

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, December 10, 2024**
Meeting Time: **7:00 pm**

Members Present: Gina Cruikshank (Chair), Ken Mavrogeorge, Tom Clark, Melina Gambino, Doug Glennon, George DeBoer, Kyle Pimental, Dennis Shanahan (Deputy Mayor), and Jeff Sanborn (Alternate)

Members Not Present (excused): Fergus Cullen (Councilor), Mallory Strange (Alternate)

Staff Present: Donna Benton, Planning Director

Gina Cruikshank (Chair) called the meeting to order at 7 p.m. and noted that Deputy Mayor Shanahan would be sitting in for Councilor Cullen, G. DeBoer will Vice Chair and J. Sanborn will sit for the vacant seat.

1. CITIZENS' FORUM

The Chair explained the Citizens' Forum process.

Citizens Forum Opened

Rory Wilkie, 566 Sixth St addressed his concerns and opinions about the TDR program.

Hilary Hamer, 91 Court St, asks for a redesign of the TDR language with stricter guidelines and adjustments to the timeline for public input to projects.

Ed Neister, 574 Sixth st commented on TDR and sent some examples to the Board ahead of time. He suggested an acre to acre comparison rather than a financial criteria.

D. Benton noted two emails were received from additional residents with concerns about the TDR program.

Eric Salovitch, 239 Long Hill Rd, Licensed Land Surveyor offered his services if the language of TDR is going to be rewritten.

Ken Durell, 508 Sixth St is concerned about TDR. He is against the proposal at 566 Sixth St.

Citizens Forum Closed

2. APPROVAL OF THE PRIOR MINUTES

- November 12, 2024 Regular Meeting Minutes

Motion: D. Shanahan moved to approve the regular meeting minutes of November 12, 2024 as submitted.

Seconded by: D. Glennon. Vote: U/A

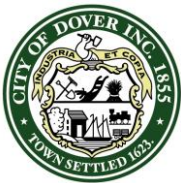
3. OLD BUSINESS

None

4. NEW BUSINESS

- A. Consideration and acceptance of a Site Plan for the City of Dover, Assessor's Map 9, Lot 57, zoned CBD-M, located at 73 Locust Street. (Proposal is for a 3,539 s.f. expansion to the library that includes accessibility improvements and a new elevator, stairway, and restrooms.) *(SITE-2024-0017)

D. Benton explained that the City of Dover, as the applicant, is proposing a ±3,539 square foot expansion to the south side of the Dover Public Library that includes accessibility improvements and a new elevator, stairway, and restrooms. A new entry vestibule from the parking lot will be constructed as part of this expansion and a new meeting room will be constructed on the top floor. These alterations and additions have been identified as needed improvements to better serve patrons at the library. Three waivers have also been requested as part of this proposal for relief from requirements for a landscape plan, neighborhood plan, and outdoor lighting plan.



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The Technical Review Committee reviewed the application at their December 5, 2024 meeting.

K. Mavrogeorge recused himself from the item.

Eric Sanderson, City of Dover Facilities Manager, represented the application and explained the request. He answered questions from the Board relating to size of additional square footage added (3,500sf).

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

Public hearing opened.

Margarat Hanlan, 51 Augusta Way asked if any changes are proposed to the existing portion of the library.

Public hearing closed.

Mr. Sanderson addressed public comment:

- None of the woodwork will be removed- some will be refinished. The job is mostly a paint and patch job.

K. Pimental asked if there were any design considerations to maintain the Carnegie status.

Mr. Sanderson noted the original portion has not changed except for the elevator. They are trying to match the existing library exterior. The rear portion has a glass floor (currently covered by carpet) which is planned to have a portion uncovered.

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.”

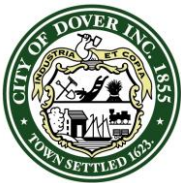
Planning Staff believes the applicant’s rational for the waivers meets criterion (2) and waiving such standards and requirements will properly carry out the spirit and intent of the regulations.

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 non-binding subsequent condition:

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

1. Add a note that the Planning Board found the criteria of Chapter 153-21 have been met and the Board approved the following waivers:
§153-13.A (12) Landscape plan
§153-13.A (16) Neighborhood plan
§153-14.E Outdoor lighting plan

Motion: D. Glennon 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



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STAFF RECOMMENDATION- Site Plan:

Chapter 153-13 outlines Site development plan requirements. 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 Condition to be Met Prior to the Signing of the Plans:

1. Add owner's signatures;
2. Add professional stamps and signature;
3. Submit final plans (including CAD) with owner's signature and all professional stamps and signatures;
4. Add note to display total number of parking spaces that will be removed;
5. Provide amended plans and response to Technical Review Committee comments.

Subsequent Condition to be Met Prior to Construction:

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

Subsequent Condition to Be Met Prior to Building Permit:

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

Subsequent Conditions to Be Met Prior to Occupancy:

8. Issuance of Certificate of Occupancy;
9. 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.

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

B. Consideration and acceptance of a Lot Line Adjustment for Robert S. Mairs Revocable Trust, George Maglaras & Robert S. Mairs Trustee, & George Maglaras, Assessor's Map 24, Lots 141, 140 & 139, zoned CWD, located at 5, 11, and 31 Cocheco Street. *(LOTA-2024-0013)

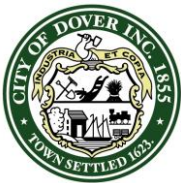
This item has requested a continuation to the January 28, 2024 Planning Board meeting.

C. Consideration and acceptance of a Lot Line Adjustment for Northam Survey, LLC (Owners: Gasses Farm Revocable Trust 2009 and Portsmouth Christian Academy), Assessor's Map J, Lots 1 & 1-C, zoned R-40, located at 120 Garrison Road and 20 Seaborne Drive. *(LOTA-2024-0014)

D. Benton explained that the applicant is proposing a lot line adjustment to revise the lot lines between abutting properties located at 120 Garrison Rd. and 20 Seaborne Dr. adding approximately 11.4 acres to 20 Seaborne Dr. from 120 Garrison Rd. For both lots, frontage and compliance with the underlying R-40 zoning regulations will remain the same.

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

Eric Salovitch, Northam Survey represented the application and explained the request for the lot line revision. He explained the history of the lots through this process. He addressed some of the staff memo comments which will be fixed.



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

Public hearing opened.

One email was received from 65 Bellamy Woods asked if there were plans for building on the property which staff addressed with the resident.

Public hearing closed.

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:
 - 1.1. Planning File Number #LOTA-2024-0014
 - 1.2. The owner's signatures
 - 1.3. The LLS stamp and signature
 - 1.4. Move Planning Board approval area to lower right hand corner.

Motion: G. DeBoer moved to approve the Lot Line Adjustment with conditions as it is consistent with regulations. Seconded by J. Sanborn. Vote: U/A.

D. Consideration and acceptance of a Lot Line Adjustment for The Roberts Family Revocable Living Trust and Philip H. & Brenda L. Bennett, Assessor's Map I, Lots 74-G & 1-B, zoned R-12, located at 81 and 87 Garrison Road. *(LOTA-2024-0015)

D. Benton explained that the applicant is proposing a lot line adjustment to revise the lot lines between abutting properties located at 81 Garrison Rd. and 87 Garrison Rd. adding approximately 5,323 square feet to 81 Garrison Rd. from 87 Garrison Rd. For both lots, frontage and compliance with the underlying R-12 zoning regulations will remain the same.

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

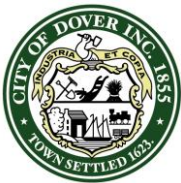
Brenda Kolbow, TF Moran represented the application and explained the request for the lot line revision.

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

Public hearing opened.

No one spoke

Public hearing closed.



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STAFF RECOMMENDATION- Lot Line Adjustment:

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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:
 - 1.1. Planning File Number #LOTA-2024-0015
 - 1.2. The owner's signatures
 - 1.3. The LLS stamp and signature
 - 1.4. Remove City of Dover signature box and replace with 2x2" blank area in lower right corner.

Motion: K. Pimental moved to approve the Lot Line Adjustment subject to conditions set forth by staff as it is consistent with regulations. Seconded by G. DeBoer. Vote: U/A

- E. Consideration and acceptance of an Amendment to the Conditions of Approval for 54 BRR, LLC, Assessor's Map I, Lot 6, zoned R-12, located at 54 Back River Road. (Proposal is a request to waive the condition of impact fees associated with previously approved plans, P20-60) *(WAIV-2024-0020)

D. Benton explained that on March 9, 2021, the Board approved a TDR Site Plan (P20-60) for 44 single-family units, rent-restricted at the HUD Fair Market Rental Rate. The site has been under construction and many of the units occupied. The Applicant now requests the removal of Condition of Approval #9, to waive the remaining impact fees associated with the approved project or for another option satisfactory to the Planning Board whether it be a payment in lieu or a payment plan.

John Randolph, owner 54 Back River Rd LLC represented the application and explained the request for reduction or removal of impact fees. The applicant has paid \$67,000 in fees for this project. The units are locked in as affordable housing in perpetuity. He gave additional financial information. There is a recreational path to the river that can be opened to the public and they request the recreational impact fees be waived. The project currently does not house any school-aged children and they ask the school impact fees be waived.

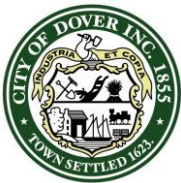
Mr. Randolph answered questions from the board clarifying there are \$120,000 in fees still owed, all units have been built, applicant is not asking for a refund of fees paid, just waiving of unpaid fees and or extended time to pay. Additional financial information given. Clarification given about ownership status of the project.

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

Public hearing opened.

Matthew Smith, 57 Back River Rd is concerned about setting a precedent and how it will affect residential taxes. He has never been in favor of this project and not in favor of the ongoing development in that area. He listed his concerns due to the overdevelopment.

Public hearing closed.



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D. Benton explained a recent decision of the Planning Board related to setting the impact fees to \$0 moving forward from July 1, 2024. This applicant doesn't meet that timeline, but is a unique project based on who and how the housing is served. She clarified for the board what it was they voted on regarding the impact fees when asked.

D. Shanahan gave comments in favor of the request and his reasons.

T. Clark noted for this project, the rent rates are capped and unable to be raised. He supports the request.

G. DeBoer noted we need to keep precedence in mind and clarify what our criteria is for these requests, which will be coming.

K. Mavrogeorge agreed to caution against precedence. Extending the timeline is the reasonable request in this instance. There are some impacts to the City, including Police and Fire and there do seem to be some children in that neighborhood.

J. Sanborn clarified the lack of impact fees does not fall to the taxpayers to cover. It is a waiving of a fee for a particular project with great positive impact.

K. Pimental noted this is a great project and model for others to look to. He agrees to extend the payments out over time rather than waiving them since it was approved several years before the impact fees were changed.

Motion: G. DeBoer moved to table the request indefinitely for the staff to work with the applicant to restructure a payment plan. Seconded by K. Mavrogeorge. Vote: 6-3 with Shanahan, Sanborn and Clark opposed.

F. Consideration and acceptance of a Conditional Use Permit for Michael & Shelby Brewer, Assessor's Map 32, Lot 36-F, zoned R-12, located at 77 Fourth Street. (Proposal is to construct a garage and modify the paved areas to have 1,467 $\pm$ s.f. of permanent impacts to the 50-foot wetland buffer and 756 $\pm$ s.f. of temporary buffer impacts.) *(COND-2024-0031)

D. Benton explained that the applicant is proposing modifications to the existing single-family dwelling that includes the construction of a deck, garage, and breezeway and modifications to the driveway pavement resulting in $\pm$ 1,467 square feet of permanent impacts to the 50-foot wetland buffer and $\pm$ 756 square feet of temporary buffer impacts. There are no direct wetland impacts.

The project was reviewed and endorsed by Conservation Commission at their meeting on December 9, 2024 with no conditions.

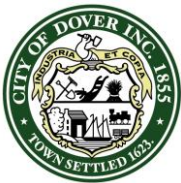
Kevin McEneaney, McEneaney Survey/CivilWorks represented the application and explained the request to add an ADU to the property and the building changes needed to incorporate that project.

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

Public hearing opened.

No one spoke

Public hearing closed.



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STAFF RECOMMENDATION- Conditional Use Permit

The Wetlands Protection District ordinance §170.28.F provides for Conditional Use Permits to allow impacts to the Wetlands Protection District if standards related to demonstration that no practicable alternative is available, impact avoidance was considered, impacts were minimized, mitigation has been sought, and approval of the wetlands impact from NHDES Wetlands Bureau has been granted.

Planning Staff feels that the applicant considered and met all of the criteria as specified in §170-28.F per their narrative. The proposal minimizes wetland buffer impacts and avoids direct wetland impacts. The proposed project does not require state mitigation or NHDES review, and the project has been endorsed 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 no conditions.

Motion: T. Clark moved to approve the Conditional Use Permit subject to conditions set forth by the Planning Director as it meets the standards outlined. Seconded by G. DeBoer. Vote: U/A

The Chair announced Items 4G & H would be heard together.

G. Consideration and acceptance of Transfer of Development Rights for 5 Sherman Street, LLC, Assessor's Map 19, Lot 8, zoned R-12, located at 103 Court Street. (Proposal is to purchase four (4) units through TDR.) *(TRAN-2024-0011)

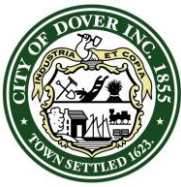
H. Consideration and acceptance of Site Review for 5 Sherman Street, LLC, Assessor's Map 19, Lot 8, zoned R-12, located at 103 Court Street. (Proposal is to maintain an existing single-family dwelling, construct a two-family dwelling that is deed-restricted to Fair Market Rent, and construct four (4) new size-restricted single-family homes for a total of seven (7) dwelling units. *(SITE-2024-0012)

D. Benton explained that the applicant is proposing a residential project consisting of seven (7) residential units by purchasing four (4) units through TDR. The proposal includes reconstruction of the existing single-family dwelling and the construction of a duplex and four (4) size-restricted, single-family cottages. The existing lot, Assessor's Map 19, Lot 8, contains one single-family dwelling. The current Zoning Ordinance permits the use of the Transfer of Development Rights ordinance (TDR) in the R-12 zone, but specifies that applicants must utilize the single-family yield plan method, or otherwise construct *only* duplexes if the two-family yield calculation is used. As the applicant proposes a mixture of unit counts, the single-family yield calculation is used, which given the subject lot's physical characteristics, results in a base density calculation of three (3) units. This, therefore, means that the remaining four (4) sought units could be granted if the Planning Board votes to approve the use of TDR.

Per the applicant's plan, both units within the duplex, although not required, are proposed to be restricted to the applicable HUD Fair Market Rental rate, with the four (4) cottages being size-restricted to no more than 1,400 s.f. The units purchased through TDR include the two duplex units, and two of the size restricted cottages.

The Technical Review Committee reviewed the application at their September 6 and 26, 2024 and November 7, 2024. meetings. (*minutes attached to the board packet*)

Robert Baldwin represented the application and explained the request explaining they are not looking for approvals tonight, but instead to hear the project and provide feedback so they can come up with an appropriate design.



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He explained the existing situation and the proposed plan. Initially there were 9 units proposed which has been minimized through the TRC process.

He explained the restricted rent units proposed and some additional building details for the variety of units along with the layout for the buildings on the lot.

For the board, he clarified the buffer areas, setbacks, landscape and fence shielding.

K. Mavrogeorge gave some feedback on the site layout. M. Gambino and D. Benton clarified information about the additional development going onto the abutting lot.

Additional discussion with the applicant continued regarding drainage, driveway location, rent/sale options, density: allowed vs requested. Board members gave their opinions on the density request.

The applicant suggested a site walk and the board was in favor.

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

Public hearing opened.

Matthew Teece, 85 Court St mentioned a subdivision that occurred across the street at 102 and 106 Court st as well as another development. These were well thought out and single family units that fit with the neighborhood. This proposal brings concerns for him for density, water/impervious surfaces proposed, and having renters in the neighborhood.

Ed Neister, 574 Sixth St is concerned about losing the buffer zone if this passes, contractors getting TDRs by purchasing units, this parcel becoming a blight due to the density. Does not believe anyone would want to live there or next to this.

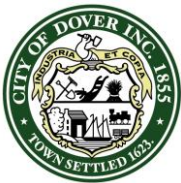
Rory Wilkie, 568 Sixth St spoke in opposition to the proposal due to density, lot size and buffers. Requests the applicant come back with a plan that meets the TDR regulations.

Merlin Mason, 91 Court St, expressed concerns about the proposal not meeting the 30' buffer abutting his lot.

Hilary Hamer, 91 Court St, expressed concerns about the proposal not meeting the 30' buffer abutting her lot. She played an audio clip from a TRC meeting on the project. She stated the property was not available to all buyers on the open market. Expressed concerns about this project getting this far in the process while not meeting the regulations, disagreed with the lot line measurements given, construction concerns about the old home vs the new construction, and abutting cemetery as inaccurate transition zone.

Dorna Hamer, 18 Tuttle Ln spoke in opposition to the proposal itemizing the restrictions to parcels abutting cemeteries. She noted this project should be subject to open space subdivision requirements. The plans presented are not complete and do not show buffers that should be adhered to. She requested the public hearing remain open tonight if applicable so additional comments can be received at the next meeting.

Kevin McEneaney, 109 Court St noted the key information being sought by abutters tonight relates to the 30-foot no cut, no disturb buffer. If that applies and there is no relief that can be sought because of the increased density, that's the key point the board should consider before moving forward. A fourth unit seems reasonable. He mentioned the rental, sales, and condominium options and consequences. He also requested the public hearing remain open for the next meeting.



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Lisa O’Grady, 100 Court St described her parcel and the abutting subdivision that affected her (deeded easement from 102 Court St). Occupancy was granted without the conditions of the subdivision being met. She is additionally concerned about drainage which causes pooling on her parcel. The proposal will ruin the historical nature of the existing structure. She is against the proposed density.

Public hearing tabled.

D. Benton noted the emails received have been given to the board for review and can be addressed at the next public hearing.

She addressed public comment:

- No TDR fees are paid until after approval
- TRC had comments during that process which haven’t been addressed yet as this is not before the board for approval tonight- only for feedback
- Staff has a list of requests that would still need to be addressed
- Staff knows of that have not needed the TDR buffer since they didn’t create new lot lines. She can provide to the board if requested and projects that have gotten relief for the buffers.
- “no relief can be sought” language was added by a member of the planning board in relation to environmental CUPs or similar, not about the TDR buffer or requirements.
- She agrees there should be as much screening, back yard and buffer as possible, even if that results in a reduction of units. A site walk will be beneficial for that.
- TDR requests are reviewed individually, and do not set precedence for future requests on other parcels.
- Agrees with cemetery buffer concerns
- This would be a private road which not be plowed by the City.
- Staff and the Chair addressed TDR regulations and the TRC and Planning Board process in relation to this request.

The applicant addressed public comment:

- Comparisons to the development next door

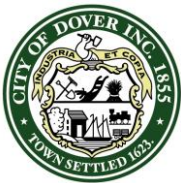
Fair market vs HUD rate was clarified by staff.

The applicant addressed the comments regarding the 30-foot no-cut no-disturbance buffer noting his understanding is that any use would require the waiver from the 30-foot buffer, even the current use. K. Mavrogeorge asked to see a yield plan showing the alternative described with three units on the lot allowable by right. The applicant described the alternative would look like a three-story townhouse with garage under and that’s not what he hopes to put on this lot. He believes a lower scale project with increased screening and encroachment to the buffer is a preferred option.

K. Pimental asked if the 30-foot buffer even applies to this proposal if it is a site plan/ condo without lot lines. This is what Mr. McEneaney was asking. Staff agreed that in these instances, the City’s position is that the buffer would not apply, though staff would like to see more screening.

The 25’ boundary to the cemetery was not on the plans, but will be added as the project moves forward.

D. Benton explained further details about when the 30’ buffer restriction has and has not been utilized in similar projects. D. Shanahan asked for additional clarification.



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The board discussed a date and time for a site visit: Saturday January 11th, 2025 at 9am
The board would like the buffers, corners of the house, driveway location, 25' buffer from cemetery staked out for the site visit.

Motion: G. DeBoer moved to continue both items to January 28, 2025. Seconded by: K. Mavrogeorge.
Vote U/A.

The Chair announced Items 4I & J would be heard together.

- I. Consideration and acceptance of Transfer of Development Rights for Fergus and Jennifer Cullen, Assessor's Map B, Lot 4-F, zoned R-40, located at 566 Sixth Street. (Proposal is to purchase two (2) non-restricted units through TDR for a total of three (3) units.) *(TRAN-2024-0015)
- J. Consideration and acceptance of a Minor Subdivision for Fergus and Jennifer Cullen, Assessor's Map B, Lot 4-F, zoned R-40, located at 566 Sixth Street. (Proposal is for a minor subdivision creating two (2) new lots for a total of three (3) lots.) *(SUBM-2024-0006)

D. Benton explained that the applicant is proposing a project for three residential units by purchasing two units through TDR. The proposal includes maintaining the existing single-family dwelling and the construction of two, single-family dwellings. The single-family dwellings are not proposed to be size- or HUD-restricted.

A Minor Subdivision is being proposed as part of this project (SUBM-2024-0006) to subdivide the existing lot into three lots. The proposed lots, (4-F, 4-F-1, and 4-F-2), are shown as each having 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 has made prior, differing requests for increased units on the subject property. These previous applications were reviewed by the Technical Review Committee. A review for this application by the Technical Review Committee was not conducted as it is not required for Minor Subdivisions.

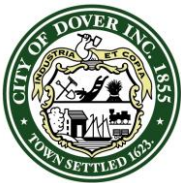
Steve Haight, CivilWorks NE, represented the applications and explained the request for minor subdivision of the single lot into three lots- each of which will have a single-family home and maintain the 30-foot buffer along with meeting all setback restrictions in the R40 zone. Water and sewer will come off Sixth St. The proposed lots meet the character of the neighborhood. Each new home will have it's own driveway per the plans shown.

He answered questions from the board relating to square footages of homes.

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

Public hearing opened.

Hillary Hamer, 91 Court St, requested the Board deny any request by a property owner who has an open appeal on the same parcel such as this one. Tax revenue should not be a motivation for TDR approval as listed in the application. She does not believe the project is suitable for the parcel even with the deed restrictions to prevent the structures becoming duplexes. These two additional units are not needed based on the many additional units coming online that she listed. She doesn't agree that these TDR applications don't set precedence. She asked the board to comment on the open appeal.



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Amelia Trapp, 14 Pierce St is in opposition to the proposal since it is a conflict of interest as the owner is a City Councilor on the Planning Board.

Ed Neister, 574 Sixth St is opposed to the project. The area is nice now for the abutters, but the proposal will ruin that. He is concerned about parking, density, too many families on one site, public officials should not trade on inside information. Additional concerns are the topography, potential for accidents, additional children and quality of life for the abutters.

Michael Ortlieb, 560 Sixth St discussed the R-40 zone should be for single-family homes with optional ADU. This proposal doesn't belong in this zone.

Rory Wilkie, 568 Sixth St spoke for himself and his wife. He is a direct abutter and opposes the proposal. He speaks for others in the area. The application is only signed by one owner of the property, not both, so why is it before the Board. He believes this plan proposed is no different than the previous plan and that the applicant will add the duplexes without approvals. He discussed the appeal of the Planning Board decision of an initial denial of the applicant's plans. He requests a deed restriction be filed confirming the units will not be converted into duplexes for 20 years. He agreed with the Board's denial decision in October. These units will not be affordable. The lot has been clear cut before development was approved.

D. Benton itemized the emails received in opposition to the proposal. These are all part of the record.

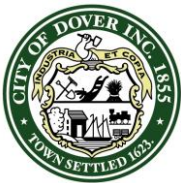
The applicant addressed public comment:

Eli Leino, Attorney Bernstein Shur representative for the applicants

- Strick timelines for appeals must be followed
- This was determined at TRC to be too dense with 5 units, so they have come before the board with 3 units
- Not fair to say these proposed units aren't attainable, when the proposal for smaller units was filtered out through the process
- Tax revenue is not a criteria- the application meets the four TDR criteria- tax revenue is an added bonus
- Adding units is in line with the master plan
- Conflict of interest: a property owner who volunteers their time on City boards is allowed to come before the Planning Board.
- The dilapidated property could have been bought by anyone and has been renovated by the applicant.
- Traffic increase is minimal for two additional units
- Commented on the letter sent in by the Attorney

S. Haight, CivilWorks NE

- Confirmed the buffers
- This proposal minimizes parking and traffic issues
- Current intent is to sell the properties (each SFH and would need to come back to PB for any change to duplex)



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Board members asked for clarification on the following and discussion ensued:

Smaller square footage for a more attainable home, additional plantings requested, style and square footage of the proposed homes, current proposal smaller square footage than first proposal, procedures relating to the outstanding appeal, both owners are aware of the proposal and will sign if approved.

Public hearing closed.

STAFF RECOMMENDATION - TDR

§170-28 provides for additional density to be purchased through Transfer of Development Rights. This application meets the ordinance.

Section 170.28G(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:

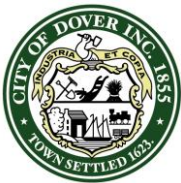
1. Conditional approval of SUBM-2024-0006;
2. Payment of TDR fees;
3. Add note to plat: “This subdivision uses the Transfer of Development Rights ordinance which allows for relief to the setbacks, lot area, frontage, density and intensity of the development. The Board granted TDR relief to purchase two units for a total of three units between the three proposed lots. The existing single-family unit and the proposed single-family dwellings may not be converted to a duplex without further review and approval by the Planning Board;”
4. The applicant provide a revised narrative included the latest TDR ordinance section and all four criteria.
5. Additional landscaping (ie 6’ white spruce or similar) to be planted along northern and southern buffer.
6. Both owners sign the plat

Motion: K. Pimental moved to grant the Transfer of Development Rights request based on the comments and conditions set by the Planning Dept. Seconded by: K. Mavrogeorge. Vote: U/A

STAFF RECOMMENDATION – Minor Subdivision

The plan is consistent with §157-17 of the City of Dover’s Land Subdivision Regulations, which provides for subdivision of existing lots.

The Planning Department recommends the Planning Board make findings, and vote to approve the application with the following subsequent conditions:



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Subsequent Conditions to be Met Prior to Signing of Plans:

1. Approval of TRAN-2024-0015;
2. Provide physical and digital copies (including CAD) of complete plan set which additionally shall include:
 - 2.1. Signature and stamp of PE, LLS.
 - 2.2. The owners' signatures for recording at Strafford County Registry of Deeds
 - 2.3. Add where future treeline will be or if existing, show existing treeline and remove treeline currently shown on plan.
 - 2.4. Add note about no-cut buffer placards to be installed.
 - 2.5. Add note that no sump pumps or roof leaders will be tied to the public sewer.
 - 2.6. Revise sewer lines to be off Sixth Street for two new units.
 - 2.7. Add note about addressing as assigned by the Building Official.
 - 2.8. Revise lot numbering to what the City Assessor assigns.

Subsequent Condition to be Met Prior to Water and Sewer Service Tie In:

3. Payment of water and sewer investment fees.

Subsequent Conditions to be Met Prior to Occupancy:

4. Certificate of Occupancy.
5. Buffer placards shall be in place or if damaged during construction replaced.

Motion: M. Gambino moved to approve the Minor Subdivision with conditions detailed by staff as it meets the criteria of 157. Seconded by K. Mavrogeorge. Vote: U/A

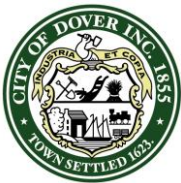
K. Discussion and possible posting of a Citizens Petition for a Zoning Amendment to rezone a portion of Map K, lot 6 on Middle Road from R-40 to IT *(WAIV-2024-0021)

D. Benton explained that the applicant is proposing an amendment to the City's Zoning Ordinance, Chapter 170, to rezone a portion of his parcel located at 105 Middle Rd. The subject parcel is 66 acres in area, divided by Middle Road, with 48 acres to the north of Middle Road, and 18 acres to the south. The lot is currently zoned R-40 and contains no structures or dwelling units.

The applicant requests that the area of their lot to the south of Middle Road, (approximately 18 acres), be rezoned into the Innovative Technology (IT) District, asserting that given the lot's location within the City, that the uses within the IT are more consistent with the City's Master Plan than that of the R-40 zone and the area's abutting development.

The proposed rezoning area abuts the IT zone but is uniquely surrounded by residential development. The applicant references the Teresa Drive subdivision and the Pointe Place development as support for the rezoning request. However, staff notes that the current zoning already allows for additional residential development at 105 Middle Road. While Pointe Place is a mixed-use development, its commercial components are concentrated near Dover Point Road, a major thoroughfare, rather than within residential areas.

Staff is unclear about the applicant's intentions for rezoning to IT and has received opposition from abutting residents. Staff would not recommend the rezoning as proposed as it would leave a small portion of Teresa Drive's property outside the rezoning area. To include this portion, the applicant would need the Teresa



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Drive property owner's consent and a revised Planning Board submission, along with new abutter notices at the applicant's expense.

Craig Williams, 154 Middle Rd represented the application. He explained the sizes of his lots and the history and current status of his lots and zoning changes made to his and surrounding parcels over the years. He described the uses of the abutting parcels. The request is to put the zoning back to the way it used to be. This will allow for mixed use housing in that area rather than larger homes with higher values.

The applicant and staff explained that if the board grants the request for rezoning of Mr. Williams' land, the City requests the sliver of land with Theresa Dr also be rezoned so it is not left on its own island.

The board and staff discussed the timeline of previous zoning changes and whether the change in 2008 went through a review process. Staff can look into that to see if there are meeting minutes or approval documents of record.

Mr. Williams answered questions from the board relating to his reason for this request: meets master plan goals, R-40 zone is not appropriate since it doesn't fit the neighborhood now and to build it out would support upscale homes at higher building costs. He is not a developer, he is a long-time resident who has accumulated land over many years and as a retirement plan would look to sell portions of the land for development of single family homes and/or townhouse style homes.

D. Shanahan commented there is some documentation to look into regarding the zoning change of 2008, and it would be helpful to have a conceptual plan brought forth by the resident petitioner so the board and the residents have a better understanding of the reasoning and plans.

Public hearing opened.

Doug Walsh, 12 Teresa Dr, on behalf of the association's board of directors of Preston Place. The owner has the right to develop the land, as long as planning, zoning and permitting restrictions are met. These abutters feel strongly that any development must be compatible with the existing uses of the abutters. He described the zoning changes and development which created the abutting residential neighborhood. The commercial aspects of this request do not have a place on 18 acres surrounded entirely by single family homes on three sides and Middle Road on the 4th. Most of the categories of IT do not belong here- which he listed several.

Richard Kirk, 8 Teresa Dr, described the surrounding housing communities to the parcel and how that should mean the parcel should have an R zoning designation, regardless of whether it's R-40 or R-12. If the parcel is developed, it should be single family housing to match the surrounding neighborhoods.

D. Benton listed the emails received to the office.

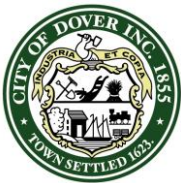
Public hearing closed.

STAFF RECOMMENDATION- Rezoning Request

The Planning Department recommends the Planning Board open the public hearing, make findings, and vote to recommend that Council not grant the rezoning request.

Motion: T. Clark moved to recommend to City Council to not grant the rezoning based on not enough information and a better comprehensive plan needed. Seconded by D. Glennon.

For the applicant, the board noted wanting more information about what is the need for the requested change? What is not allowed now, that would require the change? The City wants to avoid spot-zoning so



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having more information will allow for thoughtful planning for any recommended zoning change. It was clarified that the applicant can still come back to staff / the board with more information.

Vote: 8-1 with G. DeBoer opposed. [Editor's note: Under Member Comments G.DeBoer noted he was confused by the motion and meant to vote differently].

The Chair announced Items 4L & M would be heard together.

L. Consideration and acceptance of a Conditional Use Permit for 210 Tolend Road, LLC, Assessor's Map F, Lot 3, zoned R-40, located at 210 Tolend Road. (Proposal is for a 32-lot subdivision that includes an open space subdivision yield plan that would cause $700\pm$ s.f. of wetland impact and $6,400\pm$ s.f. of impacts to the 50-foot wetland buffer. In order for the yield plan to be considered realistic to calculate the density for an Open Space Subdivision plat, a conceptual CUP is required.) *(COND-2024-0028)

M. Consideration and acceptance of a Waiver Request for 210 Tolend Road, LLC, Assessor's Map F, Lot 3, zoned R-40, located at 210 Tolend Road. (Proposal is to request a waiver from Section 157-32.J, for proposed cul-de-sac of approximately 1,750 feet where 1,000 feet is the maximum required for the yield plan for an Open Space Subdivision.) *(WAIV-2024-0019)

D. Benton explained that the applicant is proposing a conceptual Conditional Use Permit for $700\pm$ square feet of wetland impact and $6,400\pm$ square feet of impacts to the 50-foot wetland buffer. The proposal also includes a conceptual waiver for a cul-de-sac of approximately 1,750 feet where 1,000 feet is the maximum required for an Open Space Subdivision.

To determine allowable density for an Open Space Subdivision, a yield plan must be submitted and determined to be realistic and in compliance with regulations, this may include conceptual conditional use permits and waivers.

The conceptual application is related to a proposed yield plan to allow up to a 32-lot Open Space Subdivision. The wetland and wetland buffer impacts shown on the yield plan are related to a proposed crossing and would need to be reviewed again on subsequent applications related to this project.

The Conservation Commission reviewed and endorsed the application at their October 15, 2024 meeting.

The applicant provided a conceptual Open Space subdivision plat that the development team is considering in case the Board or public are interested. However, the plat has not been submitted for review yet by the Technical Review Committee, Conservation Commission, or Planning Board so full review would still be required for this project and plans may change based upon those reviews.

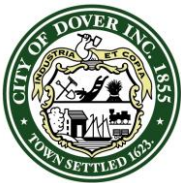
Bob Stowell, Trittech Engineering, represented the application and explained the request for an open space subdivision. The yield plan has been prepared and provided with the wetland crossing. He discussed the various development options and impacts for each option along with the waiver request for the length of cul-de-sac.

Once the yield plan is confirmed they can confirm the density calculation and move forward with the open space subdivision plan. The conceptual plan is provided.

This step is to solidify the yield. Next steps are: engineering design, TRC, Planning Board approval.

The applicant and board discussed the existing gravel road and how that affects the yield.

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



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Public hearing opened.

Lee LaPierre, 159 Emerald Ln, President of Indian Woods HOA is confused by the differences between the yield plan and the conceptual plan. What is the actual proposal? And what was approved at Conservation Commission?

D. Benton noted an email came in from 201 Tolend Rd in support of the open space conceptual plan.

Mr. Stowell clarified that the yield plan is not the plan of what is to be built. It is used to establish the density of the project so that the subdivision plan can be developed.

Public hearing closed.

STAFF RECOMMENDATION- Conditional Use Permit:

The Wetlands Protection District ordinance §170.28.F provides for Conditional Use Permits to allow impacts to the Wetlands Protection District if standards related to demonstration that no practicable alternative is available, impact avoidance was considered, impacts were minimized, mitigation has been sought, and approval of the wetlands impact from NHDES Wetlands Bureau has been granted.

Planning Staff feels that the applicant considered and met all of the criteria as specified in §170-28.F per their narrative. The proposal minimizes wetland buffer impacts and direct wetland impacts. The proposed project does not require state mitigation, does not require NHDES review at this stage. The project was endorsed and reviewed by the Conservation Commission on October 15th.

The Planning Department recommends the Planning Board make the necessary and supporting findings of fact, and vote on 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 a Conditional Use Permit:

1. Approval of WAIV-2024-0019.
2. Lot 13 is removed and the yield plan yields 31 total lots.

Staff clarified the reasoning for removal of lot 13.

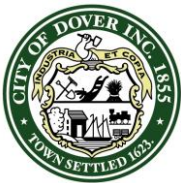
Motion: D. Glennon moved to approve the Conditional Use Permit with the subsequent conditions as it's consistent with regulations. Seconded by T. Clark. Vote: U/A

STAFF RECOMMENDATION- Waivers/Relief:

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 will properly carry out the spirit and intent of the regulations.



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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 Issuance of a Waiver:

1. Approval of COND-2024-0028

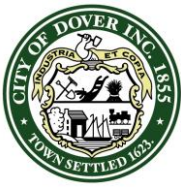
Motion: K. Pimental moved to grant the waiver request with the subsequent condition set by staff as it meets criteria for relief. Seconded by: G. DeBoer. Vote: U/A

5. STAFF COMMENTS

- D. Benton shared that the Board will be reviewing and considering for adoption the updated land use chapter master plan
- Seeking PB member for the Land Use Chapter Master Plan Steering Committee.
- Land Use All Boards Meet and Greet January 14th at 5:30pm.
- TRCs since last meeting:
 - (Nov. 21st) Review of site plan and TDR request for 1 Cold Springs Rd. Proposal is to construct eight single-family homes, a four-unit residential building, and maintain an existing single-family home for a total of 13 units. The project includes a TDR request to purchase the four multi-family units with HUD-restricted rental rates and the eight, 1,400 s.f. single family homes and a request for relief from TDR setbacks.
 - (Dec. 5th) Review of TDR proposal for 77 79 Sixth St. Proposal is to purchase two TDR units with intent to construct a new two-family residential structure and maintain an existing two-family structure.
 - (Dec. 5th) Review of two environmental CUPs for a project on Back Road that was previously reviewed by the Planning Board and referred for TRC review.
 - (Dec. 5th) Review of site plan for the Dover Public Library addition.
- Upcoming TRCs:
 - (Dec. 19th) Review of TDR site plan for 512 Sixth St. Proposal is to build five single-family dwellings that includes three units previously approved through TDR.
- Reminder that this is the only meeting in December so Happy Holidays to everyone.

6. MEMBER COMMENTS

- G. DeBoer
 - Noted he misunderstood the vote on the zoning change and would have voted differently. He did not want it to be approved, but just wanted the applicant to be given guidance on next steps which seems to be implied.
- D. Glennon
 - TDRs are causing confusion so might want to hold some workshops with public for education and feedback.
- J. Sanborn
 - The packet was too much for one meeting and it's a disservice to the public to make them have to be here so long.
- T. Clark
 - Planning Board Chair term
 - Her term is up in March 2025
- Discussion on the time commitment for the land use steering committee
- Chair signed the following:
 - Lot Line Adjustment for 141 Sixth St. and 5 Dowaliby Ct.



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- Lot Line Adjustment for 5 and 7 McKenna St.
- Site Plan and CUP for the approved 4-unit dwelling on Locust Street.
- CUP Plan for 189 Spur Rd. for Conservation District impacts for a patio and retaining wall renovation.
- Site Plan and CUP for 105 Durham Rd. for the approved 9-unit group housing facility for adults with Intellectual Developmental Disabilities.
- Appointed the following to the Steering Committee for the Land Use Chapter update:
 - Krysta Gingue for Community Housing Needs Committee rep
 - Rick Lundborn for DBIDA rep
 - George DeBoer Planning Board Member
 - City Councilor (likely April Richer upon Council appointment)
 - A Conservation Commission member
 - Steve Brown

7. ADJOURNMENT

Motion: K. Mavrogeorge moved to adjourn at 11:51pm. Seconded by M. Gambino. Vote: U/A