

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, October 22, 2024**
Meeting Time: **7:00 pm**

Members Present: Gina Cruikshank (Chair), Tom Clark, Ken Mavrogeorge, George DeBoer, Melina Gambino, Kyle Pimental, Dennis Shanahan (Councilor)

Members Not Present (excused): Doug Glennon, Fergus Cullen (Councilor), Jeff Sanborn (Alternate), Mallory Strange (Alternate)

Staff Present: Donna Benton, Planning Director and Paul Crouser, Zoning Administrator

Gina Cruikshank (Chair) called the meeting to order at 7p.m. and noted Councilor Shanahan is sitting in for Councilor Cullen, M. Gambino is sitting for D. Glennon and K. Pimental is acting as Vice Chair. Also, that Item B (Boston Harbor Rd) will not be heard tonight.

1. CITIZENS' FORUM

Citizens Forum Open

Email from Eric Spurling was summarized by D. Benton. The email was on the subject of the intention and current status of the TDR process.

Citizens Forum Closed

2. APPROVAL OF THE PRIOR MINUTES

- October 8, 2024 Regular Meeting Minutes

Motion: T. Clark moved to approve the regular meeting minutes of October 8, 2024 as submitted. Seconded by: G. DeBoer. Vote: U/A

3. OLD BUSINESS

4. NEW BUSINESS

- A. Consideration and acceptance of a Site Plan amendment for Wooden Ruler, LLC Assessor's Map 6, Lot 40, zoned CBD-G, located at 42-44 Third Street. (Proposal is to amend design of the building and amend conditions regarding parking provided.) *(WAIV-2024-0012)

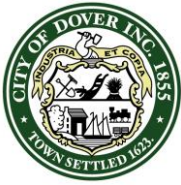
D. Benton explained that on November 8, 2022, the Board approved a Site Plan and Conditional Use Permit for a mixed-use building with commercial use on the first floor, 39 below grade parking spaces, and 58 residential units. The applicant now seeks to amend the architectural plans and modify Conditions of Approval 13 & 19 to allow for alternative parking arrangements.

In the previously approved plan (P22-60), the applicant proposed building a parking garage at 35 Third St. to handle overflow residential parking and a Condition of Approval (#13) required the issuance of a building permit for the garage. Now, the applicant seeks to change this by instead directing overflow residential parking to two surface lots at 35 Third St. and 5 Grove St.

The applicant provided a Parking Demonstration plan that indicates 18 units at 42-44 Third St. will be given a parking pass at 35 Third St., 16 units at 42-44 Third St. will be given a parking pass at 5 Grove St. and 24 units at 2 Grove St. will be given a parking pass at 1 Grove St.

The applicant also seeks approval to reduce the footprint of the building's third through fifth floors, making them smaller than the first two stories.

One waiver is being requested by the applicant, from Chapter 153-14(D)(4)(C) for off-site parking for the CBD-G District within the CBD-TOD District.



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Christopher Berry, Berry Survey and Engineering represented the application and explained the request noting they have secured additional parking spaces off site, but request a waiver for residents to be able to park across the street at 5 Grove St.

The applicant also requests to reduce/ eliminate the impact fees due to the recent change to fees and because the project has not been started yet. The date of original approval was November 2022. The applicant is requesting a one year extension to the active and substantial development requirements which are about to run out.

Mr. Berry clarified for the board that the building at 42-44 will have a parking structure underneath, but they were planning to build a separate parking garage which is now not in the works; other parking areas proposed for usage are owned by the same applicant and the description of who parks where was given; explanation of parking for light manufacturing facility that came to the board recently; distribution process of parking spaces to the residents; architectural changes to the plan; crosswalk plans.

Motion: K. Pimental 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 - 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 waiver with the following subsequent condition:

Subsequent Conditions of Approval Prior to Signing of the Plans:

1. Provide a decorative fence, (e.g. wrought iron), along parking lots of 5 Grove St. and 35 Third St. to help screen the parking as a note on the plan;
2. Add a note that if ownership changes for lots 3/22, 31/12, 31/11, 06/40, that a parking easement must be recorded at the SCRCD that shows same allocated amounts as the Parking Demonstration plan or a revised parking lease shall be submitted to the City of Dover’s Planning Department indicating the same terms for parking per the revised plan set;
3. Add note to plan that Property owner shall maintain parking permit management system including files that may be reviewed by the City Staff at any time during business hours to ensure the number of permits given out do not exceed parking spaces per Parking Demonstration plan.



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Mr. Berry confirmed for the board that the parking they are allotting for the project is currently owned by the applicant and is not being used.

Motion: K. Pimental moved to grant the waiver requests with the subsequent conditions set by staff as it meets criteria for relief. Seconded by: D. Shanahan. Vote: U/A

D. Benton noted the condition of approval regarding impact fees can be discussed by the board. The approval was in 2022, which is prior to the dates the board has set for relief of these fees. Since the applicant is before the board making the request, they can discuss and make determination.

Regarding the extension request, she noted the plans don't expire until 2027. The applicant stated if staff doesn't believe there is an issue with the expiration of the plans, they also don't.

The board discussed the request for elimination of the impact fees.

Chair Cruikshank and M. Gambino both noted split opinions on the matter as the project hasn't started, but the approval falls so far ahead of the date set by the board.

Several members such as M. Gamino, G. DeBoer, and D. Shanahan prefer to keep the fees in place as the approval was two years ago and demolition occurred a year ago.

STAFF RECOMMENDATION- Site Plan Amendment:

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, including amendments. 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 as the plans meet the standards outlined:

Subsequent Conditions of Approval Prior to Signing of the Plans:

1. Same conditions of the original approval (P22-60) still apply, sans Conditions 13 & 19;
2. Parking lots A and B shall conform with:
 - 2.1. Parking Lot design standards per Chapter 153-14(D)(6);
 - 2.2. Parking Lot lighting standards per Chapter 153-14(E)(2);
 - 2.3. Parking Lot Interior landscaping per Chapter 153-14(G)(2);
3. Revise previously approved plan set to:
 - 3.1. Add revised permit plan package to previous approved plan with note indicating that that this revised plan package supersedes the previously approved plan package (P22-60);
 - 3.2. Add Parking Demonstration Plan to plan set described in condition #2;
 - 3.3. Add note that the parking lease agreement is in perpetuity or until an amendment is approved by the Planning Board;
 - 3.4. Add file number (WAIV-2024-0012);
 - 3.5. Note re: compliance with Chapter 153-14(D) (parking lot design), (E) (parking lighting), and (G) (parking landscaping);
 - 3.6. Add note that two (2) additional parking spaces in either Parking Lot A, B, or combination thereof, shall conform with ESVE readiness per Chapter 153-14(D)(3);
 - 3.7. Add notes regarding waiver granted and conditions of waiver to revised site plan package;
 - 3.8. Add note that any amendments to any of the lots (3/22, 31/12, 31/11, 06/40) will need to be reviewed by City Staff and in compliance with the Parking Demonstration Plan;



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Subsequent Conditions of Approval Prior to Occupancy:

4. All other conditions per P22-60;
5. A parking lease or easement plan shall be recorded at SCRD prior to occupancy of first unit at 42-44 Third St aka Map 6, lot 40.

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

The Chair announced Item 4B would not be heard as the applicant requested a continuance.

- B. ~~Consideration and acceptance of a Transfer of Development Rights for True North Development, LLC, Assessor's Map 7, Lot 14, zoned R-20, located at 35 Boston Harbor Road. (Proposal is to purchase one (1) additional unit through TDR for a total of three (3) non-restricted units.) *(TRAN-2024-0013)~~
[This item has requested a continuance.]

Motion: D. Shanahan moved to continue this item to the November 12, 2024 meeting. Seconded by: T. Clark. Vote: U/A

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

- C. Consideration and acceptance of a Conditional Use Permit for 17-19 Summer Street Properties, LLC, Assessor's Map 12, Lot 35-1, zoned HR, located at Locust Street. (Proposal is to build a 2,400 s.f. four (4) unit building in the Heritage District.) *(COND-2024-0020)
- D. Consideration and acceptance of a Site Review for 17-19 Summer Street Properties, LLC, Assessor's Map 12, Lot 35-1, zoned HR, located at Locust Street. (Proposal is to build a 2,400 s.f. residential building consisting of four (4), two-bedroom units, improved driveway access, parking, utilities and drainage improvements.) *(SITE-2024-0003)

D. Benton explained that the applicant is proposing the construction of an approximately 2,400 square foot, 2-½ story, four-unit structure on a vacant lot on Locust Street with associated parking and landscaping.

The applicant proposes access to the site through a shared 24' wide driveway located on the abutting property at 17-19 Summer St. The shared access will provide eight parking spots for the proposed 4-unit multi-family dwelling and four parking spots for the existing 4-unit building at 17-19 Summer St. Easements will be granted to allow for access and parking on the abutting lot.

The applicant is seeking one waiver as part of this proposal from §153.14.E (2)- Parking Lot Lighting, in order to reduce light spillover onto adjacent residential properties.

A Conditional Use Permit is being proposed as part of this project, (COND-2024-0020), to allow for the creation of a 4-unit dwelling structure within the Heritage Residential (HR) District.

The Zoning Board of Adjustment (ZBA) granted a Variance from §170-12, HR District 3-4 Family Dwelling Creation/Conversion CUP criterion C, where parking lots are required to be at least five feet from a side property line. The following ZBA actions were taken related to this request:

1. July 18, 2024, Variance granted in relief of parking lot setback CUP requirement.
2. August 15, 2024, Variance granted to correct scrivener's error in Variance granted on July 18, 2024.
3. September 10, 2024, Request for rehearing granted pursuant to Variance granted on August 15, 2024.
4. September 19, 2024, Appeals of three related administrative decisions denied.
5. October 17, 2024, Rehearing and approval of August 15, 2024 Variance.



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The Technical Review Committee reviewed the application at their March 28, 2024 and May 9, 2024 meetings.

Steve Haight, CivilWorks represented the application and explained the request for CUP for a 4-unit structure with shared parking. TRC feedback was incorporated into the plans by reducing parking on site. The waiver is to reduce lighting. All of the parking is internal to the site and meets the regulation for safe onsite parking. Upgrades to the City include upgrades to the sidewalk in front, paved parking lot and removal of a dumpster. He explained the variance granted for parking within the 5' side setback because it is shared parking for both lots which are both owned by the applicant. The parking easements have been recorded. He addressed drainage and utilities.

M. Gambino is concerned about traffic impact and asked for more information which Mr. Haight provided. She also expressed concerns about using a parcel in the Heritage District as a parking lot. That is not in keeping with the character of the neighborhood.

Mr. Haight showed on the map where the current parking is located.

He also addressed the existing trees on site and the intent with the trees.

Motion: T. Clark moved to accept the application and declared no regional impact. Seconded by: G. DeBoer.

Vote: U/A

Public hearing opened.

Roy Tilsley attorney at Bernstein Shore represented Jeff and Maureen Sanborn of 30 Silver St, abutters opposed to the CUP request. A 2-unit building is allowed here by right, but 4 units require a CUP. There are six criteria that need to be met along with the 3 general CUP criteria.

Open space requirement: The existing parking lot will be expanded to accommodate 8 units. Requirement is to have equal amount of open space as the other lots in the Heritage district within 200 sq ft. How did the applicant calculate this? Where is that in the application? Is the rain garden part of the open space? Don't believe it should be counted. In order to get 35-1 into compliance, they are paving lot 35. That seems counter to the spirit of the district. The proper calculation is to determine the open space on each of these lots, then compare those to others to see if they are improving the lots or not.

The variance granted for the parking within 5' setback: The ZBA does not have the authority to issue a variance to CUP criteria. That lies with the Planning Board. Relief from ZBA should have been for a use variance not just a parking item.

Consistency with the neighborhood: Paving the lot to meet open space requirements is not compatible with the neighborhood. GIS mapping was shown of the number of units proposed on this lot and number of units of surrounding properties.

Do not believe they meet the CUP criteria.

Michael Rudolph, 713 1 Central Ave, former tenant of 19 Summer St from 2021-2023 expressed issues he had with the property owner such as clogged gutters leading to water damage; outdated and unreliable electrical system; fence disrepair. Repeated requests were not addressed. He questions the owner's commitment to maintain the historic integrity of the property and safety of their tenants.

Joe Hill, 148 Locust St read a statement expressing this project will reduce open space, encroach on the historic museum, create a 12-car parking lot which will exit onto Locust St. which is very busy and dangerous. The project is too large for this lot and should be reduced to a duplex. He encouraged the board to come to that area in the morning and at 3pm to witness the traffic issues.



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Carl Paulson, 8 Hamilton St. read comments of Anthony McManus: the Heritage District is governed by the Planning Board and ZBA. The ordinance regulates proposed developments in the district be reviewed to protect the character and architectural heritage. The proposal for 8 units within a small lot plus parking is not consistent with the district.

He also noted he has his own concerns relating to economic policy and environmental management such as: impervious surfaces and runoff.

Sarah Stender, 38 Silver St. read a statement from Laurie Smith of 36 Fisher St in opposition to the proposal due to its location in the Heritage district, character of the neighborhood, lack of benefit to all parties: city, neighborhood and applicant.

Her own comments relate to traffic which is already terrible and this will make it worse. She doesn't believe there are enough proposed parking spaces for all the units proposed.

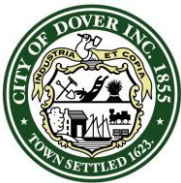
Sara Treacy, 148 Locust spoke about preserving historic buildings. She moved to Dover specifically for the 1810 home she bought. She commented about the tear down of a historic structure in 2014. The new structure is out of character and that led to creating the Heritage District. She itemized the timeline of that process and the regulations created. She asked the board to deny the proposed development.

Sarah Santiago, current resident of 19 Summer St. spoke in opposition to the proposal. The backyard of lot 35 will be turned into a parking lot but that doesn't seem to be considered since there is no proposed building scheduled for that lot. The three units at 17 Summer St. currently share four parking spaces on Summer St. which does not meet the 2 spaces per unit requirement. The four spaces in the yard are designated for the four units at 19 Summer St. On snow emergency or street cleaning one of the cars from 17 Summer needs to find space within the four 19 Summer St. spaces. 12 spaces isn't enough for 2 spaces per unit. There are seven dogs currently sharing that yard between all of the units and they will not have a fenced in area during construction. From the Traffic Advisory Committee, she noted there have been 30-40 accidents at the intersection since 2019 and about half had to be towed away from the scene. Adding eight cars will impact the traffic. In addition, landscaping is not always timely and the bushes become overgrown creating no site lines to exiting the property onto the street. There are other landscaping issues that haven't been addressed such as overgrown gutters and if this owner won't maintain what they already own, should they be granted additional properties to neglect.

Public hearing closed.

S. Haight addressed public comment:

- The variance was a request from the Planning Department to have that done
- Open space calculations were presented to the TRC
- The 4-unit proposal meets all CUP criteria such as setback, open space, one entrance
- Sharing parking to create a safer situation and get cars off the street
- They could propose 4 additional parking spaces, but removed those at the request of TRC and abutters
- Whether gravel or paved, still considered impervious surface
- Paved so that it can be maintained
- Applicant will repair fence if needed
- Will only cut down trees necessary and leave the rest
- Additional plantings are in the landscape plan
- There is no drainage treatment on site now. What's proposed is robust and will handle the drainage. The drainage proposal has been reviewed by staff.



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- Agree that traffic on Locust street is an issue. This project will not solve or exacerbate it. Eight additional cars will not have any significant impact to the traffic there. The shared driveway will help maintain a safe flow of traffic onto the road from a central access point.
- Historic preservation: discussions with staff from the beginning of the planning process were clear about making sure it is similar to those in the neighborhood as best as possible as a new structure can
- Can't address dogs/ landscaping/ relationship with the owner

K. Mavrogeorge confirmed for the Chair he is comfortable with the proposed storm water design.

Mr. Haight addressed items for the board:

- There will be more pavement than gravel that currently exists

D. Benton addressed that the applicant went for a Variance because they could not meet one of the criteria of the CUP which is listed in the Zoning Ordinance and the relief mechanism would be a Variance.

Mr. Haight noted if the fence is on the applicant's property and needs repair or replacement, it can be a condition of approval and the applicant will handle it.

- Addressed how they meet all the requirements for CUP
 - Open space: criteria was read and explanation given
 - Off-street parking: quantity and no backing into the street
 - Parking spaces on Summer St will remain
 - On-site parking will incorporate into the proposal
 - Initially additional spots were proposed internally, but were negotiated out as part of TRC process and abutter feedback at TRC
 - Parking lot distances from lot lines: this was the purpose of the variance request. Parking easements have been recorded at the registry
 - Screening for parking: Internal so shielded from neighbors, vegetation will be maintained at front and rear.
 - Structure setbacks: meets all these requirements
 - New Construction must look like a single family: photos were shown of the proposed design.

Explanation given regarding likely no dimensional changes if this were proposed as a duplex. Would likely just be larger units and potentially same amount of parking to get the ones using Summer street into the lot.

Discussion about whether the ZBA has the right to grant a variance for a CUP criteria.

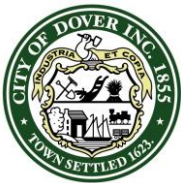
Mr. Haight agreed the applicant didn't think a variance was required, but requested one due to staff suggestion. In addition, a variance is not required if both parcels are in same ownership and easements have been recorded- which they have.

Additional discussion about parking continued for clarification.

D. Benton confirmed Planning Board does not have any role in the way a landlord communicates with tenants or maintains property, but can add conditions for any items that need completion such as the fence maintenance.

STAFF RECOMMENDATION: Conditional Use Permit

§170-20.B(1) of the Zoning Ordinance allows for Conditional Use approval for relief from the standards herein which 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:



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Conversion to, or creation of Dwelling, 3-4 Family: Three- or four-family dwellings and conversions of existing dwellings to three (3) or four (4) units shall be subject to the following regulations:

- A. *The specific site must have an amount of open space, either landscaped or left natural, at least equal to the average amount of open space on all developed lots in the HR District that are wholly or partly within two hundred (200) feet of the subject parcel. Existing parking areas, either gravel, paved or unpaved, shall not be considered to be open space.*
- B. *Off-street parking, in accordance with Chapter 153, Site Review, shall be provided as to avoid vehicles backing into the street. Two (2) parking spaces per unit shall be required.*
- C. *Parking lots shall be at least five (5) feet from a side property line and ten (10) feet from a front property line.*
- D. *Parking areas shall be screened from the street and from abutting lots.*
- E. *Structures shall be at least twenty (20) feet from a front property line, thirty (30) feet from a rear property line and fifteen (15) from a side property line unless abutting a street, in which case, the distance from the side property line shall be twenty (20) feet.*
- F. *For new construction, the building must be designed to look like a SINGLE FAMILY DWELLING. At a minimum, this shall mean that only one entrance shall be visible from a public street. For conversions, the building must retain its appearance as a SINGLE FAMILY DWELLING or a 2 family dwelling, whichever is the current use. Notwithstanding any other provision of Chapter 170, a legal or legal non-conforming accessory structure existing as of the effective date of these regulations may be converted into one or more residential units, provided that the building shall not be enlarged, nor shall any exterior improvements be made to alter its appearance as an accessory structure.*

Planning Staff feels that the applicant considered and met all of the criteria as specified in the HR District's requirements for the creation of a 3-4 Family Dwelling, with the exception of criterion C, which the Applicant appropriately obtained variance relief from based upon the applicant's narrative submitted.

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.

Motion: K. Pimental moved to approve the Conditional Use Permit as it's consistent with regulations. Seconded by K. Mavrogeorge. Vote: 4-3 with Gambino, Clark and DeBoer opposed

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:

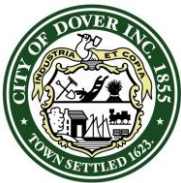
- (1) Strict conformity would pose an unnecessary hardship to the applicant and the waiver would not be contrary to the spirit and intent of the regulations; or
- (2) Specific circumstances relative to the subdivision, or conditions of the land in such site plan, indicate that the waiver will properly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

Planning Staff believes the applicant's rationale for the waivers meets criterion (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 condition:

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

1. Add a note that the Planning Board approved a waiver for §153.14.E (2) to allow for less parking lot lighting than what is required, and that the Board found the criteria of Chapter 153-21 have been met.



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Motion: K. Pimental moved to grant the waiver request with subsequent condition set by staff as it meets criteria 2 for relief. Seconded by: K. Mavrogeorge. Vote: 6-1 with T. Clark opposed

STAFF RECOMMENDATION- Site Plan:

Chapter 153-13 outlines Site development plan. This plan meets those standards outlined. Therefore, 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. Add owner's signatures;
2. Add PE, LLS, and LLA stamp and signature;
3. Approval of CUP (COND-2024-0020);
4. Remove note referencing sought waiver for §153.14.B(3) from plans;
5. Submit final plans (including CAD) with owner's signature and all professional stamps and signatures;
6. Pest control specialist review the site and indicate whether pest control plan is needed. If determined that a pest control plan is needed, the plan must be followed per Chapter 153-10.G.
7. Add to plan a new fence consistent with the character of the heritage district i.e. wooden picket or equivalent extended throughout the entire rear property line.

Subsequent Conditions to Be Met Prior to Construction:

8. A site construction sign with the contact information for the general contractor and indication of level of noise, vibration expected, must be displayed in a location approved by the City Engineer or Planning Director;

Subsequent Conditions to Be Met Prior to Building Permit:

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

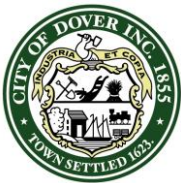
Subsequent Conditions to Be Met Prior to Occupancy:

10. Issuance of Certificate of Occupancy;
11. Surety or other form of security acceptable to the City is provided for any unfinished work.
12. Design engineer to submit a construction certification letter to the City ensuring construction was completed in accordance with the plans and specifications approved by the City of Dover.
13. Fencing along northern and eastern lot lines is in good standing and extended for the entire rear property line

Motion: K. Pimental moved to approve the Site Plan with subsequent conditions set by staff as it meets criteria. Seconded by: K. Mavrogeorge. Vote: 4-3 with Gambino, Clark and DeBoer opposed.

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

- E. Consideration and acceptance of a Transfer of Development Rights for Fergus & Jennifer Cullen, Assessor's Map B, Lot 4-F, zoned R-40, located at 566 Sixth Street. (Proposal is to purchase three (3) units through TDR for a total of five (5) units.) *(TRAN-2024-0014)
- F. Consideration and acceptance of a Minor Subdivision for Fergus & Jennifer Cullen, Assessor's Map B, Lot 4-F, zoned R-40, located at 566 Sixth Street. (Proposal is to subdivide one (1) lot into three (3) lots through TDR.) *(SUBM-2024-0005)



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D. Benton explained that the applicant is proposing a total of five residential units by purchasing three size-restricted units through TDR. The proposal includes maintaining the existing single-family dwelling and the construction of two, two-family dwellings.

The existing lot, Assessor's Map B, Lot 4-F, contains one single-family dwelling. Today, the Zoning Ordinance would allow for the existing single-family dwelling to be converted into a two-family dwelling. Therefore, it was determined by staff that two units would be allowed by right.

A Minor Subdivision is also being proposed as part of this project, (SUBM-2024-0005), to subdivide the existing lot into three lots. The proposed lots 4-F, 4-F-1, and 4-F-2 would each have approximately 0.45± acres. As the applicant is utilizing the TDR ordinance, relief for lot size, frontage, setbacks, density, and intensity may be provided.

The applicant's original TDR request involved additional units and was treated as a site plan. The applicant took feedback from the Technical Review Committee (TRC) and revised the request to be a minor subdivision utilizing TDR by requesting to purchase three size-restricted units, therefore many of the previous TRC comments became non-applicable to a minor subdivision with four new units proposed.

The Technical Review Committee most recently reviewed the application at their October 17, 2024 meeting.

Steve Haight, CivilWorks represented the application and explained the request to construct two duplexes and subdivide them from the existing parcel leaving the existing structure in place. He described the lot sizes, one shared driveway and one separate driveway, utility location/access, single entrance on each duplex, and buffer around the parcel.

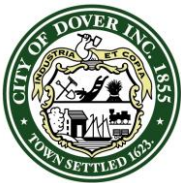
T. Clark noted there are several letters of opposition to the project which site conflict of interest and he wondered if the board should address that first. D. Benton noted the applicant is a Planning Board member, but is not sitting on the board tonight and has no vote in the matter. Any ethical concern should only relate to the board that is sitting tonight. TDR ordinance criteria is site-specific. There is no precedence being set due to other applications or TDR approvals. In addition, this application will not set any precedence for other TDR applications as each application should be reviewed individually within its own neighborhood and with its own merits. While she can't speak for all entities, the Planning Dept and TRC have utilized the same checklist for this application and have completed a review just as they do for all others and have treated this application and the applicant the same as any others.

Chair Cruikshank noted she intends to review the application based on its merit- whichever way she votes will not have any relation to the applicant.

Mr. Haight clarified staff determined two units are allowed on site by right. The applicant has given up that second unit towards the TDR request, so with this proposal they give up the right to a second unit on the original, existing lot.

Upon board request, D. Benton explained the TDR program and how it has more recently evolved, how the fees are determined and that the funds go to Conservation Fund. Open Lands Committee/Conservation Commission recommend and Council votes to purchase lands to conserve/ spend the funds on conservation efforts in addition to other costs associated with conservation land.

She clarified additional details of the TDR process for the board members.



CITY OF DOVER

DOVER PLANNING BOARD – MINUTES

Meeting Type: Regular Meeting
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K. Pimental commented on the criteria that TDR be consistent with the master plan is vague as there are conflicting guidelines within the master plan itself.

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

Public hearing opened.

Scott Hogan, land use attorney representing nine abutting property owners noted he was hired when the original proposal was established due to its density. Tobin Farwell, LLS was also involved and gave input which he included in his remarks noting the original proposal was seven times the normal density for the district. Additional concerns are for the abutters to have the ability to maintain their lives and marketability of their property in the R40 zone, the site has been clear cut and the perimeter buffer is not fully existing, impervious coverage seems to be too much. He noted the conflict of interest is not the applicant being on the board, but a member currently seeking use of TDR opining on other applications may cause a conflict.

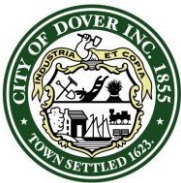
Rory Wilkie, 568 Sixth St believes the TDR program is being taken advantage of in this instance. This proposal will overdevelop the site and negatively impact the rural character. He is concerned that the applicant is using the term attainable housing and speculated on the income needed to afford these units. The examples given by the applicant meet the requirements for being compatible to land use on neighboring lots which this proposal does not. He gave details about these examples. He believes it was a conflict for the applicant to vote on a recent application which he is now using in his narrative as a supporting example.

Caitlin Wilkie, 568 Sixth St spoke on behalf of herself, the Browns at 570 and the Vandinis at 569. The applications must meet the requirements of both the subdivision and the TDR. She does not believe they meet the requirements. The square footage will not meet the zoning regulations, and the 30-foot no-cut buffer has been violated. She requests a signed letter from certified wetlands scientist stating there is not wetland there to be affected. The proposed impervious surfaces are 20% which exceeds the regulations of 10% by 100%. Proposal does not meet the frontage requirements which will cause a safety concern. Her home's location is inaccurately depicted on the plan. She itemized concerns she has relative to close proximity of new structures to her property, safety, traffic, trash, parking, quality of life, and marketability. She also expressed her concerns about the conflicts of interest.

Leon Drouin, 565 Sixth St explained the way the street and lots used to be back when he bought the property in the 1970s. Now the trees are going and the traffic is very dangerous and goes way too fast. The TDR is supposed to have limited areas for dense housing- this isn't the right location- too much traffic and safety concerns for accidents. There are supposed to be 1-ac lots in that area- not partial acre lots.

Hilary Hamer, 91 Court St urged the board to deny the TDR request. She noted the reasons for zoning. When these are waived for TDR, the TDR regulations should be strictly enforced. She itemized several TDR-based projects implemented over the last few years and concerns she has about traffic, strain on the school system and developments being added into existing neighborhoods. She listed several ongoing projects and noted the total number of additional units coming online between them is about 500.

Michael Ortlieb, 560 Sixth St. noted there is a need for housing, but there are properties in Dover that are better suited for multi-family development. The R-40 zone is not the place for that. This proposal is not consistent with R-40 zoning. He agreed with concerns about tree removal, runoff and erosion.



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Jim Gowen, 206 County Farm Cross Rd (grew up at 562 Sixth St. where his parents still live) that area is/was rural and that's why people purchased those properties. The value out in that area is in the land and the space and nature. The value of downtown property is in being close to restaurants and not having lawn to mow etc. He is also concerned about the applicant informing the contractor that approvals are all set after Tuesday and to be ready to break ground. Please keep the rural areas as they are.

Mike Krall, 30 Wildcat Dr, new development off Sixth St moved here for the mixed living of close to town, but not downtown. He is concerned about multiple recent projects seeming to cram additional housing units onto small lots.

Tim Mallard, 141 Cottonwood Dr noted the proposal will affect all of the neighbors. He doesn't think there would even be enough space for two additional single-family homes, never mind duplexes. He is concerned about parking and all the additional people.

D. Benton summarized emails received from:

Opposed:

- Kenneth and Donna Durell, 508 Sixth St.
- Tamara Hester, 571 Sixth St.
- Kellen Millard, 6 Back Rd
- Matt Moynihan, 10 Belknap St.
- Katherine Riley, 11 Governor Sawyer Ln
- Karen Booker, 5 Berkshire Ln
- Jorel Booker, 5 Berkshire Ln
- Alise Elliott, 251 7 Knox Marsh Rd
- Michael Lacourse, 591 Sixth St.
- Heidi White, 113 Durham Rd
- Ryan Crosby, Executive Director, Dover Housing Authority

In favor:

- Cory Stone, 22 Piscataqua Rd.

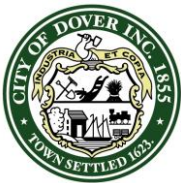
Public hearing closed.

Mr. Haight addressed public comment:

- Applicant is trying to meet the TDR requirements with his property
- The proposal has gone through a couple of iterations on density
- Applicant is aware of what the TDR is for and what it's meant to accomplish
- Site distance was reviewed. Yes, traffic is already bad on the road, this will not solve nor exacerbate
- 10% lot coverage is in reference to building coverage and these buildings are much less than 10%
- Applicant did clear the land, but is aware of the 30' buffer and has not cut into that area
- If plan is approved, placards will be installed indicating no cutting beyond that point
- Wetlands scientist did visit the site, the plan is accurate and the letter is in the packet.

Additional questions and discussion from the board relating to:

- Landscape plan (none required)
- Design and layout options of the homes
 - Discussion with K. Mavrogeorge – orientation of the homes on the lot



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- K. Mavrogeorge suggested vegetation buffer be added in / restored on the corner of the private drive along Sixth St. (where there has been a garden)
- K. Pimental discussed with S. Haight and D. Benton the language of the ordinance
- D. Benton addressed the land use compatibility of the proposal
- Discrepancy of location of 568 Sixth St. on the plan can be double checked
- Reduced frontage and lot area request is part of the TDR proposal- no waivers being sought

T. Clark expressed concerns about the TDR usage and that five units is too much for this project. Single – family homes would make more sense to the area.

S. Haight commented about the median home now in Dover is probably \$600,000 and there are no \$300,000 starter homes anymore. By building a duplex, it costs a little less and can be rented or sold for less and be more realistic to be purchased by a wider range of folks.

The board discussed attainable/ affordable terminology used by Dover staff. The proposal is not to rent/sell for HUD rates, but to restrict the size to 1000 sq ft.

Additional clarification for the board from Mr. Haight:

- Descriptions of the duplex: layout (rooms) / footprint of duplexes vs existing home
- Are there restrictions on the attainability (deed-restriction)
 - D. Benton addressed the size restriction will be recorded in the deed and any building permits for expansion will be denied. There is currently no process to keep the a for sale price point within any particular range.
 - Clarified the two duplexes are size restricted. The existing single-family home could come back to the board at a future time with a proposal to add a unit.

K. Pimental noted there is no restriction within the TDR criteria that the units be affordable or attainable. It only plays a role in determining what the fees are and this applicant has not chosen that- they are doing a size restriction which lowers the fees.

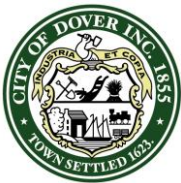
K. Mavrogeorge noted the size difference between using the TDR and duplexes vs single-family houses. The buildings would be probably larger if they were single-family homes and could have rooms rented out.

K. Mavrogeorge and M. Gambino would like some vegetation/ buffer/ landscape plan.

D. Shanahan addressed the conflict of interest. He noted he would not be sitting here if he thought there was a conflict of interest. He has spoken legal counsel and discussed the matter. He does not believe there is a conflict of interest. If there is a public perception/ public relations issue, Councilor Cullen can address that. This proposal isn't the ideal use of TDR, but with housing units in such need, it's a good option, if not the best option. Ultimately this is the kind of thing we are going to need to do for the next several years to get out of the housing crisis.

G. DeBoer noted this project is pushing the boundaries. We are trying to have additional density and housing, but we also have this R-40 zone which needs to be protected to keep the variety and uniqueness of Dover as itemized in our master plan. Sixth St. is not the place for density- there's no sidewalks or services.

K. Pimental agreed, this comes down to density. Two units are allowed. they are asking for 5 total which is a 60% increase from what is allowed. It is up to this board.



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D. Benton discussed with S. Haight additional options of subdividing the lots to come up with the additional four units.

Chair Cruikshank noted she likes the look of the proposed units and the smaller footprints. It's a tough balance to provide the additional housing we need. She would prefer three single-family homes.

It was clarified that the frontage for the proposal is right in line with the other property frontages on the street and any one of those homes has the legal right to turn the home into a duplex.

The board discussed whether a site walk is necessary and determined it's not.

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:

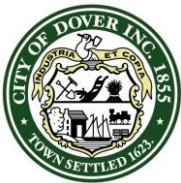
- (a) Is consistent with the Master Plan*
- (b) Is compatible with the land uses on neighboring LOTs (eg a multifamily building fits in with in a single family neighborhood). The applicant shall provide in their narrative an explanation of their neighborhood analysis.*
- (c) Is created on property served 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 has been met with the following subsequent conditions:

Subsequent Conditions to be Met Prior to Granting TDR:

1. Approval of SUBM-2024-0005;
2. Payment of TDR fees;
3. Add note to plan: "This subdivision uses the Transfer of Development Rights ordinance which allows for relief to the setbacks, lot area, frontage, density and intensity of the development. The Board granted TDR relief to purchase 3 size restricted units for a total of 5 units between the three proposed lots."
4. Add note indicating which units will be size restricted and which size restriction will be used. (1,400 s.f. per the current design or amending floor plans to meet 1,000 s.f.);
5. Provide draft deed restriction to staff regarding size restricted units upon subdivision being recorded at SCRD.
6. Two new TDR lots should have four 6' tall (when planted) green giant arborvitae along the corners of each lot or spread across the side of the private drive and a minimum of four between the left TDR lot and the existing home to the north in the buffer.

Motion: T. Clark moved to deny the Transfer of Development Rights request as it doesn't comply with the criteria in the zoning ordinance. Seconded by: G. DeBoer. Vote: 4-3 with Cruikshank, Shanahan and Mavrogeorge opposed. The TDR request is denied.



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G. Public hearing and possible recommendation on the City's proposed Capital Improvements Plan (CIP) FY 2026-2031. The CIP can be found on the City website at www.dover.nh.gov and in the Library, City Clerk's office, and the Planning Department. *

D. Benton explained the CIP process and reminded the Board of the joint workshop held on the 16th. She recommended the board hold the public hearing and if they wish they can vote tonight that the CIP meets the intent of the master plan and recommend it to City Council.

Public hearing opened

No one spoke

Public hearing closed.

K. Pimental noted Dover's CIP is fantastic- easily understandable and clear.

Motion: T. Clark moved to recommend for City Council approval the City's proposed FY26-31 CIP as it is in line with the master plan. Seconded by: K. Mavrogeorge.

G. DeBoer asked clarifying questions about the library, Littleworth industrial park, and downtown pedestrian improvements. Staff provided answers.

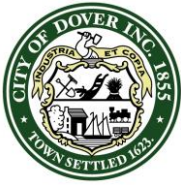
Vote: U/A

5. STAFF COMMENTS

- Staff always encourages Board's education/development. One resource is the BEA Planning Board Handbook including a quiz members can take.
- NH Land Use Law Conference: Join your colleagues from around the state at the NHMA 2024 Land Use Law Conference from 9am to 3:15pm on Saturday, November 16th at Southern NH University, in Manchester NH.
- D. Benton shared that city staff received a draft of the updated Conservation and Open Space Chapter of the Master Plan. The project Steering Committee will be meeting on November 4th to review the draft and the Board will be considering and potentially approving the chapter at the December meeting.
- TRCs since last meeting:
 - (Oct. 17th) Review of TDR Subdivision for 566 Sixth Street. Proposal is to subdivide one lot into three lots and purchase three units through TDR, resulting in a total of five units across the three lots.
- Upcoming TRCs:
 - (Oct. 31st) Review of site plan for 114 Silver St. *(Third TRC meeting related to this project.)* Proposal is to convert the single-family home into a 4-unit multi-family dwelling on one lot and construct a 3-story, 4-unit multi-family dwelling on the other with eight associated parking stalls for each building.
 - (Nov. 7th) Review of site plan for Dover Housing Authority at 3 Green St. Proposal is to construct 22 parking spaces at the rear of the building where there are four parking spaces currently.

6. MEMBER COMMENTS

- G. DeBoer
 - Traffic studies and the overall impact of project on top of project



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- K. Mavrogeorge noted we can ask for third party review of traffic studies if we need it
- D. Benton noted it is an item that TRC reviews carefully and there are occasions where changes are needed before completing technical review
- M. Gambino
 - This was a tough night of hearings and she appreciates how much time staff puts in before the board even hears these projects and then to go through everything again for the board is appreciated.

7. ADJOURNMENT

Motion: K. Mavrogeorge moved to adjourn at 11:11pm. Seconded by G. DeBoer Vote: U/A