

CITY OF DOVER

DOVER PLANNING BOARD – MINUTES

Meeting Type: Regular Meeting
Meeting Location: Council Chambers, City Hall, 288 Central Ave, Dover, NH.
Meeting Date: **Tuesday, January 23, 2024**
Meeting Time: **7:00 pm**

Members Present: Mark Speidel (Vice Chair), Fergus Cullen (Councilor), Tom Clark, Ken Mavrogeorge, Melina Gambino (Alternate), Jeff Sanborn (Alternate) and George DeBoer (Alternate)
Members Not Present (excused): Gina Cruikshank (Chair), Erinn Kaspari, Jon Elliard, Kyle Pimental
Members Not Present (un-excused): None
Staff Present: Donna Benton, Director of Planning and Community Development

M. Speidel called the meeting to order at 7p.m, and noted G. DeBoer would be Vice Chair, M. Gambino will sit for E. Kaspari, J. Sanborn will sit for K. Pimental, and explained the citizens' forum process.

1. CITIZENS' FORUM

Citizens Forum Open

No one spoke

Citizens Forum Closed

2. APPROVAL OF THE PRIOR MINUTES

- January 9, 2024 Regular Meeting Minutes

Motion T. Clark moved to approve the regular meeting minutes of January 9, 2024 as submitted.

Seconded by: F. Cullen. Vote: U/A

3. OLD BUSINESS

A. Discussion of Impact Fees.*

Motion T. Clark moved to table the item to the next meeting. Seconded by: F. Cullen. Vote: U/A

4. NEW BUSINESS

A. Consideration and acceptance of an Extension Request for a conditionally approved Site Plan for VC Dover Investment, LLC, Assessor's Map H, Lot 4-3-2, zoned C and RCM Overlay, located at 30 Grapevine Drive. (Proposal is for the Planning Board to extend the period of time for conditions to be met prior to plan signing). *(WAIV-2023-0013)

D. Benton explained that the applicant is seeking an extension to the time allowed to meet the conditions of approval because they are still working with NHDOT about their driveway permit.

James Robinson, TF Moran represented the application.

Motion: T. Clark moved to accept the application and declared no regional impact. Seconded by: K. Mavrogeorge. Vote: U/A

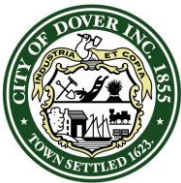
Public hearing opened

No one spoke

Public hearing closed.

STAFF RECOMMENDATION:

Chapter 153-8.A of the Site Review Regulations of the City Code provides for the Planning Board to extend the time period to address conditions of approval after the Planning Director grants one 90-



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day extension. Since some of the conditions of approval require approval from state entities which takes significant time which is beyond the control of the applicant, therefore staff recommends the Board grant the extension to July 31, 2024.

The Planning Department recommends the Planning Board vote to grant the Extension Request for the Site Plan (SITE-2022-0017) with the same conditions of approval as outlined in the original Notice of Decision.

Motion: T. Clark moved to grant the extension request to July 31, 2024 with staff's recommended conditions. Seconded by: M. Gambino. Vote: U/A

B. Consideration and acceptance of a Transfer of Development Rights for Altus Engineering (Owners: Paul Seaver), Assessor's Map H, Lot 6-4, zoned R-20, located at 105 Durham Road. (Proposal is purchase 9 HUD restricted units). *(TRAN-2023-0006)

D. Benton explained that the applicant is proposing to renovate an existing building and add additional space to accommodate a total of nine (9) units at 105 Durham Road utilizing the Transfer of Development Rights Ordinance by requesting to purchase six units. The TDR ordinance provides an opportunity to come to the Planning Board for TDR review prior to doing a full engineered plan for Technical Review. The applicant is requesting TDR review and conditional approval and then would need to go through Technical Review Committee process and come back before the Planning Board. The applicant was before the Zoning Board last Thursday and received unanimous approval of a Variance for the multi-family use but density would be through TDR.

For this type of request, the calculation is used to create a density base rather than using the underlying zoning. The calculation yielded 3 units thus the applicant is requesting to purchase six units. At this time, the request is for the units to be restricted to HUD Fair Market rental rates which has a \$0 TDR fee. The lot would be serviced by public water and sewer.

If the Planning Board votes to conditionally grant the TDR approval, the Planning Board has the right to lower the maximum after seeing fully engineered plans during the site review process.

Cory Belden, Altus Engineering and Laurie McIntosh, Our Place LLC Board Chair represented the application. C. Beldon explained the location and the proposal and reviewed how the project meets the criteria. The applicant has no issue with the proposed conditions.

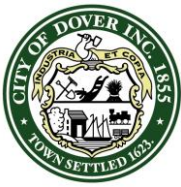
Board members asked some clarifying questions.

Motion: F. Cullen moved to accept the application and declared no regional impact. Seconded by: G. DeBoer. Vote: U/A

Public hearing opened

No one spoke

Public hearing closed.



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Acting Chair Speidel made some personal comments regarding this matter and noted his support.

STAFF RECOMMENDATION:

§170-27.2 provides for additional density to be purchased through Transfer of Development Rights. This application meets the ordinance.

Section 170.27.2.G(8) states:

“Regardless of the method utilized, any other provision in this Chapter to the contrary, the density or intensity of development of a receiving parcel may be increased by the TRANSFER OF DEVELOPMENT RIGHTS so long as the increase in density or intensity meets the following criteria and a narrative is submitted indicating how those criteria are met:

- (a) Is consistent with the Master Plan
- (b) Is compatible with the land uses on neighboring LOTs (eg a multifamily building fits in with in a single family neighborhood). The applicant shall provide in their narrative an explanation of their neighborhood analysis.
- (c) Is created on property served by public water and sanitary sewer.
- (d) Any relief sought should not be caused by the additional density.”

The Planning Department recommends that the Planning Board make the necessary and supporting findings of fact, and vote to find the criteria of the TDR ordinance has been met with the following subsequent conditions:

Subsequent Conditions to Be Met Prior to Granting of the TDR:

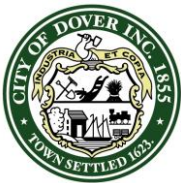
1. Approval of future Site Plan.
2. Add TDR calculation and any restrictions in a note on the plan.
3. Add note to the plan that no additional dwelling units may added to the property without Planning Board approval and note number of TDR units approved; and
4. Payment of TDR fees for each TDR unit approved.

Motion: F. Cullen moved to grant the Transfer of Development Rights request with subsequent conditions set by staff as it meets criteria. Seconded by: M. Gambino. Vote: U/A.

C. Consideration and acceptance of Transfer of Development Rights for Brian Slovenski, Assessor’s Map L, Lot 111, zoned R-20, located at 306 Dover Point Road. (Proposal is to purchase five (5) additional living units, within three (3) buildings). *(TRAN-2023-0005)

D. Benton explained that the applicant is proposing to construct five units at 306 Dover Point Road utilizing the Transfer of Development Rights Ordinance by requesting to purchase four units. The TDR ordinance provides an opportunity to come to the Planning Board for TDR review prior to doing a full engineered plan for Technical Review. The applicant is requesting TDR review and conditional approval and then would need to go through Technical Review Committee process and come back before the Planning Board.

For this type of request, the calculation is used to create a density base rather than underlying zoning. About half of this lot is also in the Riverfront Overlay, which requires a minimum of three



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times the minimum lot size (in this case requiring 60,000 s.f) which the lot complies with. The calculation yielded 1 unit thus the applicant is requesting to purchase four units. At this time, the request is for unrestricted units to be purchased. The units would be broken up in to two two-family dwellings, and a single-family dwelling. The lot would be serviced by public water and sewer and has frontage on the Piscataqua River.

If the Planning Board votes to conditionally grant the TDR approval, the Planning Board has the right to lower the maximum after seeing fully engineered plans during the site review process.

Josh Lanzetta, Bruton and Berube represented the application. He highlighted the location and the proposal. He noted they meet the four criteria of the ordinance. There are numerous multi-family units within the immediate vicinity.

T. Clark asked some clarifying questions of the applicant.

Motion: F. Cullen moved to accept the application and declared no regional impact. Seconded by: M. Gambino. Vote: U/A

Public hearing opened

Virginia Kuziomko-Frost on behalf of the owner Henry Kuziomko 308-310 Dover Point read a letter from him into the record expressing his opposition to the proposal with concerns about density, loss of residential atmosphere of the area, traffic and speeding/safety, devaluation of abutting properties, wildlife displacement, natural environment and ecosystem disturbance and loss of enjoyment of his property.

She further noted the examples of multi-families in the area are not accurate- those are in a condo development and not an abutter. She clarified the 308-310 property has three structures which have always been there. She noted some differences in the plans on the screen from what is proposed.

Chris Wyskiel, attorney with Wyskiel, Boc, Tillinghast & Bolduc, P.A. represents abutters at 306A Dover Point Rd. He submitted two letters in advance and expressed concerns about safety, density, and character of the neighborhood. They are opposed to the proposal. It is a requirement the applicant demonstrate the proposal is not incompatible with the neighborhood. Multi-families in a single-family neighborhood are not compatible. The applicant does not explain why they believe they meet the criteria.

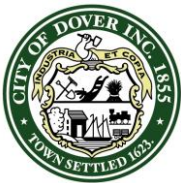
He drove the street and noted the units in the area that are multi-family are not visible that way- they appear to be single-family units from the street.

He expressed concerns about purchasing the density requested.

Public hearing closed.

J. Lanzetta addressed public comment.

- GIS map view of 310 Dover Point Rd shows 3 units on that lot
- Traffic will be addressed at the next phase of approvals
- Applicants have been working with the Gagnons regarding access and right of way



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- Density calculations

Board members asked some clarifying questions of the applicant and staff.

STAFF RECOMMENDATION - TDR:

§170-27.2 provides for additional density to be purchased through Transfer of Development Rights. This application meets the ordinance.

Section 170.27.2.G(8) states:

“Regardless of the method utilized, any other provision in this Chapter to the contrary, the density or intensity of development of a receiving parcel may be increased by the TRANSFER OF DEVELOPMENT RIGHTS so long as the increase in density or intensity meets the following criteria and a narrative is submitted indicating how those criteria are met:

- (a) Is consistent with the Master Plan
- (b) Is compatible with the land uses on neighboring LOTs (eg a multifamily building fits in with in a single family neighborhood). The applicant shall provide in their narrative an explanation of their neighborhood analysis.
- (c) Is created on property served by public water and sanitary sewer.
- (d) Any relief sought should not be caused by the additional density.”

The Planning Department recommends that the Planning Board make the necessary and supporting findings of fact, and vote to find the criteria of the TDR ordinance have been met with the following subsequent conditions:

Subsequent Conditions to Be Met Prior to Granting of the TDR:

1. Approval of future Site Plan.
2. Add TDR calculation and any restrictions in a note on the plan.
3. Add note to the plan that no additional dwelling units may added to the property without Planning Board approval and note number of TDR units approved; and
4. Payment of TDR fees for each TDR unit approved.

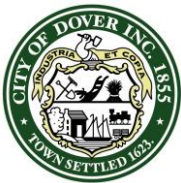
T. Clark has an issue with the zoning criteria that the applicant demonstrated the proposal is not incompatible with the neighborhood. He does not believe they met that criteria.

Motion: F. Cullen moved to grant the Transfer of Development Rights request with subsequent conditions set by staff as it meets criteria. Seconded by: G. DeBoer.

Vote: 5-2 with T. Clark and M. Speidel opposed.

D. Consideration and acceptance of Site Review for TF Moran (Owners 256-264 Central Avenue, LLC), Assessor's Map 9, Lots 111 & 112, zoned CBD-G located at 256 & 264 Central Avenue. (Proposal is to replace gravel parking with 10,595 s.f. of paved parking related to their renovation of the buildings). *(SITE-2023-0013)

D. Benton explained that the applicant is proposing to create a parking lot behind 256-264 Central Ave off of Kirkland Street for a private parking lot in relation to the renovation of the buildings at



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256-264 Central Ave. The renovations do not cross the threshold of needing site plan review but the parking area is large enough to require TRC and Planning Board review.

This application was most recently before the Technical Review Committee on September 21, 2023 and November 30, 2023 (minutes attached).

Being a project in the Central Business District-General Sub-District, streetscape requirements such as waste bins, benches, and street trees are required and provided except for the street trees. The applicant is proposing other landscaping instead of a street tree due to sight distance concerns brought up at TRC and is requesting a waiver as described below.

The applicant is requesting a waiver to the street trees due to sight distance concerns.

Jason Cook, TF Moran, represented the application noting there are two lots and noted the intention will be to merge the lots. He explained the proposal to replace the gravel lot with a paved parking lot. There are plans to add residential units on the third and fourth floor of one of the buildings. The parking lot will be utilized by residents and employees of the commercial units. Proposed site improvements include landscaping and drainage. He explained the reason for the waiver request. The proposal includes future EV spaces in the lot.

Board members asked some clarifying questions related to parking lot size and timing of the project. Derek Fisher, 256, 264 Central Ave answered some questions.

K. Mavrogeorge commended the applicant for presenting the proposal to staff early in the process to discuss the plan and work with staff, committees and procedures in place.

Motion: G. DeBoer moved to accept the application and declared no regional impact. Seconded by: J. Sanborn. Vote: U/A

Public hearing opened

No one spoke

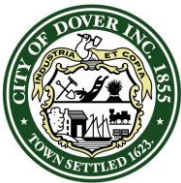
Public hearing closed.

STAFF RECOMMENDATION - Waivers/Relief:

Section 153-21 of the Site Plan Review Regulations state 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.”

Planning Staff believes the applicant’s rationale for the waiver and additional landscaping meets criterion #2.



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The Planning Department recommends that the Planning Board make the necessary and supporting findings of fact, and vote to grant the waiver 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 waiver for street trees every 35' §153-14-G.(1)(f) and found that the criteria of Chapter 153-21.A have been met.

Motion: T. Clark moved to grant the waiver request with subsequent conditions set by staff as it meets criteria. Seconded by: J. Sanborn. Vote: U/A.

STAFF RECOMMENDATION – Site Plan:

The Planning Department recommends that the Planning Board make the necessary and supporting findings of fact, and vote to approve the Site Plan with the following subsequent conditions:

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

1. Planning Board acknowledge merger and applicant records at SCRD.
2. Provide letter to serve from Eversource.
3. Revise plan and resubmit for Final Planning Board signature with the following revisions:
 - 3.1. Add owner's signature;
 - 3.2. Add professional stamps and signatures
 - 3.3. Label bench and waste bins on plan view
 - 3.4. Add detail of bench and waste bins that meet City standard.
 - 3.5. Add lighting detail that meets City standard.
 - 3.6. Revise tree caliper to a minimum of 3"
 - 3.7. Add public parking meter for Kirkland with coordination with Parking Manager.
 - 3.8. Revise parking calculation to account for employees only rather than area.
 - 3.9. Revise file number to read "SITE-2023-0013"

Subsequent Condition to Be Met Prior to Construction:

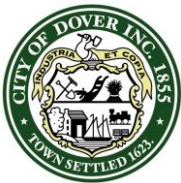
4. A site construction sign with the contact information for the general contractor must be displayed in a location approved by the City Engineer or Planning Director; and

Subsequent Conditions to Be Met Prior to Completion:

5. Issuance of Certificate of Completion.
6. Payment of Impact Fees as noted in the invoice, unless impact fees change prior to Planning Board signature
7. Surety or other form of security acceptable to the City is provide for any unfinished work.

Motion: T. Clark moved to grant the site plan with subsequent conditions set by staff as it meets criteria. Seconded by: M. Gambino. Vote: U/A.

The Vice Chair announced Items 4E and F would be heard together.



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- E. Consideration and acceptance of a Conditional Use Permit for Gove Environmental Services, Inc., (Owners: David R. Lemieux), Assessor's Map 8, Lot 19, zoned R-20, located at 14 Leighton Road. (Proposal is for a residential redevelopment of the property with 2,887 s.f. of temporary impact and 8,362 s.f. of permanent impact to the Conservation District). *(COND-2023-0060)
- F. Consideration and acceptance of a Conditional Use Permit for Gove Environmental Services, Inc., (Owners: David R. Lemieux), Assessor's Map 8, Lot 19, zoned R-20, located at 14 Leighton Road. (Proposal construct a new single-family house and cottage further inland creating 1,908 s.f. of temporary impact and 2,067 s.f. of permanent impact to the 50-foot wetlands buffer). *(COND-2023-0061)

Acting Chair explained the applicant has requested a continuance to February 26, 2024.

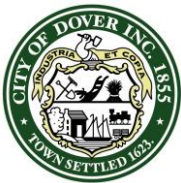
Motion: F. Cullen moved to continue to February 26, 2024 Regular Planning Board meeting.
Seconded by: G. DeBoer. Vote: U/A.

The Vice Chair noted Items 4G, H, and I will be heard together and Acting Chair M. Speidel recused himself from the items.

- G. Consideration and acceptance of a Conditional Use Permit for Robert Baldwin, Assessor's Map 39, Lot 103, zoned Gateway, located at 34 New Rochester Road. (Proposal is to allow the site to have a frontage build-out of 47.4%, where 60% is required). *(COND-2024-0002)
- H. Consideration and acceptance of a Conditional Use Permit for Robert Baldwin, Assessor's Map 39, Lot 103, zoned Gateway, located at 34 New Rochester Road. (Proposal is to allow the current single-family residence to remain while not meeting the front build-to line of 5-20'). *(COND-2024-0003)
- I. Consideration and acceptance of a Site Review for Knox Marsh Development, LLC, (Owner: Robert Baldwin), Assessor's Map 39, Lot 103, zoned Gateway, located at 34 New Rochester Road. (Proposal is to construct 6 duplex structures (12 units) with the existing dwelling to remain and be renovated into a duplex). *(SITE-2023-0007)

D. Benton explained that the applicant would like to create six new duplex structures to total twelve units, plus converting the existing single-family residence into a duplex. The applicant also seeks a CUP for frontage buildout and front-build-to-line for the existing dwelling. This application was most recently before the Technical Review Committee on August 10, 2023, October 12, 2023, and November 30, 2023. They are also seeking a waiver for the cover over a drainage pipe and minimum block length.

Chris Berry, Berry Surveying and Engineering represented the applications and explained the proposal including expanding the rear of Copper Drive, which is almost complete, add porous



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parking in the back, new parking at the front – Ember Drive- a porous parking area, and a community of duplexes which are over/under duplexes which are smaller than typical duplexes. He explained the waiver requests.

Board members asked clarifying questions.

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

Public hearing opened

No one spoke

Public hearing closed.

STAFF RECOMMENDATION- CUP for Build-Out:

§170-19.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 following standards a-i.

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

The Planning Department recommends that the Planning Board make the necessary and supporting findings of fact, and vote to approve the Conditional Use Permit with the following subsequent conditions:

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

1. Approval of Site Plan (SITE-2023-0007);
2. Approval of COND-2024-0003
3. A Development Agreement be entered between the applicant and the Planning Board and recorded at the SCRDP per Chapter 170-19.B(3).

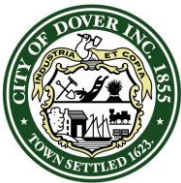
Motion: T. Clark moved to approve the Conditional Use Permit as it met the criteria with subsequent conditions. Seconded by: F. Cullen Vote: U/A

STAFF RECOMMENDATION- CUP for Build-to-line

§170-19.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 following standards a-i.

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

The Planning Department recommends that the Planning Board make the necessary and supporting findings of fact, and vote to approve the Conditional Use Permit with the following subsequent conditions:



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

1. Approval of Site Plan (SITE-2023-0007)
2. Approval of COND-2024-0002
3. A Development Agreement be entered between the applicant and the Planning Board and recording at the SCRD per Chapter 170-19.B(3).

Motion: F. Cullen moved to approve the Conditional Use Permit as it met the criteria with subsequent conditions. Seconded by: M. Gambino Vote: U/A

STAFF RECOMMENDATION - Waivers/Relief:

153-21 of the Site Plan Review Regulations state 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.”

Planning Staff believes the applicant’s rationale for the waivers meets criterion (1) and waiving such standards and requirements is not contrary to the spirit or intent of the ordinance.

The Planning Department recommends that the Planning Board make the necessary and supporting findings of fact, and vote to grant the waivers 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 for §157-31-F to allow a roadway of 409’ in length where 500’ is required and from 157-40.B(5) for cover over drainage pipe and found that the criteria of Chapter 153-21.A have been met.

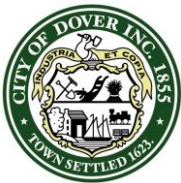
Motion: M. Gambino moved to grant the waiver request with subsequent conditions set by staff as it meets criteria. Seconded by: K. Mavrogeorge. Vote: U/A.

STAFF RECOMMENDATION – Site Plan:

The Planning Department recommends that the Planning Board make the necessary and supporting findings of fact, and vote to approve the Site Plan with the following subsequent conditions:

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

1. Approval of CUPs (COND-2024-0002 and COND-2024-0003);
2. Planning Board acknowledge lot merger;
3. Submission of Home Owners Association documents that include the operation and maintenance for stormwater, landscaping, porous pavement, and private trash pick-up; and calculation for the reserve that will be recorded at SCRD;



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4. Revise plan and resubmit for Final Planning Board signature and then recording at the SCRD with the following revisions:
 - 4.1. Add owner's signature;
 - 4.2. Add all professional stamp and signatures;
 - 4.3. Remove references to 50% lot coverage minimum requirement, as it is a 50% maximum requirement;

Subsequent Condition to Be Met Prior to Construction:

5. A site construction sign with the contact information for the general contractor must be displayed in a location approved by the City Engineer or Planning Director; and

Subsequent Conditions to Be Met Prior to Building Permit:

6. Payment of the water/sewer investment fees at time or request of service.
7. Payment of the active recreation fee.
8. Payment toward sewer modeling contribution.

Subsequent Conditions to Be Met Prior to Occupancy:

9. Issuance of Certificate of Occupancy;
10. Payment of Impact Fees as noted in the invoice attached to the Decision Letter unless the Board votes to pause the impact fees before Planning Board signature; and
11. Surety or other form of security acceptable to the City is provide for any unfinished work.
12. The Engineer of Record meet with the HOA to explain any future maintenance requirements.

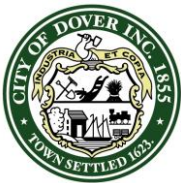
Motion: M. Gambino moved to approve the Site Plan with subsequent conditions set by staff as it meets criteria. Seconded by: T. Clark. Vote: U/A.

5. STAFF COMMENTS

- TRCs coming up:
 - CUPs for Eversource pole replacement, Inspection Services building at Mast Rd, Bank at 1-3 Webb Place.

6. MEMBER COMMENTS

- The Chair read the lot merger for 34 New Rochester and asked if there were any objections.
 - There were none
- The Chair appointed the following people to the Steering Committee for the Conservation and Open Space Master Plan Chapter update:
 - Councilor Shanahan
 - Councilor Williams (Alternate for Council member)
 - Mark Speidel – Planning Board Rep
 - Russ Warnock – Forest Management Subcommittee Rep
 - Kristen Murphy – Conservation Commission and Open Lands Committee Rep
 - Thomas Fargo – Former Conservation Commission Chair Rep



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Meeting Time: **7:00 pm**

7. ADJOURNMENT

Motion: M. Speidel moved to adjourn at 8:45pm. Seconded by K. Mavrogeorge. Vote: U/A