

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, April 23, 2024**
Meeting Time: **7:00 pm**

Members Present: Gina Cruikshank (Chair), Mark Speidel (Vice Chair), Kyle Pimental, Fergus Cullen (Councilor), Ken Mavrogeorge, Tom Clark, Jeff Sanborn (Alternate), Melina Gambino (Alternate)

Members Not Present (excused): Jon Elliard, George DeBoer, Erinn Kaspari

Members Not Present (un-excused): None

Staff Present: Donna Benton, Director of Planning and Community Development

G. Cruikshank (Chair), called the meeting to order at 7 p.m and noted that Jeff Sanborn would sit for Erinn Kaspari and Melina Gambino would sit in for George DeBoer.

1. CITIZENS' FORUM

Citizens Forum Open

No one spoke

Citizens Forum Closed

2. APPROVAL OF THE PRIOR MINUTES

- April 9, 2024 Regular Meeting Minutes

Motion T. Clark moved to approve the regular meeting minutes of April 9, 2024 as submitted. Seconded by: F. Cullen. Vote: U/A

3. OLD BUSINESS

4. NEW BUSINESS

- A. Consideration and acceptance of a Lot Line Adjustment for Peter and Kimberly Clairmont, Assessor's Map J, Lots 29 and 29-2, zoned R-40, located at 303 Old Garrison Road & Old Garrison Road.
*(LOTA-2024-0004)

D. Benton explained that the applicants are requesting to revise the lot lines between two parcels that they own, 303 Old Garrison Road and a neighboring vacant parcel on Old Garrison Road. This proposed revision will result in adding approximately 57,188 s.f. from Lot 29 to Lot 29-2, leaving Lot 29 with 452,385 sf. and Lot 29-2 with 147,829 s.f. Each lot will remain compliant with the underlying zoning district.

As a Lot Line Adjustment, this application did not appear before the TRC.

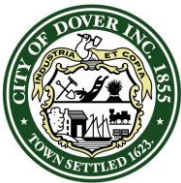
Christopher Berry, Berry Survey & Engineering represented and explained the application noting the southern parcel was created in the mid-1980s and the remaining parcel has remained in the family since. The request is to revise the lot line between the two, and increase the size of the smaller parcel which will allow for a larger building envelope. The remaining land's frontage will still meet requirements. The upland there will still be available for future use.

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

Public hearing opened.

Sue Hay, 314 Old Garrison asked for clarification about the existing and the proposed lot line adjustments, whether the adjustment will leave a buildable lot, and if the survey flags that were put in near her property are in relation to this proposal.

Public hearing closed.



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Mr. Berry addressed public comment explaining details of the proposed the lot line adjustment; which lots would be more ideal for development and which will have less. He also noted the survey flagging was part of his process for this project.

STAFF RECOMMENDATION – Lot Line Adjustment:

Chapter §157-17 of the Land Subdivision Regulations of the City Code provides for the adjustment of existing lot lines between two or more lots. This plan is consistent with those regulations.

The Planning Department recommends the Planning Board make findings, and vote to approve the application 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 #LOTA-2024-0004
 - b. The owner's signatures
 - c. The LLS stamp and signature

Motion: M. Gambino moved to approve the Lot Line Adjustment with subsequent conditions set by staff. Seconded by: K. Pimental. Vote: U/A

- B. Consideration and acceptance of an Extension Request for an approved Site Review Plan for Harlech, LLC, Assessor's Map 31, Lot 5, zoned CBD-TOD, located at 47 Chestnut Street. (Proposal is to extend the period of time to seek financing). *(WAIV-2024-0005)

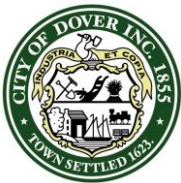
D. Benton explained that the applicant was previously approved on May 10, 2022 of a CUP for solar/green roof standards, a CUP for dimensions in the CBD, and a site plan for a mixed use building mostly residential with restaurant and is seeking to extend the statutory exemption period from twenty-four (24) months to thirty-six (36) months due to the rise in interest rates and building costs which have complicated securing financing for the project, necessitating the extension.

§153-9 states that Planning Board approval shall be valid for five years from the date of said approval. If a building permit has not been issued within such time constraints, then said approval shall be considered null and void, except if the Planning Board grant time extensions. However, Conditional Use Permits do not expire per our regulations.

Additionally, RSA 674:39 states that any site plan approved by the Planning Board shall be immune from any future changes to local site plan, subdivision, impact fee regulations and zoning ordinance amendments if active and substantial development, as defined by the municipality, is initiated within a twenty-four (24) month period following the Planning Board's initial approval of the plan.

The statute elaborates that the Planning Board may, at their discretion, extend the twenty-four (24) month exemption deadline.

FX Bruton, Bruton and Berube represented the application and explained the item by giving background information, statutes in play, timeline request, the challenge of financing hurdles involved and status/progress update for the board. Discussion ensued regarding the next step if this project does not happen in the next 12 months.



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

Public hearing opened.

No one spoke

Public hearing closed.

STAFF RECOMMENDATION- Extension Request

Pursuant to RSA 674:39.IV, “[t]he planning board may, for good cause, extend the 24-month period set forth in subparagraph I(a)”, which is the deadline in which the owner must initiate active and substantial development or building to continue exempting the owner from any future local ordinance or regulation amendments.

Planning Staff recommends the Extension Request be approved, as defined in RSA 674:39.IV, for both the Site Plan (P21-84) and Conditional Use Permits (P21-85 and P22-29) from twenty-four (24) to thirty-six (36) months, with the same conditions of approval as outlined in the original Notices of Decision.

Motion F. Cullen moved to approve the Extension Request. Seconded by K. Mavrogeorge. Vote: U/A

The Chair announced Items 4C & D would be heard together.

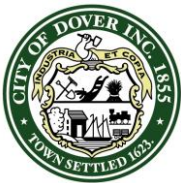
- C. Consideration and acceptance of a Conditional Use Permit for Future Automations, Inc. (Owner: DBIDA), Assessor’s Map D, Lot 11-8, zoned IT, located at Quality Way. (Proposal is for the construction of two (2) commercial buildings with 1,631 s.f. of wetland impact and 39,820 s.f. of wetland buffer impact). *(COND-2024-0005)
- D. Consideration and acceptance of a Site Review for Future Automation, Inc. (Owner: DBIDA), Assessor’s Map D, Lot 11-8, zoned IT, located at Quality Way. (Proposal is to construct a light manufacturing facility consisting of two (2) buildings 24,000 s.f and 10,000 s.f. each with office space, and associated infrastructure.) *(SITE-2024-0002)

D. Benton explained that the applicant is proposing to construct a light manufacturing facility at Quality Way consisting of two buildings, the larger building will be 24,000± square feet and the smaller building will be 10,000± square feet, each with office space, parking, and associated infrastructure. Both of the proposed buildings will consist of floor area for light manufacturing and office space with separate parking and loading areas but both buildings will be accessed by a shared driveway.

The applicant also seeks a CUP for wetland and wetland buffer impacts. In total, the project will create 39,820± square feet of wetland buffer impact and the proposed access driveway for the facility will require a culverted wetland crossing which will create 1,631 square feet of wetland impact.

Two waivers are also being sought as part of this application to allow a minimum caliper of 2.5” for new trees where a minimum caliper of 3” is required and to allow parking in the front of the buildings where it is required in the IT District that a majority of parking spaces shall be located to the side or rear of the buildings.

The parcel is currently owned by the Dover Business & Industrial Development Authority (DBIDA) and the applicant has met with DBIDA and received an endorsement to proceed with the project. The Conservation Commission also reviewed and endorsed the application at their April 8, 2024 meeting.



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Joe Griffin, CivilWorks NE represented and explained the application addressing property location, current vacancy, construction proposal and uses. He highlighted driveway, utility and drainage improvements, access and wetland disturbance. This parcel was created through the TDR process and he described the sending areas. He described the reason for the waiver request for parking and the required permitting.

He addressed board questions relating to new job potential, current lot clearing (not the parcel in question) and stormwater from Quality Way.

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

Public hearing opened.

Douglas Porter, 29 Quail Dr had some questions about the land area to the left and if the trees will remain as a buffer or not; are there any hazardous materials being used in the proposed operations; what is the lighting going to be on the outside of the building; where is the proposed bioretention pond going; will there be any buffer between his property and the proposal to minimize sightlines; is the land behind buildable and are there plans for that.

Jake Banaian, 11 Quail Dr spoke on behalf of neighbor Doug Porter. He commented on the negative aspects of changing this area from residential to commercial and the daily activities of trucks, diesel fuel, lighting, noise etc. He is concerned about developing on wetlands and the conflict of the City owning the property and then having authority over how it is allowed to be developed. He asked the board to put themselves in the shoes of the residents of Quail Dr and keep commercial separate from residential.

Barbara Civiello, 3 Quail Dr agreed with her neighbors' comments. She is not opposed to the applicant, but rather the slippery slope of commercial development in that neighborhood. 18 months ago, a storage facility was approved. The residents there see the tree clearing, wetlands and other concerns they deal with daily. She noted it's not fair that the Banaians, who have acreage, cannot build additional residential homes on their land due to the wetlands, but adjacent, the storage barn and this proposal seem to be approved. She asked the board to consider what interruptions to wetlands do to residential properties.

Public hearing closed.

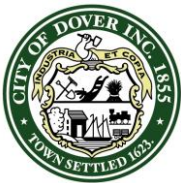
David Choate, listing agent for the property addressed public comment relating to Future Automation. The proposed number of new jobs will be 20-30. He explained what the company does, noting it is a clean, high-tech business without heavy machines. Enterprise Park has existed for many years and this is one of the last two lots. The City has sold this land inexpensively to bring new and better jobs and increase the tax base. He noted there is no hazardous materials used.

Mr. Griffin addressed public comment:

The lighting proposed will be the minimum needed for security; the most hazardous materials used is the paint; the pond details were explained; buffer: there is no intention to develop that portion of the property at this time; planning to expand the business and run two shifts on site; no access to drive behind the building- there are wetlands there that can't be developed; wetland impacts and mitigation were discussed.

D. Benton addressed the history of the zoning changes in the neighborhood.

The applicant further addressed board questions relating to: distance from proposed building to abutting lots (300') and the buffer in that area being trees and wetlands.



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STAFF RECOMMENDATION- Wetlands Protection District 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.

Planning Staff feels that the applicant considered the criteria and located the two buildings, driveways, and associated infrastructure to minimize wetland buffer impacts and has limited wetland impact to the access driveway. The design for the project has incorporated site characteristics such as the existing slope and soil type to further minimize wetland buffer and wetland impacts. The applicant has applied for the relevant NHDES Wetlands Permit and Alteration of Terrain Permit. Applicant has received endorsement by the Conservation Commission.

The Planning Department recommends the Planning Board make the necessary and supporting findings of fact, and to approve the Conditional Use Permit with the following subsequent conditions, as the plans meet the standards outlined:

Subsequent Conditions to Be Met Prior to Issuance of CUP:

1. Approval of SITE-2024-0002;
2. Copies of the NHDES Wetlands Permit and NHDES Alteration of Terrain Permit be submitted to the Planning Department and added to the plan set coversheet.

Mr. Griffin noted the waiver for the trees is because a 2.5” caliper tree will root better and grow better in the first several years. Those are the trees in the parking area- not the buffer areas.

Motion T. Clark moved to approve the Wetlands Protection District Conditional Use Permit with the 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:

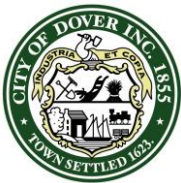
- (1) Strict conformity would pose an unnecessary hardship to the applicant and the waiver would not be contrary to the spirit and intent of the regulations; or
- (2) Specific circumstances relative to the subdivision, or conditions of the land in such site plan, indicate that the waiver will properly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

Planning Staff believes the applicant’s rational 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 §153-14G(3)(a) to allow a minimum caliper of 2.5” and §153-15C(2) to allow parking in the front of the building and that the Board found the criteria of Chapter 153-21 have been met.



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Motion: M. Speidel moved to grant the waiver request with subsequent condition set by staff as it meets criteria. Seconded by: M. Gambino. 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 COND-2024-0005;
2. Copies of the NHDES Wetlands Permit and NHDES Alteration of Terrain Permit be submitted to the Planning Department and added to the plan set coversheet;
3. Include note indicating solar readiness of buildings;
4. Payment of Planning Board application fee;

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;

Subsequent Condition to Be Met Prior to Building Permit:

6. Payment of Water and Sewer Investment Fees if applicable at time or request of service.

Subsequent Conditions to Be Met Prior to Occupancy:

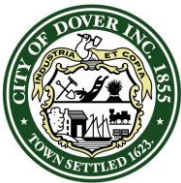
7. Issuance of Certificate of Occupancy;
8. Payment of Impact Fees as noted in the invoice attached to the Decision Letter unless a change is made to the impact fee policy;
9. Confirmation, by staff, that the wetlands buffer signs are in place, or replaced if damaged during construction; and
10. Surety or other form of security acceptable to the City is provided for any unfinished work.

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

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

- E. Consideration and acceptance of a Conditional Use Permit Stonefield Engineering & Design (Owners: Dover Retail Management, LLC & R W Realty Inc), Assessor's Map 38, Lots 15-A and 15-B, zoned C, located at 1-3 Webb Place and Webb Place. (Proposal is for additional parking beyond the maximum allowed). *(COND-2023-0054)
- F. Consideration and acceptance of a Site Review for Stonefield Engineering & Design (Owners: Dover Retail Management, LLC & R W Realty Inc.), Assessor's Map 38, Lots 15-A and 15-B, zoned C, located at 1-3 Webb Place and Webb Place. (Proposal is for demolition of current building and constructing a 3,300-sf bank with a drive through ATM, (20) twenty parking spaces). *(SITE-2023-0011)

D. Benton explained that the applicant is proposing to demolish the currently-existing building and construct a 3,330 square foot bank with a drive-through ATM and twenty parking spaces. This application was before the Technical Review Committee on August 31, 2023, November 2, 2023, March 7, 2024, and March 28, 2024.



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The applicant also seeks a CUP to allow additional parking spaces for a total of twenty spaces where a maximum of twelve parking spaces are permitted by right.

Three waivers are also being sought as part of this application to be in excess of the allowable maximum lighting uniformity ratio and allowable lighting uniformity ratio for minimum illumination for site security and compliance standards. The third waiver is to allow a second driveway with less than the 400' all-season sight distance and this waiver has been granted by the Community Services Director and a vote is not required by the Board.

Josh Kline, Stonefield Engineering & Design represented and explained the application noting the significant decrease in impervious surfaces with the proposal. He addressed the CUP request for additional parking and noted they will be adding two additional (total of 3) EV chargers with porous asphalt. He addressed the lighting waivers.

Board discussion with the applicant addressed EV charger requirements, building design (brick requested), parking calculation formula, mixed use options, discussion and explanation from the applicant ensued about the use of physical banks these days and the daily operations Chase offers, and multiple accesses to the site.

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

Public hearing opened.

No one spoke

Public hearing closed.

STAFF RECOMMENDATION- CUP for Parking Maximum

§153-14.D(5) of the Site Plan Review Regulations allows an avenue for applicants to seek additional parking spaces in excess of the applicable maximums if the applicant provides an analysis as to why the additional spaces are essential to the property's use, that off-street parking is not viable, that the additional spaces be paved using pervious pavement, and that required electric vehicle infrastructure is installed.

The Planning Department recommends the Planning Board make the necessary and supporting findings of fact, and to approve the Conditional Use Permit, as the plans meet the standards outlined.

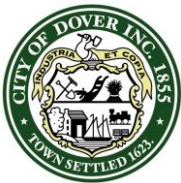
The applicant clarified the EV chargers are available for anyone's use: employee or public.

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

STAFF RECOMMENDATION-Waivers:

§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."



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Planning Staff believes the applicant's rational for the waivers meets criterion (2) 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 conditions:

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

1. Ensure site lighting is either screened from illuminating adjacent properties, or, provide written permission from any adjacent property owner to permit the illumination of their property.
2. Add a note that the Planning Board approved waivers for §153-14.(E)(2)(b), Parking area lighting, Uniformity Ratio and Parking area lighting, Minimum Illumination Level and that the Board found the criteria of §153-21 have been met.
3. Add note that the second driveway has been permitted as the Community Services Director found a hardship to comply with §157-50.C.

Motion: F. Cullen moved to grant the waiver requests with subsequent conditions set by staff as it meets criteria. Seconded by: T. Clark. 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 Plans:

1. Revise plan and resubmit for Final Planning Board signature with the following revisions:
 - 1.1. Planning Board acknowledge lot merger.
 - 1.2. Add note that no additional parking may be added onto the site without Planning Department review of parking and need of another CUP.
 - 1.3. Update floor plan to reflect changes submitted to TRC on March 28, 2024.
 - 1.4. Add note that the building will be solar ready.
 - 1.5. Applicant pay photo copy fees per invoice.
 - 1.6. Add detail of EVSE charging pedestal.

Subsequent Condition to Be Met Prior to Construction:

2. 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;

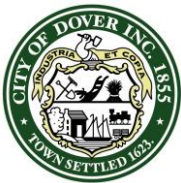
Subsequent Condition to Be Met Prior to Building Permit:

3. Payment of Water and Sewer Investment Fees if applicable at time of request of service.

Subsequent Conditions to Be Met Prior to Completion:

4. Issuance of the Certificate of Occupancy.
5. Payment of Impact Fees as noted in the invoice attached to the Decision Letter unless a change is made to the impact fee policy;
6. Surety or other form of security acceptable to the City is provided for any unfinished work.

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



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5. STAFF COMMENTS

- D. Benton reminded the Board that SRPC is conducting a housing needs survey for Dover that will be running to the end of the month and Board Members are encouraged to participate and share the survey.
- TRCs since last meeting:
 - Conditional Use Permit for Granite State Gas Transmission, Unitil (Owners: Dover Point Cooperative, Inc), Assessor's Map M, Lot 47-C, zoned R-12, located at 1 Polly Ann Trailer Park. (Proposal is the replacement of gas pipe section that will cause 17,015 s.f of impacts to wetlands.) (COND-2024-0004)
- TRCs coming up:
 - Amendment for Downtown Dover Storage, LLC, Assessor's Map 4, Lot 5, zoned CBD-G, located at 14 Broadway. (Proposal is to construct a 14,770 s.f. 4-story residential building with 38 units with revised covered parking and relocating internal staircase.) (WAIV-2024-0004) *[This item was previously heard by the Planning Technical Review Committee on March 28, 2024]*

6. MEMBER COMMENTS

- K. Pimental
 - Asked about Soul Yoga/ Bendi Bodhi locations/plans
- M. Speidel
 - Won't be at the next meeting
- The Chair signed the following:
 - Development Agreement for VC Dover mixed-used development at 30 Grapevine Dr.
 - Site Plan for paved parking lot at 256-264 Central Ave.

7. ADJOURNMENT

Motion: F. Cullen moved to adjourn at 8:26pm. Seconded by M. Gambino. Vote: U/A