outfalls which was endorsed by the Conservation Commission at their November 14th meeting. Then a dimensional CUP to allow a built to line of approximately 146 feet and a frontage build out of 38%. Then the site plan itself with the medical office building and parking and access. The City is also working with the applicant and the schools about building a connector road along the side and rear of the site to help spread the trip distribution of some of the school traffic. A traffic study was done for this proposal and indicated there wouldn't be a significant amount of traffic to warrant improvements. Each lot is allowed a driveway which is shown here but would be changed if a connector road is added in the future. That agreement would be reviewed by the City Council and School Board when the time comes.

Cory Belden, Altus Engineering represented the applications and explained the proposal for development.

Motion: T. Clark moved to accept and declared no regional impact for all applications. Seconded by J. Elliard. Vote: U/A.

Public hearing opened.

John Donais, 16 Durham Rd noted concern for the significant water source located behind the proposed development. Concerns include pollution, interference with the ecosystem, traffic and possible property value decrease to his property.

Christopher Parker, Deputy City Manager representing the Office of Business Development encouraged the Board to approve the applications as presented. He addressed a potential connector road and noted there is a congestion mitigation project in the CIP, and they want to utilize some funding for that to work with the applicant to create a bi-pass option to get traffic to the schools and off the main roads.



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Public hearing closed.

Mr. Belden noted the change in lot size is due to the high-water line of the river receding.

STAFF RECOMMENDATION - Minor Subdivision:

The plan is consistent with §157-15 of the City of Dover's Land Subdivision Regulations, which provides for subdivision of existing lots.

The Planning Department recommends that the Planning Board make the necessary and supporting findings of fact, and vote to grant final approval of the minor subdivision with the following subsequent conditions:

Subsequent Conditions to Be Met Prior to Signing of Plans:

1. Provide physical and digital copies (including CAD) of complete plan set for recording at Strafford Country Registry of Deeds, which additionally shall include:
 - 1.1. The owners' signatures;
 - 1.2. Planning File #P22-75;
 - 1.3. The stamp and signature of the CWS and LLS on the final plans

Motion: T. Clark moved to grant final approval of the Minor Subdivision subject to all regulations and the subsequent conditions set by the Planning Department. Seconded by E. Kaspari. Vote: U/A

STAFF RECOMMENDATION-ENVIRONMENTAL CUP:

The Wetlands Protection District ordinance §170.27.1.F. 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.

Planning Staff feels that the applicant considered the criteria of practical alternative, avoidance, minimization, and mitigation and propose to create minimal wetland buffer disturbance on the site. The applicant provided a memo dated November 7th, 2022 that explains the proposed project was located to minimize impacts aside from the two drainage pipes and there are no direct wetland impacts, impacts were avoided except for in the buffer for the outfall which are needed due to the grading, they were minimized to 950 s.f, mitigation isn't needed for the buffer, and the Conservation Commission endorsed the CUP request.

The Planning Department recommends that the Planning Board make the necessary and supporting findings of fact, and vote to grant final approval of the Conditional Use Permit with the following subsequent conditions, as the plans meet the standards outlined.

Subsequent Condition to Be Met Prior to Issuance of CUP:

1. Approval of Site Plan (P22-39) and Subdivision (P22-75) and CUP (P22-76).

Motion: T. Clark found the proposal meets the wetland buffer impact and moved to grant final approval of the Conditional Use Permit subject to the subsequent conditions set by the Planning Department. Seconded by E. Kaspari. Vote: U/A



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STAFF RECOMMENDATION- DIMENSIONAL CUP:

Chapter 170-20.B(1) Zoning Ordinance allows for Conditional use approval for relief from the standards herein may be granted by the PLANNING BOARD (RSA 674:21 II) after proper public notice and public hearing provided that the proposed project complies with the nine standards.

This plan is consistent with the criteria as described in the applicant's narrative and presentation tonight.

Planning staff finds that all Conditional Use Permit requests are reasonable requests. They are caused by circumstances that are unavoidable and seek the least relief necessary as outlined below:

The **build-to-line** relief on the northern boundary is needed due the topography challenges of this lot.

The **minimum frontage buildout** is not being met due to the environmental constraints on the property.

The Planning Department recommends that the Planning Board make the necessary and supporting findings of fact, and vote to grant final approval of the Conditional Use Permit with the following subsequent conditions, as the plans meet the standards outlined.

Subsequent Conditions to Be Met Prior to the Issuance of the CUP:

1. A Standard Development Agreement be signed and recorded at the Strafford County Registry of Deeds.
2. Approval of Site Plan (P22-39) and Subdivision (P22-75) and CUP (P22-38).

G. DeBoer noted concerns about the traffic at that intersection and the road that is proposed. Back River Rd, Durham Rd and Central is a concern. He would like more input on how that will be mediated. He has some questions about the proposed road into the school lot. It seems there will be more designing needed to work on that plan.

D. Benton responded that there is a peer review/ traffic engineer looking at that intersection and the connector road. That is still in progress and not part of tonight's applications. Plans for the road will come back to the Planning Board for review when ready.

Chad Kageleiry, owner, shed some light on the traffic concerns noting the proposed medical building will have employees coming to work around 8am, patients will come in throughout the day and employees will leave around 5pm. They are trying to work with staff to mitigate the traffic issues in the area around school time, but this proposal shouldn't have much affect on that circumstance.

Motion: T. Clark found the proposed CUP meets regulations and moved to grant final approval of the Conditional Use Permit subject to the subsequent conditions set by the Planning Department. Seconded by E. Kaspari. Vote: U/A

STAFF RECOMMENDATION-Site Plan:

Chapter 153-4 of the Site Review Regulations of the City Code provides for site review by the Planning Board of new construction of various types. With the Conditional Use Permits, this plan is consistent with the requirements laid out in 153- 14 for a site plan in the Gateway district, and complies with the zoning.

The Planning Department recommends the Planning make findings, and vote to grant final approval of the Site Plan with the following subsequent conditions, as the plans meet the standards outlined:



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1. The Minor Subdivision (P22-75), Conditional Use Permits (P22-76 and P22-56) are granted.
2. Standard Development Agreement between Planning Board and applicant or property owner be reviewed by the City Attorney for legal review, Planning Director for content review and include general CUP language and recorded at SCRD.
3. Provide physical and digital copies (including CAD) of complete plan set which additionally shall include:
The stamp and signature of the PE, LLA, CWS, Architect, and LLS on the final plans
 - 3.1. Owner's signature
 - 3.2. Revise Planning File number P22-39 for Site Plan
 - 3.3. Remove Planning Board stamp block.
 - 3.4. A note added to the plan that if connector road or another phase is proposed, full Technical Review and Planning Board review may be required.
 - 3.5. Add note to plan that if connector road is added, current proposed driveway would be changed to right-in, right-out only with additional curbing to limit left-turn in on the westerly driveway.
 - 3.6. Revise all references of "Handicap" to "Accessible"
 - 3.7. Add permit numbers when obtained.

Subsequent Conditions to Be Met Prior to any Construction:

4. A site construction sign with the contact information for the general contractor must be located and approved by the City Engineer or Planning Director. Site Construction sign shall indicate level of visibility/noise/vibration disturbance anticipated each day.
5. A pre-blast meeting shall occur prior to any blasting per Chapter 153-10F.

Subsequent Conditions to Be Met Prior to Issuance of a Building Permit:

6. Property owner or applicant has to present for conveyance the right-of-way from Durham Road to lot H/11-1 to City Council for acceptance.
7. Water and sewer investment fees shall be paid at the time of request of service.

Subsequent Conditions to Be Met Prior to Occupancy:

8. If Development agreement is entered into between the property owner and City/City Council, then any conditions and duties of the Developer contained in Development Agreement be completed and satisfied. If there is no Development agreement entered into between the property owner and City/Council, then this condition shall be of no effect.
9. Issuance of a certificate of occupancy.
10. Impact fees shall be paid per the invoice included with the Notice of Decision or online portal.
11. The applicant shall provide a letter of credit or other form of security acceptable to the City for any unfinished work.

K. Pimental commended the applicant on their landscape plan.

Motion: T. Clark, with confidence in the Planning staff and the developer to figure out a long-term solution to the traffic issue, found the site plan meets regulations and moved to grant final approval of the Site Plan subject to the subsequent conditions set by the Planning Department. Seconded by F. Cullen.

Vote: U/A



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5. STAFF COMMENTS

- General question: if the Board did not specify what party a development agreement is with, do they have a preference on applicant vs. property owner.
 - The board discussed and determined they prefer it to be the property owner
- Land Use Board Meet and Greet January 10th at 5:30pm in McConnell Center cafeteria.
- Start thinking about any amendments as we will have elections and goal setting on January 10th as well. Meeting is at the McConnell Center
- Passed out flyers. Vision Chapter Public Forum on February 9 at 6pm on Zoom register online. Check out the Vision Chapter webpage.
- TRCs since last meeting:
 - Site Review for VC Dover Investment, LLC Assessor's Map H, Lot 4-3, zoned Commercial, located at 30 Grapevine Drive. (Proposal is for a 4-story mixed-use building, consisting of forty-nine (49) apartment units, 4,030 sf fitness area, and a 1,320 sf coffee shop). A Conditional Use Permit for RCM Overlay District will also appear before the Planning Board. (P22-72/SITE-2022-0017)
 - Site Review for Charter Foods North, LLC, (Owner: VC Dover Investments, LLC) Assessor's Map H, Lot 4-3, zoned Commercial, located at 30 Grapevine Drive. (Proposal is for a 2,500 sf Fast-food Restaurant). A Conditional Use Permit for RCM Overlay District will also appear before the Planning Board. (P22-74/SITE-2022-0018)
 - Amendment to Site Review for Q, LLC, Assessor's Map D, Lot 11-4, zoned IT, located 110 Venture Drive. (Proposal is to add a mobile self-contained firing range on the existing site.) (P21-77A/WAIV-2022-0004)
 - Consideration and acceptance of an Amendment to Site Review for Q, LLC (Owner Quality Way, LLC), Assessor's Map D, Lot 11-4, zoned IT, located at 110 Venture Drive. (Proposal To review a 345 s.f. detached building (Phase I) to expand the applicants product testing capabilities. The proposal also includes the previously approved building addition and parking expansion (Phase II) *(P21-77A/WAIV-2022-0004)
- TRCs coming up:
 - Amendment to Site Review for The Station Apartments, LLC, Assessor's Map 31, Lot 4-1, zoned CBD-TOD, located at Jewett Circle (2 Grove Street). (Proposal is to amend approved plan to remove retaining wall.) (P20-56A)
 - Second TRC for VC Dover at 30 Grapevine
 - Outdoor dining discussion
- Wished them all Happy Holidays

6. MEMBER COMMENTS

- Chair Cruikshank read Lot Merger form for lot 28/13 and Lot 28/14
- Chair Cruikshank read lot merger form for 28/15-1 and 28/15
- Signed Development Agreements for: CPI Management LLC, Storage Barn, 36-38 New Rochester, and 757 Central
- Signed Plans for: Gulf Road Lot Line Adjustment and Bay View Road lot line adjustment

7. ADJOURNMENT

Motion: K. Pimental moved to adjourn at 8:13pm. Seconded by E. Kaspari. Vote: U/A