Bassegio, Erin

From: Hilary Hamer <hilary.a.hamer@gmail.com>
Sent: Friday, January 23, 2026 9:11 AM
To: Planning Board - All
Cc: Perez, Jennifer
Subject: Urgent: 103 Court St, Denial without Prejudice for Prematurity, Buffer, (Part 1 of 4)
Attachments: January_Hamer_BufferLetter.pdf

Security Notice: External sender. Use caution with hyperlinks or attachments.

Dear Planning Board:

I am writing to request that the Board **deny without prejudice** the site plan application for 103 Court St.

The City's recent staff memo suggests that because the Supreme Court has not yet issued a ruling on the TDR, the Board is "required" to move forward. This is a narrow and risky interpretation. Proceeding with an approval while the foundational TDR authority is under Supreme Court review creates a legal paradox: **If the Court strikes down the TDR, you have already *de facto* approved a project that has lost its legal basis.**

The City's proposed conditions of approval offer no protection against this. The conditions literally assume that the TDR is valid (see condition 1.); therefore, approving the site plan now "completes the circuit," potentially allowing the applicant to pull permits and break ground on a project that the Highest Court may soon declare illegal. **To proceed with an approval under these circumstances is a premature rush to judgment that completely ignores Due Process for the affected neighbors.**

I am asking for a "Denial Without Prejudice" based on Prematurity. This allows the application to return once the law is settled, without any prejudice toward the applicant. So much time, energy and emotion could be preserved here. A resubmittal after the Court has resolved the matter is non-problematic; an approval now is a gamble with our future.

We live here because of the community. We aren't asking for special treatment; simply asking for the "quid pro quo" buffer and regulatory protections that the Dover City Council promised us when they wrote the TDR ordinance.

As it stands now, I request the Board deny this project based on the following findings (full legal arguments attached):

1- **Legislative Intent:** The TDR buffer was added to the TDR code in 2018, before the procedural distinction between subdivision and site plan existed (2020). The intent was clearly a universal standard for all TDR, since the different "tracks" for subdivision and site plan didn't even exist yet.

2- **Plain Meaning:** The plain meaning of the buffer in the code is clear. It does not say anything to restrict the buffer to only *some* TDR projects. It is nonsensical that only *some* TDR projects get buffers when the impact on the immediate neighbors is the same regardless.

3- **Breach of the Good-Faith Agreement:** The official project record, staff communications, and public documents - including over 10 technical documents and emails from the Zoning Administrator -

all promised the buffer for this TDR project. Stripping it away now is an inconsistent and unfair action, especially while this exact matter is at the Highest Court for review.

4- **Precedent:** There is a long history of TDR site plans with the buffer enforced. The precedent is clear that the buffer applies: Whittier St, 757 Central Ave, Cielo Drive, Bellamy Rd, etc. There is no reasonable explanation why this TDR site should be the exception.

It is within your discretionary authority to deny for prematurity while the Supreme Court is still pending, if not for the arguments I continue to provide.

Respectfully,
Hilary Hamer, 91 Court St, Dover.

Please see Attachments: January_Hamer_BufferLetter.pdf
And attachments of Exhibits 1-35 in the following emails (due to file size constraints)
Please include this email and attachments in the official project record before the Board for 103 Court St application. This correspondence is being copied to the Office of the City Attorney to ensure the City's legal counsel is apprised of the jurisdictional and procedural objections raised herein for the administrative record.

To: Dover Planning Board
From: Hilary Hamer, 91 Court St
Date: January 23, 2026

Subject: Formal Request for Denial: Site Plan Application for 103 Court St – Non-Compliance with Mandatory TDR Buffer (§170.29 G(7))

Dear Dover Planning Board:

I am writing to formally request that the Board deny the site plan application for 103 Court St. The proposal fails to provide the **30-foot "no-cut, no-disturb" perimeter buffer** mandated by Dover Ordinance **§170.29 G(7)**.

Legislative history, the plain language of the Ordinance, and established City precedent all confirm that this buffer is a mandatory mitigation measure for Transfer of Development Rights (TDR) projects such as 103 Court St. The Board has consistently enforced this requirement or required a formal waiver for relief, as evidenced by the following preceding TDR Site Plans:

- **51&65 Bellamy Road:** Multifamily Site Plan with a 30-foot buffer (11/9/2021)
- **48 Whittier Street:** Multifamily Site Plan with formal waiver granted for 30' buffer relief (6/28/2022)
- **757 Central Ave:** Multifamily Site Plan with formal waiver granted for 30' buffer relief (7/26/2022)
- **Cielo Drive:** Condominium association of multifamily buildings site plan granted formal waiver for partial relief of 30' buffer where an adjacent site already maintained a buffer (11/14/2023)

Note: Waivers were granted prior to the 2023 amendment §170-29-G-8-d, "Any relief sought should not be caused by the additional density," except in Cielo Drive where reasoning was not additional relief (adjacent lot already had buffer).

Evidence of Non-Compliance

The proposed plan for 103 Court contains two primary violations of the mandatory 30-foot buffer:

- **Eastern boundary:** The proposed access road is located only **23 feet** from the property line, encroaching 7 feet into the "no-disturb" zone.
- **Western Boundary:** While new structures are sited at **32.6 to 36.5 feet**, standard construction practices will inevitably result in activity within the 30-foot "no-disturb" zone.

Without a formal waiver even considered, the Board cannot approve a plan that shows intentional disturbance within this protected area.

Legal Statute

The language of **§170.29 G(7)** is unambiguous:

> "A continuous visual buffer shall be created along the perimeter of the parent parcel, which shall include a thirty-foot no cut, no disturb buffer."

The use of the word "shall" renders this a prerequisite for the density bonuses granted under the TDR program. As the NH Supreme Court held in *Harrington v. Town of Warner,* 152 N.H. 74, 79 (2005), the Board lacks authority to "add words" to an ordinance to create exemptions not present in the text. Since the code does not limit this buffer solely to subdivisions, the Board cannot administratively waive this requirement for a site plan without following the formal waiver process.

Preservation of Rights and Administrative Record

Please be advised that this jurisdictional issue is currently the subject of an appeal before the **New Hampshire Supreme Court (Docket #2025-0686).** While I maintain that this application is "unripe" for approval pending the Court's decision, I am submitting these legal citations and municipal precedents to preserve all legal rights and to ensure a complete administrative record.

This filing serves to formally refute claims that objections to this project lack a basis in fact. This record provides a robust factual and legal foundation for objection, intended for both the current proceedings and any subsequent judicial review.

I. Inconsistency with the Legislative History of the TDR Code

The Transfer of Development Rights (TDR) Ordinance underwent several key amendments between 2018 and 2023 (Exhibit 1 2018, Exhibit 2 2020, Exhibit 3 current). The legislative evolution of the code over this time demonstrates that the buffer was intended as a universal requirement for all residential TDR projects. Because the buffer requirement predates the current procedural distinctions between subdivisions and site plans, it applies regardless of the application type.

A. The 2018 Framework: A "continuous visual buffer …of the parent parcel" precedes subdivision and site plan specifications

In 2018, the TDR code was amended to replace the "Private land transfer" with the "Single Family Detachment method" for density purchase. A specific formula was introduced to calculate base density and the subsequent purchase cost for additional units. Critically, at this time, the Code made no procedural distinction between subdivisions and site plans (Figure 1, from Exhibit 1, page 5-6).

(3) A residential TRANSFER OF DEVELOPMENT RIGHTS APPLICANT may pursue one of the following methods for TRANSFERING DEVELOPMENT RIGHTS.
(a) ~~Private land transfer~~ Single Family Detached method.

i. An applicant shall develop a baseline yield for the lot to be developed, through the following formula
   1. The square footage of the parent lot minus environmental constraints (wetlands, conservation areas etc) is the base lot size.
   2. The base lot size is then reduced by fifteen (15) percent to account for roadway, this creates the net area.
   3. The net area is then multiplied by a factor determined by the amount of wetlands over the parent lot. This is the developable area.

Percentage of Parcel that is wetlands	Factor
0<10%	0.85
10<20%	0.8
20<30%	0.75
30%<	.7

   4. The developable area is the divided by the minimum lot size, and the whole number value is the base number, with no rounding.
      a. This base number is not required to be restricted by the requirements in subsection iii.

ii. The transfer shall equate to one of the following calculations:
   1. For construction of units no larger than one thousand (1,000) square feet, of total living area, two (2) units per DEVELOPMENT RIGHT purchased shall be allowed.
   2. For construction of units no larger than fourteen hundred (1,400) square feet, of total living area, one and a half (1.5) units per DEVELOPMENT RIGHT purchased shall be allowed. The unit count shall be the whole number value and not rounded up.
      a. If the math to devise the base number ends in more than half a unit but less than a whole, and a transfer is purchased, the result would be two (2) dwelling units.

iii. The units created, through the transfer must be:
   1. Sold, and are not for rental purposes
   2. Limited to the square footage originally constructed.

iv. A note shall be placed on the approved plan and any Building Permit shall note the adherence to this section of the Code.

v. A note shall be placed in the property/unit deed citing the restrictions listed above.

Figure 1: From Exhihit 1, page 5 – 2018 Amendment introducing the "Single Family Detached" method for residential TDR (note underlined is 'new' in the amendment, versus strikethrough is removed). Neither subdivision nor site plan is specified at this time.

A second “land bank” method was replaced with “Attached Single Family, Two family, three family and 4 or more method.” It included options for TDR through purchase of individual acres of Open Space in Dover, or purchase of conservation easement land. In the 2018 amendment, this method also included no specification of subdivision or site plan application type (Figure 2, Exhibit 1, page 6).

(b) ~~Land bank~~ Attached Single Family, Two family, three family and 4 or more method

(i) The transfer may be through the purchase of development rights, as described in G) (1) and (2), or through the protection of land via a permanent conservation easement as per section E) (5). ~~For land in the sending district to be eligible for a TRANSFER OF DEVELOPMENT RIGHTS, it must be a parcel or easement purchased by the City through the use of Conservation funds allocated and approved by the City Council.~~

(ii) The transfer shall equate to one (1) unit per acre preserved, or purchased. If the end result is a village themed residential/commercial project, the transfer shall equate to one (1) unit per tenth (10th) of an acre preserved or purchased. ~~Annually, the City shall update a document identifying the cumulative cost per acre spent to preserve OPEN SPACE within the City of Dover. This list shall be kept on file in the Department of Planning and Community Development, and coordinated with the Conservation Commission.~~

~~(iii) Proceeds from the purchase of DEVELOPMENT RIGHTS, shall be placed into the Conservation Fund to be used to purchase future property or easements, and not into the general fund.~~

Figure 2: Second TDR method, amendment in 2018, Exhibit 1, page 6. Does not specify site plan (or subdivision).

2018 also introduced amendments to the general Residential Performance Standards criteria which largely defines the Planning Board's authority, §170-29-G-4 through 8 (Figure 3, Exhibit 1, 6-7):

(4) ~~Regardless of the method utilized, the transfer shall equate to one (1) unit per acre preserved. If the end result is a village themed residential/commercial project, the transfer shall equate to one (1) unit per tenth (10th) of an acre preserved. A minimum of three (3) acres shall be purchased.~~ Regardless of the method utilized, the minimum LOT size requirement may be waived by the PLANNING BOARD for land subjected to the TRANSFER OF DEVELOPMENT RIGHTS.

(5) Regardless of the method utilized, the setbacks shall be:

MINIMUM DISTANCE AROUND INDIVIDUAL UNITS IN CLUSTERS		MINIMUM BUILDING SETBACKS FOR SUBDIVISION LOTS	
STREET Sides of Units	Between Units	Abutting A STREET	Abutting A LOT LINE
20 feet	20 feet	20 feet	10 feet

(6) Regardless of the method utilized, the minimum LOT size requirement may be ~~waived by the PLANNING BOARD for land subjected to the TRANSFER OF DEVELOPMENT RIGHTS.~~ FRONTAGE requirement may be waived by the PLANNING BOARD, for land subjected to the TRANSFER OF DEVELOPMENT RIGHTS provided that paved access to all developed areas suitable for emergency vehicles is approved by the PLANNING BOARD.

a. If lots are proposed, the minimum frontage allowed shall be forty (40) feet per unit

(7) ~~Regardless of the method utilized, the minimum FRONTAGE requirement may be waived by the PLANNING BOARD for land subjected to the TRANSFER OF DEVELOPMENT RIGHTS provided that paved access to all developed areas~~ suitable for emergency vehicles is approved by the PLANNING BOARD. A continuous visual buffer shall be created along the perimeter of the parent parcel.

(8) 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:

(a) Is consistent with the Master Plan

(b) Is not incompatible with the land uses on neighboring LOTs (eg a multifamily building in a single family neighborhood)

Figure 3: Exhibit 1, page 6-7, with the amendments to the general TDR powers of the Planning Board to reduce frontage, lot size, and setbacks, and adding the "continuous visual buffer along the perimeter of the parent parcel."

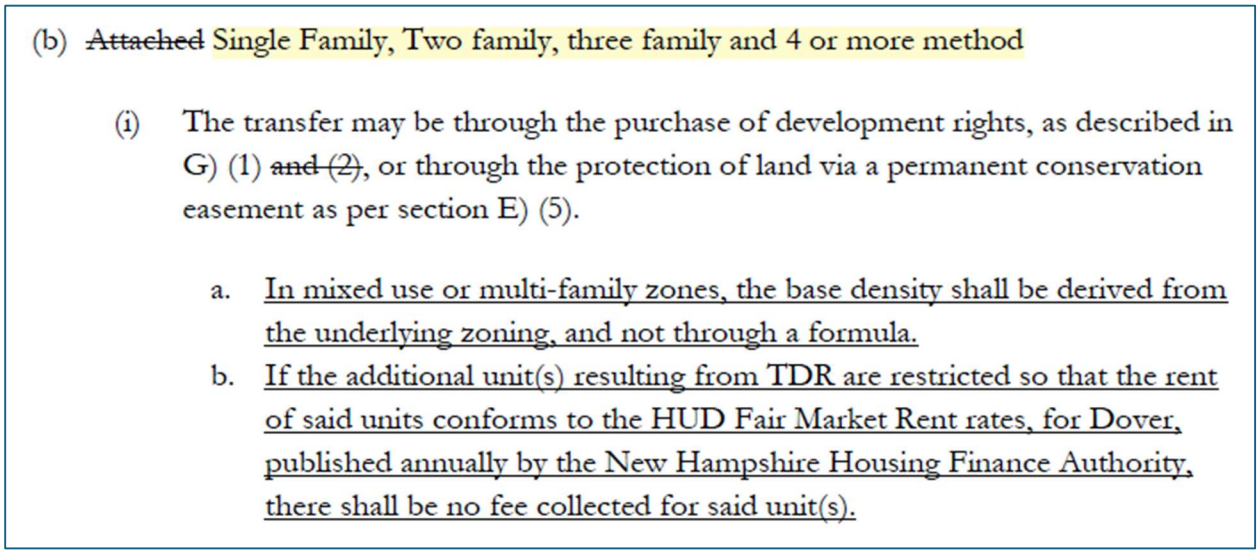
In 2018 is also when the TDR buffer was officially introduced, §170-29-G, "A continuous visual buffer shall be created along the perimeter of the parent parcel." At the time of this adoption, the Code provided no differentiation between subdivisions and site plans for TDR projects. Consequently, the legislative intent is unequivocal: the buffer was established as a universal requirement for all residential TDR developments operating under this section. The absence of

procedural distinctions in 2018 confirms that the buffer is a substantive condition of the TDR density bonus itself, rather than a variable requirement dependent on the type of application filed.

B. The 2020 Amendment adding Subdivision and Site Plan

It was not until 2020 that the TDR Code was further amended to introduce the specific procedural tracks for different development methods. Under these amendments, Method (a) "Single Family Detached"…. "shall be considered a subdivision application" (Exhibit 2, page 27). Conversely, method (b) "Single Family, Two Family, three family and 4 or more method" "shall be treated as a site plan application, unless otherwise determined by the Director of Planning….." (Exhibit 2, pages 27-28).

Further, method (b) "Single Family, Two family, three family and 4 or more method" was revised adding base density calculations for "mixed use or multi-family zones" (Figure 4). Notably, while these 2020 amendments created distinct administrative pathways (subdivision vs. site plan), they did not rescind or narrow the 2018 universal buffer mandate under §170-29-G-7. The 2020 changes were procedural in nature, intended to provide a framework for application review, and do not logically or legally supersede the pre-existing requirement for a continuous visual buffer on the parent parcel.



(b) ~~Attached~~ Single Family, Two family, three family and 4 or more method

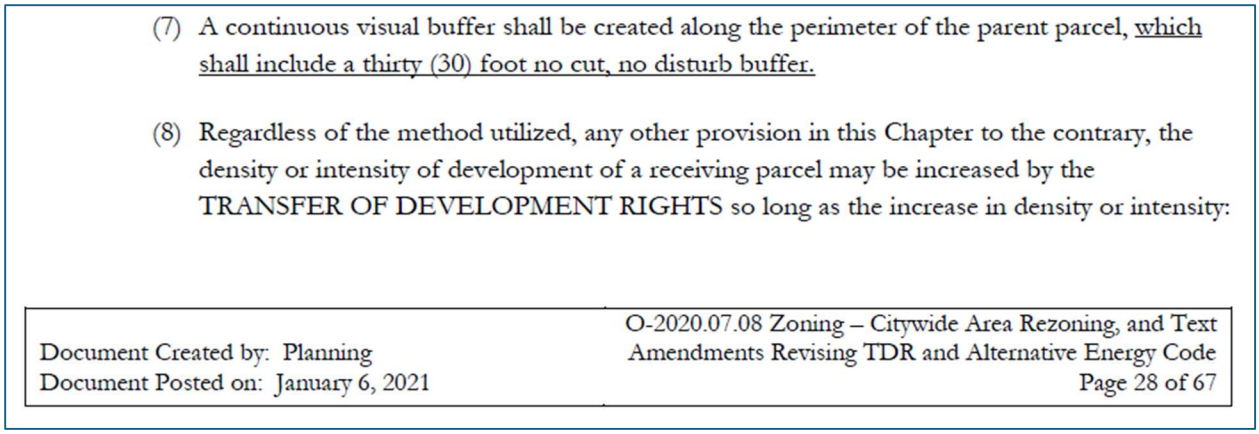
(i) The transfer may be through the purchase of development rights, as described in G) (1) ~~and (2)~~, or through the protection of land via a permanent conservation easement as per section E) (5).

a. In mixed use or multi-family zones, the base density shall be derived from the underlying zoning, and not through a formula.

b. If the additional unit(s) resulting from TDR are restricted so that the rent of said units conforms to the HUD Fair Market Rent rates, for Dover, published annually by the New Hampshire Housing Finance Authority, there shall be no fee collected for said unit(s).

Figure 4: From Exhibit 2, page 27. Amendment to introduce language about base density calculation under method (b) for mult-family and mixed use zones.

The 2020 amendments further strengthened the environmental protections of the TDR Code. Specifically, the general buffer requirement under §170-29-G-7 was refined to mandate a "30-foot no cut, no disturb buffer." This continuity is telling: while the City saw fit to specify the *intensity* and *depth* of the buffer, it did not narrow the *applicability* of the requirement. By maintaining the "parent parcel" language predating the administrative methods, the legislative record confirms that this 30-foot protection remains a non-negotiable prerequisite for any project utilizing the TDR density bonus.



(7) A continuous visual buffer shall be created along the perimeter of the parent parcel, which shall include a thirty (30) foot no cut, no disturb buffer.

(8) 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:

Document Created by: Planning
Document Posted on: January 6, 2021

O-2020.07.08 Zoning – Citywide Area Rezoning, and Text Amendments Revising TDR and Alternative Energy Code
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Figure 5: Exhibit 2, page 28. The "continuous visual buffer shall be created along the perimeter of the parent parcel" already existed, and the thirty feet was then amended to specify the exact buffer.

C. Legislative Intent

The TDR perimeter buffer (§170-29-G-**7**) was introduced in 2018, well before the Code differentiated between TDR subdivisions and site plans. The historical use of the term "parent parcel" is dispositive; in 2018, the Code recognized no procedural "tracks." Therefore, the term "parent parcel" could only refer to the underlying lot receiving the density bonus.

There is no plausible interpretation where this requirement was intended to be restricted to a single TDR application type – whether subdivisions or site plans – as those distinctions did not exist in the TDR Code when the perimeter buffer mandate was enacted. To suggest otherwise would be to assign a retroactive narrowness to the law that the original drafters never codified.

D. Conclusion of Legislative History

The mandate of a TDR perimeter buffer fundamentally predates the later administrative specifications of "site plan" versus "subdivision" application tracks. The buffer was enacted as a **mandatory, universal mitigation measure** – a necessary *quid pro* quo to protect existing neighbors from the increased density inherent in any TDR project, regardless of its legal form.

Because the 2018 TDR framework applied these performance standards to the underlying "parent parcel" before any procedural distinctions were added in 2020, the Board lacks the authority to retroactively narrow the Ordinance's scope in favor of the developer. The 2020 addition of the "30-foot no-cut, no-disturb" language only further solidified these protections for abutters.

To exempt the 103 Court St TDR site plan from a provision authored to protect all abutters would be to ignore the clear legislative history and the plain intent of the TDR Ordinance. There is no legal or logical justification for the Planning Board to waive a provision that applies, by design, to all residential TDR development.

II. Plain Meaning and the Harrington Standard

Under the **Harrington** Standard (and general principles of statutory construction), the words of an ordinance must be given their plain and ordinary meaning. The language of §170-29-G-7 is unambiguous and contains no restrictive qualifiers. The Ordinance does not state the buffer applies "only to subdivisions" or "only to projects with new lot lines." It applies broadly to the parcel of the residential TDR project.

A. The Interoperability of "Parent Parcel" and "Parent Lot"

Any suggestion that the term "parent parcel" is intended to limit the buffer requirement solely to subdivisions is legally and linguistically groundless for two reasons (besides the aforementioned legislative history):

1. **Unique Usage:** The term "parent parcel" is never defined in the Dover Code's general definitions. In fact, its **only appearance** in the entire Code is within the TDR clause (G)7. Because the term is unique to this section, it cannot be imported from other contexts to imply a subdivision-only restriction that does not exist in the text.
2. **Internal Consistency:** The TDR ordinance itself uses "parent" as a descriptor for the underlying land. In §170-29-G-3-a, the Code defines the receiving lot as the "**parent lot**" for the purposes of calculating base density.

(a) Single-family detached method.

[1] An applicant shall develop a baseline yield for the lot to be developed through the following formula:
[Amended 10-13-2021 by Ord. No. 2021.09.08-006]

[a] The square footage of the parent lot minus unsuitable areas is the base lot size.

[b] The base lot size is then reduced by 15% to account for roadway; this creates the net area.

[c] The net area is then multiplied by a factor determined by the amount of unsuitable development area over the parent lot. This is the developable area.

(7) A continuous visual buffer shall be created along the perimeter of the parent parcel, which shall include a thirty-foot no cut, no disturb buffer.
[Amended 7-22-2020 by Ord. No. 2020.07.08-007]

Figure 6: Excerpt from current Dover TDR Code, Exhibit 3.

By using "parent lot" to determine density and "parent parcel" to define the buffer, the Code creates a symmetrical requirement: the land that *receives* the extra units (the parent) is the same land that *must provide* the buffer.

To interpret "parent parcel" as a subdivision-only term while "parent lot" defines the density calculation would create an internal contradiction that violates the standard of legislative

consistency. In this context, "parent lot" and "parent parcel" are functionally and legally interchangeable. Under the principle of ***In Pari Materia*** (statutes on the same subject must be interpreted together), the "parent" entity that provides the density is the same "parent" entity that must provide the buffer.

This is further evidenced by the specifics of this case:

- **Reliance on Formula of §170-29-G-3-a**: The application for 103 Court St explicitly utilizes this section to calculate its TDR units.
- **Planning Department Concurrence:** The Planning Department's own memo to the board (Jan 22, 2025) identifies the "single-family yield method" as the basis for this project's density (see *January22_Hamer_MisclassifiedApplicationLetter.pdf*, pp 10-11)

Because the application has relied on the status of the 103 Court St parcel as a "parent lot" to acquire additional density, it is legally and logically bound by the "parent parcel" buffer requirements contained within that same section.

B. The "Shall" Mandate and Judicial Standard

Section §170-29-G-7 utilizes the legal term "**shall**", which New Hampshire courts have long interpreted as a mandatory command, not a discretionary option. The Planning Board lacks the authority to unilaterally restrict the scope of this mandate or to "interpret" a meaning that contradicts the plain text.

As the New Hampshire Supreme Court held in **Harrington v. Town of Warner, 152 N.H. 74, 79 (2005):**

> *"Moreover, we will not guess what the drafters of the ordinance might have intended, or add words that they did not see fit to include."*

If the City of Dover intended for only a subset of residential TDR projects to provide a buffer, the Ordinance would have been drafted with that restrictive language. To "add words" now to excuse 103 Court St from this requirement would be a direct violation of the *Harrington* standard and would constitute a reversible error of law.

Furthermore, the Court in **Trottier v. City of Portsmouth**, 142 N.H. 275 (1997) reaffirmed this principle:

> *"We will focus on the **plain and ordinary meaning** of the terms used… if the language is plan and unambiguous, we need not look beyond the ordinance itself for further indications of legislative intent."*

The language of §170-29-G-7 is both plain and unambiguous. It mandates a buffer for the "parent parcel." Because the 103 Court St application relies on its status as a "parent" lot to secure increased density, it must follow the plain command of the ordinance. The Board must apply the law as written, not as the applicant wishes it had been drafted.

III. Administrative Acknowledgement in the Project Record

The requirement for a 30-foot TDR buffer at 103 Court St is not a matter of subjective interpretation; it is an established fact acknowledged repeatedly by City staff throughout the official project record and in direct communications with the public.

A. Consistent Findings by City Staff and Technical Review

From the initial Technical Review Committee (TRC) meetings in September through December 2024, City staff consistently identified the 30-foot buffer as a **mandatory requirement** that the current application fails to satisfy.

- **TRC Minutes (Sept 5 & 25, 2024):** Official minutes reflect repeated staff comments regarding the inadequacy of the provided buffer (Figures 7&8, Exhibits 4&5). These documents establish that the professional staff viewed the buffer as a prerequisite for approval.
- **Plan Snapshot & Staff Memos:** Internal tracking reports and formal memos explicitly cite the "required 30' perimeter buffer" (Figures 9&10, Exhibits 6&7).
- **Written Applicant Responses:** In formal letter reply to the City TRC comments, the applicant explicitly addressed the difficulty of "complying with the 30-foot buffer." The City and applicant did not argue then that it was inapplicable; they argued they had trouble meeting it.
- **Original TDR Application Form:** In the original TDR application form, the applicant checked the box for "**relief sought**" specifically regarding the buffer (Figure 11&12, Exhibits 8&9).

Under the doctrine of **Party Admission**, the City and the applicant have already conceded that the buffer applies to this project by repeatedly mentioning a waiver or relief for the buffer. An application cannot seek "relief" from a requirement they now claim does not exist. This constitutes a clear admission that the project is subject to §170-29-G-7.

If the Staff and application treated the buffer as a fact for four months, the Board should not suddenly treat it as a "question of interpretation" later.

PLAN REVIEW:
Planning:

- Reminder: Impact fees, Water and sewer investment fees
- Provide letters to serve when received.
- Provide HOA and
- Remove unit from the rear setback.
- Shrink common area or unit count to gain more than the 10' visual buffer. Narrative would be needed for TDR relief being sought from setback and buffer. However, seeing the density being sought is double what the base calculates out to be would indicate the buffers and setbacks should be met or unit request reduced.

Figure 7: Excerpt from Exhibit 4, Technical Review Committee (TRC) minutes from September 5, 2024.

PLAN REVIEW:
Planning:

- *Reminder: Water and sewer investment fees*
- *Provide City of Dover letter to serve when received.*
- *Shrink common area or unit count to gain more than the 10' visual buffer. Narrative would be needed for TDR relief being sought from setback and buffer. However, seeing the density being sought is double what the base calculates out to be would indicate the buffers and setbacks should be met or unit request reduced.*
    - This comment has not been adequately addressed. Still seems to have too many units and not enough buffer area.

- Many structures/areas of disturbance are within the TDR 30' no-cut-no-disturb area/still do not appear to have a visual buffer in place. If requesting a waiver, data suggestions above would also be important for evaluating waiver.

Figure 8: Excerpts from Exhibit 5, TRC minutes, September 26, 2024.

Description: The applicant proposes utilizing the City of Dover Transfer of Development Rights (TDR) regulations to redevelop Map 19 Lot 8. The proposal calls for the existing home to remain, the construction of a duplex and the construction of four (4) new single-family homes for a total of seven (7) units. The TDR Base Density Calculation provide for Base Density of three (3) units, therefore, four (4) of these units will be obtained under the TDR regulations. The existing house is proposed to remain and will be an unrestricted unit. The (2) two units located in the duplex building will be dead restricted to a Fair Market Rent (FMR) set by Housing Urban Development (HUD). The four (4) new single-family homes will be size restricted to a maximum of 1400 squarefeet of total living space per unit. The TDR application still requests relief from thirty (30) foot buffer requirement. The Landscape Design provides for new screening as mitigation for this relief.

Submittal Name	Status	Received Date	Due Date	Complete Date	Resubmit	Completed
Land Use Plan Technical Review v.2	Requires Re-submit	09/12/2024	09/25/2024	11/01/2024	Yes	Yes

Item Review Name	Department	Assigned User	Status	Assigned Date	Due Date	Completed Date
Business Development	Business Development	Burdin, James	Requires Re-submit	09/12/2024	10/10/2024	09/26/2024

Comments: • The narrative says that the design is context-sensitive with the neighborhood and consistent with the master plan, but doesn't provide much analysis to support the claims. The following information would make it easier to evaluate compatible density vs. overdevelopment:
- o Define the "surrounding area" for the purposes of evaluating density and visual character
- o Provide density comparisons between the proposed development and surrounding area (units/acre, building massing, lot coverage, presence of duplexes, prevailing setbacks and/or separation of buildings, etc.)
- o The narrative cites goals to increase housing supply, but has limited discussion of the Master Plan's vision for the future of this area in Dover.
- • Many structures/areas of disturbance are within the TDR 30' no-cut-no-disturb area/still do not appear to have a visual buffer in place. If requesting a waiver, data suggestions above would also be important for evaluating waiver.
- • Is there an opportunity to adapt the rear wing of the existing house or build the new duplex within the same footprint? If that is a viable solution it may improve both the architectural consistency and free up space to lessen buffer impacts.
- • Review RSA 289:3 III for compliance – "no new construction, excavation, or building" within 25' of the boundary of an established cemetery.
- • Plan orientation is not consistent across all sheets (e.g. both Court Street and the Cemetery appear on plan left on different sheets) – it is confusing the way it flips.

Figure 9: Excerpts from Exhibit 6, City's 'Plan Snapshot Report' at 103 Court St.

Staff Recommendation

While the applicant is seeking a waiver for the required 30' perimeter buffer, per the TDR ordinance, staff notes that this project is not proposing new lot lines but encourages the applicant to provide as much buffer and screening as possible to the neighbors. Staff would also like to see more assurance that the 25' cemetery buffer is maintained per RSA 289:3.

Figure 10: From Exhibit 7, Staff Memo noting specifically the "required 30' perimeter buffer."
Note: *Here the City acknowledges the "required 30' perimeter buffer, per the TDR ordinance". However, the City simultaneously suggests – without statutory citation – that the absence of new lot lines may render this requirement inapplicable. By 'encouraging' a voluntary buffer in lieu of enforcing the "required" 30-foot standard, the City is attempting to substitute a mandatory performance standard with discretionary staff preferences, effectively bypassing the formal waiver process required by law.*

- *Shrink common area or unit count to gain more than the 10' visual buffer. Narrative would be needed for TDR relief being sought from setback and buffer. However, seeing the density being sought is double what the base calculates out to be would indicate the buffers and setbacks should be met or unit request reduced.*
    - This comment has not been adequately addressed. Still seems to have too many units and not enough buffer area.

      The revised Site Plan provides a radical revision to the site layout. The unit count has been reduced by 2 units. The existing house will remain as a single-family home, which will utilize its existing utilities, trash collection and driveway. The new duplex has been moved slightly to more closely coincide with the existing barn foot print and will provide additional buffer to the east. These units will remain HUD restricted. Cottage #5 has been removed. The remaining cottages have been pushed to the west another 15 feet and completely out side of the 30-foot buffer.

      The aerial photographs from the City of Dover GIS shows that in 2005, 2010 and as recently as 2018 much of the property was maintained as field and much of the growth on site does not provide effective screening. The proposal still requests a waiver from the 30-foot perimeter buffer which will allow for clearing of the existing undergrowth and the installation of stockade fence with an additional vegetative screen.

- Many structures/areas of disturbance are within the TDR 30' no- cut-no-disturb area/still do not appear to have a visual buffer in place. If requesting a waiver, data suggestions above would also be important for evaluating waiver.

  The unit count has been reduced by 2 units. The new duplex has been moved slightly to more closely coincide with the existing barn foot print and will provide additional buffer to the east. Cottage #5 has been removed. The remaining cottages have been pushed to the west another 15 feet and completely out side of the 30-foot buffer.

  The aerial photographs from the City of Dover GIS shows that in 2005, 2010 and as recently as 2018 much of the property was maintained as field and much of the growth on site does not provide effective screening. The proposal still requests a waiver from the 30-foot perimeter buffer which will allow for clearing of the existing undergrowth and the installation of stockade fence with an additional vegetative screen.

Figure 11: Excerpts from Exhibit 8 - letter from Applicant responding to City Staff comments at TRC.

The 30' Buffer is even indicated on the TDR application form from the city, and was checked off by the applicant in the original submission for "relief sought" (Figure 12, Exhibit 9):

TRANSFER OF DEVELOPMENT RIGHTS INFORMATION

Type of TRANSFER OF DEVELOPMENT RIGHT REQUEST (Check All That Apply):

☐ Residential ☒ Residential (reduced size) ☐ Industrial | ☒ Purchase ☐ Land Preservation

Relief sought (Check All That Apply):

☐ Lot Size ☐ Frontage ☐ Setback ☒ 30' Buffer ☒ Increase by 4 units

Describe Proposed Use or Activity that requires TDR; describe any impacts and document mitigation:

See Project Narrative

Figure 12: Excerpt from Exhibit 9, the actual TDR application form indicating "30' Buffer" as a general checkbox item, not restricted to subdivision or site plan.

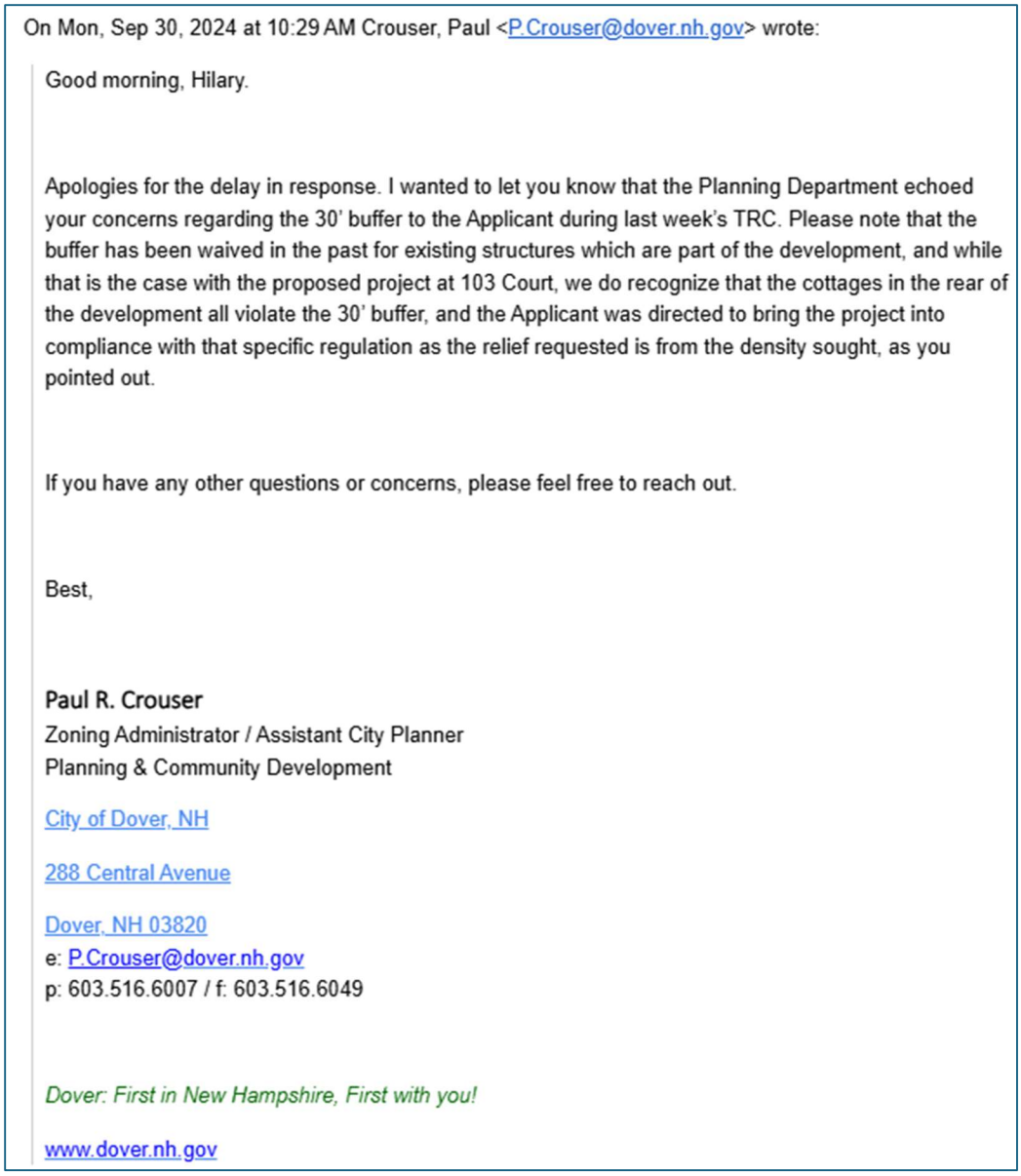
Furthermore, audio recordings from the TRC confirms that Planning Director Donna Benton explicitly linked the buffer to the 103 Court St project on September 29 stating:

[1:30] "I know we chatted last time about trying to add more than the existing 10 foot visual buffer so if we can still look to make that the 30 that is technically required"
[7:17]"Yeah, because the buffer is a requirement…. The issue is the TDR ordinance is clear that if you're asking for relief because of the extra density then you shouldn't be getting the extra density."
[25:20] "Yeah, because the buffer is a requirement."
See at: https://publicrecords.dover.nh.gov/Tabs/Index/21116/public/1/deptnum/0/cab/Public_Meetings

B. Direct Confirmation to Abutters

The Planning Department's stance was not merely internal; it was formally communicated to the public as an authoritative interpretation of the Code. In response to direct inquires from abutter Hilary Hamer, the Planning Department's Zoning Administrator Paul Crouser repeatedly confirmed the buffer's applicability to 103 Court St via email (Figure 13, more in attached Exhibit 10).

As the official charged with the administration and enforcement of the Zoning Ordinance, Mr. Crouser's confirmation creates a high threshold for any subsequent "re-interpretation." For the Board to reverse this position now would not only contradict the City's own expert but would also violate the public's right to rely on official municipal guidance.



On Mon, Sep 30, 2024 at 10:29 AM Crouser, Paul <P.Crouser@dover.nh.gov> wrote:

> Good morning, Hilary.
>
> Apologies for the delay in response. I wanted to let you know that the Planning Department echoed your concerns regarding the 30' buffer to the Applicant during last week's TRC. Please note that the buffer has been waived in the past for existing structures which are part of the development, and while that is the case with the proposed project at 103 Court, we do recognize that the cottages in the rear of the development all violate the 30' buffer, and the Applicant was directed to bring the project into compliance with that specific regulation as the relief requested is from the density sought, as you pointed out.
>
> If you have any other questions or concerns, please feel free to reach out.
>
> Best,
>
> **Paul R. Crouser**
> Zoning Administrator / Assistant City Planner
> Planning & Community Development
>
> City of Dover, NH
>
> 288 Central Avenue
>
> Dover, NH 03820
> e: P.Crouser@dover.nh.gov
> p: 603.516.6007 / f: 603.516.6049
>
> *Dover: First in New Hampshire, First with you!*
>
> www.dover.nh.gov

Figure 13: Email excerpt from Exhibit 10. "we do recognize that the cottages in the rear of the development all violate the 30' buffer, and the Applicant was directed to bring the project into compliance with that specific regulation."

C. The Error of Relying on "Staff's Interpretation" Over Law

Following a consistent four-month trail of official documents indicating that the 30-foot TDR buffer is required, the narrative abruptly changed at the January 28, 2025, Planning Board meeting. Despite the prior record, the Board voted under the interpretation that the buffer was not required. This decision remains a central issue in ongoing litigation at the New Hampshire Supreme Court (Docket #2025-0686), and it remains a major question now for the site plan still.

Notably, in the official record of that meeting in January, the Board did not cite a legal statute or an amendment to justify this change; they relied solely on "**staff's interpretation**" (see Figure 14, from January 28, 2025 Planning Board meeting minutes):

right where one unit exists today. In regards to TDR buffers, as 170-29.G(7) states, "A continuous visual buffer shall be created along the perimeter of the parent parcel, which shall include a thirty-foot no cut, no disturb buffer," and the proposal is not indicating to subdivide or add new lot lines, staff's interpretation has been that the buffer is not required. However, staff has continually asked the applicant to add more green

Figure 14: From Meeting Minutes January 28, "In regard to TDR buffers.... staff's interpretation has been that the buffer is not required."

This statement is factually contradicted by the preceding four months of documents and the Zoning Administrator's own emails. More importantly, it is **legally insufficient**. In New Hampshire land-use law, a Board's duty is to the Ordinance and the Law, not to the shifting opinions of City Staff.

1. **The Non-Delegable Duty of the Board**
   The NH Supreme Court held in ***Duffy v. City of Dover***, 149 N.H. 178 (2003) that the interpretation of an ordinance is a **question of law**, not a matter of administrative discretion. The Board has a non-delegable duty to apply the law as written. Because the TDR Ordinance states the project "shall create a perimeter buffer" and does *not* state "only for subdivisions," a staff member's "interpretation" cannot override the express mandate of the City Council's enacted law.
2. **The Limits of Administrative Weight**
   In ***Working Stiff Partners, LLC v. City of Portsmouth***, 172 N.H. 611 (2019), the court again clarified that while administrative interpretations can be considered, the court (and the Board) must ultimately follow the plain meaning of the words in the Ordinance.

The record proves that the City regarded the buffer as a requirement from September through December. The sudden "re-interpretation" in January 2025 lacks any statutory basis and represents an attempt to rewrite the TDR Code from the bench – an action that exceeds the Board's authority.

D. The Doctrine of Administrative Estoppel

The Planning Board is further constrained by the principle of **Administrative Estoppel**. For over four months – from the first TRC meeting through the January Site Walk – the City's professional staff, the Zoning Administrator, and the applicant's own filings consistently represented to the public that a 30-foot "no-cut" buffer was a mandatory component of this project.

The abutters and the general public have a right to rely on the written word of the Zoning Administrator and the official public record. As a matter of equity and law:

- **Induced Reliance:** The abutters relied on these official representations when evaluating the project's impact and preparing their testimony. By the time the "interpretation" was abruptly changed in January 2025, the public had been denied the opportunity to challenge the project under this new, narrower framework.

- **Prohibition Against Inconsistent Positions:** A municipality cannot affirm a requirement for months – inducing reliance from the neighbors – only to "pivot" to a contradictory interpretation at the final hour. This "bait-and-switch" regarding an environmental protection violates the basic tenets of due process and administrative fairness.

IV. The Prohibition Against Relief: Density-Driven Hardship

While the record for 103 Court St mentions "possible relief" for the TDR 30-foot buffer, no waiver or relief has ever been formally considered or granted by the Planning Board. Consequently, the site plan remains in direct violation of the Ordinance.

More importantly, the Board is legally prohibited from granting such relief in this instance. **Dover Code §170-29-G-8(d)** establishes a clear restriction:

"Any relief sought should not be caused by the additional density."

As both the Planning Director and Zoning Administrator acknowledged on the record (in TRC and in email, Figure 13), the conflict with the 30-foot buffer at 103 Court St is **directly caused by the additional density being sought.** The volume of houses, parking, and necessary drainage infrastructure for this density cannot physically fit on the lot while simultaneously respecting a 30-foot "no-disturb" area.

A. The Applicant's Admission of Cause

The applicant has explicitly admitted that their desire for increased density is the sole reason they cannot comply with the buffer. In their letter responding to the Technical Review Committee (TRC), the applicant stated (Figure 15), "Strict compliance with the 30-foot perimeter buffer would leave development of the property limited…":

- Shrink common area or unit count to gain more than the 10' visual buffer. Narrative would be needed for TDR relief being sought from setback and buffer. However, seeing the density being sought is double what the base calculates out to be would indicate the buffers and setbacks should be met or unit request reduced.

  Our TDR request has been revised to eliminate the relief from the R-12 setback requirement. The revised plan has reduced the common area to increase the distance from the proposed cottages to the easterly property. The property is approximately 135 feet wide and strict compliance with the 30-foot perimeter buffer would leave development of the property limited. We feel the proposed landscaping is adequate mitigation for the reduction in the buffer.
  The Applicant has prepared a Transfer Development Rights Narrative (see attached).

Figure 15: Excerpt from Exhibit 9

This statement is a formal admission that the need for relief is a direct consequence of the proposed density. A less dense development on this same property is entirely possible while

maintaining full compliance with the 30-foot buffer. By stating that the buffer "limits" development, the applicant confirms that the conflict is not caused by the land itself, but by the **amount of development** they are trying to force onto it.

B. Conclusion of Law

Under the ***Harrington*** standard, the Board cannot "add words" to the ordinance to bypass the restriction in §170-29-G-8(d). The Ordinance is clear: if the density causes the problem, relief cannot be granted.

Because the applicant has admitted that the buffer restricts their *desired* level of development (their density), the Board lacks the statutory authority to grant a waiver or relief. To grant the density bonus while simultaneously allowing encroachment into the mandatory mitigation buffer would be a violation of the Code and a reversible error of law.

V. Public Representations and the Preservation of Public Trust

The City of Dover has made specific, public-facing representations regarding the protections afforded to neighborhoods adjacent to TDR projects. These official promises created a reasonable expectation of protection that the City is now attempting to discard.

A. The Residential TDR Fact Sheet: A Universal Promise

The City's own "Residential TDR Fact Sheet," which is widely circulated and hosted on the City's official website, explicitly cites the buffer as a foundational requirement of the program.

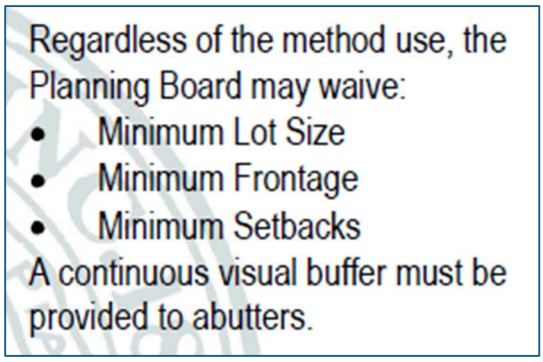


Figure 16: Excerpt from Exhibit 11, Dover's Residential TDR Fact Sheet"

The document notes that a "continuous visual buffer" is required for TDR projects, directly referencing **§170-29-G-7**. Critically, this public document contains no qualifiers, footnotes, or language suggesting that this requirement is restricted to *some* TDR projects. It presents the buffer as a universal standard for all TDR developments.

B. Breach of Public Trust and Equitable Estoppel

The circulation of this document raises a fundamental question of government accountability: Why has the City marketed the TDR program to its residents by promising a perimeter buffer as

a mitigation measure for density if it did not intend to provide that buffer to the neighbors of 103 Court St?

By promoting the TDR program as having a mandatory "continuous visual buffer", the City induced the public to accept higher-density zoning under the promise that neighborhood character would be preserved by a buffer zone. To deny this protection now – after the public has relied on these official representations – is more than a violation of the Ordinance's plain meaning; it is a breach of the public trust and a violation of the principle of **Equitable Estoppel**.

VI. Failure of Regular Consistency: A Multi-Year Record of Precedent

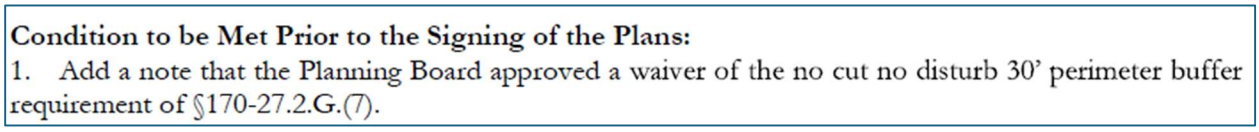
An interpretation that the TDR buffer does not apply to TDR site plans is a radical departure from years of established Board precedent. There is a lengthy and consistent record of residential TDR projects across Dover – both subdivision and multifamily site plans – where the Planning Board has uniformly applied the 30-foot TDR buffer.

A. TDR Site Plans Requiring Buffers or Formal Waivers

The following multifamily projects were processed as TDR Site Plans, yet the Board explicitly acknowledged the 30-foot TDR buffer as a mandatory requirement either by enforcing it or requiring a formal waiver of relief (largely preceding §170-29-G-8(d) *no additional relief* clause). In the cases where the Board held formal votes to grant waivers, these votes would have been legally unnecessary and nonsensical if the buffer did not apply to site plans.

51&65 Bellamy Road: The proposal included "4-unit structures that look like single-family homes which are centered away from the housing on Bellamy Rd with a 30ft buffer along the property lines." By definition, in Dover a 4-unit is a multifamily, so this was reviewed as a site plan. Even so, **as a site plan, it required the 30ft perimeter buffer**. (Exhibit 12, pages 5-7) Current Board members Kyle Pimental and Tom Clark participated in the November 9, 2021 vote.

48 Whittier Street: A "six-unit multi-family residential building utilizing TDR to purchase 4 units." As a multi-family building, this was a site plan. The Planning Board for this project voted to formally waive the no-cut, no-disturb 30' perimeter butter. **A formal vote to waive the buffer at this site plan, demonstrates unequivocally that the buffer applies to site plans.** The waiver was granted before the TDR amendment §170-29-G-8(d): ""Any relief sought should not be caused by the additional density." Current Board members Gina Cruikshank, Fergus Cullen and Kyle Pimental participated on June 28th, 2022. (Exhibit 13, pages 6-8)



Condition to be Met Prior to the Signing of the Plans:
1. Add a note that the Planning Board approved a waiver of the no cut no disturb 30' perimeter buffer requirement of §170-27.2.G.(7).

Figure 17: Excerpt from Exhibit 13 Meeting Minutes for the Multifamily TDR Site Plan at 48 Whittier Street.

757 Central Ave: A large proposal for two-multifamily buildings and therefore a site plan. Like Whittier Street, a formal vote to grant "relief to the 30' buffer requirement" was granted, demonstrating that **the buffer applies to TDR site plans.** Again, this was before addition of §170-29-G-8(d): ""Any relief sought should not be caused by the additional density." Current Board members Gina Cruikshank, Ken Mavrogeorge, Dennis Shanahan and Kyle Pimental participated in the July 26, 2022 vote. (Exhibits 14, pages 7, Exhibit 15, 16).

The applicant is also requesting that as part of the TDR Request, the Planning Board grant relief to the 30' buffer requirement.

Figure 18: Excerpt from Exhibit 15 for 757 Central Ave, Staff Memo.

The project requires the following approvals:

- TDR Approval for the purchase of 3 units and the removal of the 30' buffer.
- Waiver to the requirement for site specific soils mapping and lighting uniformity ratio
- CUP for Frontage Build-Out
- Site Plan Approval.

Figure 19: Excerpt from Exhibit 16, application letter.

Amendment "no additional relief": In July of 2023, the TDR ordinance is revised to add §170-29-G-8-d, "Any relief sought should not be caused by the additional density." (Exhibit 17)

Cielo Drive: A condominium association of 56 residential townhomes in a series of 8 buildings; treated as a multi-family site plan. The Planning Board granted a formal waiver for *partial relief* from the 30' TDR buffer. **As before, the waiver for this site plan proves that the TDR buffer applies to site plans**. This waiver did not conflict with §170-29-G-8-d because the reasoning given was not due to the additional density (Exhibits 18, 19 pages 4-7, 20):

Summary of Waiver Requests:
The applicant seeks a waiver of the no-cut, no-disturb 30' perimeter buffer requirement of §170-27.2.G.(7) in the area of the frontage along Cielo Drive (creating a streetscape) and the parking lot area which is adjacent to another small parking array off of Cielo Drive due to the characteristics and circumstances of the subject parcel related to the previously approved development. Parameter buffers of the original development on adjacent parcels (following subdivision) are still in place.

Figure 20: Excerpt from Exhibit 18, discussing waiver of the 30' TDR buffer for the SITE PLAN at Cielo Drive.

Site Plan Waivers – Subsequent Conditions to Be Met Prior to the Signing of Plans:

1.) Add a note that the Planning Board approved waivers for (1) Partial relief from no cut no disturb 30' perimeter buffer requirement of Chapter 170-27.2.G.(7) in the area of the frontage along Cielo Drive and the parking lot area which is adjacent to another small parking array off of Cielo Drive; (2) The road grade within 75' of an intersection standard of Chapter 157-32.G and found that the criteria of Chapter 153-21.A have been met. **This has been added to the Overview Site Plan at the end of the Waiver Request Table.**

Figure 21: Excerpt from Exhibit 20, letter from applicant acknowledging condition of approval including waiver of the 30' buffer for the SITE PLAN.

Current Board members Fergus Cullen and Kyle Pimental participated in the vote on November 14th, 2023. (Exhibit 19)

In New Hampshire, administrative agencies must act consistently. When a Board has a longstanding history of interpreting a rule a certain way – and has even forced other developers to seek formal waivers – it cannot "re-interpret" that rule for an application now. To exempt 103 Court St now due to being a TDR site plan – without a waiver and despite the density-driven conflict – represents an "arbitrary and capricious" application of the law.

B. TDR Subdivisions Enforcing the 30-Foot Buffer

The Board has been equally consistent in enforcing the 30-foot mandate for TDR subdivision projects:

26 ½ Bellamy Road: TDR Subdivision with plans including a labeled 30-foot no cut, no disturb buffer, with the exception of encroaching at the right of way. The Board specifically had to grant a waiver for encroachment on the buffer in the right of way. (Exhibits 21, 22 pages 4-7). Current Board members Gina Cruikshank and Kyle Pimental participated in the June 22nd, 2021 vote.

Wildcat Drive (Sixth St): A subdivision proposal for "11 single family lots plus 3 open space, non-buildable lots." Conditions to be met prior to occupancy included "Documentation that the HOA has been created and is in place." The plan provided either a 50' wetland buffer or a 30' TDR buffer around the perimeter. This was a type of open space subdivision. (Exhibits 12, pages 1-3, Exhibit 23, 24). Current Board members Kyle Pimental and Tom Clark participated in the November 9, 2021 vote.

42 Long Hill Rd: A TDR subdivision with the explicit condition "that the 30' buffer is shown on the plans." (Exhibit 25, pages 6-8). Current Board members Gina Cruikshank and Fergus Cullen participated on March 28th, 2023

566 Sixth St: TDR application from Board member Fergus Cullen for two duplexes and a single-family house was denied by Planning Board vote. The plan included a labeled 30' no-cut, no-disturb buffer and was assured in the presentation of the application. Later, this was reversed by the NH Housing Appeals Board, Case No. 2024-029-PBA, and then approved by new Planning Board vote. (Exhibits 26, 27 pages 10-12, 28, 29) Current Board members Gina Cruikshank, Kyle Pimental and Melina Gambino participated on October 22nd, 2024.

C. The 2023 Amendment: The "No Relief" Standard

In July of 2023, the TDR ordinance was revised to add §170-29-G-8-d, "*Any relief sought should not be caused by the additional density.*" This amendment, led by current board member Kyle Pimental, was intended to prevent "double dipping" – where a developer receives a density bonus (TDR) and then seeks relief from other zoning protections.

While projects prior to 2023 (Whittier St, Central Ave) could legally be granted waivers for the buffer even if due to additional density, 103 Court St cannot for the same reasons. Because the applicant at 103 Court St has admitted that compliance with the buffer would "limit development" (ie. reduce density), any waiver would be a direct violation of this 2023 amendment (Figure 15). The Board cannot grant the same relief it previously allowed in these older cases.

D. More Recent Administrative Admission - Littleworth Rd

The Planning Department has continued to enforce the 30-foot TDR buffer standard across projects in more recent reviews. **Littleworth Road** was a site plan proposal for a cluster arrangement of residential duplexes on a single lot as a condominium association, nearly identical in structure to 103 Court St. The Planning Staff issued a negative recommendation, citing insufficient space outside the "**required no-cut, no-disturb buffers**" (Figure 22, Exhibit 30, 31):

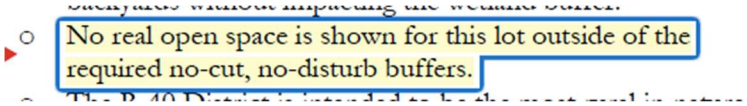


Figure 22: Excerpt from Exhibit 30, Staff Memo for Littleworth Road with rejection noting required no-cut, no-disturb buffers for this site plan application.

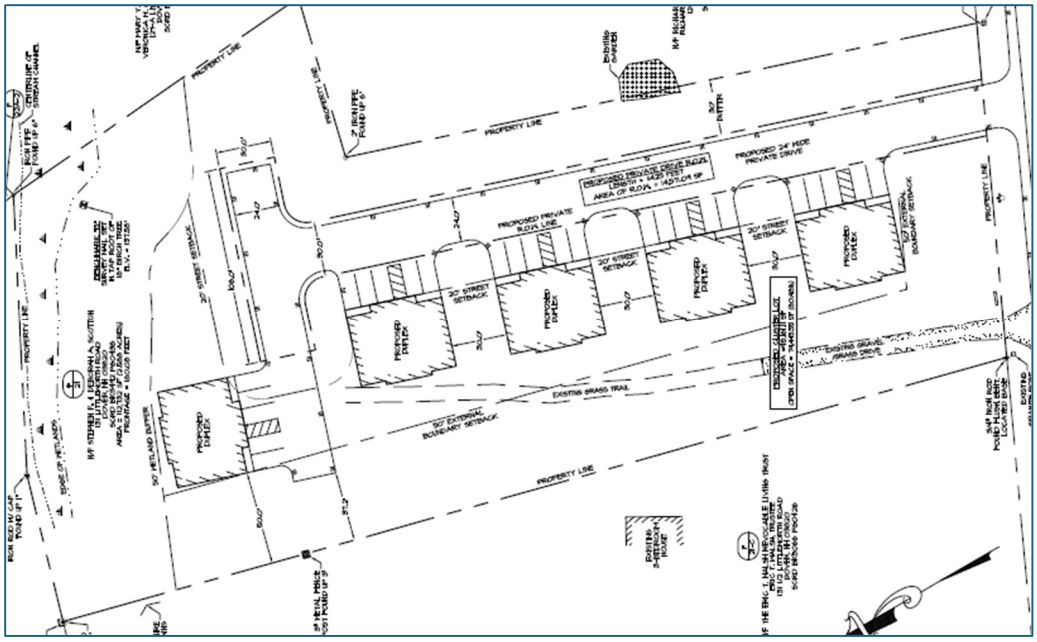


Figure 23: Plan for Littleworth Road from Exhibit 31 showing the cluster arrangement of multiple residential duplex units on one lot, like 103 Court St.

E. Summary of Precedence

The multi-year record of TDR administration in Dover is that the 30' TDR buffer has been required for both site plans and subdivisions. While waivers have been granted, a waiver has not even been formally considered by the Planning Board for 103 Court St, and conflicts with §170-29-G-8-d, "*Any relief sought should not be caused by the additional density.*" Regulatory consistency and the principle of **Equal Protection** demand that the TDR 30' buffer be considered at 103 Court St.

VII. Technical Impossibility of the Current Site plan with Buffer

The proposal places an access road at 23 feet and building footprints at 32.6 feet from the property line. This makes physical compliance with a 30-foot "no-disturb" mandate physically impossible. A "no-disturb" buffer is not a simple setback; it is a protected zone where the soil, roots, and vegetation must remain untouched by mechanical activity.

A. Encroachment of the Access Road

The proposed access road is located 23 feet from the boundary line. This is a per se violation of § 170-29-G-7. Clearing land, grading a roadbed, and laying asphalt within 30 feet of the perimeter "disturbs" the buffer.

B. The 2.6 foot "Buffer Gap" is Insufficient for Construction

While the proposed new buildings are just outside 30 feet from the property boundary, the **limit of disturbance (LOD)** required to construct them will inevitably cross into the 30-foot no-disturb zone. Standard construction practices require:

- **Excavation and "Over-dig":** Foundations require a "bench" or "over-dig" area typically extending **5 to 10 feet** beyond the foundation wall to allow for waterproofing, drainage tiling, and safety sloping for workers. A building at 32.6 feet would require excavation as close as **22 feet** from the property line.
- **Grading and Drainage:** Site plans must demonstrate how water sheds away from buildings. Sloping the land from a 32.6 foot setback to a 0-foot property line requires grading activity that will fundamentally alter the soil and vegetation within the 30-foot buffer. **Sheet SP-2** confirms this, showing erosion control measures extending directly to the property boundary.
- **Scaffolding and Equipment:** The physical act of framing and siding a building requires scaffolding and "man-lifts" that require a level operating radius. It is a physical impossibility to construct a multi-story residence with only **2.6 feet** of clearance without heavy machinery compacting the soil within the "no-disturb" zone.

C. Contradiction of the "Visual Buffer" Requirement

The Ordinance further mandates a "**continuous visual buffer**". If the application intends to plant new trees to meet the "visual" requirement because existing vegetation is sparse, the act of planting – digging holes, bringing in equipment, and altering the grade – **violates the "no-disturb" provision**. Conversely, if they intend to keep existing trees, the "over-dig" for the foundations and roadbed will sever the root systems of those trees, leading to "hazard trees" that will eventually fail, destroying the visual buffer they were meant to provide.

IX. Procedural Failures and the "Loophole" Admission

The public repeatedly exercised every available opportunity to raise concerns regarding the 30-foot buffer at 103 Court St (Exhibits 32, 33, 34 pages 7-10). Despite these efforts, there has been no legal clarity provided from the Board on the statutory language and history as presented. Ultimately, the Board's voted on the TDR in January 2025 relied on a self-described "loophole" – a decision now under review by the NH Supreme Court (**Docket #2025-0686**).

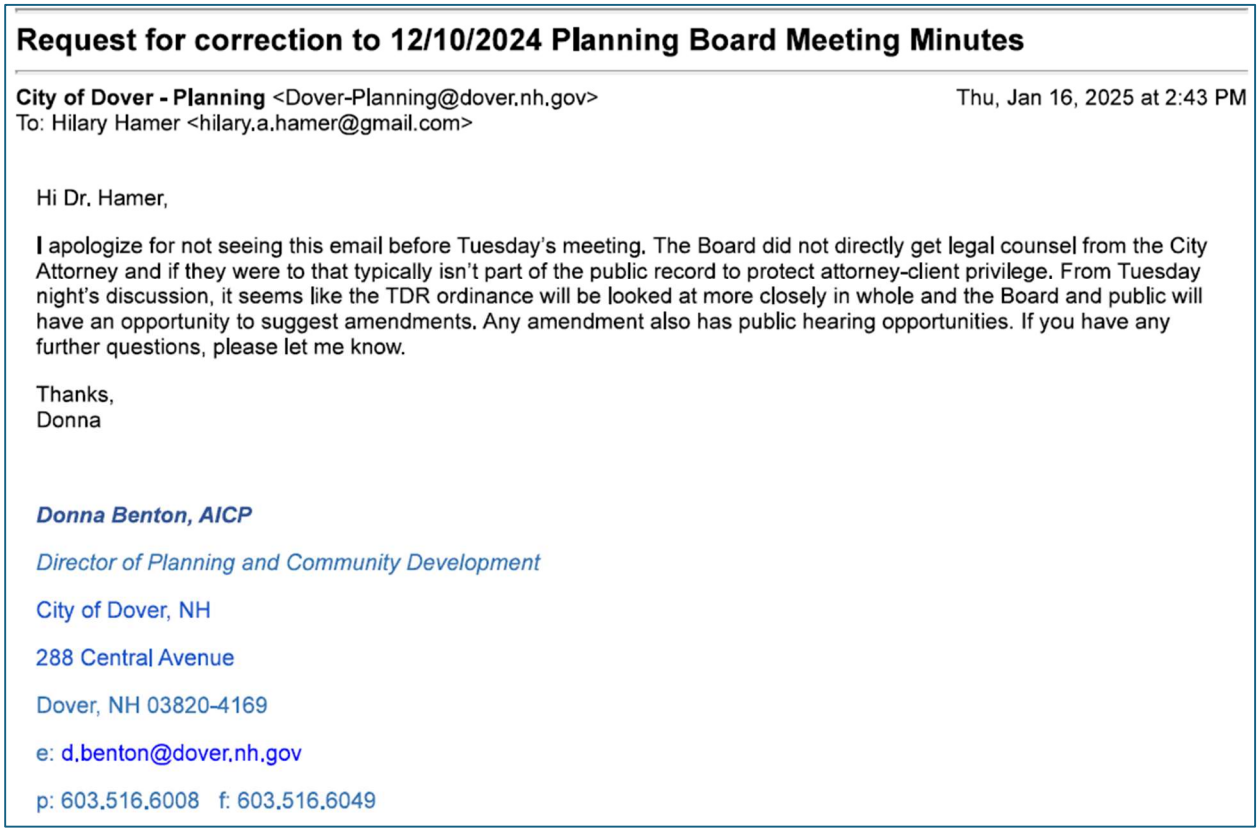
A. Broken Assurances of Legal Review

During the December 10, 2024 Planning Board meeting, Chair Cruikshank responded to public concerns by asserting there would be "no rewriting or ignoring of regulations" (minute reference 2:19). Crucially, the Chair stated (minute reference in the meeting recording 2:31):

"I think we'll probably have the City Attorney weigh in and get further clarification [about the buffer]. If not by the site walk, by the next time we see it"

Relying on this promise of legal oversight, abutters attended the January 11, 2025, site walk, where the **30-foot buffer was physically flagged with surveying tape** – further reinforcing the public's reasonable expectation that the buffer was a mandatory project component (request to mark the buffers is in the meeting minutes for 12/10, Exhibit 34, page 10). However, Planning

Director Donna Benton later confirmed that **no legal counsel was ever sought** before the January 28, 2025 meeting (Exhibit 35). This failure to seek legal review, while relying instead on "staff interpretation," is a violation of the Board's non-delegable duty to apply the law as written (***Duffy v. City of Dover***).



Request for correction to 12/10/2024 Planning Board Meeting Minutes

City of Dover - Planning <Dover-Planning@dover.nh.gov> Thu, Jan 16, 2025 at 2:43 PM
To: Hilary Hamer <hilary.a.hamer@gmail.com>

Hi Dr. Hamer,

I apologize for not seeing this email before Tuesday's meeting. The Board did not directly get legal counsel from the City Attorney and if they were to that typically isn't part of the public record to protect attorney-client privilege. From Tuesday night's discussion, it seems like the TDR ordinance will be looked at more closely in whole and the Board and public will have an opportunity to suggest amendments. Any amendment also has public hearing opportunities. If you have any further questions, please let me know.

Thanks,
Donna

Donna Benton, AICP

Director of Planning and Community Development

City of Dover, NH

288 Central Avenue

Dover, NH 03820-4169

e: d.benton@dover.nh.gov

p: 603.516.6008 f: 603.516.6049

Figure 24: From Exhibit 35, email response from Planning Director indicating minutes would not be amended and no Legal Counsel was sought.

B. Admission of a "Loophole" vs. Plain Intent

At the January 28, 2025, meeting, Board members explicitly admitted that treating site plans differently than subdivisions was a "loophole" that defied the intent of the TDR program:

> *Kyle Pimental [45:40]:* "…I think that the comments that have been raised in terms of whether or not the 30 foot buffer should be applied to a site plan versus subdivision. To me, I think I agree that they should be treated the same. I feel like this is almost kind of like a loophole, that the way in which this is defined is causing some ambiguity here. Where this is being treated differently. It's also, I think, opening the door for developers to see a way to not have to use the 30 foot buffer if they utilize this part of the regulations which I don't think was the intent. So I would advocate that when we take this up for our goal setting - is that we really consider treating these the same. I honestly

> really don't see why there should be a difference. …I don't necessarily see why utilizing a certain part of the regs. It seems like a loophole to me that I think we should tighten up that way. This is no longer a discussion that whether or not you want to utilize this piece or if you want to actually put them on their own lots regardless, it's gonna be a 30 foot buffer. If you're utilizing the TDR, you should have to do that."
>
> *Ken Mavrogeorge [47:40]:* "I do think it needs to be clarified and I would be in favor of them being treated the same. … I don't think it's possible to get a 30 foot no cut."

The Board's decision to approve the TDR while simultaneously acknowledging that the exclusion of the buffer was a "loophole" that defied "intent" constitutes an arbitrary and capricious application of the law. The statements indicate that both Board members here agree that TDR subdivisions and TDR site plans should be treated the same. There is no "loophole"; there is only an error in legal application that ignores the plain language and precedent presented herein. The Board now has a chance to rectify this error by denying the site plan for not providing the TDR buffer now.

C. Lack of Ripeness and Pending Litigation

As before noted, this matter is currently before the **New Hampshire Supreme Court (Docket #2025-0686)** to resolve this exact question of law, whether the Ordinance requires a 30-foot TDR buffer for *all* residential TDR projects or not. Proceeding with any decision on the site plan while the underlying TDR authority is under review by the state's highest court is premature and "unripe." A site plan denial on the grounds of prematurity, deferring to the High Court, is appropriate by itself, but further the evidence and record provided herein by itself justifies that the buffer is mandatory, not provided, and legally required. To approve a site plan based on a contested "loophole" while that very loophole is being litigated is a waste of resources and a further injury to the due process rights of the abutters. (*Note that the Supreme Court Appeal document was previously submitted to Planning Board record on January 13, 2026, and being a ~100 page PDF is not repetitively included as an Exhibit here, but is reflected in the Record*.)

X. Direct Knowledge and Precedent of the Board

The record herein established that multiple current Board members participated in numerous TDR votes – for both site plans and subdivisions – where the TDR 30-foot buffer was applied. This demonstrates a clear, prior knowledge and understanding of the Ordinance and its intended application.

A refusal to apply the buffer at 103 Court St is not a "new" interpretation; it is a departure from the City's own administrative policy raised repeatedly by the Public. To proceed with an

approval vote for 103 Court St site plan now – despite the record of clear precedent, the broken promise of legal counsel, and the pending Supreme Court litigation – would be a failure of the Board's duty to apply the law consistently.

A Board that ignores its own precedent, legislative history, and the plain language of its ordinance – while admitting it is exploiting a "loophole" – executes an inconsistent application of the law and unreasonable departure from precedent.

XI. PROPOSED FINDINGS OF FACT

The following findings support the conclusion that the application for 103 Court St is misclassified and must be denied:

Proposed Findings of Fact / Reasons to Stay or Deny

1. **Legislative Intent:** The 2018 TDR Ordinance established the buffer requirement for the "parent parcel" two years before the City introduced separate subdivision and site plan tracks. Because the buffer predates these procedural distinctions, the buffer must be intended as a universal mandate for all TDR projects.
2. **Plain Meaning and the Harrington Standard:** The Court has established that the Board may not "add words" to change the meaning of the Ordinance in ***Harrington v. Town of Warner***. Per ***Trottier v. City of Portsmouth***, the plain and ordinary meaning of the text must be upheld: the buffer applies to the TDR parcel receiving the density.
3. **Administrative Record of Applicability:** The official project record – including Technical Review Committee (TRC) minutes, staff memos, and direct email confirmation from the Zoning Administrator – repeatedly and explicitly identified the 30-foot buffer as a requirement for 103 Court St.
4. **The Board's Non-Delegable Duty:** Per ***Duffy v. City of Dover***, the interpretation of an ordinance is a question of the law, not a matter of administrative discretion. While staff's interpretations can be considered, also under ***Working Stiff Partners, LLC v. City of Portsmouth***, the Board must ultimately follow the plain meaning of the Ordinance, which states that a buffer shall be required.
5. **Failure to Seek Lawful Relief:** The Board has not formally considered or granted a waiver for relief from the 30-foot buffer. Consequently, the site plan as proposed is in direct violation of the Dover Code.
6. **Statutory Prohibition of Relief:** Under **§170-29-G-8-d**, relief cannot be granted for conflicts caused by additional TDR density. Staff statements and the applicant's own filings conceded that compliance with the buffer is only "limited" by their desired density level; therefore, the Board is legally prohibited from granting a waiver in this instance.
7. **Equitable Estoppel and Public Promise:** The project record, staff communications, and public City documents have induced reliance or trust that the buffer applies to this

residential TDR project. Denying this protection now constitutes a breach of public trust and a violation of equitable principles.

8. **Requirements for Regulatory Consistency:** The Board has historically enforced the 30-foot buffer on TDR site plans including Bellamy Rd, Whittier St, Central Ave and Cielo Drive. A consistent and equitable administration of the law demands 103 Court St be treated the same.
9. **Physical and Technical Impossibility:** The proposal at 103 Court St cannot be physically constructed without significant impact within a 30-foot buffer zone. A road at 23-feet and building "over-digs" at 32 feet ensure the destruction of the protected buffer zone.
10. **Functional Failure of Duty:** The Board has admitted on the record that the current application relies on a "loophole" that defies the intent of the TDR program. Proceeding with an approval based on a self-described loophole, contradicting the plain language of the Code and project precedent, while failing to seek the legal counsel promised to the public on December 10, 2024 is unreasonable and unlawful.

XII. CONCLUSION

Based on the extensive record presented here that the site plan fails to provide the mandatory 30-foot buffer – and that the Board lacks the authority to grant relief for a density-driven conflict – the application must be **denied**.

We request the minimum *quid pro quo* of the TDR buffer be upheld. An increase in density of this magnitude fundamentally alters the immediate neighborhood. All residents are entitled to expect the City to uphold the basic tenets of zoning law established under **NH 674:36** which mandates the Board:

> (b) Provide for the **harmonious development** of the municipality and its environs;
> (d) Provide for **open spaces** of adequate proportions;
> (j) Include provisions which will tend to create conditions favorable to **health, safety, convenience, or prosperity**;

Statement of Prejudice: Not enforcing the buffer is a **prejudicial error**. The buffer directly impacts the actual *placement* of buildings, access road, drainage and utilities. By ignoring this mandate, the Board would deprive the public of specific statutory protection and cause permanent harm to the character and value of the abutting properties.

Requested Relief: An **outright denial of the site plan application** is required. The applicant must redesign the project to comply with the 30-foot "no-cut, no-disturb" buffer. This request is made to preserve all legal rights and to ensure an accurate administrative record is established for any subsequent judicial review.

12. AMENDMENT

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Chapter 170-25 "Floodplain Development", by revising section D – "Standards and regulations", to read as follows:

"(c) Certification by a registered engineer or architect that the FLOOD PROOFING methods for any nonresidential STRUCTURE meet the FLOOD PROOFING criteria in subsection KL(2)."

13. AMENDMENT

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Chapter 170-27 "Conservation District", by revising section D – "Procedures for Subdivision", to read as follows

"D. Procedures for subdivision. No subdivision of land shall be permitted which would create a LOT or parcel or leave as a remainder a LOT or parcel which does not have, outside the Conservation District, an area equal to the minimum LOT size required for the underlying zoning district, or one (1) acre, whichever is less. The ZONING BOARD OF ADJUSTMENT may grant an exception to this rule if unless such a LOT or parcel is to be permanently dedicated to OPEN SPACE or natural uses and is to be dedicated to a public or private agency having as a purpose the holding of such land in a natural state in perpetuity. The lot area outside of the Conservation District may be non-contiguous."

AND

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Chapter 170-27 "Conservation District", section E – "Other provisions", by deleting section (9) as follows and renumbering the subsequent sections:

"Land area contained within the Conservation District can be counted in determining the gross land area of a tract, LOT or parcel."

14. AMENDMENT

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Chapter 170-27.2 "Transfer of Development Rights" to read as follows

"170-27.2. TRANSFER OF DEVELOPMENT RIGHTS. **[Amended on 10-31-90 by Ord. No. 16-90; Amended on 01-22-2003 by Ord.35-02; Amended on 12-09-2009 by Ord. No. 2009.09.09-15; Amended on 02-22-2012 by Ord. No. 2012.01.25.]**

A. Authority. By the authority granted under RSA 674:21, this section creates overlay district(s) for the purpose of transferring DEVELOPMENT RIGHTS (TDR) within said districts.

B. Purpose and Intent. Within the City of Dover there are certain lands that possess significant conservation features, including but not limited to wetlands, groundwater recharge zones, forested areas, wildlife habitat, farmland, scenic viewsheds, historic landmarks, and linkages to other such areas. Because of their unique assemblages of flora and fauna and their significant contribution to the ecological system and/or the cultural identity of our community, these lands are worthy of special protection. The City of Dover furthermore, has a limited supply of land suitable for development. The purpose of this overriding district is to promote intensive development on the developable land possessing the least conservation value and to permanently protect lands possessing significant conservation features that provide unique values in their undisturbed condition.

   Additionally, it is recognized that the City of Dover has an Open Lands Committee and Conservation Commission who are active in protecting and preserving OPEN SPACE.

C. Applicability. Upon request by an APPLICANT for development approval and at the discretion of the PLANNING BOARD, the provisions of this subsection may apply to the district(s) defined in this subsection E below.

D. Districts Defined.

   (1) The Industrial TDR DISTRICT is hereby determined to be any I-4 or B-4 zoning district as shown on the Zoning Map for the City of Dover, New Hampshire, adopted December 9, 2009. The SENDING AREA is defined to be OPEN SPACE and related SETBACKs as defined by the City of Dover Wetland Protection District, Chapter 170-27.1, which are located in any I-4 or B-4 zoning district. The RECEIVING AREA is defined to be all remaining land in be any I-4 or B-4 zoning district.

   (2) The Residential TDR DISTRICT is hereby determined to be Residential districts noted or displayed on the Zoning Map for the City of Dover, New Hampshire, adopted December 9, 2009. The SENDING AREA is defined to be any land preserved by the City of Dover through conservation programs in the R-40 or R-20 residential zoning districts. The RECEIVING AREA is defined to be all non-R-40 or R-20 zoning districts east of the Spaulding Turnpike which allow residential development.

      a. <u>If the units created are purchased, the receiving area may be any zoning district that allows residential development.</u>

E. Procedural Requirements.

(1) At the discretion of the PLANNING BOARD, an APPLICANT for development approval within the RECEIVING AREA of the defined Industrial TDR DISTRICT may apply the performance standards specified in Subsection F below in return for the acquisition of land or DEVELOPMENT RIGHTS from the SENDING AREA within the same TDR DISTRICT. The performance standards for the Residential TDR DISTRICT are outlined in Subsection G below.

(2) A certified boundary survey of the associated land in the SENDING AREA shall be submitted as a supplement to the site plan or subdivision plan for development within the RECEIVING AREA. ~~For residential application, proof of previous preservation by the City of Dover is required.~~

(3) The owner of the subject OPEN SPACE within the SENDING AREA of the TDR DISTRICT shall SIGN all application materials as a co- APPLICANT of the development application. For residential application, proof of an agreement to sell DEVELOPMENT RIGHTS must be provided by the Conservation Commission.

(4) A sketch plan estimating layout of the development site and identifying the OPEN SPACE associated with the plan shall be submitted to the PLANNING BOARD for review at a regularly scheduled meeting. The PLANNING BOARD, within thirty (30) days of its review of the sketch plan, shall determine if waivers will be granted as allowed in Subsections ~~G~~ F and ~~H~~ G below. Following this decision, a final application is prepared. The final application for development approval shall be reviewed in accordance with the standard plan review process and subjected to all applicable development regulations, except as provided in this section.

(5) A perpetual easement or restrictive covenant shall be recorded at the Strafford County Registry of Deeds that preserves the designated OPEN SPACE within the SENDING AREA. Said easement or covenant may allow for the continuance of existing residential and agricultural activities, and may allow for utility and access crossings in accordance with subsection I below. The designation of the land protection agency to hold the easement shall be approved by the PLANNING BOARD.

F. Industrial Performance Standards.

(1) Land within a SENDING AREA, when surveyed, approved by the PLANNING BOARD and preserved by easement or covenant as specified in Subsection E above, may be counted for the OPEN SPACE requirement for a development site in a RECEIVING AREA. The amount of land preserved in a SENDING AREA shall equal or exceed the OPEN SPACE requirement for the development site, but in no case be less than one (1) acre. Notwithstanding, development sites within the I-4 and

B-4 zoning districts shall maintain OPEN SPACE or landscaped area on at least ten percent (10%) of the site. The design of the development site shall locate the OPEN SPACE or landscaped area to maximize the aesthetic value of the site.

(2) The minimum LOT size requirement may be waived by the PLANNING BOARD for land subjected to the TRANSFER OF DEVELOPMENT RIGHTS.

(3) The minimum FRONTAGE requirement may be waived by the PLANNING BOARD for land subjected to the TRANSFER OF DEVELOPMENT RIGHTS provided that paved access to all developed areas suitable for emergency vehicles is approved by the PLANNING BOARD.

(4) SETBACKs for parking, paved areas, and BUILDINGs may be waived by the PLANNING BOARD, and be consistent with the intent to promote intensive development of suitable development sites. Notwithstanding, BUILDINGs shall be at least one hundred fifty (150) feet from residential STRUCTUREs that exist on the date of enactment of the I-4 and B-4 Zoning districts, and seventy five (75) feet from the LOT LINE of a disagreeing residential ABUTTER.

(5) The developer shall record covenants that address architectural considerations for STRUCTUREs, SIGNAGE and lighting that are designed to promote the highest possible aesthetic quality of the development site.

(6) A landscaping plan shall be submitted with a development application that depicts landscaping or OPEN SPACE around the perimeter of the site, near the proposed BUILDINGs, and within the parking LOT that promotes the highest possible aesthetic quality of the development.

G. Residential Performance Standards.

(1) ~~A residential TRANSFER OF DEVELOPMENT RIGHTS APPLICANT may pursue one of the following methods for TRANSFERING DEVELOPMENT RIGHTS.~~ Annually, the City shall update a document identifying the cumulative cost per acre spent to preserve OPEN SPACE within the City of Dover. This list shall be kept on file in the Department of Planning and Community Development, and coordinated with the Conservation Commission. This cost shall become the value at which DEVELOPMENT RIGHTS may be purchased.

(2) Proceeds from the purchase of DEVELOPMENT RIGHTS, shall be placed into the Conservation Fund to be used to purchase future property or easements, or monitor easements, and not into the general fund.

(3) A residential TRANSFER OF DEVELOPMENT RIGHTS APPLICANT may pursue one of the following methods for TRANSFERING DEVELOPMENT RIGHTS.
(a) ~~Private land transfer~~ Single Family Detached method.

i. An applicant shall develop a baseline yield for the lot to be developed, through the following formula
   1. The square footage of the parent lot minus environmental constraints (wetlands, conservation areas etc) is the base lot size.
   2. The base lot size is then reduced by fifteen (15) percent to account for roadway, this creates the net area.
   3. The net area is then multiplied by a factor determined by the amount of wetlands over the parent lot. This is the developable area.

Percentage of Parcel that is wetlands	Factor
0<10%	0.85
10<20%	0.8
20<30%	0.75
30%<	.7

   4. The developable area is the divided by the minimum lot size, and the whole number value is the base number, with no rounding.
      a. This base number is not required to be restricted by the requirements in subsection iii.

ii. The transfer shall equate to one of the following calculations:
   1. For construction of units no larger than one thousand (1,000) square feet, of total living area, two (2) units per DEVELOPMENT RIGHT purchased shall be allowed.
   2. For construction of units no larger than fourteen hundred (1,400) square feet, of total living area, one and a half (1.5) units per DEVELOPMENT RIGHT purchased shall be allowed. The unit count shall be the whole number value and not rounded up.
      a. If the math to devise the base number ends in more than half a unit but less than a whole, and a transfer is purchased, the result would be two (2) dwelling units.

iii. The units created, through the transfer must be:
   1. Sold, and are not for rental purposes
   2. Limited to the square footage originally constructed.

iv. A note shall be placed on the approved plan and any Building Permit shall note the adherence to this section of the Code.

v. A note shall be placed in the property/unit deed citing the restrictions listed above.

~~(i) For land in the sending district to be eligible for a TRANSFER OF DEVELOPMENT RIGHTS, it must be a parcel of at least five (5) acres, and developable under the existing land use regulations.~~

~~(ii) Land within a SENDING AREA, when surveyed, endorsed by the Conservation Commission/Open Lands Committee, approved by the PLANNING BOARD and preserved by easement or covenant as specified in subsection E above, may be counted for the minimum lot size requirement for a development site in a RECEIVING AREA. The criteria used by Open Lands Committee to rank parcels shall be listed on the application.~~

(b) ~~Land bank~~ Attached Single Family, Two family, three family and 4 or more method

(i) The transfer may be through the purchase of development rights, as described in G) (1) and (2), or through the protection of land via a permanent conservation easement as per section E) (5). ~~For land in the sending district to be eligible for a TRANSFER OF DEVELOPMENT RIGHTS, it must be a parcel or easement purchased by the City through the use of Conservation funds allocated and approved by the City Council.~~

(ii) The transfer shall equate to one (1) unit per acre preserved, or purchased. If the end result is a village themed residential/commercial project, the transfer shall equate to one (1) unit per tenth (10th) of an acre preserved or purchased. ~~Annually, the City shall update a document identifying the cumulative cost per acre spent to preserve OPEN SPACE within the City of Dover. This list shall be kept on file in the Department of Planning and Community Development, and coordinated with the Conservation Commission.~~

~~(iii) Proceeds from the purchase of DEVELOPMENT RIGHTS, shall be placed into the Conservation Fund to be used to purchase future property or easements, and not into the general fund.~~

(4) ~~Regardless of the method utilized, the transfer shall equate to one (1) unit per acre preserved. If the end result is a village themed residential/commercial project, the transfer shall equate to one (1) unit per tenth (10th) of an acre preserved. A minimum of three (3) acres shall be purchased.~~ Regardless of the method utilized, the minimum LOT size requirement may be waived by the PLANNING BOARD for land subjected to the TRANSFER OF DEVELOPMENT RIGHTS.

(5) Regardless of the method utilized, the setbacks shall be:

MINIMUM DISTANCE AROUND INDIVIDUAL UNITS IN CLUSTERS		MINIMUM BUILDING SETBACKS FOR SUBDIVISION LOTS	
STREET Sides of Units	Between Units	Abutting A STREET	Abutting A LOT LINE
20 feet	20 feet	20 feet	10 feet

(6) Regardless of the method utilized, the minimum ~~LOT size requirement may be waived by the PLANNING BOARD for land subjected to the TRANSFER OF DEVELOPMENT RIGHTS.~~ FRONTAGE requirement may be waived by the PLANNING BOARD, for land subjected to the TRANSFER OF DEVELOPMENT RIGHTS provided that paved access to all developed areas suitable for emergency vehicles is approved by the PLANNING BOARD.

a. If lots are proposed, the minimum frontage allowed shall be forty (40) feet per unit

(7) ~~Regardless of the method utilized, the minimum FRONTAGE requirement may be waived by the PLANNING BOARD for land subjected to the TRANSFER OF DEVELOPMENT RIGHTS provided that paved access to all developed areas suitable for emergency vehicles is approved by the PLANNING BOARD.~~ A continuous visual buffer shall be created along the perimeter of the parent parcel.

(8) 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:

(a) Is consistent with the Master Plan

(b) Is not incompatible with the land uses on neighboring LOTs (eg a multifamily building in a single family neighborhood)

~~H. Conditional Uses.~~

~~(1) The PLANNING BOARD may grant conditional use permits to allow STREETs, roads, utilities, or other infrastructure improvements to cross wetlands within the RECEIVING AREA of the TDR DISTRICT, provided said infrastructure is essential to the productive use of land within the RECEIVING AREA of a TDR DISTRICT, and further provided that no possible location exists for said infrastructure in non-wetland areas."~~

EXHIBIT LIST (submitted as separate attached PDF documents)

1. 2018 TDR Amendments Document
2. 2020 TDR Amendments Document
3. Current Dover TDR Code
4. TRC Minutes September 2024
5. Second TRC Minutes September 2024
6. City Snapshot Report 103 Court St
7. December 2024 Staff Memo
8. Applicant Response to TRC
9. Original TDR Application Form
10. Emails with Zoning Administrator Paul Crouser
11. Dover Residential TDR Fact Sheet
12. November 2021 Minutes
13. June 2022 Minutes
14. July 2022 Minutes
15. Staff Memo for TDR Site Plan
16. TDR Site Plan Request for Waiver
17. 2023 TDR Amendment Document
18. Cielo Drive Staff Memo
19. November 2023 Minutes
20. Cielo Drive Letter
21. Staff Memo Bellamy Rd
22. Bellamy Meeting minutes
23. Wildcat Plan with Buffer
24. Wildcat Staff Comments
25. March 2023 Minutes
26. 566 Sixth St Plan with Buffer
27. October 2024 Minutes
28. Subdivision Approval at 566
29. Cullen's Appeal to HAB citing Buffer
30. Littleworth Rejection Memo
31. Littleworth Plan
32. Abutter Emails 1
33. Abutter Emails 2
34. December 2024 Minutes
35. Email Director Benton Re: Legal Counsel

Respectfully, Hilary Hamer, 91 Court St.

CITY OF DOVER – ORDINANCE

CITY OF DOVER

Agenda Item: 12.A.3.

Ordinance Number: **O – 2020.07.08 – 007**
Ordinance Title: Zoning – Citywide Area Rezoning, and Text Amendments Revising TDR and Alternative Energy Code
Chapter: 170

The City of Dover Ordains:

1. PURPOSE

The purpose of this ordinance is to amend Chapter 170 of the Code of the City of Dover, entitled Zoning, by updating the Code to reflect changes to zoning, certain textual modifications, updates to provisions concerning transfers of development rights, and adoption of an alternative energy code, all as recommended and adopted by the Planning Board.

2. AMENDMENT

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Section 170-7 "Establishment of Districts", to add a new "Gateway" (G) district to subsection A (3) "Mixed Use".

AND

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Section 170-7 "Establishment of Districts", to add a new subsection (f) and purpose statement to subsection B (3) to read as follows:

"(f) Gateway (G). The purpose of this district is to mark a transition point where you move from the less developed area (the highway, the rural landscape, etc.) to a more formal, densely developed urban core (multi-story buildings, civic buildings, etc.). In Dover the primary Gateways (eg Central Avenue north and south of the downtown core, Broadway, and Portland Avenue) are generally dominated by commercial activity, with buildings of a lower height than those located downtown. Some residual residential activity occurs occasionally as stand-alone buildings, but frequently residential activity is located above ground floor commercial uses. A modest distance between the building and the street exists, with a fair amount of landscaping."

AND

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising the official Zoning Map of the City of Dover, referred to in Section 170-8 of said Chapter as follows:

"The official Zoning Map of the City of Dover, New Hampshire, dated September 11, 2019, is amended by changing from "Central Business District" (CBD) "Downtown Gateway sub-district" to "Gateway" (G) District an area of approximately 109 acres located along Broadway from New York Street to Oak Street, Portland Avenue from Chapel Street to Atlantic Avenue and Central Avenue between Stark Avenue and Silver Street, and Ham Street to Abbey Sawyer Memorial Highway, consisting of Map 12 lots 1, 2, 3, 4, 5, 6, 20, 21 and 25, Map 15 lots 67, 68, 69, 70, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101,102,

103, 105, 106, 107, 111, 112, 112A, 113 and 113A Map 19 Lots 31, 32, 48, 49, 50 and 51 Map 20 lots 60, 61, 62, 63 and 64 Map 24 lots 1, 2J, 62, 64, 68, 68C, 69, 70, 71, 72, 73, 74, 75, 76, 77109, 110, 111, 111A, 114, 115, 115A, 115B, 116A, 128, 128-B, 129,129-1, 129-2, 130 and 131 Map 26 lots 6, 7A, 8, 9,10,11, 12 and 28A Map 27 Lots 53, 66, 67, 68, 68A, 69, 70, 71, 72, 73, 74, 75143, 144, 145, 147, 148, 149, 150, 169, 170, 171, 184, 185, 186, 203, 204, 205, 219, 222, 223, 224, 225, 226, 227, 273, 274, 275, 276, 277, 278, 286A, 291A, 291C, 291D and 292 Map 28 lots 7, 9A, 10, 11, 12, 12A, 13, 18, 18B and 19 Map 29 Lots 2, 3, 4, 9, 10, 11, 12, 16, 17, 19, 20 and 100 Map 30 lots 120, 120-1, 126, 127, 128, 129-1, 130, 131, 132, 133, 134, 135, 136, 137, 138 and 139 and the portion of Map 24 lot 115B that is within the Downtown Gateway District"

AND

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising the official Zoning Map of the City of Dover, referred to in Section 170-8 of said Chapter as follows:

"The official Zoning Map of the City of Dover, New Hampshire, dated September 11, 2019, is amended by changing from "Office" (0) to "Gateway" (G) District an area of approximately .77 acres located along Reservoir Street and Mount Vernon Street, consisting of Map 29 lots 1, 5, 6 and 7"

AND

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising the official Zoning Map of the City of Dover, referred to in Section 170-8 of said Chapter as follows:

"The official Zoning Map of the City of Dover, New Hampshire, dated September 11, 2019, is amended by changing from Urban Density Multi-Residential District (RM-U) to "Gateway" (G) District an area of approximately .38 acres located along Reservoir Street and Mount Vernon Street, consisting of Map 30 lots 141-B"

AND

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising the official Zoning Map of the City of Dover, referred to in Section 170-8 of said Chapter as follows:

"The official Zoning Map of the City of Dover, New Hampshire, dated September 11, 2019, is amended by changing from "Restricted Industrial" (I-1) to "Gateway" (G) District an area of approximately 24 acres located along Locust Street and Rutland Street, consisting of Map 15 lots 35, 36, 37, 38, 39, 41, 42, 21, and 62 as well as the portion of Map 15 lots 40, 45 and 51 zoned I-1"

AND

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising the official Zoning Map of the City of Dover, referred to in Section 170-8 of said Chapter as follows:

"The official Zoning Map of the City of Dover, New Hampshire, dated September 11, 2019, is amended by changing from "Restricted Industrial" (I-1) to "Gateway" (G) District an area of approximately 9.4 acres located along Oak Street, consisting of the portions of Map 24 lot 2-A and Map 26 lot 3-1 zoned I-1"

AND

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising the official Zoning Map of the City of Dover, referred to in Section 170-8 of said Chapter as follows:

"The official Zoning Map of the City of Dover, New Hampshire, dated September 11, 2019, is amended by changing from "Thoroughfare Business" (B-3) to "Gateway" (G) District an area of approximately 21.9 acres located along Portland Avenue and Oak Street, consisting of Map 25 Lots 43, 43-A, 43-C, 43-D, 43-E, 43-F, 43-G, 43-H, 47, and 48 and the portion of Map 25 lots 43-B, 46 zoned B-3."

AND

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising the official Zoning Map of the City of Dover, referred to in Section 170-8 of said Chapter as follows:

"The official Zoning Map of the City of Dover, New Hampshire, dated September 11, 2019, is amended by changing from "Office" (O) to "Gateway" (G) District an area of approximately 25 acres located along New Rochester Road, consisting of Map 39 lots 17, 18, 29, 26, 27, 28, 29, 36, 37, 38, 39, 49, 50, 51, 52, 63, 64, 69A, 69E, 69F, 69I, 69J, 69K, 99, 100, 101, and 106 and Map 40 lots 4, 5, 6, 13, 14, 15, 16, 35, 35-A, 36, 37 and 38 and the portions of Map 39 lots 34, 47, 53, 61, 66, 75, 102, 103, 104 and 105 and Map 40 lots 2, 7, 12, 38, 38B, 38F, 47 and 17 zoned O"

AND

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising the official Zoning Map of the City of Dover, referred to in Section 170-8 of said Chapter as follows:

"The official Zoning Map of the City of Dover, New Hampshire, dated September 11, 2019, is amended by changing from "Neighborhood Business" (B-1) to "Gateway" (G) District an area of approximately 5.2 acres located along Dover Point Road and Old Dover Point Road, consisting of Map M lots 24, 24-A, 25, 26, 48, and 49."

AND

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising the official Zoning Map of the City of Dover, referred to in Section 170-8 of said Chapter as follows:

"The official Zoning Map of the City of Dover, New Hampshire, dated September 11, 2019, is amended by changing from "Highway Business" (B-5) to "Gateway (G) District an area of approximately 30 acres located along Central Avenue, consisting of Map 15 lots 4, 19, 20 and 71 and Map 16 lots 1, 2, 3, 5, 6, 7, 8, 9, 10. 11. 13-A and 38 and Map 17 lots 76 and 76-E-1."

AND

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising the official Zoning Map of the City of Dover, referred to in Section 170-8 of said Chapter as follows:

"The official Zoning Map of the City of Dover, New Hampshire, dated September 11, 2019, is amended by changing from "Low Density Residential" (R-20) to "Gateway" (G) District an area of approximately 7.4 acres located along Durham Road, consisting of Map H lot 11, and Map I lot 7"

AND

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising the official Zoning Map of the City of Dover, referred to in Section 170-8 of said Chapter as follows:

"The official Zoning Map of the City of Dover, New Hampshire, dated September 11, 2019, is amended by changing from "Medium Density Residential" (R-12) to "Gateway" (G) District an area of approximately 17.2 acres located along Cataract Avenue and Rutland Street, consisting of Map 13 lots 23, 24, 25, 26, 27, and Map 15 lots 14, 15, 16, 17, 18, 58, 59, 60, 61, 63, 65, 66A, 15-1, 66."

AND

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising the official Zoning Map of the City of Dover, referred to in Section 170-8 of said Chapter as follows:

"The official Zoning Map of the City of Dover, New Hampshire, dated September 11, 2019, is amended by changing from "Suburban Density Multi-Residential" (RM-SU) to "Gateway" (G) District an area of approximately 7.9 acres located along Cataract Avenue and Rutland Street, consisting of Map 14 lots 14, 16, 17, 17-A, and Map 15 lotS 12, 13, 13-A, 13-B."

AND

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Section 170-20 "Central Business District Regulations" as a whole by replacing any instance of the term "Downtown Gateway Sub-district " with Gateway District"

AND

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Section 170-12 "Applicability of tables of use and dimensional regulations by district", to remove the "Downtown Gateway" table and replace it with a "Gateway" table, in the same order as 170-7, to read as attached:

AND

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Section 170-6 "Definitions", to amend the definition of "Lot" to read as attached:

> **LOT** means a parcel of land which fronts on and has ingress and egress by means of a public vehicular right-of way and is occupied by, or is intended to be occupied by one (1) PRINCIPAL BUILDING and its accessory BUILDINGs or uses customarily incidental to it, together with such OPEN SPACEs and yards as are required by this Chapter. More than one (1) PRINCIPAL BUILDING may be placed on a LOT located in the Central Business or Gateway District. More than one (1) PRINCIPAL BUILDING may also be placed on a LOT in all other districts with PLANNING BOARD approval for non-residential developments, MULTI-FAMILY DWELLING developments, and OPEN SPACE subdivisions.

3. AMENDMENT

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Section 170-7 "Establishment of Districts", to remove the "Restricted Industrial" (I-1) district from subsection A (2) "Nonresidential".

AND

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Section 170-7 "Establishment of Districts", to remove the "Restricted Industrial" (I-1) district from subsection B (2) (e) "Nonresidential", eliminating the purpose statements [1] and [2] and renumbering subsequent items to reflect the elimination.

AND

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising the official Zoning Map of the City of Dover, referred to in Section 170-8 of said Chapter as follows:

"The official Zoning Map of the City of Dover, New Hampshire, dated September 11, 2019, is amended by changing from Restricted Industrial (I-1) to Urban Density Multi-Residential District (RM-U) District an area of approximately 4.2 acres located along Maple Street, consisting of Map 30 lots 19, 19-A and 19-B, and the portion of Map 30 lots 4 and 18 zoned I-1"

AND

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Section 170-12 "Applicability of tables of use and dimensional regulations by district", to remove the "Restricted Industrial" (I-1) table in its entirety.

AND

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by eliminating Section 170-19 "Flexible Uses in the I-1 District" in its entirety and replacing it with a "reserved" notation.

4. AMENDMENT

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising the official Zoning Map of the City of Dover, referred to in Section 170-8 of said Chapter as follows:

"The official Zoning Map of the City of Dover, New Hampshire, dated September 11, 2019, is amended by changing from "Medium Density Residential" (R-12) to "Hotel/Retail" (B-4) District an area of approximately 20 acres located along Indian Brook Drive, Alder Lane, Wilbroad Ave and Glenwood, consisting of Map D lots 18-3, 18-4, 18-5, 18-6, 18-9, 18-10 and the portion of Map D lots 18-7 and 18-8 from the Centerline of Indian Brook drive into the lot 200' and the portion of Map D lots 19 and 20, the portion of the lot between the Indian Brook Drive centerline and 400; from Glenwood."

AND

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising the official Zoning Map of the City of Dover, referred to in Section 170-8 of said Chapter as follows:

"The official Zoning Map of the City of Dover, New Hampshire, dated September 11, 2019, is amended by changing from "Medium Density Residential" (R-12) to "Executive and Technology

Park" (ETP) District an area of approximately 14 acres located along Sixth Street, consisting of Map E lots 20, 20-D, 73, 73-A, and the portion of Map E lot 19 up to 400' from the Sixth Street centerline and Map E lots 19 and 19B."

5. AMENDMENT

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Section 170-7 "Establishment of Districts", to remove the "Neighborhood Business" (B-1) district from subsection A (2) "Nonresidential".

AND

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Section 170-7 "Establishment of Districts", to remove the "Neighborhood Business" (B-1) district from subsection B (2) (a) "Nonresidential", eliminating the purpose statements and renumbering subsequent items to reflect the elimination.

AND

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising the official Zoning Map of the City of Dover, referred to in Section 170-8 of said Chapter as follows:

"The official Zoning Map of the City of Dover, New Hampshire, dated September 11, 2019, is amended by changing from "Neighborhood Business" (B-1) to "Thoroughfare Business" (B-3) District an area of approximately .5 acres located along Weeks Lane, consisting of Map 39 lot 4 and Map 38 lot 38."

AND

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising the official Zoning Map of the City of Dover, referred to in Section 170-8 of said Chapter as follows:

"The official Zoning Map of the City of Dover, New Hampshire, dated September 11, 2019, is amended by changing from "Medium Density Residential" (R-12) to "Thoroughfare Business" (B-3) District an area of approximately .4 acres located along Pinecrest Lane, consisting of Map 38 lots 38 Lots 41 and 42."

AND

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Section 170-12 "Applicability of tables of use and dimensional regulations by district", to remove the "Neighborhood Business" (B-1) table in its entirety.

6. AMENDMENT

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising the official Zoning Map of the City of Dover, referred to in Section 170-8 of said Chapter as follows:

"The official Zoning Map of the City of Dover, New Hampshire, dated September 11, 2019, is amended by changing from "Rural Residential" (R-40) to "Hotel/Retail" (B-4) District an area of approximately 39 acres located along Durham Road and Mast Road, consisting of Map H lots 4-2, 4-B, 4-G, 4-L, 5 and 5A and Map I lot 22A, and the portion of Map I lot 22 that is 225' off the centerline of Mast Road and 194' off Durham Road."

AND

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising the official Zoning Map of the City of Dover, referred to in Section 170-8 of said Chapter as follows:

"The official Zoning Map of the City of Dover, New Hampshire, dated September 11, 2019, is amended by changing from "Low Density Residential" (R-20) to "Hotel/Retail" (B-4) District an area of approximately 3.4 acres located along Durham Road and Mast Road, consisting of Map I lots 20-E, 20-F, 20-G, 20-H, 21, and 20-J."

AND

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising the official Zoning Map of the City of Dover, referred to in Section 170-8 of said Chapter as follows:

7"The official Zoning Map of the City of Dover, New Hampshire, dated September 11, 2019, is amended by changing from "Low Density Residential" (R-20) to "Suburban Density Multi-Residential" (RM-SU) District an area of approximately 2.3 acres located along Surrey Run, consisting of Map I lot 20I"

AND

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising the official Zoning Map of the City of Dover, referred to in Section 170-8 of said Chapter as follows:

"The official Zoning Map of the City of Dover, New Hampshire, dated September 11, 2019, is amended by changing from "Rural Residential" (R-40) to "Office and Assembly" (I-4) District an area of approximately 29 acres located off Durham Road and Spruce Lane, consisting of a portion of Map I lot 27."

AND

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising the official Zoning Map of the City of Dover, referred to in Section 170-8 of said Chapter as follows:

"The official Zoning Map of the City of Dover, New Hampshire, dated September 11, 2019, is amended by changing from "Hotel/Retail" (B-4) to "Office and Assembly" (I-4) District an area of approximately 45 acres located along Durham Road, consisting of Map I lots 22D, 24, 122, 123, 129, 131 and 132."

7. AMENDMENT

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising the official Zoning Map of the City of Dover, referred to in Section 170-8 of said Chapter as follows:

"The official Zoning Map of the City of Dover, New Hampshire, dated September 11, 2019, is amended by changing from "Low Density Residential" (R-12) to "Rural Restricted Industrial District" (I-2) District an area of approximately 101 acres located along Littleworth Road and Old Littleworth Road, consisting of Map H lots 25, 26, 26-1, 26A, 27, 28A, 28, 28-1, 29-A, 29-A-1, 29-A-2, 29-A-3, 29-A-4, 29-A-5, 30, 31and 31-A, and Map 11 lots 1 and 2A and the portion of Map G lot 5 zoned R-20"

AND

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising the official Zoning Map of the City of Dover, referred to in Section 170-8 of said Chapter as follows:

"The official Zoning Map of the City of Dover, New Hampshire, dated September 11, 2019, is amended by changing from "Hotel/Retail" (B-4) to "Rural Restricted Industrial District" (I-2) District an area of approximately 54 acres located along Knox Marsh Road, consisting of Map H lots 32, 32A-1, 32A-2, 33, 33A, 33B, 33-B, 33-C, 33-E and 34."

8. AMENDMENT

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Section 170-7 "Establishment of Districts", to rename the "Rural Restricted Industrial" (I-2) District to "Commercial Manufacturing" (CM) District in subsection A(2) "Nonresidential".

AND

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Section 170-7 "Establishment of Districts", to rename the "Rural Restricted Industrial" (I-2) District to "Commercial Manufacturing" (CM) District in subsection B(2).

AND

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Section 170-12 "Applicability of tables of use and dimensional regulations by district", to remove the "Rural Restricted Industrial" (I-2) table and replace it with the "Commercial Manufacturing" (CM) District, in the same order as 170-7, to read as attached:

9. AMENDMENT

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Section 170-7 "Establishment of Districts", to rename the "Thoroughfare Business" (B-3) District to "Commercial" (C) District in subsection A (2) "Nonresidential".

AND

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Section 170-7 "Establishment of Districts", to rename the "Thoroughfare Business" (B-3) District to "Commercial" (C) District in subsection B(2).

AND

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Section 170-12 "Applicability of tables of use and dimensional regulations by district", to remove the "Thoroughfare Business" (B-3) table and replace it with the "Commercial" (C) District, in the same order as 170-7, to read as attached:

AND

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising the official Zoning Map of the City of Dover, referred to in Section 170-8 of said Chapter as follows:

"The official Zoning Map of the City of Dover, New Hampshire, dated September 11, 2019, is amended by changing from "Highway Business" (B-5) to "Commercial" (C) District an area of approximately 30 acres located along •Indian Brook Drive, New Rochester Rd and Willand Pond Ave, consisting of Map 39 lots 9, 11, 11-B, 15, 16, 76, 79, 80, 81, 82, 83, 93, 94, 95, 96, 97 and 113-B."

AND

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising the official Zoning Map of the City of Dover, referred to in Section 170-8 of said Chapter as follows:

"The official Zoning Map of the City of Dover, New Hampshire, dated September 11, 2019, is amended by changing from "Hotel/Retail" (B-4) to "Commercial" (C) District an area of approximately 108 acres located along Indian Brook Drive, Heather Lane and Sixth Street, consisting of Map D lots 16-A, 16-F, 16-G, 17, 17-B, 17-C , 17-D, 17-E, 17-F , 18, 18-10, and the portion of Map D lots 16 and 16-B that is within 400' of the centerline of Sixth Street."

AND

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising the official Zoning Map of the City of Dover, referred to in Section 170-8 of said Chapter as follows:

"The official Zoning Map of the City of Dover, New Hampshire, dated September 11, 2019, is amended by changing from "Hotel/Retail" (B-4) to "Office and Assembly" (I-4) District an area of approximately 72.3 acres located along Sixth Street, consisting of Map D lots 5A and 15 and the portion of Map D lot 16 and 16-B that is further than 400' from the centerline of Sixth Street."

AND

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising the official Zoning Map of the City of Dover, referred to in Section 170-8 of said Chapter as follows:

"The official Zoning Map of the City of Dover, New Hampshire, dated September 11, 2019, is amended by changing from "Hotel/Retail" (B-4) to "Commercial" (C) District an area of approximately 77 acres located along Knox Marsh Road, consisting of Map H lots 37, 37-A, 37-B, 37-C, 38, 38-A, 38-B, 39, 40-B, 40, 40-6, 40-C, 40-C-1, 40-D, 40-E, 40-F, 40-G, and the portion of Map H lot 35-D that is zoned B-4."

AND

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising the official Zoning Map of the City of Dover, referred to in Section 170-8 of said Chapter as follows:

"The official Zoning Map of the City of Dover, New Hampshire, dated September 11, 2019, is amended by changing from "Hotel/Retail" (B-4) to "Commercial" (C) District an area of approximately 48 acres located along Durham Road and Mast Road, consisting of Map H lots 1, 1-B, 2, 2B, 3, 4N, 4-1 and 4-3."

AND

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Section 170-7 "Establishment of Districts", to eliminate the "Hotel/Retail" (B-4) and "Highway Business" (B-5) District in subsection A(2).

AND

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Section 170-7 "Establishment of Districts", to eliminate the "Hotel/Retail" (B-4) and "Highway Business" (B-5) District in subsection B(2).

AND

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Section 170-12 "Applicability of tables of use and dimensional regulations by district", to remove the "Hotel/Retail" (B-4) table and "Highway Business" (B-5) table.

10. AMENDMENT

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Section 170-7 "Establishment of Districts", to rename the "Office and Assembly" (I-4) District to "Innovative Technology" (IT) District in subsection A(2) "Nonresidential".

AND

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Section 170-7 "Establishment of Districts", to rename the "Office and Assembly" (I-4) District to "Innovative Technology" (IT) District in subsection B(2).

AND

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Section 170-12 "Applicability of tables of use and dimensional regulations by district", to remove the

"Office and Assembly" (I-4) table and replace it with the "Innovative Technology" (IT) District, in the same order as 170-7, to read as attached:

AND

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising the official Zoning Map of the City of Dover, referred to in Section 170-8 of said Chapter as follows:

"The official Zoning Map of the City of Dover, New Hampshire, dated September 11, 2019, is amended by changing from "Executive Technology Park" (ETP) to "Innovative Technology" (IT) District an area of approximately 406 acres located along Sixth Street, consisting of Map E lots 24, 24-1, 26-B, 27-1, 27-A, 27-B, 27-C, 17-D, 27-E, 28, 29, 31, 32, 32-1, 32-2, 32-4, 33, 70A and 70B."

AND

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising the official Zoning Map of the City of Dover, referred to in Section 170-8 of said Chapter as follows:

"The official Zoning Map of the City of Dover, New Hampshire, dated September 11, 2019, is amended by changing from "Executive Technology Park" (ETP) to "Innovative Technology" (IT) District an area of approximately 102 acres located along Pointe Place, consisting of Map K lots 18A-10, 19, 19-1, 19-2, 19-3, 19-4, 19-5, 19-7 and Map M lots 4, and 4-OPN, and the portion of Map K lots 19-C, 19-B, 22, 23, 24, 25, 25-B zoned ETP."

AND

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Section 170-7 "Establishment of Districts", to eliminate the "Executive Technology Park" (ETP) District in subsection A(2).

AND

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Section 170-7 "Establishment of Districts", to eliminate the "Executive Technology Park" (ETP) District in subsection B(2).

AND

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Section 170-12 "Applicability of tables of use and dimensional regulations by district", to remove the "Executive Technology Park" (ETP) District table.

AND

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Section 170-15 "Recreation Space and Separation between Use Requirements", to amend sub section F as follows:

"F. All screening and setback requirements pursuant to this section shall not be binding in the ~~ETP~~ IT or any Mixed Use Zoning District."

11. AMENDMENT

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Section 170-21 "Small Wind Energy Systems" to update and amend as follows:

" 170-21. ~~SMALL WIND~~ Alternative ENERGY SYSTEMS.

A. Authority/Purpose:

This ~~SMALL WIND~~ Alternative ENERGY SYSTEMs ordinance is enacted in accordance with RSA 674:62-66, and the purposes outlined in RSA 672:1-III-a. The purpose of this ordinance is to accommodate ~~SMALL WIND~~ Alternative ENERGY SYSTEMs in appropriate locations, while protecting the public's health, safety and welfare. In addition, this ordinance provides a permitting process for ~~SMALL WIND~~ Alternative ENERGY SYSTEMs to ensure compliance with the provisions of the requirements and standards established herein.

B. Procedure for Review:

(1) Building Permit: ~~SMALL WIND~~ Alternative ENERGY SYSTEMs and met TOWERs are an ACCESSORY USE permitted in all zoning districts where STRUCTUREs of any sort are allowed. No ~~SMALL WIND~~ Alternative ENERGY SYSTEM shall be erected, constructed, or installed without first receiving a BUILDING permit from the Building Inspector. A BUILDING permit shall be required for any physical MODIFICATION to an existing ~~SMALL WIND~~ Alternative ENERGY SYSTEM. Met TOWERs that receive a BUILDING permit shall be permitted on a temporary basis not to exceed three (3) years from the date the BUILDING permit was issued.

(2) Consumer Use. For the purposes of this Section, Alternative energy systems are intended to be incidental and subordinate to a use on the same parcel and shall supply electrical power principally for on-site consumption.

a. To the extent net metering is allowed, excess power may be contributed to the grid. Should the excess power contributed exceed 125% of the power required on site for one year, the use shall be considered no longer be incidental and subordinate, and shall require Technical Review.

(3) Application: Applications submitted to the Building Inspector shall contain a site plan with the following information where appropriate:

(a) Property lines and physical dimensions of the APPLICANT's property.

(b) Location, dimensions, and types of existing major STRUCTUREs on the property.

(c) Location of the proposed ~~SMALL WIND~~ Alternative ENERGY SYSTEM, including, foundations, guy anchors and associated equipment.

(d) TOWER foundation blueprints or drawings.

(e) TOWER blueprints or drawings.

(f) SETBACK requirements as outlined in this ordinance.

(g) The RIGHT-OF-WAY of any public road that is CONTIGUOUS with the property.

(h) Any overhead utility lines.

(i) SMALL WIND ENERGY SYSTEM:

i. Specifications, including manufacturer, model, rotor diameter, TOWER HEIGHT, TOWER type, nameplate generation capacity.

ii. SMALL WIND ENERGY SYSTEMs that will be connected to the POWER GRID shall include a copy of the application for interconnection with their electric utility provider.

iii. Sound level analysis prepared by the WIND GENERATOR manufacturer or qualified engineer.

iv. Electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the NH State Building Code.

v. Evidence of compliance or non-applicability with Federal Aviation Administration requirements.

(j) Solar Panel Systems

i. Specifications, including manufacturer, model, type, nameplate generation capacity.

ii. Solar Panels that will be connected to the POWER GRID shall include a copy of the application for interconnection with their electric utility provider.

iii. Electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the NH State Building Code, as well as applicable Electric Code.

(k) List of ABUTTERs to the APPLICANT's property.

(4) ABUTTER and Regional Notification: In accordance with RSA 674:66, the Building Inspector shall notify all ABUTTERs and the local governing body by certified mail upon application for a BUILDING permit to construct an ~~SMALL WIND~~ Alternative ENERGY SYSTEM. The public will be afforded 30 days to submit comments to the Building Inspector prior to the issuance of the BUILDING permit. The Building Inspector shall review the application for regional impacts per RSA 36:55. If the proposal is determined to have potential regional impacts, the Building Inspector shall follow the procedures set forth in RSA 36:57, IV.

C. SMALL WIND ENERGY SYSTEM Standards:

(1) The Building Inspector shall evaluate the application for compliance with the following standards;

(a) SETBACK: The SETBACK shall be calculated by multiplying the minimum SETBACK requirement number by the SYSTEM HEIGHT and measured from the center of the

TOWER base to property line, public roads, or nearest point on the foundation of an occupied BUILDING.

Minimum SETBACK Requirements			
Occupied BUILDINGs on Participating Landowner Property	Occupied BUILDINGs on Abutting Property	Property Lines of Abutting Property and Utility Lines	Public Roads
0	1.5	1.1	1.5

(i) SMALL WIND ENERGY SYSTEMs must meet all SETBACKs for principal STRUCTUREs for the zoning district in which the system is located.

(ii) Guy wires used to support the TOWER are exempt from the SMALL WIND ENERGY SYSTEM SETBACK requirements.

(b) TOWER: The maximum TOWER HEIGHT shall be restricted to thirty five (35) feet above the tree canopy within three hundred (300) feet of the SMALL WIND ENERGY SYSTEM. In no situation shall the TOWER HEIGHT exceed one hundred fifty (150) feet.

(c) Sound Level: The SMALL WIND ENERGY SYSTEM shall not exceed sixty (60) decibels using the A scale (dBA), as measured at the site property line, except during short-term events such as severe wind storms and utility outages.

(d) SHADOW FLICKER: SMALL WIND ENERGY SYSTEMs shall be sited in a manner that does not result in significant SHADOW FLICKER impacts. Significant SHADOW FLICKER is defined as more than thirty (30) hours per year on abutting occupied BUILDINGs. The APPLICANT has the burden of proving that the SHADOW FLICKER will not have significant adverse impact on neighboring or adjacent uses. Potential SHADOW FLICKER will be addressed either through siting or mitigation measures.

(e) SIGNs: All SIGNs including flags streamers and decorative items, both temporary and permanent, are prohibited on the SMALL WIND ENERGY SYSTEM, except for manufacturer identification or appropriate warning SIGNs.

(f) Code Compliance: The SMALL WIND ENERGY SYSTEM shall comply with all applicable sections of the New Hampshire State BUILDING Code.

(g) Aviation: The SMALL WIND ENERGY SYSTEM shall be built to comply with all applicable Federal Aviation Administration regulations including but not limited to 14 C.F.R. part 77, subpart B regarding installations close to airports, and the New Hampshire Aviation regulations, including but not limited to RSA 422-b and RSA 424.

(h) Visual Impacts: It is inherent that SMALL WIND ENERGY SYSTEMs may pose some visual impacts due to the TOWER HEIGHT needed to access wind resources. The purpose of this section is to reduce the visual impacts, without restricting the owner's access to the optimal wind resources on the property.

(i) The APPLICANT shall demonstrate through project site planning and proposed mitigation that the SMALL WIND ENERGY SYSTEM's visual impacts will be minimized for surrounding neighbors and the community. This may include, but not be limited to information regarding site selection, WIND GENERATOR design or appearance, buffering, and screening of ground mounted electrical and control equipment. All electrical conduits shall be underground, except when the financial costs are prohibitive.

(ii) The color of the SMALL WIND ENERGY SYSTEM shall either be the stock color from the manufacturer or painted with a non-reflective, unobtrusive color that blends in with the surrounding environment. Approved colors include but are not limited to white, off-white or gray.

(iii) A SMALL WIND ENERGY SYSTEM shall not be artificially lit unless such lighting is required by the Federal Aviation Administration (FAA). If lighting is required, the APPLICANT shall provide a copy of the FAA determination to establish the required markings and/or lights for the SMALL WIND ENERGY SYSTEM.

(i) Approved WIND GENERATORS: The manufacturer and model of the WIND GENERATOR to be used in the proposed SMALL WIND ENERGY SYSTEM must have been approved by the California Energy Commission or the New York State Energy Research and Development Authority, or a similar list approved by the state of New Hampshire, if available.

(j) Utility Connection: If the proposed SMALL WIND ENERGY SYSTEM is to be connected to the POWER GRID through NET METERING, it shall adhere to RSA 362-A:9.

(k) Access: The TOWER shall be designed and installed so as not to provide step bolts or a ladder readily accessible to the public for a minimum HEIGHT of eight (8) feet above the ground. All ground-mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.

(l) Clearing: Clearing of natural vegetation shall be limited to that which is necessary for the construction, operation and maintenance of the SMALL WIND ENERGY SYSTEM and as otherwise prescribed by applicable laws, regulations, and ordinances.

D. Solar Panel Standards

a. Lot Coverage: solar systems do not constitute an increase to lot coverage unless the panel(s)/collector(s) and supporting structures constitute a building.

b. Placement of solar systems:

i. The height of a roof mounted solar panel shall not be counted towards the maximum permitted height of the structure it is affixed to the zoning district.

ii. Ground-mounted solar panels, shall not be located in the front yard and shall meet or exceed required side and rear yard setbacks for accessory buildings.

iii. In no case shall a ground mounted unit exceed 20 feet in height.

iv. When solar storage batteries are included as part of the solar energy system, they must be housed in a secure space or enclosure meeting the requirements of the City's building and electrical codes when in use and, when no longer used, shall be disposed of in accordance with all applicable City, state and federal laws and regulations.

E. ~~D.~~ Abandonment:

(1) At such time that a SMALL WIND ENERGY SYSTEM is scheduled to be abandoned or discontinued, the APPLICANT will notify the Building Inspector by certified U.S. mail of the proposed date of abandonment or discontinuation of operations.

(2) Upon abandonment or discontinuation of use, the owner shall physically remove the SMALL WIND ENERGY SYSTEM within ninety (90) days from the date of abandonment or discontinuation of use. This period may be extended at the request of the owner and at the discretion of the Building Inspector. "Physically remove" shall include, but not be limited to:

(a) Removal of the WIND GENERATOR and TOWER and related above-grade STRUCTUREs.

(b) Restoration of the location of the SMALL WIND ENERGY SYSTEM to its natural condition, except that any landscaping, grading or below-grade foundation may remain in its same condition at initiation of abandonment.

(3) In the event that an APPLICANT fails to give such notice, the system shall be considered abandoned or discontinued if the system is out-of-service for a continuous twelve (12) month period. After the twelve (12) months of inoperability, the Building Inspector may issue a Notice of Abandonment to the owner of the SMALL WIND ENERGY SYSTEM. The owner shall have the right to respond to the Notice of Abandonment within thirty (30) days from Notice receipt date. After review of the information provided by the owner, the Building Inspector shall determine if the SMALL WIND ENERGY SYSTEM has been abandoned. If it is determined that the SMALL WIND ENERGY SYSTEM has not been abandoned, the Building Inspector shall withdraw the Notice of Abandonment and notify the owner of the withdrawal.

(4) If the owner fails to respond to the Notice of Abandonment or if, after review by the Building Inspector, it is determined that the SMALL WIND ENERGY SYSTEM has been abandoned or discontinued, the owner of the SMALL WIND ENERGY SYSTEM shall remove the WIND GENERATOR and TOWER at the owner's sole expense within 3 months of receipt of the Notice of Abandonment. If the owner fails to physically remove the SMALL WIND ENERGY SYSTEM after the Notice of Abandonment procedure, the Building Inspector may pursue legal action to have the SMALL WIND ENERGY SYSTEM removed at the owner's expense.

F. ~~E.~~ Violation:

It is unlawful for any person to construct, install, or operate a SMALL WIND ENERGY SYSTEM that is not in compliance with this ordinance. SMALL WIND ENERGY SYSTEMs installed prior to the adoption of this ordinance are exempt from this ordinance except when MODIFICATIONs are proposed to the SMALL WIND ENERGY SYSTEM.

G. Penalties:

Any person who fails to comply with any provision of this ordinance or a BUILDING permit issued pursuant to this ordinance shall be subject to enforcement and penalties as allowed by RSA 676:17.

AND

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Section 170-6 "Definitions" to add the following terms to read as follows:

"Alternative energy System means a system where energy is derived from a renewable natural source, such as the sun, wind, tides, or waves."

"Energy storage is the capture of energy produced at one time for use at a later time. A device that stores energy is generally called an accumulator or battery. Energy comes in multiple forms including radiation, chemical, gravitational potential, electrical potential, electricity, elevated temperature, latent heat and kinetic. Energy storage involves converting energy from forms that are difficult to store to more conveniently or economically storable forms."

"Geothermal energy means a system generating electricity by tapping into steam or hot water reservoirs underground; the heat is used to drive an electrical generator."

"Ground mounted solar means a system installed on the ground rather than on the roof of a building. This allows the solar panels to be placed anywhere on the property and mounted at any height, from a few inches to many feet off the ground. Ground mounted solar may include motorized ground-mounts that track the sun throughout the day, ensuring the panels are facing the sun at all times."

"Rooftop solar mean a photovoltaic system that generates electricity by capturing solar thermal energy and is mounted on the rooftop of a residential or commercial building or structure"

12. AMENDMENT

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Section 170-27.2 "Transfer of Development Rights" to update and amend as follows:

"170-27.2. TRANSFER OF DEVELOPMENT RIGHTS.

A. Authority. By the authority granted under RSA 674:21, this section creates overlay district(s) for the purpose of transferring DEVELOPMENT RIGHTS (TDR) within said districts.

B. Purpose and Intent. Within the City of Dover there are certain lands that possess significant conservation features, including but not limited to wetlands, groundwater recharge zones, forested areas, wildlife habitat, farmland, scenic viewsheds, historic landmarks, and linkages to other such areas. Because of their unique assemblages of flora and fauna and their significant contribution to the ecological system and/or the cultural identity of our community, these lands are worthy of special protection. The City of Dover furthermore, has a limited supply of land suitable for development. The purpose of this overriding district is to promote intensive development on the developable land possessing the least conservation value and to permanently protect lands possessing significant conservation features that provide unique values in their undisturbed condition.

   Additionally, it is recognized that the City of Dover has an Open Lands Committee and Conservation Commission who are active in protecting and preserving OPEN SPACE.

C. Applicability. Upon request by an APPLICANT for development approval and at the discretion of the PLANNING BOARD, the provisions of this subsection may apply to the district(s) defined in this subsection E below.

D. Districts Defined.

   (1) The Industrial TDR DISTRICT is hereby determined to be any ~~I-4~~ IT or ~~B-4~~ CM zoning district as shown on the Zoning Map for the City of Dover, New Hampshire, adopted December 9, 2009. The SENDING AREA is defined to be OPEN SPACE and related SETBACKs as defined by the City of Dover Wetland Protection District, Chapter 170-27.1, which are located in any ~~I-4~~ IT or ~~B-4~~ CM zoning district. The RECEIVING AREA is defined to be all remaining land in be any ~~I-4~~ IT or ~~B-4~~ CM zoning district.

   (2) The Residential TDR DISTRICT is hereby determined to be Residential districts noted or displayed on the Zoning Map for the City of Dover, New Hampshire, adopted December 9,

2009. The SENDING AREA is defined to be any land preserved by the City of Dover through conservation programs in the R-40 or R-20 residential zoning districts. The RECEIVING AREA is defined to be all non-R-40 or R-20 zoning districts east of the Spaulding Turnpike which allow residential development.

a. If the units created are purchased, the receiving area may be any zoning district that allows residential development.

E. Procedural Requirements.

(1) At the discretion of the PLANNING BOARD, an APPLICANT for development approval within the RECEIVING AREA of the defined Industrial TDR DISTRICT may apply the performance standards specified in Subsection F below in return for the acquisition of land or DEVELOPMENT RIGHTS from the SENDING AREA within the same TDR DISTRICT. The performance standards for the Residential TDR DISTRICT are outlined in Subsection G below.

(2) A certified boundary survey of the associated land in the SENDING AREA shall be submitted as a supplement to the site plan or subdivision plan for development within the RECEIVING AREA.

(3) The owner of the subject OPEN SPACE within the SENDING AREA of the TDR DISTRICT shall SIGN all application materials as a co- APPLICANT of the development application. For residential application, proof of an agreement to sell DEVELOPMENT RIGHTS must be provided by the Conservation Commission.

(4) A sketch plan estimating layout of the development site and identifying the OPEN SPACE associated with the plan ~~shall~~ ~~may~~ be submitted to the PLANNING BOARD for review at a regularly scheduled meeting. The PLANNING BOARD, within thirty (30) days of its review of the sketch plan, shall determine if waivers will be granted as allowed in Subsections G and H below. Following this decision, a final application is prepared. The final application for development approval shall be reviewed in accordance with the standard plan review process and subjected to all applicable development regulations, except as provided in this section.

a. <u>The determination of whether a proposed TDR project requires a sketch plan review shall be made by the Director of Planning and Community Development based on initial discussions with the applicant. The determination, made in writing,</u>

shall be made prior to the submittal of any plans and shall specify the Director's reasoning, including a review of known conditions, including: traffic, existing layout/topography, environmental. This determination shall be included in the staff report to the Board. If the applicant does not agree with the Director's determination, they may appeal the decision to the Board at its next meeting.

b. If the sketch plan requires an environmental Conditional Use Permit to develop homes, the applicant must appear before the Conservation Commission for review and endorsement prior to the Planning Board's review.

(5) A perpetual easement or restrictive covenant shall be recorded at the Strafford County Registry of Deeds that preserves the designated OPEN SPACE within the SENDING AREA. Said easement or covenant may allow for the continuance of existing residential and agricultural activities, and may allow for utility and access crossings in accordance with subsection I below. The designation of the land protection agency to hold the easement shall be approved by the PLANNING BOARD.

F. Industrial Performance Standards.

(1) Land within a SENDING AREA, when surveyed, approved by the PLANNING BOARD and preserved by easement or covenant as specified in Subsection E above, may be counted for the OPEN SPACE requirement for a development site in a RECEIVING AREA. The amount of land preserved in a SENDING AREA shall equal or exceed the OPEN SPACE requirement for the development site, but in no case be less than one (1) acre. Notwithstanding, development sites within the ~~I-4~~ IT or ~~B-4~~ CM zoning districts shall maintain OPEN SPACE or landscaped area on at least ten percent (10%) of the site. The design of the development site shall locate the OPEN SPACE or landscaped area to maximize the aesthetic value of the site.

(2) The minimum LOT size requirement may be waived by the PLANNING BOARD for land subjected to the TRANSFER OF DEVELOPMENT RIGHTS.

(3) The minimum FRONTAGE requirement may be waived by the PLANNING BOARD for land subjected to the TRANSFER OF DEVELOPMENT RIGHTS provided that paved access to all developed areas suitable for emergency vehicles is approved by the PLANNING BOARD.

(4) SETBACKs for parking, paved areas, and BUILDINGs may be waived by the PLANNING BOARD, and be consistent with the intent to promote intensive development of suitable development sites. Notwithstanding, BUILDINGs shall be at least one hundred fifty (150) feet from residential STRUCTUREs that exist on the date of enactment of the ~~I-4~~ IT or ~~B-4~~ CM Zoning districts, and seventy five (75) feet from the LOT LINE of a disagreeing residential ABUTTER.

(5) The developer shall record covenants that address architectural considerations for STRUCTUREs, SIGNAGE and lighting that are designed to promote the highest possible aesthetic quality of the development site.

(6) A landscaping plan shall be submitted with a development application that depicts landscaping or OPEN SPACE around the perimeter of the site, near the proposed BUILDINGs, and within the parking LOT that promotes the highest possible aesthetic quality of the development.

G. Residential Performance Standards.

(1) Annually, the City shall update a document identifying the cumulative cost per acre spent to preserve OPEN SPACE within the City of Dover. This list shall be kept on file in the Department of Planning and Community Development, and coordinated with the Conservation Commission. This cost shall become the value at which DEVELOPMENT RIGHTS may be purchased.

(2) Proceeds from the purchase of DEVELOPMENT RIGHTS, shall be placed into the Conservation Fund to be used to purchase future property or easements, or monitor easements, and not into the general fund.

(3) A residential TRANSFER OF DEVELOPMENT RIGHTS APPLICANT may pursue one of the following methods for TRANSFERING DEVELOPMENT RIGHTS.

(a) Single Family Detached method

i. An applicant shall develop a baseline yield for the lot to be developed, through the following formula

1. The square footage of the parent lot minus environmental constraints (wetlands, conservation areas etc) is the base lot size.
2. The base lot size is then reduced by fifteen (15) percent to account for roadway, this creates the net area.
3. The net area is then multiplied by a factor determined by the amount of wetlands over the parent lot. This is the developable area.

Percentage of Parcel that is wetlands	Factor
0<10%	0.85
10<20%	0.8
20<30%	0.75
30%<	.7

4. The developable area is the divided by the minimum lot size, and the whole number value is the base number, with no rounding.

    a. This base number is not required to be restricted by the requirements in subsection iii, unless the formula defined in item ii 1. is utilized.

5. The development plan shall be laid out in a design that meets the requirements for block length and cu de sac length.

ii. The transfer shall equate to one of the following calculations:

1. For construction of units no larger than six hundred (600) square feet of total living area, including the base calculated units, there shall be no density limit. The monthly cost of said units shall conform to the HUD Fair Market Rent rates, for Dover, published annually by the New Hampshire Housing Finance Authority, and there shall be no TDR fee collected for said unit(s).

2. For construction of units no larger than one thousand (1,000) square feet, of total living area, two (2) units per DEVELOPMENT RIGHT purchased shall be allowed.
3. For construction of units no larger than fourteen hundred (1,400) square feet, of total living area, one ~~and a half~~ (1~~.5~~) unit per DEVELOPMENT RIGHT purchased shall be allowed. The unit count shall be the whole number value and not rounded up.

a. ~~If the math to devise the base number ends in more than half a unit but less than a whole, and a transfer is purchased, the result would be two (2) dwelling units.~~ Total living area shall mean the size of the home (in square feet) based upon the exterior dimensions, excluding unconditioned spaces.

iii. The units created, through the transfer must be

1. ~~Sold, and are not for rental purposes~~
2. Limited to the square footage originally constructed.

iv. A note shall be placed on the approved plan and any Building Permit shall note the adherence to this section of the Code.

v. A note shall be placed in the property/unit deed citing the restrictions listed above.

vi. The plan shall be considered a subdivision application. Prior to submission, a determination by the Director of Planning and Community Development shall be made whether to follow the minor or major subdivision regulations.

(b) ~~Attached~~ Single Family, Two family, three family and 4 or more method

(i) The transfer may be through the purchase of development rights, as described in G) (1) ~~and (2)~~, or through the protection of land via a permanent conservation easement as per section E) (5).

a. In mixed use or multi-family zones, the base density shall be derived from the underlying zoning, and not through a formula.
b. If the additional unit(s) resulting from TDR are restricted so that the rent of said units conforms to the HUD Fair Market Rent rates, for Dover, published annually by the New Hampshire Housing Finance Authority, there shall be no fee collected for said unit(s).

(ii) The transfer shall equate to one (1) unit per acre preserved, or purchased. If the end result is a village themed residential/non-residential ~~commercial~~ project, whereby 35% of the square footage being created is non-residential the transfer shall equate to one (1) unit per 2,500 square feet ~~tenth (10th)~~ of an acre preserved or purchased.

(iii) Any development approved by the Planning Board after July 1, 2020, which will create a manufacturing or assembly facility over 40,000 square feet, may create and transfer one (1) unit per 2,000 square feet of building approved. The transfer shall not be completed prior to the issuance of the Certificate of Occupancy for the additional space.

(iv) The plan shall be treated as a site plan application, unless otherwise determined by the Director of Planning and Community Development, prior to final submission.

(4) Regardless of the method utilized, the minimum LOT size requirement may be waived by the PLANNING BOARD for land subjected to the TRANSFER OF DEVELOPMENT RIGHTS.

(5) Regardless of the method utilized, the setbacks shall be:

~~MINIMUM DISTANCE AROUND INDIVIDUAL UNITS IN CLUSTERS~~		MINIMUM DISTANCE AROUND INDIVIDUAL UNITS IN CLUSTERS		
~~STREET Sides of Units~~	~~STREET Sides of Units~~	Abutting A STREET	Abutting A SIDE LOT LINE	Abutting A REAR LOT LINE
~~20 feet~~	~~20 feet~~	20 feet	10 feet	30 feet

(6) Regardless of the method utilized, the minimum FRONTAGE requirement may be waived by the PLANNING BOARD, to no less than forty feet (40') ~~for land subjected to the TRANSFER OF DEVELOPMENT RIGHTS provided that paved~~ Paved access to all developed areas shall be suitable for emergency vehicles ~~is approved by the PLANNING BOARD~~.

(a) ~~If lots are proposed, the minimum frontage allowed shall be forty (40) feet per unit~~

(7) A continuous visual buffer shall be created along the perimeter of the parent parcel, which shall include a thirty (30) foot no cut, no disturb buffer.

(8) 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:

(a) Is consistent with the Master Plan

(b) Is not incompatible with the land uses on neighboring LOTs (eg a multifamily building in a single family neighborhood)

(c) Is created on property served by public water and sanitary sewer

13. AMENDMENT

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Section 170-28.2 "Residential-Commercial Mixed Use (RCM) Overlay" to update and amend as follows:

A. **"**Purpose and intent.

(1) The Residential-Commercial Mixed Use Overlay District is designed as an overlay district that allows a mixture of residential use and commercial uses on one parcel. In order for a developer to utilize these regulations, the Planning Board shall have granted a conditional use permit. The district includes options which enable and encourage greater flexibility in the design of residential housing ~~for older persons~~ with commercial projects. The overlay permits development of large tracts of land on a development-plan basis which allows flexibility in internal road design, with reduced dwelling lot sizes and modified dimensional requirements.

(2) The mixed residential and commercial uses are intended to be complementary to one another and to create a sense of community between the mixed uses. Housing and commercial uses can be developed to provide appropriate use of land, facilitate the economical and efficient provision of public services, promote open space conservation, protect the natural and scenic attributes of the land, and expand opportunities for the development of housing ~~for older persons, as defined under RSA 354-A:15~~, outside the traditional residential developments.

B. Conditional use permit.

(1) Conditional use approval may be granted by the Planning Board (RSA 674:21, II) after proper public notice and public hearing, provided that the proposed project complies with the following standards:

(a) The applicant demonstrates that the development complies with the design guidelines that are outlined in § 153-16 of the Site Review Regulations. These guidelines encourage a context-sensitive development, which encourages components that act as one project and not as two adjacent projects.

(b) The applicant demonstrates that the development poses no detrimental effects on surrounding properties. Potential areas of impact that need to be analyzed include, but are not limited to, vehicular traffic, noise, property value, visual blight, natural resources degradation, light pollution, and offensive emissions such as dust, odor, or smoke.

(c) The applicant shall submit a fiscal impact analysis as defined in § 157- 21C(1)(b) of the Land Subdivision Regulations. The analysis shall demonstrate that the project is at least a cost-neutral project for the City at present and 10 years from the occupation.

(2) Conditional use approval shall be subject to a formal agreement between the Planning Board and the applicant. Said agreement shall be recorded at the Strafford County Registry of Deeds.

C. Location. The Residential-Commercial Mixed Use Overlay District shall include any parcel located within the CM, IT ~~B-4, I-4~~ or ~~ETP~~ R-40 zone which is greater than 50 acres and has the ability to connect into municipal water and sewer.

D. Permitted uses. The following uses are permitted:

(1) Principal uses.

(a) Housing ~~for older persons as that term is defined under RSA 354-A:15 and 42 U.S.C. § 3607(b)(2) and the regulations adopted thereunder in the following settings:~~

(3) Single-family dwelling, including the use of manufactured housing.
(4) Two-family dwelling.
(5) Three- to four-family dwelling.
(6) Multifamily dwelling.
(7) Manufactured housing parks (permitted outright without a special exception).

B. Public and private utilities.

C. Nonresidential uses as allowed as follows:

(1) Any use allowed in the underlying zone ~~that is compatible with housing for older persons.~~
(2) Barber or beauty shop.
(3) Bank.
(4) Eating/drinking establishments (no drive-through service).
(5) Bed-and-breakfast.
(6) Office.
(7) Retail store.
(8) Theater.
(9) Adult day care.

(10) Nursing homes ~~(in areas not serviced by City water and sewer utilities at a density of one bedroom per 10,000 square feet of land; in areas serviced by City water and sewer utilities~~ at a density of one bedroom per 7,500 square feet of land).

(11) Congregate care facilities ~~(in areas not serviced by City water and sewer utilities at a density of one unit per 10,000 square feet of land; in areas serviced by City water and sewer utilities~~ at a density of one unit per 7,500 square feet of land).

(12) Other uses compatible with housing ~~for older persons~~ may be approved via Conditional Use, using the criteria in 170-20 B(2).

(13) Nonresidential uses in existence at the adoption of this section on adjacent parcels shall be allowed to expand within the development if conceptually shown on the approved plan.

(2) Accessory uses.

(a) Recreational facilities.

(b) "Community building," ~~(i)~~ defined as a building used as a place of meeting, recreation or social activity typically for use by the residents of a particular development.

(c) Maintenance buildings.

(d) Rental and sales offices.

E. Procedural concepts.

(1) The developer shall prepare a development plan, which locates the proposed types of nonresidential and residential development, utilities, access roads, and public ways. The parcels comprising the development may be under separate ownership but shall be treated as one development and shall be bound by the approval granted for the entire development plan. If approval is granted, individual lots must be developed as part of the larger development plan and phasing outlined below, and not separately. The development plan must identify the percentage of the nonresidential uses, residential uses and open space. Nonresidential and/or mixed-use uses must comprise at least 55% of the total proposed floor area for the development (outdoor display areas may be counted towards the minimum required floor area) residential uses must not exceed 45% of the total proposed floor area for the development. Nonresidential uses within projects located in the CM district must be 90% manufacturing and assembly in nature. A building shall be considered "mixed-use," provided that at least 50% of the floor area of the first floor is reserved as commercial space and provided that such commercial space is located roughly in the front half of the building and extends the length of the building facade. Residential accessory uses (e.g. mechanical, storage, laundry, etc.) are permitted to be located within the back half of the first floor of any mixed-use building.

(2) A minimum of 20% of the area of the original tract shall be reserved as open space and identified as such on the development plan. Fifty percent of the required open space (as defined in § ~~155~~157-60) must be usable uplands and reasonably accessible to all property owners in the project. Any open space provided above 20% may be mixed wetlands and upland.

(3) Residential uses require that the calculation of permitted density shall be completed through the submission of a yield plan (as defined in § ~~155~~157-60) applied to the development lot and not individually to the internal dwelling lots.

(4) For residential development that includes single family homes over 1,001 square feet of total living area, ~~two-family,~~ three- to four-family or multifamily dwellings, density shall be based upon calculating one unit per 40,000 square feet of contiguous upland, and using 150 feet of frontage on a public roadway.

(5) For single-family residential homes 1,000 or less square feet of total living area, development, or two-family dwellings density shall be based upon calculating one unit per 10,000 square feet of contiguous upland, and using 100 feet of frontage on a public roadway.

(6) The development plan may be phased for a term of five years. The phasing plan shall contain provisions which promote the mixed use of the site consistent with Subsection A. For the purposes of this section, development shall include:
   (a) Construction of structures;
   (b) Environmental remediation;
   (c) Site preparation or demolition;
   (d) Roadway utility or recreation and common area design and construction; and
   (e) Bonding or other security for site development.

(7) The phasing plan shall provide that no more than 50% of the residential development may be occupied prior to completion of between 25% and 50% of the nonresidential structures, as negotiated between the Planning Board and the developer, and included in the Conditional Use Approval.

(8) Provided that the developer is making reasonable efforts to develop the site, the Planning Board may extend the initial five-year phasing period, provided a request for extension is submitted before the expiration of the initial five-year phasing term.

(9) Residential development plan guidelines.
   (a) The developer shall be permitted to allocate permitted density among internal dwelling lots in a flexible and creative manner. The sum total of the permitted density shall not exceed the permitted density of the development lot or legal lot, unless the additional density is derived from the Transfer of Development Rights Ordinance. Layouts may include individual lots or a cluster of units without lot lines.
   (b) Dwelling layouts shall be so designed that parking is screened from external roadways by garages, building locations, grading or screening. Major topographical changes or removal of existing trees shall be avoided wherever possible, and water, wetlands, and other scenic views from the external streets shall be preserved as much as possible.

(c) Where possible, it is desirable and encouraged to mix residential and nonresidential uses. This may be achieved through situating the buildings close to each other, or though allowing structures to house residential, preferably on the second or above floor, with nonresidential on the first floor. Creativity and flexibility is encouraged, and the development plan may offer another option for mixing uses. ~~Units created through the TDR program are not required to be housing for the elderly, as that term is defined under RSA 354-A:15 and 42 U.S.C. § 3607(b)(2).~~

(d) All residential development must adhere to architectural design guidelines. Said standards will reflect a New England village motif and include structures with peaked roofs and architectural shingles. The guidelines for this development are included in Chapter 153, Site Review Regulations,

(e) All manufactured houses shall adhere to the standards outlined in Chapter 101, Manufactured Home Parks, with the exception of §§ 101-3, 101-4, 101-5, 101-6, and 101-7F, which shall be controlled by the provisions hereof and unless noted below. Where there is a difference in the requirements between this overlay district and the provisions of Chapter 101, Manufactured Home Parks, the provisions of the overlay district shall apply.

(10) Nonresidential development plan guidelines.

(a) The general character of the nonresidential structures within the development lot is intended to be a pedestrian-friendly setting, with emphasis on the natural characteristics of the site. The site design should create a sense of character and cohesiveness through landscaping, facade treatment, and signage.

(b) The guidelines for this development are included in Chapter 153, Site Review Regulations, § 153-16.

F. Standards and regulations.

(1) Internal roads. As part of the approval of the conditional use permit, the Planning Board shall determine whether internal roads shall be public or private. If a road is determined to be private, no municipal services shall be provided other than public safety, utilities maintenance, and regulatory services. Unless noted below, roadways shall conform to the street design criteria laid out in the Code.

(a) Minimum internal right-of-way.

(1) Maximum residential: 35 feet.

(2) Maximum nonresidential: 50 feet.

(b) Minimum pavement width.

(1) Minimum residential: 20 feet.

(2) Minimum nonresidential: 28 feet.

(3) Minimum sidewalk pavement width: five feet.

(4) Minimum bike/Segway®/golf cart path width: five feet.

(c) Minimum tangent length at intersections: 75 feet.

(d) Maximum street angle at intersections: 60°.
(e) Minimum center-line radius: 100 feet.
(f) Minimum tangent length between reverse curves: 50 feet.

(2) Dimensional requirements.
(a) Nonresidential/mixed-use buildings.
[1] Minimum structure setback from external lot line: 50 feet. Expanding existing nonresidential uses are not held to this setback.
[2] Minimum structure setback from external right-of-way: 50 feet.
[3] Maximum nonresidential building height: 55 feet.
[4] For all other dimensional requirements for nonresidential structures and parking setbacks refer to the underlying zone.
(b) Residential dwellings.
[1] Minimum structure and parking setback from external lot line: 50 feet.
[2] Minimum structure and parking setback from external row: 100 feet.
[3] Maximum residential building height: 35 feet.
[4] Minimum frontage on internal road: 40 feet.
[5] Minimum setbacks:
[a] Front yard setbacks: 20 feet.
[b] Distance between buildings: 24 feet.
(c) <u>There shall be no minimum lot size or frontage for internal lots created.</u>

(3) Parking.
(a) All dwelling units shall require two independently accessible parking spaces per unit, except that the congregate-care and nursing-home requirements shall be as otherwise defined by this chapter. Nonresidential uses shall comply with parking requirements defined by this chapter.
(b) Overnight parking shall not be permitted on internal roadways.
(c) <u>Parking shall be utilized and available to all components of the Development Plan, through the recording of access and parking easements."</u>

14. AMENDMENT

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Section 170-32 "Signs", to amend sub sections E-Q as follows:

Purpose. The purpose of this Section is to create a legal framework for SIGNAGE regulations that is intended to facilitate a flexible and agreeable communication between people. Such an ordinance acknowledges the need to protect the safety and welfare of the public, the need for a well-maintained and attractive appearance throughout the City of Dover and the need for adequate business identification,

advertising and communication. While this Section recognizes that aesthetics and design quality cannot be satisfactorily legislated, it does, however, operate on the premise that a large percent of that which is unattractive can be eliminated by sensible quality control through maintenance and inspection and by guidelines formulated to minimize clutter.

A. Permitted SIGNs. No SIGN shall be permitted within the City of Dover, except in accordance with the provisions of this Section. See tables of Use and Dimensional Regulations by District for overview of permitted SIGNs.

B. Permit required. No SIGN, other than a residential nameplate or a SIGN exempted from the permitting requirements of this Section as described herein shall be erected or placed in the City of Dover without a SIGN permit. Said permit shall be issued by the Zoning Administrator, provided that the SIGN meets all the regulations of this Section, after the submission of an application and a set of plans to an appropriate scale, showing site location, dimensions, method of illumination, if any, and types of materials to be used in construction. Replacement of existing SIGNs and support STRUCTUREs, where the area, location or materials are being altered, shall require a permit, and such replacement shall conform to the regulations of this Section.

C. General provisions. All SIGNs shall conform to the following regulations:

(1) SIGN Location. SIGNS shall relate only to the premises upon which they are located, excluding TEMPORARY SIGNs as regulated in Subsection Q.

(2) All SIGNs shall be constructed, erected and maintained so as not to present a hazard to persons and property.

(3) All SIGNs shall be erected in such a manner so as not to obstruct free and clear vision along or onto a public right-of-way.

(4) All SIGNs shall be erected in such a manner so as not to obstruct the view of, be confused with or mistaken for any authorized traffic SIGN, signal or like device.

(5) The illumination of any SIGN shall be nonflashing; spot or floodlights shall be arranged so that the direct rays of light do not shine or reflect directly into adjacent properties or the line of vision of a motorist.

(a) FLASHING SIGNs are prohibited.

(b) Illuminance of the SIGN face shall not exceed the following standards:

(i) EXTERNAL ILLUMINATION: fifty (50) foot-candles as measured on the SIGN face.

(ii) INTERNAL ILLUMINATION: five thousand (5,000) nits (candelas per square meter) during daylight hours, and five hundred (500) nits between dusk and dawn, as measured at the SIGN's face.

(iii) DIRECT ILLUMINATION: five thousand (5,000) nits during daylight hours, and five hundred (500) nits between dusk and dawn, as measured at the SIGN's face.

(6) The top edge of a WALL SIGN shall be at least one (1) foot below the top of the wall or PARAPET wall. The top edge of a roof SIGN shall be at least one (1) foot below the roof ridge or the highest point of the roof if no ridgepole exists.[1]

(7) No SIGN shall be painted or affixed with adhesive directly on the surface of a BUILDING.

(8) Rotating SIGNs or beacons, waving pennants or whirling devices are prohibited.

(9) TEMPORARY SIGNs are prohibited, except as otherwise provided in Subsection Q.

(10) All SIGNs are prohibited within the public right- of-way, except as otherwise provided in this Section.

(11) The terms of this Section shall not apply to SIGNs being necessary for the public welfare and, as such, are required by the municipal, State, or Federal government.

(12) The material and construction of any SIGN or supporting elements shall be in accordance with the Building and Electrical Codes (in use by the City at the time of installation) and all other applicable City regulations.

(13) On a CORNER LOT, no FREESTANDING SIGN or support element shall be erected to materially impede vision between a HEIGHT of two and a half (2 ½) feet and eight (8) feet above curb grades in the same area bounded by the STREET lines of such CORNER

[1]See Figure 1 of the SIGN Diagrams, Part I, included at the end of this Chapter

LOT and a straight line joining points along said STREET lines thirty (30) feet from point of their intersection except as otherwise provided in this Section.

(14) Essential directional SIGNs not exceeding four (4) square feet in area are permitted indicating entrance and exit driveways. Said SIGNs shall not be subject to the permitting requirements of this Section.

(15) SIGNs not exceeding two (2) square feet in area are permitted in parking LOTs indicating aisles or reserved areas or spaces. Said SIGNs shall not be subject to the permitting requirements of this Section.

(16) On a BUILDING or project under construction, or on a property currently for sale or rent, one additional SIGN is permitted and shall conform to the following additional regulations:

(a) One (1) SIGN not exceeding thirty-two (32) square feet is permitted on a BUILDING or project under construction. Such SIGN shall be removed upon the receipt of a CERTIFICATE OF OCCUPANCY or upon the expiration of the BUILDING permit. Said SIGN shall not be subject to the permitting requirements of this Section.

(b) One (1) SIGN not to exceed four (4) square feet may be erected on a property currently for sale or rent. Said SIGN shall not be subject to the permit requirements of this Section.

(17) WALL SIGNs shall conform to the following additional regulations:

(a) No WALL SIGN shall be located in such a manner so as to extend above the next floor's window sill or descend below the top of the lower floor's lintel.[2]

(b) In all nonresidential zoning districts where a business/premises fronts on more than one (1) public STREET or municipal parking LOT, one (1) WALL SIGN shall be permitted upon each FRONTAGE. The SIGN AREA displayed shall not exceed that area permitted by the FRONTAGE on that public STREET or parking LOT.[3]

[2]See Figure 2 of the SIGN Diagrams, Part I, included at the end of this Chapter.
[3] See Figure 3 of the SIGN Diagrams, Part I, included at the end of this Chapter.

(c) In all nonresidential zoning districts, one (1) informational/directional WALL SIGN shall be permitted for each BUILDING entryway. Said SIGN shall not exceed four (4) square feet in area and shall not be illuminated. Said SIGN shall not be subject to the permitting requirements of this Section.

(18) All FREESTANDING SIGNs shall conform to the following regulations:

(a) No FREESTANDING SIGNs shall be located in an area designated for parking unless said SIGN is protected along all sides by curbing. A four (4) foot clear space is required along all approaches.[4]

(b) No FREESTANDING SIGN shall be placed within fifty (50) feet of a low-density residential district (R-40, R-20) boundary.

(19) All PROJECTING SIGNs shall conform to the following additional regulations:

(a) PROJECTING SIGNs shall be attached to the main wall of the BUILDING.

(b) PROJECTING SIGNs shall be prohibited from projecting over a STREET, alley or other PUBLIC SPACE beyond four (4) feet, eight (8) inches from a BUILDING facade or two-thirds (2/3) of the width of the SIDEWALK, whichever is less.[5]

(c) A clear space of not less than ten (10) feet shall be provided below all parts of a PROJECTING SIGN, except for residential nameplates.

(d) In all nonresidential zoning districts where a business/premise fronts on more than one (1) public STREET or municipal parking lot, one (1) PROJECTING SIGN shall be permitted upon each FRONTAGE. The SIGN AREA displayed shall not exceed that area permitted by the FRONTAGE on that public STREET or parking lot.

(20) Awnings may be used in lieu of permitted WALL SIGNs provided said letters, insignia or emblems do not exceed the square footage allowed for a WALL SIGN in the applicable zoning district.

[4] See Figure 4 of the SIGN Diagrams, Part I, included at the end of this Chapter.
[5] See Figure 5 of the SIGN Diagrams, Part I, included at the end of this Chapter.

D. SIGNs permitted in residential districts. Any SIGN permitted in a Residential District shall conform to the following regulations (See tables for overview of permitted SIGNs):

(1) CUSTOMARY HOME OCCUPATION SIGNs shall identify only the name of each occupant and the STREET address. Said SIGN shall not exceed two (2) square feet and shall not be subject to the permit requirements of this Section.

(2) One (1) SIGN not to exceed sixteen (16) square feet may be erected in connection with any legally permitted non-residential use, excepting home occupations and BED AND BREAKFASTs.

(3) One (1) SIGN may be erected in connection with a lawfully maintained NONCONFORMING USE.

(4) All nonresidential SIGNs may only be illuminated by constant EXTERNAL ILLUMINATION. The lighting element shall be shielded and shall illuminate only the SIGN. No SIGN shall be illuminated after 9:00 p.m. or before 6:00 a.m.

(5) One (1) SIGN not to exceed four (4) square feet may be erected in connection with a BED AND BREAKFAST.

(6) No SIGN shall be located greater than eight (8) feet above the ground, whether freestanding or attached to a BUILDING

E. SIGNs permitted in CBD and CWD Districts. ~~No SIGN in the CBD Downtown Gateway sub-district shall be illuminated after 9:00 p.m. or before 6:00 a.m.~~ (See table for overview of permitted SIGNs.)

(1) WALL SIGNs[6]

(a) An additional one (1) square foot of SIGN AREA per one (1) foot of BUSINESS FRONTAGE shall be permitted, provided that the character of the SIGN conforms to mill motif design criteria. Refer to Subsection O for applicable criteria.

[6] See Figure 6 of the SIGN Diagrams, Part II, included at the end of this Chapter.

F. SIGNs permitted in ~~B-3~~ C district. (See table for overview of permitted SIGNs.)

(1) FREESTANDING SIGNs

(a) Where a PRINCIPAL BUILDING fronts on more than one (1) STREET, one (1) FREESTANDING SIGN may be erected upon each FRONTAGE, provided that the BUILDING complies with applicable SETBACKs.

(b) One (1) FREESTANDING SIGN shall be permitted for every principal entryway to a SHOPPING CENTER. Such SIGNAGE shall be a distance of five hundred (500) feet apart.

(c) Each FREESTANDING SIGN shall not exceed sixteen (16) feet in HEIGHT, except as provided for below, and shall be permanently affixed to the ground. Notwithstanding, FREESTANDING SIGNs fronting on the Spaulding Turnpike shall not exceed thirty (30) feet in HEIGHT.

(d) Notwithstanding, no FREESTANDING SIGN shall be allowed on Old Rochester Road.

~~G. SIGNs permitted in B-1 districts. No SIGN shall be illuminated after 9:00 p.m. or before 6:00 a.m. (See table for overview of permitted SIGNs.)~~

~~(1) PROJECTING SIGNs~~

~~(a) All PROJECTING SIGNs shall only be illuminated by constant EXTERNAL ILLUMINATION. The lighting element shall be shielded and shall illuminate only the SIGN.~~

H. SIGNs permitted in O and Gateway districts. No SIGN shall be illuminated after 9:00 p.m. or before 6:00 a.m. (See table for overview of permitted SIGNs.)

(1) SIGNs shall only be illuminated by constant EXTERNAL ILLUMINATION. The lighting element shall be shielded and shall illuminate only the SIGN.

I. SIGNs permitted in ~~I-1~~, ~~I-2~~, CM ~~I-4~~ district~~s~~. (See table for overview of permitted SIGNs.)

(1) FREESTANDING SIGNs

(a) Where a PRINCIPAL BUILDING fronts on more than one (1) STREET, one (1) FREESTANDING SIGN may be erected upon each FRONTAGE, provided that the BUILDING complies with applicable SIGNAGE SETBACKs.

(b) Two (2) FREESTANDING DEVELOPMENT IDENTIFICATION SIGNs shall be permitted per approved industrial park, provided that the combined square footage of such SIGNs does not exceed five hundred (500) square feet in area, and that, if on a CORNER LOT, such SIGNs shall be set so as to not materially impede vision.

J. SIGNs permitted in ~~ETP~~ IT ~~and B-4 districts~~. (See table for overview of permitted SIGNs.)

(1) FREESTANDING SIGNs

(a) Where a development fronts on more than one (1) public STREET or roadway, one (1) FREESTANDING SIGN shall be permitted upon each FRONTAGE.

(b) Each FREESTANDING SIGN shall not exceed sixteen (16) feet in HEIGHT, except as provided for below, and shall be permanently affixed to the ground. Notwithstanding, FREESTANDING SIGNs fronting on the Spaulding Turnpike shall not exceed thirty (30) feet in HEIGHT.

(c) SIGN AREA shall not exceed sixty (60) square feet in area. Notwithstanding, a FREESTANDING SIGN fronting the Spaulding Turnpike shall not exceed one hundred (100) square feet in area.

~~K. SIGNs permitted in the B-5 District. (See table for overview of permitted SIGNs.)~~

~~(1) FREESTANDING SIGNs.~~

~~(a) Where a development fronts on more than one (1) public STREET, one (1) FREESTANDING SIGN shall be permitted upon each FRONTAGE.~~

~~Notwithstanding, no FREESTANDING SIGN shall be allowed on Old Rochester Road."~~

L. Political advertising SIGNs. Political advertising SIGNs are permitted per the political advertising SIGN provisions of State law.

M. Obsolete SIGNs. Any SIGN which is located on property which becomes vacant and unoccupied for a period of more than six (6) months shall be deemed to have been abandoned, and the SIGN shall be considered obsolete. Such obsolete SIGNs are prohibited and shall be removed by the owner of the SIGN or owner of the premises. In the event that the said SIGN(s) and support(s) are not removed as requested by the Zoning Administrator, the City of Dover may remove said STRUCTURE(s) and assess all costs and expenses incurred in said removal against the STRUCTURE's owners and/or the owner of the land upon which said STRUCTURE(s) is located.

N. Nonconforming SIGNs. A SIGN installed prior to the effective date of this Section which meets the applicable requirements of the zoning code then in effect but which is not in conformance with the provisions of this code, shall be deemed a permitted nonconforming SIGN. Such nonconforming SIGN shall, however, be subject to the following regulations:

(1) No nonconforming SIGN shall be ALTERed in any way in STRUCTURE or material, which makes the SIGN less in compliance with the requirements of this Section than it was before the ALTERATIONs.

(2) No nonconforming SIGN shall be relocated to a position making it less compliant with the requirements of this Section.

(3) Non-conforming FREESTANDING SIGNs and PROJECTING SIGNs may be replaced upon approval of a SIGN permit application, provided that the support STRUCTURE of the SIGN remains in place and the dimensions of the SIGN are the same or smaller. If any other nonconforming SIGN is replaced, it shall be replaced in total with a SIGN that is in conformance with the provisions of this Section.

(4) Should a nonconforming SIGN be destroyed by any means to an extent of more than seventy-five percent (75%) of its replacement cost at the time of its destruction, it shall not be reconstructed except in conformity with the provisions of this Section.

O. Mill motif design criteria.

(1) Intent.

a. A recurring architectural theme exists within the Central Business District, where the use of brick, granite and slate dominates much of the existing commercial BUILDING

stock. Influenced by the early 19th century mill development, SIGNAGE was closely integrated with the style and composition of the BUILDING, often consisting of handsomely carved and painted wooden signboards. The use of dark background tones, highlighted with bright lettering was dominant. PROJECTING SIGNs were typically constructed from dark-hued metal, cast iron in particular, and internal lighting or use of plastics, aluminum and vinyl was nonexistent.

b. The use of a mill motif SIGNAGE theme is an attempt to promote a style or architectural continuity within Dover's urban center. Within the defined mill motif theme, a great amount of flexibility is permitted where design and materials are involved, and all SIGNAGE should be guided by general design criteria.

(2) SIGN location.

(a) Every SIGN shall be required to be an integral part of its BUILDING.

SIGNs shall be located with respect to the basic architectural framework of the BUILDING, so as not to obscure the primary elements (door and window openings and decorative facade treatments) of a BUILDING's framework.

(3) SIGN composition.

(a) Lettering.

(i) No more than one (1) font shall be permitted per SIGN. More than one (1) size is permitted.

(ii) Letters may be attached to the BUILDING façade.

(iii) Light-colored letters on a dark background are required.

(iv) Lettering shall be located so as not to obstruct architectural detailing on the BUILDING face.

(v) Product trademarks are not permitted. Generic trade symbols (e.g., a shoe for a cobbler, a mortar and pestle for a druggist) are permitted.

(vi) Letter styles shall be limited to the classic genre, i.e., Copperplate Gothic, Times, Franklin Gothic, Benton, Clarendon, Haas Helvetica, Folio Caravelle Medium, Windsor, and Times Roman.

(vii) The size of the lettering shall be in proportion to both the SIGN configuration and the BUILDING.

(b) Color.

(i) No more than three (3) colors are preferred, plus black and white. Differences in shade or hue are considered different colors. Lettering is limited to one (1) color.

(ii) Colors used in SIGNAGE should relate to the color composition of the BUILDING material and be compatible with them.

(iii) The determination of SIGN color must relate to the degree of contrast between the SIGN lettering and SIGN background.

(c) Lighting.

(i) INTERNAL ILLUMINATION and DIRECT IILLUMINATION are prohibited.

(ii) Only shielded EXTERNAL ILLUMINATION shall be permitted if lighting is used.

(d) Materials.

(i) The appearance of traditional materials, such as wood, glass, brass, bronze or iron, is required.

(ii) Wooden SIGNs shall be constructed of dense, clear wood that adapts to engraving/carving and paint or stain. The use of plywood shall be limited to overlay, exterior or marine plywood.

(iii) PROJECTING SIGNs shall be supported by black, iron attachments to the BUILDING. Guy wires shall not be permitted as a principle SIGN support member.

(iv) No support for a PROJECTING SIGN shall extend above the cornice line of the BUILDING to which it is attached.

(2) Permit process

(a) The Zoning Administrator shall be responsible for the issuance of SIGN permits relative to mill motif accessory SIGNs. Application for said SIGNs shall include the following items:

(i) A scaled elevation drawing of the entire BUILDING façade(s).

(ii) Proposed SIGN clearly delineated on the elevation drawing.

(iii) Detailed drawings indicating materials, size, colors and style of lettering, lighting and attachment method.

(iv) A photograph of the BUILDING.

(v) A sample color rendering of the intended SIGN.

(b) Upon completion of the review, the Zoning Administrator will approve or disapprove the application and inform the APPLICANT of the decision in writing.

P. Fees for the review of SIGNAGE are set annually and may be found in the City's Fee Schedule.

Q. TEMPORARY SIGNs. No TEMPORARY SIGN shall be erected or placed in the City of Dover without a TEMPORARY SIGN permit issued by the Planning Department, except as noted in Subsections (1)(b). The following regulations shall apply:

(1) TEMPORARY SIGNs are prohibited in all residential zoning districts (R-40, R-20, R-12, RM-SU, RM-U, HR, and CBD-R) ~~and the NEIGHBORHOOD Business District (B-1)~~. Where permitted TEMPORARY SIGNS are subject to the following regulations:

(i) One-week TEMPORARY SIGN permits are valid for a consecutive seven (7) day period and may be obtained once every three (3) months, for a maximum of four (4) one-week TEMPORARY SIGNs per year. If the permit is not used in one (1) quarter, it shall not be carried over to the next quarter.

(ii) The TEMPORARY SIGN shall be limited to twenty-four (24) square feet in size and shall not be placed in such a manner so as to create a traffic or safety hazard. Banner type TEMPORARY SIGNs are permitted only in the ~~B-3 and B-5~~ C Zoning Districts~~s~~.

(iii) The TEMPORARY SIGN shall be removed within twenty-four (24) hours after the end of the approved display period. If the TEMPORARY SIGN or banner is not removed within twenty-four (24) hours, the TEMPORARY SIGN or banner may be removed by the City of Dover.

(iv) If the TEMPORARY SIGN is located on a City SIDEWALK or within a public right-of-way directly in front of the BUILDING, the requirements in Subsection Q.(1)(d) must be met.

(b) TEMPORARY SIGNS Allowed Without a Permit. One (1) A-frame sandwich board TEMPORARY SIGN is permitted per LOT or tenant and does not require a permit, provided all of the following conditions are met:

(i) The TEMPORARY SIGN is not located on a City SIDEWALK or within a public right-of-way.

(ii) The maximum size of the TEMPORARY SIGN is eight (8) square feet.

(iii) The TEMPORARY SIGN must be placed directly in front of the BUILDING at a distance no greater than two (2) feet from the BUILDING and must not impede pedestrian or handicapped access to the business or adjacent businesses.

(c) TEMPORARY SIGNs Allowed With Annual Permit. One (1) TEMPORARY SIGN shall be permitted per each PRINCIPAL BUILDING. BUILDINGs with an excess of one hundred (100) feet of STREET FRONTAGE shall be permitted one (1) additional TEMPORARY SIGN per every additional one hundred (100) feet of STREET FRONTAGE. See District Tables of Use for additional requirements.

(i) If the TEMPORARY SIGN is located on a City SIDEWALK or within a public right-of-way directly in front of the BUILDING, the requirements in Subsection Q.(1)(d) must be met.

(ii) The following additional regulations shall apply to TEMPORARY SIGNs located in the CBD-General District:

1. The structure of the TEMPORARY SIGN must consist of medium density overlay plywood, or a similar durable wood-like material which can withstand the weather, or metal (except as supplemented by material for changeable messages, see below). The use of other materials is permitted if styled and composed to imitate wood or metal.

2. Any graphics, lettering, words, numbers, messages and/or symbols on the TEMPORARY SIGN shall be applied directly onto the surface of the SIGN and/or shall be made with SIGN plastic film.

3. The material for changeable messages shall be either chalk board or dry erase board. TEMPORARY SIGNs with moveable slide-in plastic letters are not permitted.

4. TEMPORARY SIGNs using stencils or spray paint are not permitted.

5. TEMPORARY SIGNs may not be painted traffic yellow or construction-zone orange or use any reflective or fluorescent materials.

(d) TEMPORARY SIGNs Located on a City SIDEWALK or Within a Public Right-of-Way. TEMPORARY SIGNs located on a City SIDEWALK or within a public right-of-way shall meet the following requirements:

(i) A certificate of insurance in the amount of one hundred thousand ($100,000.00) dollars (bodily injury/property damage) shall be filed as part of the TEMPORARY SIGN permit application to ensure sufficient liability coverage of the APPLICANT.

(ii) A hold-harmless certification letter shall be filed as part of the temporary SIGN permit application to relieve the City of Dover from bodily injury and property damage liability.

(iii) TEMPORARY SIGNs shall only be displayed during business hours.

(iv) A five (5) foot, clear passageway must be maintained at all times.

(v) TEMPORARY SIGNs shall be located directly in front of the BUILDING or in front of the space within the BUILDING occupied by the TEMPORARY SIGN owner.

(2) Community SIGNS. With a permit, TEMPORARY SIGNs may be located in the public right of way at Central Square, Weeks Crossing, and the intersections of Durham Road and Back River Road, Sixth Street and Indian Brook Drive, and Knox Marsh Road and Littleworth Road provided that the following requirements are met:

(a) Community SIGNs shall be a-frame/sandwich board type and no larger than six (6) square feet in area and no greater than three (3) feet in height.

(b) No more than three (3) permits shall be issued per location, per display period.

(c) Each week of the year shall constitute one display period. No APPLICANT will be issued a community SIGN permit for more than twelve (12) display periods per calendar year.

(d) Applications for community SIGN permits will be accepted by the Planning and Community Development Department only during the week prior to the display period. Applications will not be accepted in advance unless an entire calendar year's display schedule and payment of fees are submitted by the APPLICANT. Permits will be granted on a first-come, first-served basis.

(e) Applications must be signed by the property owner (APPLICANT or APPLICANT's landlord) and shall include:

(i) A certificate of insurance in the amount of one hundred thousand dollars ($100,000.00) (bodily injury/property damage) to ensure sufficient liability coverage of the APPLICANT.

(ii) A hold-harmless certification letter to relieve the City of Dover from bodily injury and property liability.

(f) A display period sticker will be issued with the community SIGN permit and shall be affixed to the lower right corner of the SIGN face.

15. AMENDMENT

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Section 170-33 "Fence Review and Regulations", to amend sub section C as follows:

A. FENCE HEIGHTs. No person, or other entity shall erect or cause to be erected a FENCE exceeding four (4) feet in HEIGHT between the RIGHT OF WAY and either ten (10) feet from the RIGHT OF WAY or a line parallel with the front of the house closest to the RIGHT OF WAY, whichever is less. FENCES may be up to eight (8) feet in HEIGHT for the remainder of the lot. HEIGHT is measured from ground level.

B. FENCE design.

(1) The finished side of a FENCE shall face outward from the property on which the FENCE is located. The side of a FENCE containing the posts or poles and other bracing appurtenances shall face inward to the property being FENCED in or on which the FENCE is located. When erected on a property or LOT boundary line, all of the FENCE and any of its supporting STRUCTUREs or appurtenances shall be contained within the LOT or property of the person erecting said FENCE.

(2) On a CORNER LOT, no FENCE or vegetal elements shall be erected or placed in such a manner(s) as to materially impede vision between that area bounded by the STREET lines of such CORNER LOT and a straight line joining points along said STREET lines thirty (30) feet from the point to the intersection. For CORNER LOTs that are located on the inside curve of STREETs and at intersections that are not perpendicular, adequate and safe sight distances in both directions, as determined by the Zoning Administrator, shall be provided. Property owners shall maintain vegetation such that it does not grow to limit site distance.

C. Exceptions. The provisions described in Subsection A shall not apply in ~~Industrial (I-2)~~ Commercial Manufacturing (CM), ~~Restricted Industrial (I-1), Thoroughfare Business (B-3)~~ Commercial (C), Central Business (CBD), Gateway (G), OFFICE (O), and Cochecho Waterfront (CWD) Zoning Districts, or whenever the ZONING BOARD OF ADJUSTMENT, as a condition attached to the granting of a variance or special exception to this Chapter, requires for screening purposes a FENCE exceeding eight (8) feet."

16. AMENDMENT

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Section 170-7 "Establishment of Districts", to replace as a whole, based upon the preceding amendments, follows:

"A. Districts. The City of Dover is hereby divided into the following districts:

(1) Residential.

HR	Heritage Residential District
R-40	Rural Residential District
R-20	Low-Density Residential District
R-12	Medium-Density Residential District
RM-SU	Suburban Density Multi-residential District
RM-U	Urban Density Multi-residential District

(2) Nonresidential. **[Amended 8-22-2018 by Ord. No. 2018.08.08-009]**

C	Commercial District
CM	Commercial Manufacturing
IT	Innovative Technology

(3) Mixed-use.

G	Gateway
H	Hospital
LBW	Little Bay Waterfront District
O	Office District
CBD	Central Business District
CWD	Cocheco Waterfront District

(4) Overriding.

CD	Conservation District
URD	Urban Renewal District
RRD	Riverfront Residential Overlay District
GWP	Groundwater Protection District
HWD	Hazardous Waste Landfill District
RCM	Residential-Commercial Mixed-Use
SRD	Scenic Road Overlay District
TDR	Transfer of Development Rights
TEL	Telecommunications Facilities

WPD Wetland Protection District

D. District purpose statements.

(1) Residential districts. The residential districts are intended to provide a wide range of residential units to provide the citizens of Dover with a balance of housing choices, with varying housing types, densities and costs. The goal is to preserve and create City neighborhoods that are safe and promote harmonious development.

(a) Rural Residential District (R-40). The purpose of this residential district is to provide for conventional single-family neighborhoods in the more rural areas of the City. These areas have larger lot sizes (one or more acres) and the homes are most likely served by on-site septic systems and wells, but there are some portions of the district that have municipal sewer and water. New subdivisions are designed as open space developments with reduced lot sizes allowed in return for the permanent preservation of open space. Agriculture and farming are promoted in this district. Some nonresidential uses that are compatible with single-family homes are permitted, including churches, hospitals, elementary schools, high schools and child-care facilities.

(b) Low-Density Residential District (R-20). The purpose of this residential district is to provide for conventional single-family neighborhoods on lots not less than 20,000 square feet. The homes in this district are likely served by municipal sewer and water, but there are some areas that still have on- site septic systems and wells. These districts are located near major roadways. The development of parcels with at least 15 acres can be done as open space subdivisions. Agriculture and farming are promoted in this district. Some nonresidential uses that are compatible with single-family homes are permitted, including churches, elementary schools, high schools and child-care facilities.

(c) Medium-Density Residential District (R-12). The purpose of this residential district is to provide for conventional single-family neighborhoods on lots not less than 12,000 square feet. The homes in this district are almost all served by municipal sewer and water. Many of the neighborhoods surrounding the elementary schools are in this district and have a sidewalk system that is conducive to children walking to school. The development of parcels with at least five acres can be done as open space subdivisions. Some nonresidential uses that are compatible with single-family homes are permitted, including churches, elementary schools, high schools, colleges and child-care facilities.

(d) Suburban Density Multi-Residential District (RM-SU) The purpose of this residential district is to provide an environment suitable for a variety of moderate-density housing types, including single-family, two-family, three- to four-family and multifamily dwellings. These districts are suburban neighborhoods located along major roadways outside of the center of the City. The homes in this district are almost all served by municipal sewer and water. Some nonresidential uses that are compatible with residences are permitted, including churches, elementary schools, high schools, and child- care facilities.

(e) Urban Density Multi-Residential District (RM-U). The purpose of this residential district is to provide an environment suitable for a variety of moderate/high-density housing

types, including single-family, two-family, and three- to four-family dwellings. These districts are urban neighborhoods located close to the downtown area and contain many historic homes that are built close to the sidewalks and streets. The homes in this district are all served by municipal sewer and water. Some nonresidential uses that are compatible with residences are permitted, including churches, funeral parlors, elementary schools, high schools, and child-care facilities.

(f) Heritage Residential District (HR).

(a) These primarily residential neighborhoods surrounding the Silver Street area exhibit a rare collection of interesting architecture. While primarily Victorian and characterized by wide porches, bay windows, steep roofs, and intricate and involved woodwork, there are noteworthy Colonial buildings as well. In both instances, their original occupants were likely community leaders, whether early tavern keepers, or later senior managers and foremen from the mill facilities that lined the Cocheco River, as well as other community professionals.

(b) The common theme through all of these designs is both the massing and the placement of these structures in a manner that is compatible with what had gone before. It is the intent that in this district, new construction, replacement construction, and new additions should continue that tradition of compatibility with the existing neighborhood.

E. Nonresidential districts. The nonresidential districts are intended to provide suitable areas for commercial, service, retail, office and industrial developments, to provide employment opportunities for citizens of Dover and the region, to enhance property values, and expand the tax base. Development that uses land efficiently and has high quality design is encouraged.

(1) Commercial District (C). The purpose of this business district is to provide an environment that encourages efficient and attractive automobile-oriented commercial development along major highways outside of the downtown. The minimum lot size of 20,000 square feet encourages moderately sized commercial uses. The district provides economic development opportunities for a mix of land uses, including retail sales, personal services, restaurants, automobile sales, hotels, offices, banks, and theaters. Other commercial uses and multifamily dwellings are allowed by special exception.

(2) Commercial/Manufacturing District (CM). The purpose of this industrial district is to provide appropriate locations for manufacturing, assembly, fabrication, packaging, distribution, storage, warehousing, wholesaling and shipping activities that expand the economic base of the City and provide employment opportunities. This area is the location of one of the first industrial parks in the City, located off Littleworth Road and Knox Marsh Road in a more rural area. The smaller minimum lot size of 20,000 square feet also encourages business uses such as publishing, hotels, vehicle refueling/recharging stations, restaurants, car sales, offices, and personal services.

(3) Innovative Technology (IT). The purpose of this district is to provide appropriate locations for manufacturing, assembly, fabrication, packaging, distribution, laboratory, testing facility, warehousing, wholesaling, publishing and shipping activities that expand the economic base of the City and provide employment opportunities. These areas are located along major collector roads away from the downtown area. The newer business

parks are located in this district. The minimum lot size in this district is two acres, which encourages larger assembling and manufacturing users.

(3) Mixed-use districts. The mixed use districts are intended to provide suitable areas for a mixture of urban neighborhoods containing residential, commercial, service, retail, and office uses. The mixed-use development is intended to create a sense of community between the mixed uses and facilitate the economical and efficient use of land. The districts are intended to provide housing and employment opportunities for citizens of Dover and the region, to enhance property values, and expand the tax base. Development that uses land efficiently and has high- quality design is encouraged.

(a) Gateway (G). The purpose of this district is to mark a transition point where you move from the less developed area (the highway, the rural landscape, etc.) to a more formal, densely developed urban core (multi-story buildings, civic buildings, etc.). In Dover the primary Gateways (eg Central Avenue north and south of the downtown core, Broadway, and Portland Avenue) are generally dominated by commercial activity, with buildings of a lower height than those located downtown. Some residual residential activity occurs occasionally as stand-alone buildings, but frequently residential activity is located above ground floor commercial uses. A modest distance between the building and the street exists, with a fair amount of landscaping.

(b) Hospital (H). The purpose of the Hospital District is to provide appropriate locations for hospitals and medical offices associated with a hospital. This district also encourages other health care services and various housing facilities providing levels of service for older persons. Single- and two- family residential uses are permitted along with commercial uses such as offices, banks, funeral parlors, assembly halls, and schools.

(c) Little Bay Waterfront District (LBW). The purpose of this mixed-use district is to provide locations for a mixture of residential and commercial uses on the waterfront parcels along a portion of the shores of the Little Bay. The small minimum lot size encourages a mix of various-sized commercial uses, with water-related uses, such as marinas, specifically permitted. Single- and two-family homes are allowed in recognition of the historically residential use of the area. Three- or four-family dwellings are allowed only as part of a mixed-use building. Businesses that take advantage of the unique location along Little Bay are encouraged.

(d) Office District (O). The purpose of this Office District is to provide appropriate locations for a mixture of residential and office uses along higher-volume streets. The remaining large historic homes are no longer suitable for single-family residential due to the high traffic. This district is a transition area between the more commercial areas and the urban residential areas on the side streets. Residential uses up to four dwelling units per structure are permitted, along with commercial uses such as offices, banks, funeral parlors, churches, schools, hospitals, nursing homes and congregate- care facilities. The density for residential uses is about eight units per acre, and in new buildings, residential is only allowed on the second floor or higher.

(e) Central Business District (CBD). The purpose of this district is to provide the appropriate locations for context-sensitive zoning. The form-based code in this district is intended to foster a vital main street both for itself and for its adjacent

neighborhoods through a lively mix of uses, with shop fronts, sidewalk cafes, and other commercial uses at street level, overlooked by canopy shade trees, upper story residences and offices. The district has an increased emphasis on the form and placement of structures and a decreased emphasis on the function(s) contained within them.

(f) Cocheco Waterfront District (CWD). The purpose of this mixed use district is to provide appropriate locations for a mixture of residential and commercial uses on the waterfront parcels along the downtown portion of the Cocheco River. This district has very flexible dimensional requirements, with no minimum lot size, frontage or setback requirements and a density of 43 dwelling units per acre. Several water-related land uses are permitted in the district, including marinas, waterborne passenger transportation facilities and water-related education and resource centers. The architecture of the waterfront areas should encourage the development of marine-, history- or tourism-related land uses and activities, which take advantage of the unique characteristics of the waterfront as well as its central location and proximity to historic areas.

(4) Overriding districts. The purpose of the overriding districts is to provide an additional layer of land use regulation or protection in certain sensitive areas of the City. The requirements of these overlay districts are in addition to the underlying zoning districts. Most of the districts are intended to protect environmentally sensitive areas. For specific purpose statements, review the text of each overriding district.

~~A. Districts:~~

~~The City of Dover is hereby divided into the following districts:~~

~~Residential~~

~~HR Heritage Residential District~~

~~R-40 Rural Residential District~~

~~R-20 Low-Density Residential District~~

~~R-12 Medium-Density Residential District~~

~~RM-SU Suburban Density Multi-residential District~~

~~RM-U Urban Density Multi-residential District~~

~~Nonresidential~~

~~B-1 NEIGHBORHOOD Business District~~

~~B-3 Thoroughfare Business District~~

~~B-4 HOTEL/Retail District~~

~~B-5 Highway Business District~~

~~I-1 Restricted Industrial District~~

~~I-2 Rural Restricted Industrial District~~

~~I-4 Assembly and OFFICE~~

~~ETP Executive and Technology Park~~

~~Mixed -Use~~

~~H Hospital~~

~~LBW Little Bay Waterfront District~~

~~O OFFICE District~~

~~CBD Central Business District~~

~~CWD Cocheco Waterfront District~~

~~Overriding~~

~~CD Conservation District~~

~~URD Urban Renewal District~~

~~RRD Riverfront Residential Overlay District~~

~~GWP Groundwater Protection District~~

~~HWD Hazardous Waste Landfill District~~

~~RCM Residential-Commercial Mixed Use~~

~~SRD Scenic Road Overlay District~~

~~TDR TRANSFER OF DEVELOPMENT RIGHTS~~

~~TEL TELECOMMUNICATIONS FACILITIES~~

~~WPD Wetland Protection District~~

~~B. District Purpose Statements:~~

~~(1) RESIDENTIAL DISTRICTS~~

~~The residential districts are intended to provide a wide range of residential units to provide the citizens of Dover with a balance of housing choices, with varying housing types, densities and costs. The goal is to preserve and create City NEIGHBORHOODs that are safe and promote harmonious development.~~

~~(a) Rural Residential District (R-40)~~

~~The purpose of this residential district is to provide for conventional single-family NEIGHBORHOODs in the more rural areas of the city. These areas have larger LOT sizes (1+ acres) and the homes are most likely served by on-site septic systems and wells, but there are some portions of the district that have municipal sewer and water. New subdivisions are designed as OPEN SPACE developments with reduced LOT sizes allowed in return for the permanent preservation of OPEN SPACE. AGRICULTURE and farming are promoted in this district. Some non-residential uses that are compatible with single-family homes are permitted, including churches, hospitals, elementary schools, high schools and CHILD CARE FACILITIES.~~

~~(b) Low-Density Residential District (R-20)~~

~~The purpose of this residential district is to provide for conventional single-family NEIGHBORHOODs on LOTs not less than twenty thousand (20,000) square feet. The homes in this district are likely served by municipal sewer and water, but there are some areas that still have on-site septic systems and wells. These districts are located near major roadways. The development of parcels with at least fifteen (15) acres can be done as OPEN SPACE subdivisions. AGRICULTURE and farming are promoted in this district. Some non-residential uses that are compatible with single-family homes are permitted, including churches, elementary schools, high schools and CHILD CARE FACILITIES.~~

~~(c) Medium-Density Residential District (R-12)~~

~~The purpose of this residential district is to provide for conventional single-family NEIGHBORHOODs on LOTs not less than twelve thousand (12,000) square feet. The homes in this district are almost all served by municipal sewer and water. Many of the NEIGHBORHOODs surrounding the elementary schools are in this district and have a SIDEWALK system that is conducive to children walking to school. The development of parcels with at least five acres can be done as OPEN SPACE subdivisions. Some non-residential uses that are compatible with single-family homes are permitted, including churches, elementary schools, high schools, colleges and CHILD CARE FACILITIES.~~

~~(d) Suburban Density Multi-residential District (RM-SU)~~

~~The purpose of this residential district is to provide an environment suitable for a variety of moderate density housing types, including SINGLE-FAMILY, two family, 3-4 family and MULTI-FAMILY DWELLINGs. These districts are suburban NEIGHBORHOODs located along major roadways outside of the center of the city. The homes in this district are almost all served by municipal sewer and water. Some non-residential uses that are compatible with residences are permitted, including churches, elementary schools, high schools, and CHILD CARE FACILITIES.~~

~~(e) Urban Density Multi-residential District (RM-U)~~

~~The purpose of this residential district is to provide an environment suitable for a variety of moderate/high density housing types, including SINGLE-FAMILY, two family, and 3-4 family dwellings. These districts are urban NEIGHBORHOODs located close to the downtown area and contain many historic homes that are built close to the SIDEWALKs and STREETs. The homes in this district are all served by municipal sewer and water. Some non-residential uses that are compatible with residences are permitted, including churches, funeral parlors, elementary schools, high schools, and CHILD CARE FACILITIES.~~

~~(f) Heritage Residential District (HR)~~

~~These primarily residential NEIGHBORHOODs surrounding the Silver Street area exhibit a rare collection of interesting architecture. While primarily Victorian and characterized by wide porches, bay windows, steep roofs, and intricate and involved woodwork, there are noteworthy Colonial BUILDINGs as well. In both instances their original occupants were likely community leaders, whether early tavern keepers, or later senior managers and foremen from the mill facilities that lined the Cocheeho River, as well as other community professionals.~~

~~The common theme through all of these designs is both the massing and the placement of these STRUCTUREs in a manner that is compatible with what had gone before. It is the intent that in this district new construction, replacement construction, and new additions should continue that tradition of compatibility with the existing NEIGHBORHOOD.~~

~~(2) NONRESIDENTIAL DISTRICTS~~

~~The nonresidential districts are intended to provide suitable areas for commercial, service, retail, OFFICE and industrial developments, to provide employment opportunities for citizens of Dover and the region, to enhance property values, and expand the tax base. Development that uses land efficiently and has high quality design is encouraged.~~

~~(a) NEIGHBORHOOD Business District (B-1)~~

~~The purpose of this business district is to provide small sites for commercial use in or near dense residential NEIGHBORHOODs without having significant impact upon residential uses. The district encourages traditional small scale retail and service uses that are convenient for the nearby residents. Development is intended to be pedestrian-oriented and compatible with the scale of the residential uses.~~

~~(b) Thoroughfare Business District (B-3)~~

~~The purpose of this business district is to provide an environment that encourages efficient and attractive automobile oriented commercial development along major highways outside of the downtown. The twenty thousand (20,000) square foot minimum LOT size encourages moderately sized commercial uses. The district provides economic development opportunities for a mix of land uses, including retail sales, personal services, restaurants, automobile sales, HOTELS, OFFICEs, banks, and theaters. Other commercial uses and MULTI-FAMILY DWELLINGs are allowed by special exception.~~

~~(c) HOTEL/Retail District (B-4)~~

~~The purpose of this business district is to provide an environment that encourages efficient and attractive commercial development on a larger scale along major highways outside of the downtown. The minimum LOT size of five acres encourages larger commercial development. The district provides economic development opportunities for a mix of land uses, including retail sales, personal services, restaurants, HOTELS, OFFICEs, banks, and theaters.~~

~~(d) Highway Business District (B-5)~~

~~The purpose of this business district is to provide an environment that encourages efficient and attractive commercial development along major highways that are gateways to the city. The minimum LOT size of twenty thousand (20,000) square feet encourages a mix of various sized commercial uses. The district provides economic development opportunities for a mix of land uses, including retail sales, personal services, restaurants, VEHICLE REFUELING/RECHARGING STATION, automobile sales, HOTELs, OFFICEs, banks, and theaters.~~

~~(e) Restricted Industrial District (I-1)~~

~~The purpose of this industrial district is to provide appropriate locations for manufacturing, assembly, fabrication, packaging, distribution, storage, WAREHOUSING, WHOLESALING and shipping activities that expand the economic base of the city and provide employment opportunities. These areas tend to be smaller sites closer to the downtown area containing older BUILDINGs that have historically been used for industrial and business uses. The smaller minimum LOT size of forty thousand (40,000) square feet also encourages business uses such as PUBLISHING, HOTELs, VEHICLE REFUELING/RECHARGING STATION, car sales, OFFICEs, and personal services. The close proximity of these areas to older residential NEIGHBORHOODs requires careful consideration of impacts on adjacent uses in other districts.~~

~~In 2009 the zoning for this district was amended to allow for the redevelopment of this industrial property in a more flexible and context sensitive method. The district encourages mixed residential and commercial uses that complement one another and create a sense of community between the mixed uses.~~

~~(f) Rural Restricted Industrial District (I-2)~~

~~The purpose of this industrial district is to provide appropriate locations for manufacturing, assembly, fabrication, packaging, distribution, storage, WAREHOUSING, WHOLESALING and shipping activities that expand the economic base of the city and provide employment opportunities. This area is the location of one of the first industrial parks in the city, located off Littleworth Road and Knox Marsh Road in a more rural area. The smaller minimum LOT size of twenty thousand (20,000) square feet also encourages business uses such as PUBLISHING, HOTELs, VEHICLE REFUELING/RECHARGING STATION, restaurants, car sales, OFFICEs, and personal services.~~

~~(g) Assembly and OFFICE (I-4)~~

~~The purpose of this industrial district is to provide appropriate locations for manufacturing, assembly, fabrication, packaging, distribution, laboratory, testing facility, WAREHOUSING, WHOLESALING, PUBLISHING and shipping activities that expand the economic base of the city and provide employment opportunities. These areas are located along major collector roads away from the downtown area. The newest industrial park developed by the city is located in this district. The minimum LOT size in this district is five acres, which encourages larger industrial users.~~

~~(h) Executive and Technology Park (ETP)~~

~~The purpose of this executive and technology district is to provide appropriate locations for large-scale high technology, research, professional OFFICE, and clean manufacturing uses that need large sites and high aesthetic standards. The general character of the district is intended to be a campus or park-like setting that encourages creative design and innovation is site planning and development, while protecting the natural resources. In this district the minimum LOT size is three acres and there is no FRONTAGE requirement, which encourages larger users in campus settings. Some of the city's largest employers are located in this district. This district includes special design standards for BUILDINGs, parking LOTs and landscaping.~~

~~(3) MIXED–USE DISTRICTS~~

~~The mixed use districts are intended to provide suitable areas for a mixture of urban NEIGHBORHOODs containing residential, commercial, service, retail, and OFFICE uses. The mixed use development is intended to create a sense of community between the mixed uses and facilitate the economical and efficient use of land. The districts are intended to provide housing and employment opportunities for citizens of Dover and the region, to enhance property values, and expand the tax base. Development that uses land efficiently and has high quality design is encouraged.~~

~~(a) OFFICE District (O)~~

~~The purpose of this OFFICE district is to provide appropriate locations for a mixture of residential and OFFICEs uses along higher volume STREETs. The remaining large historic homes are no longer suitable for single family residential due to the high traffic. This district is a transition area between the more commercial areas and the urban residential areas on the side STREETs. Residential uses up to four DWELLING UNITS per STRUCTURE are permitted, along with commercial uses such as offices, banks, funeral parlors, churches, schools, hospitals, NURSING HOMES and~~

~~CONGREGATE CARE FACILITIES. The density for residential uses is about eight units per acre and in new BUILDINGs residential is only allowed on the second floor or higher.~~

~~(b) Central Business District (CBD)~~

~~The purpose of this district is to provide the appropriate locations for context sensitive zoning. The form based code in this district is intended to foster a vital main STREET both for itself and for its adjacent NEIGHBORHOODs through a lively mix of uses—with shop fronts, SIDEWALK cafes, and other commercial uses at STREET level, overlooked by canopy shade trees, upper story residences and OFFICEs. The district has an increased emphasis on the form and placement of STRUCTUREs and a decreased emphasis on the function(s) contained within them.~~

~~(c) Cochecho Waterfront District (CWD)~~

~~The purpose of this mixed use district is to provide appropriate locations for a mixture of residential and commercial uses on the waterfront parcels along the downtown portion of the Cochecho River. This district has very flexible dimensional requirements, with no minimum LOT size, FRONTAGE or SETBACK requirements and a density of forty three (43) DWELLING UNITS per acre. Several water related land uses are permitted in the district, including MARINAS, WATERBORNE PASSENGER TRANSPORTATION FACILITIES and WATER RELATED EDUCATION AND RESOURCE CENTERS. The architecture of the waterfront areas should encourage the development of marine, history or tourism related land uses and activities, which take advantage of the unique characteristics of the waterfront as well as its central location and proximity to historic areas.~~

~~(d) Hospital (H)~~

~~The purpose of the hospital district is to provide appropriate locations for hospitals and medical OFFICEs associated with a hospital. This district also encourages other health care services and various housing facilities providing levels of service for older persons. Single and two family residential uses are permitted along with commercial uses such as OFFICEs, banks, funeral parlors, ASSEMBLY HALLs, and schools.~~

~~(e) Little Bay Waterfront (LBW)~~

~~The purpose of this mixed use district is to provide locations for a mixture of residential and commercial uses on the waterfront parcels along a portion of the shores of the Little~~

~~Bay. The small minimum LOT size encourages a mix of various sized commercial uses, with water related uses, such as MARINAS, specifically permitted. Single and two family homes are allowed in recognition of the historically residential use of the area. Three or four family dwellings are allowed only as part of a mixed use BUILDING. Businesses that take advantage of the unique location along Little Bay are encouraged.~~

~~(4) OVERRIDING DISTRICTS~~

~~The purpose of the overriding districts is to provide an additional layer of land use regulation or protection is certain sensitive areas of the city. The requirements of these overlay districts are in addition to the underlying zoning districts. Most of the districts are intended to protect environmentally sensitive areas. For specific purpose statements review the text of each overriding district.~~"

17. TAKES EFFECT

This ordinance shall take effect upon passage and publication of notice as required by RSA 47:18.

To the extent this Ordinance amends a section of Chapter 170 that is also the subject of a companion ordinance amending Chapter 170 being filed and considered contemporaneously herewith, and there is any conflict or concurrent amendment to the same language, then as between the two sets of amendments this Ordinance shall control.

REQUIRES A PUBLIC HEARING

AUTHORIZATION

CITY OF DOVER – ORDINANCE

CITY OF DOVER

Agenda Item: 12.A.3.

Ordinance Number: **O – 2020.07.08 – 007**
Ordinance Title: Zoning – Citywide Area Rezoning, and Text Amendments Revising TDR and Alternative Energy Code
Chapter: 170

Approved as to Funding:	Daniel R. Lynch Finance Director	Sponsored by:	Deputy Mayor Dennis Ciotti, City Council Planning Board Representative
Approved as to Legal Form and Compliance:	Joshua M. Wyatt City Attorney		
Recorded by:	Susan Mistretta City Clerk		

DOCUMENT HISTORY:

First Reading Date:	07/08/2020	Public Hearing Date:	07/22/2020
Approved Date:	07/22/2020	Effective Date:	07/29/2020

DOCUMENT ACTIONS:

Deputy Mayor Ciotti moved for its adoption; seconded by Councilor Manley.

Deputy Mayor Ciotti moved to make the first of three amendments as follows:

Amend amendment 2, on page 4 to include Map H lot 11 A.

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising the official Zoning Map of the City of Dover, referred to in Section 170-8 of said Chapter as follows:

"The official Zoning Map of the City of Dover, New Hampshire, dated September 11, 2019, is amended by changing from "Low Density Residential" (R-20) to "Gateway" (G) District an area of approximately 7.4 acres located along Durham Road, consisting of Map H lot 11, and Map I lot 7"

Should be amended as follows:

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising the official Zoning Map of the City of Dover, referred to in Section 170-8 of said Chapter as follows:

"The official Zoning Map of the City of Dover, New Hampshire, dated September 11, 2019, is amended by changing from "Low Density Residential" (R-20) to "Gateway" (G) District an area of approximately ~~7.4~~7.73 acres located along Durham Road, consisting of Map H lot<u>s</u> 11 <u>and 11A</u>, and Map I lot 7"

Motion was seconded by Councilor O'Connor.
Roll Call Vote: 8/0.

Deputy Mayor Ciotti moved to make the second of three amendments as follows:

Also Amend amendment 4 to on page 7 to clarify that the area is going from R-12 to Commercial:

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising the official Zoning Map of the City of Dover, referred to in Section 170-8 of said Chapter as follows:

"The official Zoning Map of the City of Dover, New Hampshire, dated September 11, 2019, is amended by changing from "Medium Density Residential" (R-12) to "Hotel/Retail" (B-4) District an area of approximately 20 acres located along Indian Brook Drive, Alder Lane, Wilbroad Ave and Glenwood, consisting of Map D lots 18-3, 18-4, 18-5, 18-6, 18-9, 18-10 and the portion of Map D lots 18-7 and 18-8 from the Centerline of Indian Brook drive into the lot 200' and the portion of Map D lots 19 and 20, the portion of the lot between the Indian Brook Drive centerline and 400; from Glenwood."
To
Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising the official Zoning Map of the City of Dover, referred to in Section 170-8 of said Chapter as follows:

"The official Zoning Map of the City of Dover, New Hampshire, dated September 11, 2019, is amended by changing from "Medium Density Residential" (R-12) to "~~Hotel/Retail~~Commercial" (~~B-4~~C) District an area of approximately 20 acres located along Indian Brook Drive, Alder Lane, Wilbroad Ave and Glenwood, consisting of Map D lots 18-3, 18-4, 18-5, 18-6, 18-9, 18-10 and the portion of Map D lots 18-7 and 18-8 from the Centerline of Indian Brook drive into the lot 200' and the portion of Map D lots 19 and 20, the portion of the lot between the Indian Brook Drive centerline and 400; from Glenwood."

Motion was seconded by Councilor Manley.
Roll Call Vote: 8/0.

Deputy Mayor Ciotti moved to make the third of three amendments as follows:

Also Amend amendment 6 to on page 8/9 to clarify that the areas are going to Commercial:

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising the official Zoning Map of the City of Dover, referred to in Section 170-8 of said Chapter as follows:

"The official Zoning Map of the City of Dover, New Hampshire, dated September 11, 2019, is amended by changing from "Rural Residential" (R-40) to "~~Hotel/Retail~~Commercial" (~~B-4~~C) District an area of approximately 39 acres located along Durham Road and Mast Road, consisting of Map H lots 4-2, 4-B, 4-G, 4-L, 5 and 5A and Map I lot 22A, and the portion of Map I lot 22 that is 225' off the centerline of Mast Road and 194' off Durham Road."

AND

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising the official Zoning Map of the City of Dover, referred to in Section 170-8 of said Chapter as follows:

"The official Zoning Map of the City of Dover, New Hampshire, dated September 11, 2019, is amended by changing from "Low Density Residential" (R-20) to "~~Hotel/Retail~~Commercial" (~~B-4~~C) District an area of approximately 3.4 acres located along Durham Road and Mast Road, consisting of Map I lots 20-E, 20-F, 20-G, 20-H, 21, and 20-J."

Motion was seconded by Councilor O'Connor.
Roll Call Vote: 8/0.

Deputy Mayor Ciotti moved for the adoption of the amended Resolution; seconded by
Roll Call Vote: 8/0.

CITY OF DOVER – ORDINANCE

CITY OF DOVER

Agenda Item: 12.A.3.

Ordinance Number: **O – 2020.07.08 – 007**
Ordinance Title: Zoning – Citywide Area Rezoning, and Text Amendments Revising TDR and Alternative Energy Code
Chapter: 170

VOTING RECORD Date of Vote: 07/22/2020	YES	NO
Mayor Robert Carrier	X	
Councilor Michelle Muffett-Lipinski, Ward 1	X	
Councilor Dennis Ciotti, Ward 2	X	
Councilor Deborah Thibodeaux, Ward 3	Absent	
Councilor Joshua Manley, Ward 4	X	
Councilor Dennis Shanahan, Ward 5	X	
Councilor Fergus Cullen, Ward 6	X	
Councilor John O'Connor, At Large	X	
Councilor Lindsey Williams, At Large	X	
Total Votes:	8	0
Resolution does pass.		

ORDINANCE BACKGROUND MATERIAL:

The amendments provided to the Council for ratification are derived from suggestions resulting from a subcommittee created by the Planning Board in 2018 to review opportunities to increase commercially zoned land. In addition, the City's Master Plan recommends the City adopt an Alternative Energy Code and the Planning Board created a subcommittee to review the Transfer of Development Right's Ordinance. After public hearings in April, May and June, the Planning Board adopted the amendments set forth in this ordinance on June 23, 2020, summarized in a reference table below.

It is requested that the City Council waive the notice by first class mail in accordance with Dover Code Chapter 170-53(G)(2).

Included as part of the background are the following documents:

- Updated Zoning Tables (Gateway, CM, C and IT)
- Memorandum from Christopher Parker to the Dover City Council dated July 2, 2020, containing the required report of findings;
- A copy of the letter mailed to each property owner in Dover.
- A copy of the "Rezoning 2020" presentation to the City Council with background information.
- A red-lined version of Chapter 170 showing the resulting effect of all amendments set forth in this Ordinance and a companion Ordinance being filed and considered contemporaneously with terms, syntax, and numbering changes.
- A matrix explaining where land is changing from one zone to another.

Amendment # (as listed above)	Section	Summary	Why
2	170-7, 8, 11, 12	Create a new Gateway District	Create a zone with aesthetic and architectural requirements for entrances to Dover.
3	170-7, 8, 12, 19	Eliminate the Restricted Industrial district and associated sections.	District is out of line with current trends and context of surrounding areas.
4	170-8, 11, 12	Expand B-4 District on Indian Brook Drive, and ETP on Sixth Street	Expand Commercial Zoning
5	170-7, 8, 12	Eliminate B-1 District and rezone small R-12 on Week's Crossing	Expand Commercial Zoning
6	170-8	Rezone Mast and Durham Intersection to B-4	Expand Commercial Zoning
7	170-8	Rezone Littleworth and Knox Marsh Roads to I-2	Expand Commercial Zoning
8	170-7, 12	Replace I-2 with new Commercial Manufacturing district	Update commercial zoning with more modern uses
9	170-7, 8, 12	Merge B-4, B-5 and B-3 into new Commercial district	Update commercial zoning with more modern uses
10	170-7, 8, 12, 15	Merge I-4 and ETP into new Innovative Technology district	Update commercial zoning with more modern uses
11	170-21, 6	Expand Small Wind Energy Systems to include other Alt. Energy sources	Master Plan recommendation
12	170-27.2	Update Transfer of Development Rights	Clarify application process, add 600 sf units, and industrial units
13	170-28.2	Update RCM district	Remove age restrictions, update uses, and criteria
14	170-32	Update Sign Ordinance	To reflect district changes
15	170-33	Update Fence regulation exemptions	To reflect district changes
16	170-7	Replace listing of zones	To reflect district changes

Chapter 170. Zoning

Article VIII. Overriding Districts

§ 170-29. Transfer of development rights.

A. Authority. By the authority granted under RSA 674:21, this section creates overlay district(s) for the purpose of transferring development rights (TDR) within said districts.

B. Purpose and intent. Within the City of Dover, there are certain lands that possess significant conservation features, including but not limited to unsuitable development areas, groundwater recharge zones, forested areas, wildlife habitat, farmland, scenic view sheds, historic landmarks, and linkages to other such areas. Because of their unique assemblages of flora and fauna and their significant contribution to the ecological system and/or the cultural identity of our community, these lands are worthy of special protection. The City of Dover, furthermore, has a limited supply of land suitable for development. The purpose of this overriding district is to promote intensive development on the developable land possessing the least conservation value and to permanently protect lands possessing significant conservation features that provide unique values in their undisturbed condition. Additionally, it is recognized that the City of Dover has an Open Lands Committee and Conservation Commission which is active in protecting and preserving open space.
[Amended 10-13-2021 by Ord. No. 2021.09.08-006]

C. Applicability. Upon request by an applicant for development approval and at the discretion of the Planning Board, the provisions of this section may apply to the district(s) defined in Subsection **D** below.

D. Districts defined.
[Amended 8-22-2018 by Ord. No. 2018.08.08-009; 9-11-2019 by Ord. No. 2019.08.28-012]

(1) The Industrial TDR District is hereby determined to be any IT or CM Zoning District as shown on the Zoning Map for the City of Dover, New Hampshire, adopted September 11, 2019. The "sending area" is defined to be open space and related setbacks as defined by the City of Dover Wetland Protection District, § **170-28**, which are located in any IT or CM Zoning District. The "receiving area" is defined to be all remaining land in be any IT or CM Zoning District.
[Amended 7-22-2020 by Ord. No. 2020.07.08-007]

(2) The Residential TDR District is hereby determined to be residential districts noted or displayed on the Zoning Map for the City of Dover, New Hampshire, adopted September 11, 2019. The "sending area" is defined to be any land preserved by the City of Dover through conservation programs in the R-40 or R-20 residential zoning districts. The "receiving area" is defined to be all non-R-40 or -R-20 zoning districts east of the Spaulding Turnpike which allow residential development.

(a) If the units created are purchased, the receiving area may be any zoning district that allows residential development.

E. Procedural requirements.

(1) At the discretion of the Planning Board, an applicant for development approval within the receiving area of the defined Industrial TDR district may apply the performance standards

specified in Subsection **F** below in return for the acquisition of land or development rights from the sending area within the same TDR district. The performance standards for the Residential TDR district are outlined in Subsection **G** below.

(2) A certified boundary survey of the associated land in the sending area shall be submitted as a supplement to the site plan or subdivision plan for development within the receiving area.
[Amended 8-22-2018 by Ord. No. 2018.08.08-009]

(3) The owner of the subject open space within the sending area of the TDR district shall sign all application materials as a co-applicant of the development application. For residential application, proof of an agreement to sell development rights must be provided by the Conservation Commission.

(4) A sketch plan estimating layout of the development site and identifying the open space associated with the plan may be submitted to the Planning Board for review at a regularly scheduled meeting. The Planning Board, within 30 days of its review of the sketch plan, shall determine if waivers will be granted as allowed in Subsections **F** and **G** below. Waivers shall be reviewed using the same criteria as are used for site plan waivers. Following this decision, a final application is prepared. The final application for development approval shall be reviewed in accordance with the standard plan review process and subjected to all applicable development regulations, except as provided in this section.
[Amended 8-22-2018 by Ord. No. 2018.08.08-009; 7-22-2020 by Ord. No. 2020.07.08-007; 8-9-2023 by Ord. No. 2023.07.12-008]

(a) The determination of whether a proposed TDR project requires a sketch plan review shall be made by the Director of Planning and Community Development based on initial discussions with the applicant. The determination, made in writing, shall be made prior to the submittal of any plans and shall specify the Director's reasoning, including a review of known conditions, including: traffic, existing layout/topography, environmental. This determination shall be included in the staff report to the Board. If the applicant does not agree with the Director's determination, they may appeal the decision to the Board at its next meeting.

(b) If the sketch plan requires an environmental conditional use permit to develop homes, the applicant must appear before the Conservation Commission for review and endorsement prior to the Planning Board's review.

(5) A perpetual easement or restrictive covenant shall be recorded at the Strafford County Registry of Deeds that preserves the designated open space within the sending area. Said easement or covenant may allow for the continuance of existing residential and agricultural activities, and may allow for utility and access crossings in accordance with Subsection H below. The designation of the land protection agency to hold the easement shall be approved by the Planning Board.

F. Industrial performance standards.

(1) Land within a sending area, when surveyed, approved by the Planning Board and preserved by easement or covenant as specified in Subsection **E**, above, may be counted for the open space requirement for a development site in a receiving area. The amount of land preserved in a sending area shall equal or exceed the open space requirement for the development site, but in no case be less than one acre. Notwithstanding, development sites within the IT and CM Zoning Districts shall maintain open space or landscaped area on at least 10% of the site. The design of the development site shall locate the open space or landscaped area to maximize the aesthetic value of the site.
[Amended 7-22-2020 by Ord. No. 2020.07.08-007]

(2) The minimum lot size requirement may be waived by the Planning Board for land subjected to the transfer of development rights.

(3) The minimum frontage requirement may be waived by the Planning Board for land subjected to the transfer of development rights, provided that paved access to all developed areas suitable for emergency vehicles is approved by the Planning Board.

(4) Setbacks for parking, paved areas, and buildings may be waived by the Planning Board and be consistent with the intent to promote intensive development of suitable development sites. Notwithstanding, buildings shall be at least 150 feet from residential structures that exist on the date of enactment of the IT and CM Zoning Districts, and 75 feet from the lot line of a disagreeing residential abutter.
[Amended 7-22-2020 by Ord. No. 2020.07.08-007]

(5) The developer shall record covenants that address architectural considerations for structures, signage and lighting that are designed to promote the highest possible aesthetic quality of the development site.

(6) A landscaping plan shall be submitted with a development application that depicts landscaping or open space around the perimeter of the site, near the proposed buildings, and within the parking lot that promotes the highest possible aesthetic quality of the development.

G. Residential performance standards.
[Amended 8-22-2018 by Ord. No. 2018.08.08-009]

(1) Annually, the City shall update a document identifying the cumulative cost per acre spent to preserve open space within the City of Dover. This list shall be kept on file in the Department of Planning and Community Development and coordinated with the Conservation Commission. This cost shall become the value at which development rights may be purchased.

(2) Proceeds from the purchase of development rights shall be placed into the Conservation Fund to be used to purchase future property or easements, or monitor easements, and not into the general fund.

(3) A residential transfer of development rights applicant may pursue one of the following methods for transferring development rights.

(a) Single-family detached method.

[1] An applicant shall develop a baseline yield for the lot to be developed through the following formula:
[Amended 10-13-2021 by Ord. No. 2021.09.08-006]

[a] The square footage of the parent lot minus unsuitable areas is the base lot size.

[b] The base lot size is then reduced by 15% to account for roadway; this creates the net area.

[c] The net area is then multiplied by a factor determined by the amount of unsuitable development area over the parent lot. This is the developable area.

Percentage of Parcel That Is Unsuitable Development Area	Factor
0% to < 10%	0.85
10% to < 20%	0.8
20% to < 30%	0.75
30%	0.7

[d] The developable area is then divided by the minimum lot size, and the whole number value is the base number, with no rounding.

[i] This base number is not required to be restricted by the requirements in Subsection **G(3)(a)[3]**, unless the formula defined in Subsection G[2][a] is utilized.
[Amended 7-22-2020 by Ord. No. 2020.07.08-007]

[e] The development plan shall be laid out in a design that meets the requirements for block length and cul-de-sac length.
[Added 7-22-2020 by Ord. No. 2020.07.08-007]

[2] The transfer shall equate to one of the following calculations:
[Amended 7-22-2020 by Ord. No. 2020.07.08-007]

[a] For construction of units no larger than 600 square feet of total living area, including the base calculated units, there shall be no density limit. The monthly cost of said units shall conform to the HUD Fair Market Rent rates, for Dover, published annually by the New Hampshire Housing Finance Authority, and there shall be no TDR fee collected for said unit(s).

[b] For construction of units no larger than 1,000 square feet of total living area, two units per development right purchased shall be allowed.

[c] For construction of units no larger than 1,400 square feet of total living area, one unit per development right purchased shall be allowed. The unit count shall be the whole number value and not rounded up.

[i] Total living area shall mean the size of the home (in square feet) based upon the exterior dimensions, excluding unconditioned spaces.

[3] The units created through the transfer must be:
[Amended 7-22-2020 by Ord. No. 2020.07.08-007]

[a] Limited to the square footage originally constructed.

[4] A note shall be placed on the approved plan, and any building permit shall note the adherence to this section of the Code.

[5] A note shall be placed in the property/unit deed citing the restrictions listed above.

[6] The plan shall be considered a subdivision application. Prior to submission, a determination by the Director of Planning and Community Development shall be made whether to follow the minor or major subdivision regulations.
[Added 7-22-2020 by Ord. No. 2020.07.08-007]

(b) Single-family, two-family, three-family, and four or more method.
[Amended 7-22-2020 by Ord. No. 2020.07.08-007]

[1] The transfer may be through the purchase of development rights, as described in Subsection **G(1)**, or through the protection of land via a permanent conservation easement as per Subsection **E(5)**.

[a] In mixed-use or multifamily zones, the base density shall be derived from the underlying zoning, and not through a formula.

[b] If the additional unit(s) resulting from TDR is restricted so that the rent of said unit(s) conforms to the HUD Fair Market Rent rates, for Dover, published annually by the New Hampshire Housing Finance Authority, there shall be no fee collected for said unit(s).

[2] The transfer shall equate to one unit per acre preserved or purchased. If the end result is a village-themed residential/nonresidential project, whereby 35% of the square footage being created is nonresidential, the transfer shall equate to one unit per 2,500 square feet preserved or purchased.

[3] Any development approved by the Planning Board after July 1, 2020, which will create a manufacturing or assembly facility over 40,000 square feet may create and transfer one unit per 2,000 square feet of building approved, above the 40,000 square foot base. The transfer shall not be completed prior to the issuance of the certificate of occupancy for the additional space.
[Amended 10-13-2021 by Ord. No. 2021.09.08-006]

[a] If the units are to be placed upon the same lot, the layout must be shown on the site plan for the development.

[4] The plan shall be treated as a site plan application, unless otherwise determined by the Director of Planning and Community Development, prior to final submission.

(4) Regardless of the method utilized, the minimum lot size requirement may be waived by the Planning Board for land subjected to the transfer of development rights.

(5) Regardless of the method utilized, the setbacks shall be:
[Amended 7-22-2020 by Ord. No. 2020.07.08-007]

Minimum Building Setbacks for Subdivision Lots		
Abutting a Street	Abutting a Side Lot Line	Abutting a Rear Lot Line
20 feet	10 feet	30 feet

(6) Regardless of the method utilized, the minimum frontage requirement may be waived by the Planning Board, to no less than 40 feet. Paved access to all developed areas shall be suitable for emergency vehicles.
[Amended 7-22-2020 by Ord. No. 2020.07.08-007]

(7) A continuous visual buffer shall be created along the perimeter of the parent parcel, which shall include a thirty-foot no cut, no disturb buffer.
[Amended 7-22-2020 by Ord. No. 2020.07.08-007]

(8) 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:
[Amended 7-22-2020 by Ord. No. 2020.07.08-007; 8-9-2023 by Ord. No. 2023.07.12-008]

(a) Is consistent with the Master Plan.

(b) Is compatible with the land uses on neighboring lots (e.g., a multifamily building fits in within 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.[1]

[1] *Editor's Note: Original § 170-27.2H of the 2013 Code, Conditional uses, which immediately followed this subsection, was repealed 8-22-2018 by Ord. No. 2018.08.08-009.*

CITY OF DOVER

TECHNICAL REVIEW COMMITTEE MINUTES – SITE-2024-0012

Application Type:	Site Review
Applicant(s):	5 Sherman Street, LLC
Owner(s):	5 Sherman Street, LLC
Location:	103 Court St. (Assessor's Map 19, Lot 8)
Date:	September 5, 2024

INTENT: Convert an existing home into a two-family dwelling, construct a second two-family dwelling, and construct an additional five (5) new single-family homes for a total of nine (9) dwelling units.

UNITS PROPOSED: Nine (9) units including one (1) existing unit and six (6) TDR units

AGENDA ITEM #: 1

ACREAGE: 1.20± ac.

ZONING DISTRICT: R-12

EXISTING LAND USE: Residential

PROPOSED LAND USE: Residential

SURROUNDING LAND USE: Residential, Cemetery

ZBA ACTION: None.

PERMITS REQUIRED: None.

WAIVERS REQUESTED: None.

ATTENDANCE:
Donna Benton, Planning
Paul Crouser, Zoning
Jim Maxfield, Inspection Services
Ken Mavrogeorge, Engineering
Craig Chabot, Fire Department
James Burdin, Business Development

Others:
Erin Bassegio, Assistant City Planner
Rob Baldwin, Applicant/Owner
Bob Stowell, Tritech Engineering

Approval of minutes from August 29, 2024:
J. Burdin moved to approve the August 29, 2024 minutes. Seconded by K. Mavrogeorge. Vote: U/A.

PLAN REVIEW:
Planning:

- Reminder: Impact fees, Water and sewer investment fees
- Provide letters to serve when received.
- Provide HOA and
- Remove unit from the rear setback.
- Shrink common area or unit count to gain more than the 10' visual buffer. Narrative would be needed for TDR relief being sought from setback and buffer. However, seeing the density being sought is double what the base calculates out to be would indicate the buffers and setbacks should be met or unit request reduced.
- Setback measurements should be detailed on plan
- Active recreation and passive recreation is required.
- Floor plan of restricted units needed (probably only for TDR app at PB)
- Parking space dimensions need to be listed on plan
- Internal parking aisleways w/ one entrance/exit must be 24' wide
- R-12 zoning indicates duplexes should look like a one-family. Please provide justification for barn design.
- Provide detail for fencing shown on the landscape plan behind cottage units 3 & 4
- Any additional screening planned behind cottage units?
- Consider moving sewer line
- Replace "handicap" with "accessible"
- Update note 13 regarding Locke Street and Tranquility Way
- Indicate snow storage
- Revise note 30 to indicate no Saturday hours
- Bioretention area seems close to right of way
- Easement/license needed for walkway onto City property to cemetery
- Note congregate trash site as discussed and explain how odor and pests will be controlled.

CITY OF DOVER

TECHNICAL REVIEW COMMITTEE MINUTES – SITE-2024-0012

Application Type:	Site Review
Applicant(s):	5 Sherman Street, LLC
Owner(s):	5 Sherman Street, LLC
Location:	103 Court St. (Assessor's Map 19, Lot 8)
Date:	September 5, 2024

Engineering:

- General Comment:
  - Applicant and contractor shall review the Dover Construction Guidelines prior to scheduling a Preconstruction meeting with City staff. The guidelines can be found on the City of Dover Website on the Engineering page. https://www.dover.nh.gov/Assets/government/city-operations/1form/community-services/engineering/engineering-documents/Construction%20Guidelines.pdf
  - Coordinate with Community Services (Engineering Department) for latest City Standard Details for utilities and curbing.
  - Add note that Design Engineer shall provide signed letter to City Engineer certifying that the stormwater management system has been installed in accordance with approved plans.
  - Recommend providing 1 sf of snow storage per 10 sf of pavement to be cleared. Verify snow storage meets or exceeds this recommendation or provide note to remove excess snow when storage areas are filled.
  - Sewer manhole covers shall be Liftmate R-1743-LM or approved equal with 90 deg hinge
  - The City recommends that the applicant source out ductile iron piping, which is the City preferred material, in advance commencing construction.
  - Change "handicap" references to "accessible" where applicable throughout documents.
  - ***Engineering requests a letter certifying the tie in locations or discharge points for all sump pumps and roof leaders for existing structures on the property.***
  - Check the finished floor elevation of the duplex immediately on Court Street.
  - Applicant shall review the section 153-14 of the Dover Code and clarify how the design meets each of the criteria of the City's requirements.
  - Sanitary Sewer shall be PVC pipe SDR35.
  - How will trash be managed for the property?
  - Recommend individual water shut offs be located outside of paved surfaces and in grass. All shut offs in City ROWs must be in grass at the edge of the ROW. If shut offs on the private road remain in the paved surface, a road box should be provided.
  - Provide confirmation that 400 foot of sight distance is provided in each direction as required by the Dover Code.
  - It is strongly recommended that the Applicant submit a detailed breakdown of proposed HOA costs for annual maintenance and replacement of private infrastructure including backup as to how the fees are estimated.
  - Provide drainage pipe material.
  - Landscaping may obstruct site distance. Please confirm trees at driveway exit will not obstruct site lines.
  - Show locations of electrical infrastructure (transformers, switch gear, and/or communication pedestals. Each of these will need to be screened.
  - Sewer main on eastern property line looks close to the PL. Can this be constructed without an easement from the abutter?
  - Applicant shall provide an easement to the City along the private drives within the property to allow for access and operation of the water infrastructure (hydrants and shut offs) to maintain water quality.
  - Each unit should have unique address (Building A has units 1 and 2… Building B has units 2 and 3).
- C-1:
  - Provide a minimum 6-inch water main down the private drive with a standard hydrant at the end.
- C-3:
  - Show a core and boot on existing sewer tie in.
  - Confirm that the proposed sewer main tie in is above or below the new City drainage proposed as part of the Court St Reconstruction. Coordinate with CS. City

preference is to have an internal drop SMH on private property.
  - Rebuild inverts in SMHs.
- SP-2:
  - Show location of EV charging station and accessible charging station.
  - Consolidate the utility trenches within City ROW and provide overlay of entire area of disturbance from curb to curb. *Note: The City is expected to reconstruct Court Street in 2025 and work in the road including pedestrian and utility areas should be coordinated with the City and their Engineer.*
- SP-4:
  - Please show the water connection(s) to Duplex A.
  - Clarify if two water and sewer services will be provided to Duplex A. If only one water line is proposed, only one meter will be provided by the City.
  - It appears that first 50+ feet of the driveway will be discharging water into the City ROW. Please add structures to ensure private water stays on private property.
  - Multiple pipes in the chart have slopes exceeding 17% with some as high as 50%. The locations of these pipes was not found.
  - All pipes are required a minimum of 3 feet of cover per the Dover code or a waiver must be requested.
  - Grading adjacent to the southern property line is very close. It appears a temporary construction easement will be required.
- SP-5:
  - Please confirm if the intent of the design is to have the bioretention soil mix up the side slopes of the basin. It seems excessive and could potentially wash out into the basin.

Police:

- Consider a street name for the proposed driveway, to facilitate assignment of addresses and public safety benefit.
- Was any consideration given to connecting to "Locke Street" right-of-way, or what appears to be referred to in City GIS records as Tranquility Way? (This is at the rear of proposed Cottage #1)
- Is it feasible to shorten the landscape bump-out in front of Cottage #2, and pull Cottage #5 to meet the rear setback without losing parking?
- Add sign at the end of proposed walkway before entrance to cemetery: "Dogs Not Allowed in Cemetery". Contact Facilities and Grounds Division of Community Services for sign specs and desired language.
- Sheet SN-1, Note 41: I realize this is a standard Dover note, but security system is not applicable for this project . Amend note to indicate this, to avoid future confusion over "multi-family dwelling" language.
- Sheet SP-2, Note C-9: pavement marking FIRE LANE stenciling is fine, but must be supplemented or replaced with at least 2 "No Parking Fire Lane" signs on the northerly side of driveway.

Inspection Services:

- Provide street name for the proposed private roadway.

Fire Department:

- Fire truck detail is appropriate.
- Fire hyrant to be installed at end of road.

Business Development:

- Should duplex "B" units be relabeled as 3 & 4?
- The combination of architectural styles and use of the cottage court layout add visual interest to the site and maintain the look and feel of traditional New England development.
- Proximity of this site to RM-U zoning district mitigates the impacts of the extra density.

Planning Board:

- No comments.

Next Steps: Revise plans per comments above and resubmit for second official TRC.

Paused TRC at: 11:11 a.m.

CITY OF DOVER

TECHNICAL REVIEW COMMITTEE MINUTES – SITE-2024-0012

Application Type:	Site Review
Applicant(s):	5 Sherman Street, LLC
Owner(s):	5 Sherman Street, LLC
Location:	103 Court St. (Assessor's Map 19, Lot 8)
Date:	September 26, 2024

INTENT: Convert an existing home into a two-family dwelling, construct a second two-family dwelling, and construct an additional five (5) new single-family homes for a total of nine (9) dwelling units. *[This item was previously heard on Thursday, September 5, 2024]*

UNITS PROPOSED: Nine (9) units including one (1) existing unit and six (6) TDR units

AGENDA ITEM #: 1

ACREAGE: 1.20± ac.

ZONING DISTRICT: R-12

EXISTING LAND USE: Residential

PROPOSED LAND USE: Residential

SURROUNDING LAND USE: Residential, Cemetery

ZBA ACTION: None.

PERMITS REQUIRED: None.

WAIVERS REQUESTED: None.

ATTENDANCE:
Donna Benton, Planning
Paul Crouser, Zoning
Jim Maxfield, Inspection Services
Ken Mavrogeorge, Engineering
Marn Speidel, Police Department
James Burdin, Business Development
Tom Clark, Planning Board

Others:
Erin Bassegio, Assistant City Planner
Rob Baldwin, Applicant/Owner
Bob Stowell, Tritech Engineering

Approval of minutes from September 5, 2024:
J.Burdin moved to approve the September 5, 2024 minutes. Seconded by K. Mavrogeorge. Vote: U/A.

PLAN REVIEW:
Planning:

- *Reminder: Water and sewer investment fees*
- *Provide City of Dover letter to serve when received.*
- *Shrink common area or unit count to gain more than the 10' visual buffer. Narrative would be needed for TDR relief being sought from setback and buffer. However, seeing the density being sought is double what the base calculates out to be would indicate the buffers and setbacks should be met or unit request reduced.*
    - This comment has not been adequately addressed. Still seems to have too many units and not enough buffer area.
- *Internal parking aisleways w/ one entrance/exit must be 24' wide*
    - TRC response indicates a waiver has been submitted. Could not locate in materials.
- *Any additional screening planned behind cottage units?*
    - Visual buffer is needed behind cottage units in addition to existing fencing.
    - Provide more robust landscaping plan
- How do you ensure critters don't get into or attracted to the toters stored outside?
- Sight distance photo looking northwest should be taken from a ~1ft back. The photo seems to be taken from a spot where the front of the car would already be in the street.
- How do you ensure snow storage does not get pushed up again abutter's fence?
- The streetscape rendering doesn't seem to accurately show how tall the barn building is compared to the front dwelling.
- Show 25' cemetery line setback per RSA 289:3 III. No excavation can occur with that 25' buffer so stormwater and utilities will need to be adjusted.

Engineering:

- General Comment:
    - Condo Docs are provided. Please revise to include maintenance of private sewer and water systems.
    - HOA fee breakdown:
        - Show cost of routine pavement maintenance (crack sealing, striping, etc.).

  - Is $1800 per year in maintenance for catch basin cleanings and basin O&M too low?
  - $15000 for fence repair in year 30 seems low.
- SP-7:
  - Drainage trench does not meet City standards. Stone bedding and backfill are required.
- SP-11:
  - Sewer manhole detail is not consistent with the City standard. City of Dover uses plastic steps in SMHs.
- SP-12:
  - Sewer trench details need to show stone bedding and backfill above pipe to match the City standard.
- TR-1:
  - Fire truck movement into the site crosses over the curbing. Please revise.

Police:

- Sheet SP-2, notes C-19 and C-20: do these 2 pads serve the entire lot? Access to C-19 appears mostly obstructed by adjacent parking space.
- Label the "designated collection area" per the Trash Management Protocol - particularly if out at Court Street - or indicate if toters would simply be collected straight from the storage pads.
- RE: Sheet LI-1, Lighting Note 2: regarding the reference to timers and 10pm shutoff, is there any site lighting that this pertains to? Wall packs seem likely to be controlled by individual unit owners; would this impact any lighting of community space and/or parking areas?

Inspection Services:

- Farm Gate Drive is an acceptable private drive name.

Fire Department:

- Yard hydrant is no longer an issue as it has been changed to a fire service hydrant on a 6" main.
- Truck 1 turning template is not within the confines of the curbed area in two locations and appears to get into a walkway in another. See attached.

Business Development:

- The narrative says that the design is context-sensitive with the neighborhood and consistent with the master plan, but doesn't provide much analysis to support the claim. The following information would make it easier to evaluate compatible density vs. overdevelopment:
  - Define the "surrounding area" for the purposes of evaluating density and visual character
  - Provide density comparisons between the proposed development and surrounding area (units/acre, building massing, lot coverage, presence of duplexes, prevailing setbacks and/or separation of buildings, etc.)
  - The narrative cites goals to increase housing supply, but has limited discussion of the Master Plan's vision for the future of this area in Dover.
- Many structures/areas of disturbance are within the TDR 30' no-cut-no-disturb area/still do not appear to have a visual buffer in place. If requesting a waiver, data suggestions above would also be important for evaluating waiver.
- Is there an opportunity to adapt the rear wing of the existing house or build the new duplex within the same footprint? If that is a viable solution it may improve both the architectural consistency and free up space to lessen buffer impacts.
- Review RSA 289:3 III for compliance – "no new construction, excavation, or building" within 25' of the boundary of an established cemetery.
- Plan orientation is not consistent across all sheets (e.g. both Court Street and the Cemetery appear on plan left on different sheets) – it is confusing the way it flips.

Planning Board:

- *No comments.*

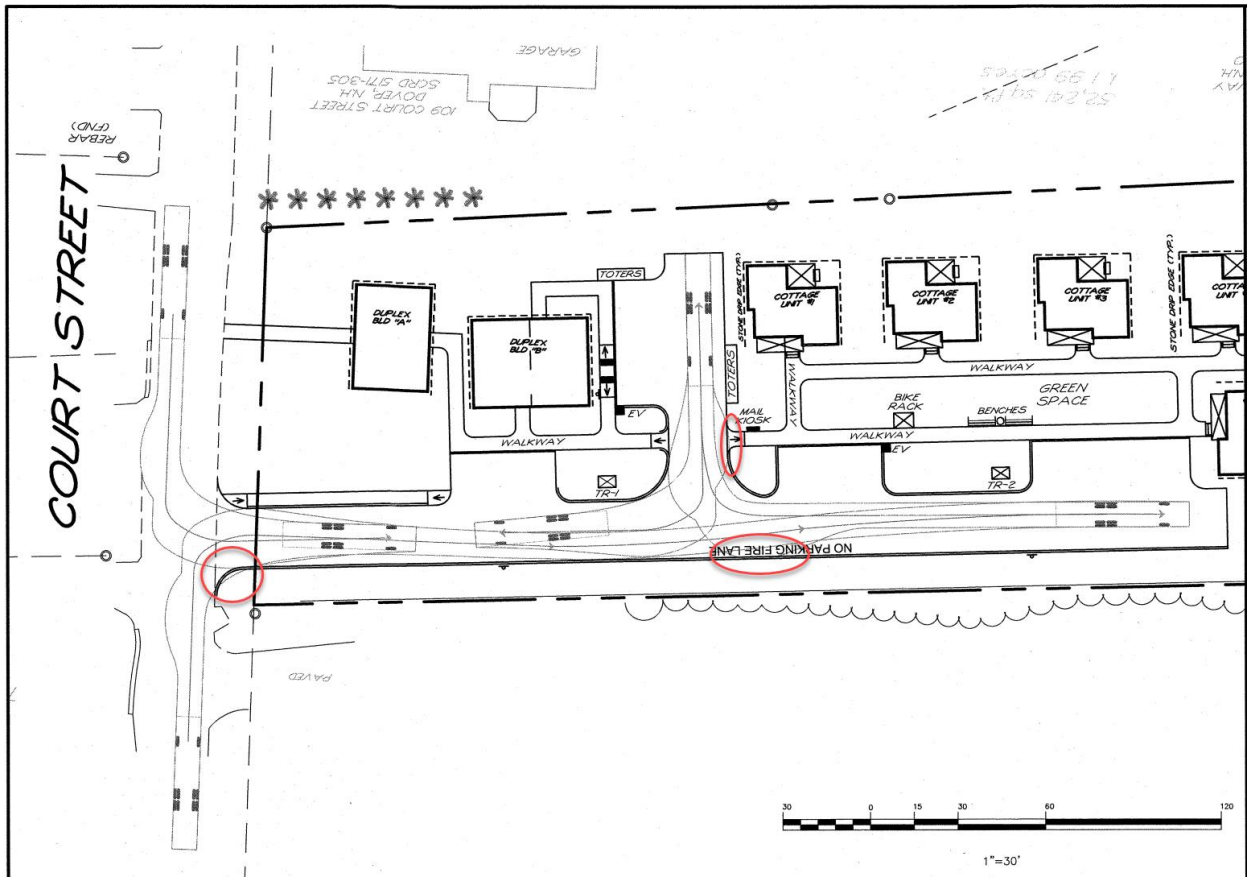
Next Steps: Revise plans per comments above and resubmit for subsequent TRC.

Adjournment: P. Crouser moved to adjourn the meeting at 11:25 a.m. Seconded by M. Speidel. Vote: U/A

CITY OF DOVER

TECHNICAL REVIEW COMMITTEE MINUTES – SITE-2024-0012

Application Type:	Site Review
Applicant(s):	5 Sherman Street, LLC
Owner(s):	5 Sherman Street, LLC
Location:	103 Court St. (Assessor's Map 19, Lot 8)
Date:	September 26, 2024



PLAN SNAPSHOT REPORT SITE-2024-0012
FOR CITY OF DOVER, N.H.

Plan Type:	Site Plan - Major	**Project:**		**App Date:**	08/15/2024
Work Class:	New Construction	**District:**	None	**Exp Date:**	NOT AVAILABLE
Status:	In Review	**Square Feet:**	0.00	**Completed:**	01/13/2025
Valuation:	$0.00	**Assigned To:**	Blonigen, Rachel	**Approval Expire Date:**	01/12/2030

Description: The applicant proposes utilizing the City of Dover Transfer of Development Rights (TDR) regulations to redevelop Map 19 Lot 8. The proposal calls for the existing home to remain, the construction of a duplex and the construction of four (4) new single-family homes for a total of seven (7) units. The TDR Base Density Calculation provide for Base Density of three (3) units, therefore, four (4) of these units will be obtained under the TDR regulations. The existing house is proposed to remain and will be an unrestricted unit. The (2) two units located in the duplex building will be dead restricted to a Fair Market Rent (FMR) set by Housing Urban Development (HUD). The four (4) new single-family homes will be size restricted to a maximum of 1400 squarefeet of total living space per unit. The TDR application still requests relief from thirty (30) foot buffer requirement. The Landscape Design provides for new screening as mitigation for this relief.

Parcel:	19008-000000 Main	**Address:**	103 Court St Dover, NH Main	**Zone:**	R-12(Residential - Medium Density)

Engineer
Tritech Engineering Corp.
755 Central Avenue
Dover, NH 03820
Business: (603) 742-8107

Surveyor
Tritech Engineering Corp.
755 Central Avenue
Dover, NH 03820
Business: (603) 742-8107

Applicant
Tritech Engineering Corp.
755 Central Avenue
Dover, NH 03820
Business: (603) 742-8107

Applicant
Robert Baldwin
242 CENTRAL AV
DOVER, 03820
Home: (603) 986-2373
Business: (603) 986-2373
Mobile: (603) 986-2373

Plan Custom Fields

Total	0	Total2	0	Total3	0
Total4	0	Total5	0	Total6	7
Total7	0	Total8	0	Total9	0
Street Classification Type	Municipal	Net Change in # Parking Spaces (+/-)	16	Water Service	Municipal
Recording Number		Sewer Service	Municipal	Total Acres (GIS)	1.19
Deed Book	5172	Total SQFT	51836.4	Deed Page	55
Deed Date	03/15/2024	Proposed Property Use	The applicant proposes utilizing the City of Dover Transfer Development Rights (TDR) regulations to redevelop Map 19 Lot 8. The proposal calls for the conversion of the existing home into a duplex, the construction of an additional duplex and the construction of five (5) new single-family homes for a total of nine (9) units. The TDR Base Density Calculation provide for a Base Density of three (3)units, therefore, six (6) of these units will be obtained under the TDR regulations. The four (4) units located in the two (2) duplex buildings will be deed restricted to a Fair Market Rent (FMR) set by Housing Urban Development (HUD). The five (5) new single-family homes with be size restricted to maximum of 1400 square feet of total living space per unit. The TDR application also request relief from the thirty (30) foot buffer requirement and relief from the thirty (30) foot rear setback requirement. The Landscape Design provides for new screening as mitigation for this relief.		

PLAN SNAPSHOT REPORT (SITE-2024-0012)

Area of Parcel to be Developed (SQFT)	52000	Number of Parking Spaces Existing	2	Number of Parking Spaces Proposed	18
Number of Employees Total	0	Number of Employees in Max Shift	0	Distance to City Water	20
Distance to City Sewer	20	Type of Building to be Built	Wood Frame	Estimated Construction Value	1600000.00
Refuse Removal	Private	Is there an existing Conservation Easement?	No	Existing Conservation Easement Details	
TotalImpactFeeSDTOD	0.00	TotalImpactFeeTHTOD	0.00	TotalImpactFee23FTOD	0.00
TotalImpactFeeA4TOD	0.00	TotalImpactFeeMHTOD	0.00	TotalImpactFeeADUTOD	0.00
TotalImpactFeeAONRTOD	0.00	TotalImpactFeeAR55TOD	0.00	TotalImpactFeeAR62TOD	0.00
Sub Total Residential	0.00	TotalImpactFeeRIRCTOD	0.00	TotalImpactFeeOCSTOD	0.00
TotalImpactFeeITWCTOD	0.00	TotalImpactFeeNHALTOD	0.00	TotalImpactFeeOIUTOD	0.00
TotalImpactFeeAFAOTOD	0.00	Sub Total Non-Residential	0.00	Total of Impact Fees to be Assessed	0.00

Attachment File Name	Added On	Added By	Attachment Group	Notes
Signature_Robert_Stowell_8/15/2024.jpg	08/15/2024 11:52	Stowell, Robert		Uploaded via CSS
2024.09.05_PlanningTechnicalReviewCommittee.Agenda.pdf	08/27/2024 11:29	Blonigen, Rachel		TRC Agenda
2024.09.26_PlanningTechnicalReviewCommittee.Agenda.pdf	09/12/2024 16:14	Blonigen, Rachel		TRC Agenda
2024.09.26_PlanningTechnicalReviewCommittee.103Court_SITE-2024-0012.pdf	10/04/2024 12:06	Blonigen, Rachel		Approved TRC Minutes
2024.11.14_PlanningTechnicalReviewCommittee.Agenda.pdf	11/01/2024 11:51	Blonigen, Rachel		TRC Agenda
2024.09.05_PlanningTechnicalReviewCommittee.103Court_SITE-2024-0012.pdf	11/01/2024 11:54	Blonigen, Rachel		Approved TRC Minutes
2024.11.14_PlanningTechnicalReviewCommittee.103Court_SITE-2024-0012.pdf	11/22/2024 15:11	Blonigen, Rachel		Approved TRC Minutes
PB12-10-2024 SITE-2024-0012.pdf	12/06/2024 11:12	Blonigen, Rachel		Staff Memo
2024.12.10_PlanningBoard.Agenda.rev2.pdf	12/20/2024 9:01	Blonigen, Rachel		PB Agenda
PB12-10-2024 SITE-2024-0012.pdf	12/20/2024 9:01	Blonigen, Rachel		Staff Memo
Plan Detailed Report.pdf	01/13/2025 16:12	Service, EnerGov	Available Online	Attached by EnerGov's IO Automation Service (ATTACH: Attach copy of Notice of Decision)
2025.01.11_PlanningBoard.SW.Agenda.pdf	01/22/2025 14:41	Blonigen, Rachel		SW PB Agenda
2025.01.11_PlanningBoard.Minutes.draft.pdf	01/22/2025 14:42	Blonigen, Rachel		Draft PB Minutes
100 Court Street Abutter 2025.01.17.pdf	01/23/2025 11:48	Blonigen, Rachel		Abutter Email
H. Hamer submission 2025.01.14 PB meeting_0001.pdf	01/23/2025 11:48	Blonigen, Rachel		Abutter Correspondence
PB01-28-2025 SITE-2024-0012.pdf	01/24/2025 11:38	Blonigen, Rachel		Staff Memo
2024.12.10_PlanningBoard.Minutes.pdf	01/29/2025 16:50	Blonigen, Rachel		Final PB Minutes
2025.01.28 PlanningBoard.Minutes.pdf	03/18/2025 16:02	Blonigen, Rachel		Final PB Minutes

Note	Created By	Date and Time Created
1. Applicant Emailed TRC Agenda- RLB	Rachel Blonigen	11/01/2024 12:01
2. Impervious Paved Area found in TRAN-2024-0011	Rachel Blonigen	11/07/2024 10:27

3. No abutter notices for 2nd PB meeting as this was continued from the previous PB meeting on 12/10/2024.	Rachel Blonigen	01/15/2025 10:40

Invoice No.	Fee		Fee Amount	Amount Paid
INV-00008987	Planning General Application Fee		$200.00	$200.00
		Total for Invoice INV-00008987	**$200.00**	**$200.00**
INV-00010224	Planning Residential Fee		$700.00	$700.00
	Planning Public Notice in Newspaper		$120.00	$120.00
		Total for Invoice INV-00010224	**$820.00**	**$820.00**
		Grand Total for Plan	**$1,020.00**	**$1,020.00**

Activity Type	Activity Number	Name	Workflow Action Name	User	Created On
Recommendation to Planning Board	RCMND-000093-2024		Planner Creates Staff Recommendations v.1.00	Rachel Blonigen	12/06/2024

Activity Custom Fields

Agenda Item	4-H	Application Complete?	Yes	Summary Request & Background	INTENT: Project proposes the purchase of four (4) units through the Transfer of Development Rights (TDR) for a total of seven (7) units, where three (3) units are allowed by right, to include the renovation of the existing single-family home and the construction of a duplex and four (4) size-restricted, single-family cottages. AGENDA ITEM #: 4-H FILE: SITE-2024-0012 APPLICANT/OWNER: 5 Sherman Street, LLC LOCATION: 103 Court St. (Assessor's Map 19, Lot 8) LOTS/UNITS PROPOSED: Four (4) TDR units, Seven (7) units total (the TDR application being heard during this same meeting) ACREAGE: ±1.20 ac. ZONING DISTRICT: R-12 EXISTING USE: Residential PROPOSED USE: Residential SURROUNDING USE: Residential, Cemetery PERMITS: None WAIVERS REQUESTED: §153-14.D.6(a) and §153-14.D.6(b), requiring an aisle width of 22' or 24', where an aisle width of 20' is being proposed. (Note the applicant is also requesting partial relief of the 30' buffer) ZBA ACTION: None CONSERVATION COMMISSION: N/A TRC: Reviewed on 09/06/2024, 09/26/2024 and 11/14/2024 ATTACHMENTS: Application materials

including site plan.

Summary of Request and Background
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 base density for the parcel was determined to be three units and the additional four units are to be ruled on at the same meeting by the Planning Board.
The Technical Review Committee reviewed the application at their September 6 and 26, 2024 and November 7, 2024. meetings. (minutes attached)
Consistency with Land Use Regulations – Site Plan
§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. This plan is consistent with those regulations.

STAFF RECOMMENDATION- Site Plan:
The Planning Department understands changes to the plan may still be needed and could be subsequent conditions of approval or made before the Board votes on the TDR request.
The Planning Department also recognizes the public comments received so far and recommends the Planning Board accept the application, open the public hearing, and provide the applicant any feedback based on the application, presentation, and public hearing and then table the item to a date certain.

Planning Board Decision	DEC-000004-2025	Planning Board Decision v.1.00	Rachel Blonigen	01/13/2025

Activity Custom Fields

Documents	Provide one PDF, one CAD and two paper plan sets.	Planning Board Decision	Tabled	Planning Board Decision2	Site and parcel walk-through scheduled for January 11, 2025.

Recommendation to Planning Board	RCMND-000009-2025	Planner Creates Staff Recommendations v.1.00	Rachel Blonigen	01/24/2025

Activity Custom Fields

Agenda Item	4-C	Application Complete?	Yes	Summary Request & Background	INTENT: Project proposes the purchase of two (2) size-restricted (1,400 s.f.) units through the Transfer of Development Rights (TDR) for a total of five (5) units, where three (3) units are allowed by right via single-family base density calculation, to include the renovation of the existing single-family home and the construction of four (4) single-family cottages (two would be size restricted) along with parking, landscaping and utilities. AGENDA ITEM #: 4-C FILE: SITE-2024-0012 APPLICANT/OWNER: 5 Sherman Street, LLC LOCATION: 103 Court St. (Assessor's Map 19, Lot 8) LOTS/UNITS PROPOSED: Two (2) TDR units, Five (5) units total (the TDR application being heard during this same meeting) ACREAGE: ±1.20 ac. ZONING DISTRICT: R-12 EXISTING USE: Residential PROPOSED USE: Residential SURROUNDING USE: Residential, Cemetery PERMITS: None WAIVERS REQUESTED: §153-14.D.6(b), requiring an aisle width of 24', where an aisle width of 20' is being proposed. ZBA ACTION: None CONSERVATION COMMISSION: N/A TRC: Reviewed on 09/06/2024, 09/26/2024 and 11/14/2024 (Subsequent TRC Review Required prior to Planning Board Review) NOTICES: Abutter notices went out for the December meeting ATTACHMENTS: Application materials including site plan. Summary of Request and Background The applicant is proposing a residential project consisting of five (5)

residential units by purchasing two (2) units through TDR. The proposal includes reconstruction of the existing single-family dwelling and the construction four (4), single-family cottages, two of which would be size restricted.
The base density for the parcel was determined to be three units and the additional two (2) units are to be ruled on by this Board (TRAN-2024-0011)
The Technical Review Committee reviewed the application at their September 6 and 26, 2024 and November 7, 2024. Meetings, with a subsequent TRC review required due to substantial plan changes. (minutes previously attached for December meeting)
Consistency with Land Use Regulations – Site Plan
§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. Staff feels based on the design and location of this project that site plan review by TRC and the Planning Board is still required even with the reduction to 4 new units. While this plan currently does not meet the requirements of a site plan, the applicant is seeking to continue this site review item to a future meeting so that the Technical Review Committee can review a full revised site plan set and revised stormwater plans and then come back for Planning Board review should the Planning Board vote on the TDR request.

STAFF RECOMMENDATION- Site Plan:
The Planning Department recognizes that the proposed plan has been scaled-back to reduce density and improve visual screening, per Planning Board and abutter request. The TDR application associated with this site plan, TRAN-2024-0011, is to be reviewed and possibly voted on this meeting, with the applicant seeking to continue this item to a future Planning Board meeting, pending the TDR application's approval. As such, staff recommends the Planning Board should continue the site plan item.

Hearing Type	Location	Scheduled Date	Status	Subject
Planning Board Hearing v.1	Council Chambers	12/10/2024	Complete	Site Review
Planning Board Hearing v.1	Council Chambers	01/28/2025	Scheduled	Site Review

Comments: Tabled

Meeting Type	Location	Scheduled Date	Subject
Technical Review Committee Meeting v.1	City Hall, Second Floor Conference Room	09/05/2024	Technical Review Committee Meeting

Comments: Requires 2nd TRC

Submittal Name	Status	Received Date	Due Date	Complete Date	Resubmit	Completed
Land Use Plan Technical Review v.1	Requires Re-submit	08/27/2024	09/05/2024	09/06/2024	Yes	Yes

Item Review Name	Department	Assigned User	Status	Assigned Date	Due Date	Completed Date
Business Development	Business Development	Burdin, James	Requires Re-submit	08/27/2024	09/24/2024	09/06/2024

Comments: -Should duplex "B" units be relabeled as 3 & 4?
-The combination of architectural styles and use of the cottage court layout add visual interest to the site and maintain the look and feel of traditional New England development.
-Proximity of this site to RM-U zoning district mitigates the impacts of the extra density.

Item Review Name	Department	Assigned User	Status	Assigned Date	Due Date	Completed Date
City Engineer	Community Services - Engineering	Mavrogeorge, Kenneth	Requires Re-submit	08/27/2024	09/05/2024	09/06/2024

Item Review Name	Department	Assigned User	Status	Assigned Date	Due Date	Completed Date
Planning	Planning	Bassegio, Erin	Requires Re-submit	08/27/2024	09/24/2024	09/06/2024

Item Review Name	Department	Assigned User	Status	Assigned Date	Due Date	Completed Date
Zoning Administrator	Planning	Crouser, Paul	Requires Re-submit	08/27/2024	09/05/2024	09/06/2024

Item Review Name	Department	Assigned User	Status	Assigned Date	Due Date	Completed Date
IS Building Official	Planning / Inspection Services	Maxfield, Jim	Requires Re-submit	08/27/2024	09/05/2024	08/28/2024

Comments: Provide street name for the proposed priivate roadway

Item Review Name	Department	Assigned User	Status	Assigned Date	Due Date	Completed Date
Traffic Coordinator	Police	Speidel, Marn	Requires Re-submit	08/27/2024	09/05/2024	09/06/2024

Submittal Name	Status	Received Date	Due Date	Complete Date	Resubmit	Completed
Land Use Plan Technical Review v.2	Requires Re-submit	09/12/2024	09/25/2024	11/01/2024	Yes	Yes

Item Review Name	Department	Assigned User	Status	Assigned Date	Due Date	Completed Date
Business Development	Business Development	Burdin, James	Requires Re-submit	09/12/2024	10/10/2024	09/26/2024

Comments: • The narrative says that the design is context-sensitive with the neighborhood and consistent with the master plan, but doesn't provide much analysis to support the claims. The following information would make it easier to evaluate compatible density vs. overdevelopment:
o Define the "surrounding area" for the purposes of evaluating density and visual character
o Provide density comparisons between the proposed development and surrounding area (units/acre, building massing, lot coverage, presence of duplexes, prevailing setbacks and/or separation of buildings, etc.)
o The narrative cites goals to increase housing supply, but has limited discussion of the Master Plan's vision for the future of this area in Dover.
• Many structures/areas of disturbance are within the TDR 30' no-cut-no-disturb area/still do not appear to have a visual buffer in place. If requesting a waiver, data suggestions above would also be important for evaluating waiver.
• Is there an opportunity to adapt the rear wing of the existing house or build the new duplex within the same footprint? If that is a viable solution it may improve both the architectural consistency and free up space to lessen buffer impacts.
• Review RSA 289:3 III for compliance – "no new construction, excavation, or building" within 25' of the boundary of an established cemetery.
• Plan orientation is not consistent across all sheets (e.g. both Court Street and the Cemetery appear on plan left on different sheets) – it is confusing the way it flips.

Item Review Name	Department	Assigned User	Status	Assigned Date	Due Date	Completed Date
City Engineer	Community Services - Engineering	Mavrogeorge, Kenneth	Requires Re-submit	09/12/2024	09/25/2024	11/01/2024

Comments: Project: SITE-2024-0012
TRC Meeting: 2024.09.20
Reviewer: Kenneth Mavrogeorge, PE – City Engineer
Checked by: Engineering Staff
General Comment:
- Condo Docs are provided. Please revise to include maintenance of private sewer and water systems.
- HOA fee breakdown:
o Show cost of routine pavement maintenance (crack sealing, striping, etc.).
o Is $1800 per year in maintenance for catch basin cleanings and basin O&M too low?
o $15000 for fence repair in year 30 seems low.
SP-7:
- Drainage trench does not meet City standards. Stone bedding and backfill are required.
SP-11:
- Sewer manhole detail is not consistent with the City standard. City of Dover uses plastic steps in SMHs.
SP-12:
- Sewer trench details need to show stone bedding and backfill above pipe to match the City standard.
TR-1:
- Fire truck movement into the site crosses over the curbing. Please revise.

Item Review Name	Department	Assigned User	Status	Assigned Date	Due Date	Completed Date
Planning	Planning	Bassegio, Erin	Requires Re-submit	09/12/2024	10/10/2024	11/01/2024

Item Review Name	Department	Assigned User	Status	Assigned Date	Due Date	Completed Date
Zoning Administrator	Planning	Crouser, Paul	Requires Re-submit	09/12/2024	09/25/2024	11/01/2024

Item Review Name	Department	Assigned User	Status	Assigned Date	Due Date	Completed Date
IS Building Official	Planning / Inspection Services	Maxfield, Jim	Requires Re-submit	09/12/2024	09/25/2024	11/01/2024

Comments: Farm Gate Drive is an acceptable private Drive name

Fire Department Comments:
TRC Fire Department Comments: 103 Court St.
Yard hydrant is no longer an issue as it has been changed to a fire service hydrant on a 6” main.
Truck 1 turning template is not within the confines of the curbed area in two locations and appears to get into a walkway in another.

Item Review Name	Department	Assigned User	Status	Assigned Date	Due Date	Completed Date
Traffic Coordinator	Police	Speidel, Marn	Requires Re-submit	09/12/2024	09/25/2024	11/01/2024

Submittal Name	Status	Received Date	Due Date	Complete Date	Resubmit	Completed
Land Use Plan Technical Review v.3	Approved	11/01/2024	11/14/2024	12/06/2024	No	Yes

Item Review Name	Department	Assigned User	Status	Assigned Date	Due Date	Completed Date
Business Development	Business Development	Burdin, James	Approved	11/01/2024	11/29/2024	11/18/2024

Item Review Name	Department	Assigned User	Status	Assigned Date	Due Date	Completed Date
City Engineer	Community Services - Engineering	Mavrogeorge, Kenneth	Approved	11/01/2024	11/14/2024	11/18/2024

Item Review Name	Department	Assigned User	Status	Assigned Date	Due Date	Completed Date
Planning	Planning	Bassegio, Erin	Approved	11/01/2024	11/29/2024	11/18/2024

Item Review Name	Department	Assigned User	Status	Assigned Date	Due Date	Completed Date
Zoning Administrator	Planning	Crouser, Paul	Approved	11/01/2024	11/14/2024	11/18/2024

PLAN SNAPSHOT REPORT (SITE-2024-0012)

Item Review Name	Department	Assigned User	Status	Assigned Date	Due Date	Completed Date
IS Building Official	Planning / Inspection Services	Maxfield, Jim	Approved	11/01/2024	11/14/2024	11/05/2024

Item Review Name	Department	Assigned User	Status	Assigned Date	Due Date	Completed Date
Traffic Coordinator	Police	Speidel, Marn	Approved	11/01/2024	11/14/2024	11/18/2024

Workflow Step / Action Name	Action Type	Start Date	End Date
Review v.1		08/16/2024 9:52	12/06/2024 11:13
Confirm application complete v.1	Generic Action		08/16/2024 9:52
Confirm application complete v.1	Generic Action		10/27/2025 14:48
Technical Review Committee Meeting Agenda v.1	Task	10/27/2025 14:47	
Technical Review Committee Meeting Agenda v.1	Task	08/16/2024 9:52	08/27/2024 11:29
Land Use Plan Technical Review v.1	Receive Submittal	08/27/2024 0:00	09/06/2024 13:17
Land Use Plan Technical Review v.1	Receive Submittal		
Land Use Plan Technical Review v.2	Receive Submittal	09/12/2024 0:00	11/01/2024 11:37
Land Use Plan Technical Review v.3	Receive Submittal	11/01/2024 0:00	12/06/2024 11:13
Technical Review Committee Meeting v.1	Hold Meeting	08/27/2024 11:29	09/06/2024 13:17
Technical Review Committee Meeting v.1	Hold Meeting		
Planning Board v.1		01/13/2025 16:12	
Planning Board Agenda v.1	Task	01/13/2025 16:12	01/24/2025 11:34
Planning Board Agenda v.1	Task	12/06/2024 11:13	12/06/2024 11:16
Invoice for Notices v.1	Task	01/24/2025 11:34	01/24/2025 11:35
Invoice for Notices v.1	Task	12/06/2024 11:13	12/06/2024 11:16
Send Notices v.1	Task	12/06/2024 11:14	12/06/2024 11:16
Send Notices v.1	Task		01/24/2025 11:35
Planner Creates Staff Recommendations v.1	Plan Activity	01/24/2025 11:35	01/24/2025 11:36
Planner Creates Staff Recommendations v.1	Plan Activity	12/06/2024 11:15	12/06/2024 11:16
Distribute Planning Board Materials v.1	Task	12/06/2024 11:16	12/06/2024 11:16
Distribute Planning Board Materials v.1	Task	01/24/2025 11:36	01/24/2025 11:37
Planning Board Hearing v.1	Hold Hearing	12/06/2024 11:16	01/13/2025 16:12
Planning Board Hearing v.1	Hold Hearing	01/24/2025 11:37	06/24/2025 11:39
Planning Board Decision v.1	Plan Activity		
Planning Board Decision v.1	Plan Activity	01/13/2025 16:11	01/13/2025 16:12
NOD Sent to Applicant v.1	Create Report		01/13/2025 16:12
NOD Sent to Applicant v.1	Create Report		
Final Plan v.1			
Land Use Plan Stamped and Signed v.1	Generic Action		
Recording v.1	Task		
Document Archival v.1	Generic Action		
Internal Notification of Plan Completion v.1	Generic Action		
Building Official Notifies Address v.1	Generic Action		
Pre-Con Meeting v.1	Hold Meeting		
Create/Link to Records v.1			
Create / Link to Permit - Building Major v.1	Create Sub Permit		
Create / Link to Permit - Site Work, Construction v.1	Create Sub Permit		

To: 5 Sherman Street, LLC, Applicant
From: Donna Benton, AICP
Cc: Tritech Engineering Corp.
Date: December 4, 2024
Re: TDR 103 Court Street

ISSUE:
In February 2020, the Board recommended amendments to the Transfer of Development Rights (TDR) Ordinance. In June 2020, the Planning Board approved the amendments and on July 22, 2020, the City Council ratified them. One element is the requirement for staff to draft a review statement on the need for a sketch plan. Since then the criteria for TDR has also been amended.

INTENT:
This memo will serve as part of the staff report.

GOALS:
Provide background on balancing development vs. conservation needs and current housing shortage, and describe the TDR applications in Dover.

Background

On behalf of your client, you submitted a TDR plan for a project to purchase four (4) residential units, two (2) HUD-restricted units, and two (2) 1,400 s.f. size-restricted, single-family cottage units. The project also calls for the reconstruction of the existing single-family home on the subject parcel.

The existing lot, Assessor's Map 19, Lot 8, contains one single-family dwelling. The current Zoning Ordinance permits TDR in the R-12, but specifies that the applicant must either use single-family density for the creation of additional single-family homes, or, if using two-family density, any TDR-purchased unit must be a duplex. Therefore, since the applicant seeks to construct a mixture thereof, it was determined by staff, per the applicant's yield plan, that three (3) units would be allowed by right, requiring that the remaining four units be purchased through TDR.

Staff performed this review based upon the information below, and is now providing the required staff report (Chapter 170-27.2 E.(4)a).

Project Information

Project:	103 Court Street, TDR
Where:	103 Court St. (Assessor's Map 19, Lot 8)
What:	Seven (7) units total. Four (4) of which are requested to be purchased through TDR, two (2) HUD-restricted units, and two (2) 1,400 s.f. size-restricted, single-family cottage units. The density calculation per R-12 specific zoning regulations, as stated above, was used to determine a base density calculation of three (3) units, requiring the purchase of the four (4) proposed units.
Acres:	±1.20 acres (no change in acreage) Assessor's Map 19, Lot 8 = 52,241± s.f. (1.20± ac.)
Zone:	R-12
Public Water:	Lot is serviced by municipal water.
Public Sewer:	Lot is serviced by municipal sewer.
Units:	Seven (7) total units are proposed, staff considers three (3) of the units to be the base density as the applicant proposes a mixture of 2-family and single-family structures, therefore requiring the applicant to purchase four (4) TDR units.
CUP:	Not applicable to this proposal.

Staff Comment

When reviewing projects, review the context, discuss options with the applicant, and advise on the feasibility of requesting the purchase or exchange before or after designing a fully laid out plan.

In reviewing this project, we note:

- Traffic
  - Court Street is a moderate-traffic thoroughfare connecting Central Ave. to Back and Middle Roads.
- Layout/topography
  - There is currently an existing residence onsite.
  - The cumulative lot coverage of all proposed structures is approximately 15.3%, which is roughly half of the R-12's underlying maximum lot coverage requirement.

- Environmental
  - The property boundary is currently moderately wooded. Per the applicant's proposal, the majority of the existing trees will be removed, although per the plan, will include both fencing and a vegetative buffer around the lot's perimeter.
  - The R-12 District is characterized by its medium density, requiring a minimum lot size of 12,000 square feet, 100 feet of frontage, and a maximum underlying density of 2 units per lot, with varying lot size requirements for 2-family structures, depending on whether they're newly constructed, or converted from an existing single-family home.

Staff Recommendation

While the applicant is seeking a waiver for the required 30' perimeter buffer, per the TDR ordinance, staff notes that this project is not proposing new lot lines but encourages the applicant to provide as much buffer and screening as possible to the neighbors. Staff would also like to see more assurance that the 25' cemetery buffer is maintained per RSA 289:3.

TRITECH
ENGINEERING CORPORATION

755 Central Avenue
Dover, New Hampshire 03820

Telephone 603.742.8107
Facsimile 603.742.3830

October 24, 2024

Donna Benton, AICP
Director of Planning & Community Development
City of Dover, Planning Department
288 Central Avenue
Dover, New Hampshire 03820

Subject: Technical Review Committee Response Letter #2
103 COURT STREET
Dover Tax Map 19 Lot 8
103 Court Street
Dover, New Hampshire
Job No. 24101
City of Dover Planning # Site-2024-0012

Dear Donna:

At their meeting on September 26, 2024 the Dover Technical Review Committee (TRC) offered the following comments. Our response to each of their comments are identified in blue text.

PLANNING

- *Reminder: Water and sewer investment fees.*

  The Applicant is aware of this requirement.

- *Provide City of Dover letter to serve when received.*

  The City Engineer indicated at the TRC meeting that he was preparing a letter to serve regarding city services.

- *Shrink common area or unit count to gain more than the 10' visual buffer. Narrative would be needed for TDR relief being sought from setback and buffer. However, seeing the density being sought is double what the base calculates out to be would indicate the buffers and setbacks should be met or unit request reduced.*
  - This comment has not been adequately addressed. Still seems to have too many units and not enough buffer area.

    The revised Site Plan provides a radical revision to the site layout. The unit count has been reduced by 2 units. The existing house will remain as a single-family home, which will utilize its existing utilities, trash collection and driveway. The new duplex has been moved slightly to more closely coincide with the existing barn foot print and will provide additional buffer to the east. These units will remain HUD restricted. Cottage #5 has been removed. The remaining cottages have been pushed to the west another 15 feet and completely out side of the 30-foot buffer.

    The aerial photographs from the City of Dover GIS shows that in 2005, 2010 and as recently as 2018 much of the property was maintained as field and much of the growth on site does not provide effective screening. The proposal still requests a waiver from the 30-foot perimeter buffer which will allow for clearing of the existing undergrowth and the installation of stockade fence with an additional vegetative screen.

- *Internal parking aisleways w/ one entrance/exit must be 24' wide*
  - TRC response indicates a waiver has been submitted. Could not locate in materials.

    Attached please find our waiver request for relief to this requirement.

- *Any additional screening planned behind cottage units?*
  - Visual buffer is needed behind cottage units in addition to existing fencing.

    The landscape plan has been revised with extra attention given to the area behind the cottages.

  - Provide more robust landscaping plan.

    The landscape plan has been revised with significantly more plantings.

- How do you ensure critters don't get into or attracted to the toters stored outside?

  The Applicant has updated the Trash Management Protocol (see attached).

- Sight distance photo looking northwest should be taken from a ~1ft back. The photo seems to be taken from a spot where the front of the car would already be in the street.

  The sight distance photographs were taken slightly closer to the travel way than normal due to existing vegetation on the site. We are comfortable that the photographs correctly demonstrates the sight distance.

- How do you ensure snow storage does not get pushed up against abutter's fence?

  This revised layout has moved the pavement / snow storage farther way from the lot line.

- The streetscape rendering doesn't seem to accurately show how tall the barn building is compared to the front dwelling.

  The applicant has revised the streetscape to be consistent with the site design.

- Show 25' cemetery line setback per RSA 289:3 III. No excavation can occur with that 25' buffer so stormwater and utilities will need to be adjusted.

  The revised layout complies with this statue. We have limited activity in this area to landscaping.

ENGINEERING

- General Comment:
  - Condo Docs are provided. Please revise to include maintenance of private sewer and water systems.

    The Applicant has updated the Home Owners Association (HOA) documents (see attached) to address the private sewer and water systems maintenance.

  - HOA fee breakdown:
    - Show cost of routine pavement maintenance (crack sealing, striping, etc.).

      The Applicant has updated the Home Owners Association (HOA) documents (see attached) to include these maintenance items.

    - Is $1800 per year in maintenance for catch basin cleanings and basin O&M too low?

      The Applicant has updated the Home Owners Association (HOA) documents (see attached) which adjusts this value.

- $15000 for fence repair in year 30 seems low.

  The Applicant has updated the Home Owners Association (HOA) documents (see attached) which adjusts this value.

- SP-7:
  - Drainage trench does not meet City standards. Stone bedding and backfill are required.

    This detail has been revised as requested.

- SP-11:
  - Sewer manhole detail is not consistent with the city standard. City of Dover uses plastic steps in SMHs.

    This detail has been revised as requested.

- SP-12:
  - Sewer trench details need to show stone bedding and backfill above pipe to match the city standard.

    This detail has been revised as requested.

- TR-1:
  - Fire truck movement into the site crosses over the curbing. Please revise.

    The revised layout address this concern.

POLICE

- Sheet SP-2, notes C-19 and C-20: do these 2 pads serve the entire lot? Access to C-19 appears mostly obstructed by adjacent parking space.

  The toter pads have been combined and relocated the rear of the site.

- Label the "designated collection area" per the Trash Management Protocol - particularly if out at Court Street - or indicate if toters would simply be collected straight from the storage pads.

  The toter pad has been identified on the plans as the "designated collection area".

- RE: Sheet LI-1, Lighting Note 2: regarding the reference to timers and 10pm shutoff, is there any site lighting that this pertains to? Wall packs seem likely to be controlled by individual unit owners; would this impact any lighting of community space and/or parking areas?

  The lighting note has been revised to indicated that the pole lights only will be controlled by the timers / 10 pm shutoff.

INSPECTION SERVICES

- Farm Gate Drive is an acceptable private drive name.

  The revised plan have noted Farm Gate Drive as the name of the proposed driveway.

FIRE DEPARTMENT

- Yard hydrant is no longer an issue as it has been changed to a fire service hydrant on a 6" main.

  Addressed, thank you.

- Truck 1 turning template is not within the confines of the curbed area in two locations and appears to get into a walkway in another. See attached.

  The revised layout address this concern.

BUSINESS DEVELOPMENT

- The narrative says that the design is context-sensitive with the neighborhood and consistent with the master plan, but doesn't provide much analysis to support the claim. The following information would make it easier to evaluate compatible density vs. overdevelopment:
  - Define the "surrounding area" for the purposes of evaluating density and visual character

    The applicant has updated the TDR Narrative to address this comment (see attached).

  - Provide density comparisons between the proposed development and surrounding area (units/acre, building massing, lot coverage, presence of duplexes, prevailing setbacks and/or separation of buildings, etc.)

    The applicant has updated the TDR Narrative to address this comment (see attached).

  - The narrative cites goals to increase housing supply, but has limited discussion of the Master Plan's vision for the future of this area in Dover.

    The applicant has updated the TDR Narrative to address this comment (see attached).

- Many structures/areas of disturbance are within the TDR 30' no- cut-no-disturb area/still do not appear to have a visual buffer in place. If requesting a waiver, data suggestions above would also be important for evaluating waiver.

  The unit count has been reduced by 2 units. The new duplex has been moved slightly to more closely coincide with the existing barn foot print and will provide additional buffer to the east. Cottage #5 has been removed. The remaining cottages have been pushed to the west another 15 feet and completely out side of the 30-foot buffer.

  The aerial photographs from the City of Dover GIS shows that in 2005, 2010 and as recently as 2018 much of the property was maintained as field and much of the growth on site does not provide effective screening. The proposal still requests a waiver from the 30-foot perimeter buffer which will allow for clearing of the existing undergrowth and the installation of stockade fence with an additional vegetative screen.

- Is there an opportunity to adapt the rear wing of the existing house or build the new duplex within the same footprint? If that is a viable solution it may improve both the architectural consistency and free up space to lessen buffer impacts.

  The new duplex has been moved slightly to more closely coincide with the existing barn foot print and will provide additional buffer to the east.

- Review RSA 289:3 III for compliance – "no new construction, excavation, or building" within 25' of the boundary of an established cemetery.

  The revised layout comply with this statue. We have limited activity in this area to landscaping.

- Plan orientation is not consistent across all sheets (e.g., both Court Street and the Cemetery appear on plan left on different sheets) – it is confusing the way it flips.

  The site plans (designated as SP-) follow conventional drafting standard with North pointing up the page or to the right of the page.
  The construction plans (designated as C-) follow conventional road design standard with the roadway stationing increasing form left to right.

UPDATED TDR REQUEST

The applicant proposes utilizing the City of Dover Transfer Development Rights (TDR) regulations to redevelop Map 19 Lot 8. The proposal calls for the existing home to remain, the construction of a duplex and the construction of four (4) new single-family homes for a total of seven (7) units. The TDR Base Density Calculation provide for a Base Density of three (3) units, therefore, four (4) of these units will be obtained under the TDR regulations. The existing house is proposed to remain and will be an unrestricted unit. The two (2) units located in the duplex building will be deed restricted to a Fair Market Rent (FMR) set by Housing Urban Development (HUD). The four (4) new single-family homes with be size restricted to maximum of 1400 square feet of total living space per unit. The TDR application still requests relief from the thirty (30) foot buffer requirement. The Landscape Design provides for new screening as mitigation for this relief.

PROJECT SUBMITTAL

Attached please find the supporting documentation:

- Five (5) Copies of this TRC Response Letter.
- Five (5) Copies of the Revised Site Development Plan set.
- Five (5) Copies of the Revised Color Renderings and Streetscape.
- Five (5) Copies of the Waiver Request (driveway width).
- Five (5) Copies of the Updated Home Owners Association (HOA) documents.
- Five (5) Copies of the Updated Transfer Development Rights (TDR) Narrative.
- Five (5) Copies of the Updated Trash Management Protocol.
- One (1) Copy of the Revised Stromwater Analysis.

We look forward to meeting with the Technical Review Committee (TRC) at their next available meeting and discussing these revised development plans.

Please advise should you have any questions.

Very truly yours,
TRITECH ENGINEERING CORP.

Robert J. Stowell, P.E., L.L.S.
President

RJS / cmp
Enclosures
\\24101_CourtStSubmittalltr3.docx

City of Dover, New Hampshire
SITE REVIEW APPLICATION

[Revision Date: July 1, 2021]

Office Use Only	Project #:		Date Received:	
	Amount Paid:		Time Received:	

APPLICANT AND OWNER INFORMATION

Name of Applicant: 5 Sherman Street, LLC Telephone #_____

Address of Applicant: 242 Central Ave. Dover, NH 03820

E-Mail Address: robert@centralfallsrealty.com

Name of Property Owner (*if different from applicant*): _____ Telephone #_____

Address of Property Owner: _____

PROPERTY INFORMATION

Address of Property: 103 Court Street Dover, NH 03820

Assessor's Map # 19 Lot(s) # 8

Zoning District(s) R-12 Overlay District(s) N/A

Size of Parcel: 52,241 sq. ft. 1.199 ac. Property Deed: Book 5172 Page: 55

Existing Use of Property: Single Family Residence

SITE PLAN INFORMATION

Describe Proposed Use: (2) Two Duplexes (4 Units) & 5 Single Family

Area of Parcel to be Developed: 52,000 sq. ft.

If Multi-family Residential: Number of Units 7 & Buildings Proposed 6

If lodging: Number of Units _____ & number of Buildings _____

Number of Parking Spaces: Existing 2 Proposed 14

Highway Access (check where applicable): X City Street ____ State Highway

Number of Employees Total: N/A In Maximum Shift: N/A

Disposition of Parcel:

Building Footprint Varies sq. ft.

Total Building Area Varies sq. ft.

Paved Area 11,000 sq. ft.

Building Setbacks:

Front Yard 15 ft.

Rear Yard 30 ft.

Side Yard: Right 15 ft. Left 15 ft.

City Water? X Yes ___ No How far is city water from the property? At Property

City Sewer? X Yes ___ No How far is city sewer from the property? At Property

TRANSFER OF DEVELOPMENT RIGHTS INFORMATION

Type of TRANSFER OF DEVELOPMENT RIGHT REQUEST (Check All That Apply):

□ Residential ☒ Residential (reduced size) □ Industrial | ☒ Purchase □ Land Preservation

Relief sought (Check All That Apply):

□ Lot Size □ Frontage □ Setback ☒ 30' Buffer ☒ Increase by 4 units

Describe Proposed Use or Activity that requires TDR; describe any impacts and document mitigation:

See Project Narrative

BUILDING INFORMATION

Type of Building to be Built: Wood Frame

Height of Building: Varies Finished Floor Elevation: Varies

Number of Seats (where applicable) N/A

Estimated value of construction: $1,300,000 Refuse removal: Public/Private (circle one)

WAIVER REQUESTS

Site Review Regulations section(s) to be waived: _____

Justification for waiver request(s) (*attach additional sheets as needed*):

SURVEYOR INFORMATION

Name of Surveyor and Company (Licensed in N.H.) Robert Stowell; Tritech Engineering Corp.

Address 755 Central Ave. Dover, NH Telephone #: 603 742 8107

Professional License #: 884 E-mail address: rjs@tritecheng.com

ENGINEER INFORMATION

Name of Engineer and Company (Licensed in N.H.) Robert Stowell; Tritech Engineering Corp.

Address 755 Central Ave. Dover, NH Telephone #: 603 742 8107

Professional License #: 884 E-mail address: rjs@tritecheng.com

ARCHITECT INFORMATION

Name of Architect and Company (Licensed in N.H.) _____

Address _____ Telephone #: _____

Professional License #: _____ E-mail address: _____

LANDSCAPE ARCHITECT INFORMATION

Name of Landscape Architect and Company (Licensed in N.H.) Romy N. Maurer; Terrain Planning & Design

Address 311 Kost Hill Rd. Hopkinton, NH 03229 Telephone #: 603 746 3512

Professional License #: 086 E-mail address: romy@terrainplanning.com

SOIL SCIENTIST INFORMATION

Name of Soil Scientist and Company (Licensed in N.H.) Michael Mariano; Highland Soil Services

Address 75 Prospect St. Somersworth, NH Telephone #: 609 692 4457

Professional License #: 76 E-mail address: highlandsoilservices@comcast.net

CONSERVATION EASEMENT HOLDER

Name of Easement Holder: _____ Telephone #_____

Address Easement Holder: _____

SIGNATURES

I/We hereby submit this application to the City of Dover Planning Board and attest that to the best of my knowledge all of the information on this application form and in the accompanying application materials and documentation is true and accurate. Furthermore, I/we submit that the existing conditions sheet of the plan represents the lot in question, and that no alteration of the site shall take place during Planning Board review up to and including the pre-construction meeting. As applicant or as agent, I attest that I am duly authorized to act in this capacity.

Signature of Property Owner: _____ Date: _____

Signature of Applicant (*if different from owner*): _____ Date: _____

Signature of Agent: _____, PRESIDENT Date: 08/15/24

AUTHORIZATION TO ENTER SUBJECT PROPERTY

I, and my successors, hereby authorize members of the Dover Planning Board, Planning Department and other pertinent City Departments and boards to enter my property for the purpose of evaluating this application, including performing inspections during the application phase, post-approval phase, construction phase and occupancy phase. It is understood that these individuals must use all reasonable care, courtesy, and diligence when on the property.

Signature of Property Owner: _____ Date: _____

AUTHORIZATION TO COMPLETE THE PROJECT ON SUBJECT PROPERTY

I, and my successors, hereby the City of Dover or its assigns to enter my property for the purpose of completing the site work as required by the approved plan should the letter or credit or other surety be called. It is understood that these individuals must use all reasonable care, courtesy, and diligence when on the property.

Signature of Property Owner: _____ Date: _____

Signature of Applicant (*if different from owner*): _____ Date: _____

CERTIFICATION OF FEES

I, and my successors, hereby certify that I understand that the City of Dover collects impact fees, utility investment fees and inspection fees for projects developed in Dover. Said fees must be paid before a Certificate of Occupancy can be obtained for a structure, unless a different payment schedule is agreed to by the applicant and the City prior to approvals being issued by the Dover Planning Board. Additionally, should the property be in "Current Use" it will be subject to the Land Use Change Tax.

Signature of Property Owner: _____ Date: _____

Signature of Applicant (*if different from owner*): _____ Date: _____

CITY OF DOVER SITE REVIEW
LIST OF ABUTTERS

Pursuant to RSA 676:4, the State Law of New Hampshire, the City of Dover is required to notify the applicant, abutters (including holders of conservation easements), and any professional whose seal is on the plan, of the public hearing by certified mail, return receipt requested. Staff will provide the abutter information, while the applicant must provide accurate contact information for the owner, applicant and professional agents representing the project.

Owner:

TAX MAP	LOT #	PROPERTY OWNER	MAILING ADDRESS
19	8	5 Sherman Street, LLC	242 Central Ave. Dover, NH 03820

Applicant (if different from owner):

APPLICANT NAME	APPLICANT COMPANY	MAILING ADDRESS
Robert Baldwin	5 Sherman Street, LLC	242 Central Ave. Dover, NH 03820

Surveyor and/or Engineer/Professional Agent:

NAME	COMPANY	MAILING ADDRESS
Robert J. Stowell	Tritech Engineering Corp.	755 Central Ave. Dover, NH 03820
Michael Mariano	Highland Soil Services	75 Prospect St. Somersworth, NH 03878
Romy N. Maurer	Terrain Planning & Design	311 Kost Hill Rd. Hopkinton, NH 03229

Conservation Easement Holder:

TAX MAP	LOT #	NAME OF EASEMENT HOLDER	MAILING ADDRESS

PLANNING BOARD FEE SCHEDULE/INVOICE

(Revised July 24, 2023)

Below are the fees associated with plan review and are subject to a nonrefundable application fee to cover administrative expenses. Please complete the information below and provide payment with your application submittal. **Plan review fees shall be paid prior to technical review committee (TRC) being scheduled.** For plans not requiring TRC review, **fees are due 21 days prior** to the Planning Board meeting. Staff will coordinate abutter/notice fees, which will be invoiced and must be paid 28 hours before the Planning Board meeting for an application to be heard. Fees shall be paid by cash or check made payable to "City of Dover".

A. Plan Review Fees

1. Application fee for the following (SELECT ALL THAT APPLY):

- ☐ SUBDIVISION Application fee $200.00 + $150.00 x # _____ new lots created = $_____
- ☐ LOT LINE ADJUSTMENT Application fee $200.00 + $100.00 X # ___ of lots involved = $_____
- ☐ TRANSFER OF DEVELOPMENT RIGHTS Application fee $200.00 = $_____
- ☒ SITE REVIEW – RESIDENTIAL Application fee $200.00+ $100.00 x # 7 per dwelling unit = $900.00
- ☐ SITE REVIEW – NON-RESIDENTIAL Application fee $200.00 + (not to exceed $10,000)
  - New construction $.15 sq. ft. x # _____ sq. ft.= $_____
  - Additions (new floor space) $.10 per sq. ft. x # _____sq. ft.= $_____
- ☐ MOTEL/HOTEL $35.00 x # ___ per lodging unit= $_____
- ☐ CHANGE OF USE Application fee $200.00 + (not to exceed $5,000)
  - Existing floor spaces $.10 per sq. ft. x # _____ sq. ft. = $_____
- ☐ CONDITIONAL USE PERMIT Application fee $200.00 x # _____ per Application = $_____
- ☐ GRAVEL PIT/ EXCAVATIONS
  - Application fee $50.00= $_____
  - Permit fee $75.00= $_____
- ☐ EXTENSIONS/AMENDMENTS/WAIVERS FOR AN APPROVED PLAN Application fee $200.00 = $_____
- ☐ REQUEST FOR REZONING Application fee $200.00 = $_____
- ☐ DRIVEWAY WAIVER Application fee $200.00 = $_____
- ☒ **TOTAL IMPERVIOUS PAVED AREA** (for new development, roadways or additions to existing parking lots, (not to exceed $10,000)) Application fee of $200.00 is N/A if it is part of a Site Review or Subdivision Plan. $200.00 + $.07 per sq. ft. x # 11,000 sq. ft. = $770

SUBTOTAL PLAN REVIEW FEE = $1670

AND

B. Abutter Notification/Mailing Labels - this office will create and print the abutter list and provide labels in triplicate for each abutter. The applicant/owner will review the list for accuracy and provide to us the engineer, architect, licensed land surveyor (LLS), licensed landscape architect (LLA) and/or soil scientist whose professional seal appears on the plan with names and addresses for notices.

- ☐ Applicant & Owner, engineer, architect, LLS, LLA and/or soil scientist
  - Certified letters fee # _____ of x $10.00= $_____
- ☐ Certified letters fee: # of abutters _____ X $10.00= $_____
- ☐ First Class Mail fee (for individual owner of units within a condominium or other collective form of ownership): # of abutters _____ X $1.00= $_____
- ☐ Creating/Printing Abutter Labels in triplicate per sheet _____ x $10.00= $_____

C. Foster's newspaper public notice fee $120.00 x # _____ applications = $_____

SUBTOTAL = $_____

TOTAL INVOICE AMOUNT = $_____

PLAN REVIEW FEE COLLECTED/PAID = $ _____

BALANCE DUE = $ _____

The amount due must be paid 28 hours prior to the Planning Board Meeting, to be heard.

City of Dover, New Hampshire
SITE PLAN REVIEW SUBMISSION CHECKLIST

[Revision Date: June 4, 2019]

This site plan review checklist, as required by Chapter 153-6-B(2), should be completed by the applicant. It is intended to assist the applicant in the planning process of preparing a Site Plan Review application for Planning Board action. The size of the project will determine the types of information required for review, therefore, a **pre-application conference** with the Planning Department to determine the list of items that must be completed is strongly encouraged.

The first step would be to appear before the Technical Review Committee, to apply, eight (8) folded copies of the site plan with scale of not less than 1"=50' or 1" =100' for larger site plans, need to be provided, along with payment of plan review fees.

Two weeks prior to Planning Board, three (3) full size and twelve (12) half size (11x17), folded, copies of the plan set and materials, including response to TRC comments, will be due. Abutter/Notice Fees will be invoiced and need to be paid 28 hours prior to the Planning Board meeting.

The applicant is cautioned that this checklist is only a guide and is not intended to be a complete list of all site plan review requirements. Please refer to the Site Plan Review Regulations for full details.

APPLICANT: 5 Sherman Street, LLC File Number: _____

PROJECT TITLE: 103 Court Street

PROPERTY LOCATION: 103 Court St. Dover, NH Tax Map: 19 Lot: 8

	Where/How Provided	Reviewed
1. Completed and signed Application form	Attached	
2. Plan Review Fees are provided	Hand Delivered	
3. Electronic copy of the engineered/surveyed plan layout	Via Portal	
4. Electronic copy of supplementary materials and application	Via Portal	
5. Traffic Impact Assessment and Analysis (Standard or Advanced)	Attached	
6. Waiver requests to the Site Plan Review Regulations, with written justification	N/A	
7. Conditional Use Permit applications	N/A	
8. A colored rendering of the streetscape that will be created along the existing public right-of-way	Architectural Plans	
9. A colored architectural plan showing all sides of buildings	Architectural Plans	
10. Folded copies of site plan w/scale of not less than 1"=50' or 1"=100' for larger site plans, for TRC. Plans shall contain the following items as appropriate:	Attached	
Location map at appropriate scale	Sheet Ex-1 Locus Map	
Proposed Project name and title and Planning File #	Title Block	
Date, north arrow and scale	Shown	
Names of all abutting property owners	Shown	
Name and address of owners and/or applicants	Shown	
Signature & stamp of NH licensed land surveyor and/or engineer	Shown on Applicable Sheets	
Zoning District boundaries, including any special or overlay districts	Sheet SP-1	
Location of Conservation District areas	N/A	
Location, names and widths of existing and proposed streets, including pavement widths, grades, curbs and crosswalks	Sheet SP-1	
Location and widths of existing & proposed easements & right of ways	Sheet SP-1	
Location and width of existing and proposed access/egress ways	Sheet SP-1	

	Explain How Provided	Reviewed
Depict pedestrian walkways and accessible access	Sheet SP-1	
Existing and proposed property lines with dimensions and bearings tied into Dover's Geographic Information System coordinate system	Shown All Plans	
Existing and proposed topographic information at two foot intervals	Shown All Plans	
Existing and proposed buildings and structure locations	Sheet SP-1	
Minimum building setbacks or build to lines on all lots	Sheet SP-1	
Location and size of existing and proposed electric, telephone, gas cable and other underground utilities	Sheet SP-3	
Existing and proposed water lines and fire hydrants, including materials and capacity needed	Sheet SP-3	
Location and materials of sanitary sewage facilities within project site and projected additional peak hour sewer load	Sheet L-3	
Existing and proposed stormwater lines and facilities	Sheet L-1 & SP-5	
Lighting plan depicting all existing and proposed exterior light fixtures and a lighting level analysis for parking lots	Sheet L-1	
Location of Flood Hazard Zone	N/A	
Location of all bodies of water and watercourses	N/A	
Location of wetlands and buffers	N/A	
Neighborhood plan with aerial underlay showing how project relates to abutting uses within the plan set	Sheet T-2	
Existing natural features and/or significant vegetation on property	Sheet EX-1	
Depict existing contours up to 100 ft. beyond project limits	Sheet EX-1	
Landscape plan depicting existing and proposed landscaping, prepared by a licensed Professional Landscape Architect	Sheet LA-1	
Location of parking layout delineating spaces and arrangement; note addressing maximum required spaces	Sheet SP-1	
Location, material and size of existing and proposed pavement area	Sheet SP-1	
Location of proposed fire lanes	Sheet SP-2	
Specify finished floor elevations of buildings	Sheet SP-4	
Location of solid waste disposal facilities (dumpster, pad and screening, etc.), including required screening	N/A - Private Pickup	
Depict all service, storage, loading bays and utility areas	N/A	
All applicable Dover Common Site Plan notes	Sheet SN-1	
11. Additional Information if appropriate		
Stormwater Management Plan depicting the existing & proposed storm drainage system and engineered drainage analysis	Drainage Report	
Stormwater Management System Operation and Maintenance Plan	Stormwater Mgmt., Maintenance & Insp. Plan	
Letter to Serve from Public and Private Utilities	Pending	
Erosion and Sedimentation Control Plan	Drainage Report	
Landscape Operation and Maintenance Plan	Sheet LA-1	
Proposed restrictive covenants or homeowners association documents	Pending	
Dates and permit numbers of all required state and federal permits	Pending	
If wetland buffer, indicate placards locations, as applicable	N/A	
Depict test boring locations, groundwater elevations and soil profiles and/or soils types call-outs	Sheet SSS-1	
Location of proposed drive-in facilities	N/A	
Provide additional exhibits/technical data determined appropriate by the Planning Board or its staff as required	N/A	

REVIEWED BY: _____ DATE_____ TRC DATE_____

Email Thread 1:

Sent 9/5/2024:

Hilary Hamer <hilary.a.hamer@gmail.com> Thu, Sep 5, 2024 at 9:12 PM
To: ZoningBoard-All@dover.nh.gov
Bcc: Dorna <dorna.hamer@gmail.com>, Merlin Money Mason <nilrem254@gmail.com>

Hello,

I am writing to formally request clarification to zoning code 170-27.2 F(4): "SETBACKs for parking, paved areas, and BUILDINGs may be waived by the PLANNING BOARD, and be consistent with the intent to promote intensive development of suitable development sites. Notwithstanding, BUILDINGs shall be at least one hundred fifty (150) feet from residential STRUCTUREs that exist on the date of enactment of the I-4 and B-4 Zoning districts, and seventy five (75) feet from the LOT LINE of a disagreeing residential ABUTTER."

My understanding in the context of the 103 Court St site would be that the existing single-family homes abutting at both 91 and 109 Court St as existing older residential structures would therefore require new construction to be located at least 150ft away if built under TDR code at 103 Court St, and not susceptible to waiving by the planning board as specifically written.

Furthermore, I understand that if either the owners of 91 or 109 Court St which abut the parent property at 103 Court St disagree with a proposed TDR building, then it must be set a minimum of 75ft away from either's entire property line. Otherwise, how is a disagreeing residential abutter defined? Again, as specifically written this is not susceptible to waiving by the planning board.

Additionally, I am writing to formally request the zoning board recognize and enforce the abutter right to continuous visual barrier for any considered TDR development. The zoning code 170-27.2 G(7) states, "A continuous visual buffer shall be created along the perimeter of the parent parcel." Continuous by definition would imply no gaps or interruptions. A 'tree screen' would hardly seem to meet this requirement and by definition a perimeter would include all sides of the parent lot. A reasonable interpretation might be a solid fence in the 7-8ft height which city guidelines allows for along each side and back of the property.

Thank you,

Hilary Hamer, OD, FAAO

(603) 361-9428

Reply Paul Crouser 9/6/2024:

Crouser, Paul <P.Crouser@dover.nh.gov> Fri, Sep 6, 2024 at 11:05 AM
To: Hilary Hamer <hilary.a.hamer@gmail.com>
Cc: "Benton, Donna" <d.benton@dover.nh.gov>

Hi Hilary,

Thanks for your email – I'd be happy to clarify a few things for you.

1. TDR projects are under the purview of the Planning Board, not the Zoning Board;
2. Procedurally, the project will take on the following order of operations;
   a. Review by the Technical Review Committee (we had our first meeting yesterday, 9/5/24, in which we made recommendations and requirements for the project to move forward, including the visual buffer which you expressed concern about. The TRC required the applicant to make plan revisions and return for a second TRC review, the date of which has yet to be determined.)
   b. Second TRC review
   c. Planning Board Review, which separates the project into two discreet review processes, which are:
      i. TDR Project Application compliance
      ii. Site Review compliance
   d. Preconstruction meeting

   Only when a-d are complete may the applicant begin construction on their project, and it is likely that the plan will be amended several times prior to that happening, both at the TRC and Planning Board level.

3. The section you referenced, Section 170-27.2(F)4 refers to Industrial TDR projects, not residential;
4. Under Residential TDR Standards, setback, frontage, and lot size requirements may be waived
5. Regarding your suggestion about the fence as a visual buffer – staff agrees and made that exact same recommendation to the applicant, who is revising the plan to reflect a joint landscaping/fence buffer. The minutes for the TRC meeting have not yet been posted, but they will shortly (likely by end of business today), while the recordings and materials are available to view right now via this link: Treeno - Docs (nh.gov)

If you have any other questions, please let me know. I'd also be happy to have a phone conversation with you to clarify anything you wish.

Regards,

Paul R. Crouser
Zoning Administrator / Assistant City Planner
Planning & Community Development

City of Dover, NH

288 Central Avenue

Dover, NH 03820
e: P.Crouser@dover.nh.gov
p: 603.516.6007 / f: 603.516.6049

No statement made by Paul Crouser that (G)7 30-foot buffer does not apply to 103 Court St.

Email Thread 2:

Sent 9/19/2024:

Hilary Hamer <hilary.a.hamer@gmail.com> Thu, Sep 19, 2024 at 8:27 AM
To: "Crouser, Paul" <P.Crouser@dover.nh.gov>
Cc: "Benton, Donna" <d.benton@dover.nh.gov>
Bcc: Dorna <dorna.hamer@gmail.com>, Merlin Money Mason <nilrem254@gmail.com>

Good morning,

Thank you for addressing my questions so far. I saw that an updated plan has been submitted for 103 Court St with a TRC meeting date of 9/26. I believe you explained that there is no opportunity for public questions at TRC meetings; is this correct, please? Is there a way to formally request the TRC answer a question by submitting in advance of the meeting? Would a formal letter be acknowledged or does an email suffice, such as this?

I want to inquire to the code 170-27.2(G)7: "A continuous visual buffer shall be created along the perimeter of the parent parcel, which shall include a thirty (30) foot no cut, no disturb buffer." I am looking at the updated plan and do not see a 30-foot buffer adjacent to my property still. If I am to read the scale, there is approximately 10' between my property line and the road being created. This TDR places a road within 30' of my family's bedrooms. Now I see the proposal is specifically asking for relief from this 30-foot buffer. 170-27.2(G)8d reads, "Any relief sought should not be caused by the additional density." Now this was a more recent amendment it seems, but by this statement Dover cannot offer this relief for the 30-foot buffer just to make more units work in this lot. Part of the updated materials from the developer says "...strict compliance with the 30-foot perimeter buffer would leave development of the property limited." This exactly acknowledges that buffer relief is required to fit this extent of dense development on this lot. 170-27.2(G)8d states this relief is not allowed.

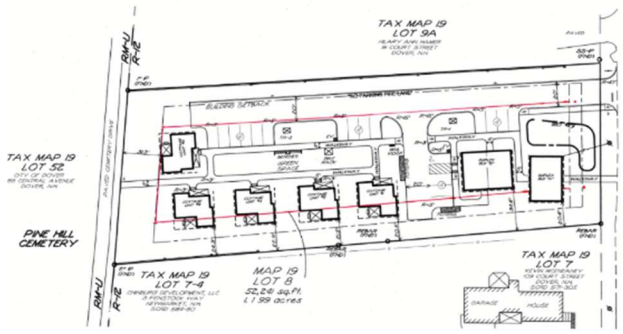
Thank you,
Hilary Hamer, OD, FAAO
cell: (603)361-9428

No reply, sent morning of second TRC 9/26/2024:

Hilary Hamer <hilary.a.hamer@gmail.com> Thu, Sep 26, 2024 at 8:20 AM
To: "Crouser, Paul" <P.Crouser@dover.nh.gov>
Cc: "Benton, Donna" <d.benton@dover.nh.gov>

Good morning,

I wanted to provide a diagram that shows (in red) where the 30-ft buffer should actually extend against the proposal being reviewed today:



170-27.2(G): Any relief sought should not be caused by the additional density.

Thank you,
Hilary Hamer, OD, FAAO
cell: (603)361-9428
[Quoted text hidden]

Reply 9/302024 after second TRC:

Crouser, Paul <P.Crouser@dover.nh.gov> Mon, Sep 30, 2024 at 10:29 AM
To: Hilary Hamer <hilary.a.hamer@gmail.com>
Cc: "Benton, Donna" <d.benton@dover.nh.gov>

Good morning, Hilary.

Apologies for the delay in response. I wanted to let you know that the Planning Department echoed your concerns regarding the 30' buffer to the Applicant during last week's TRC. Please note that the buffer has been waived in the past for existing structures which are part of the development, and while that is the case with the proposed project at 103 Court, we do recognize that the cottages in the rear of the development all violate the 30' buffer, and the Applicant was directed to bring the project into compliance with that specific regulation as the relief requested is from the density sought, as you pointed out.

If you have any other questions or concerns, please feel free to reach out.

Best,

Paul R. Crouser
Zoning Administrator / Assistant City Planner
Planning & Community Development

City of Dover, NH

288 Central Avenue

Dover, NH 03820
e: P.Crouser@dover.nh.gov
p: 603.516.6007 / f: 603.516.6049

Paul Crouser acknowledges concern with applying 30-foot buffer to 103 Court St. Paul Crouser states relief requested is due to density sought.

TRC Meeting Recording 9/26/2024:

(By minute reference in audio recording)

1:30 Director Benton: “I know we chatted last time about trying to add more than the existing 10 foot visual buffer so if we can still look to make that the 30 that is technically required”

7:17 Director Benton “the issue is the TDR ordinance is clear that if you're asking for relief because of the extra density then you shouldn't be getting the extra density

[Clarification request from Developer]

The issue is the TR ordinance is clear that if you're asking for relief because of the extra density, then you shouldn't be getting the extra density. So we're just trying to make sure that you're meeting the buffer requirements and the setbacks. So you may need to lose units or figure out a redesign “

25:20 Director Benton: “Yeah, because the buffer is a requirement.”

Email Thread 3, after revised proposal posted 10/24:

Sent 11/6/2024:

Hilary Hamer <hilary.a.hamer@gmail.com> Wed, Nov 6, 2024 at 8:00 AM
To: "Crouser, Paul" <P.Crouser@dover.nh.gov>
Cc: "Benton, Donna" <d.benton@dover.nh.gov>

Good morning,

There is a broken link to a document for 103 Court St from 10.24 the file, "103 Court St TRC Response Ltr #2.pdf" - last link at:
https://publicrecords.dover.nh.gov/Files/Index/9833/public/1/deptnum/6/cab/Property_Information/Applications73758602
Hoping to please get access to this document.

I am also confused by contradicting statements about unit count in these new documents. The snapshot document still says 9 total units, but the site development plan says 7 units in some spots (looks like 7 in the drawings) but also says the existing single family will be a duplex still under the 'Intent' paragraph and statement 10 says 9 units. What is the new proposal actually for- two duplexes, four cottages (8 units)- or one single family (existing) with one duplex and four cottages (7 units), or somehow the 9 units still?

Where is the 30' no-cut, no-disturb perimeter buffer still? There is a setback line drawn on the plans but no representation of the 30' no-cut, no-disturb perimeter buffer.

It looks like there is now a second driveway in the plan for the existing single family house to have parking. How is the existing single family going to continue to have sufficient parking once Court St is reconstructed (losing about 10' within the city's right of way)? What is the new site parking plan for each unit exactly - again, very unclear as even the number of units contradicts throughout the documents. In the drawing it looks like 12 parking spots? Does a second driveway have appropriate sight distances or drainage- does not seem to be included in information.

The new narrative document also says there will be a shared "large outdoor fireplace". Where is this going (do not see it on the site plan)? The fire department has strict requirements for outdoor fires being located near any structures and dimensions of any fire pit so would really like to see where they are placing this and how it will comply with the fire codes. I personally have to have a permit for anything on my property. I question who will be responsible for an outdoor fire here/who will hold the permit and who is going to be ultimately responsible for the shared fireplace.

Thank you,
Hilary Hamer, OD, FAAO
cell: (603)361-9428

Reply 11/13/2024, morning of third TRC:

Crouser, Paul <P.Crouser@dover.nh.gov> Wed, Nov 13, 2024 at 5:23 PM
To: Hilary Hamer <hilary.a.hamer@gmail.com>
Cc: "Benton, Donna" <d.benton@dover.nh.gov>, "Bassegio, Erin" <E.Bassegio@dover.nh.gov>

Hi Hillary,

Apologies for the broken link -- it has since been fixed but I've also attached the letter you referenced for your review/records.

As for the conflicting notes re: density – you are correct in that it is confusing. The snapshot report, as well as the "intent" note on the new plan set refer to the originally-sought density of 9 units (existing single-fam converted to a duplex, one new duplex, and five new single-fam cottages = 9).

The revised drawings are the correct density (7) – it would just appear as though the engineers drafting the plan failed to update relevant notes throughout the plan – all of which will be highlighted as issues during this Thursday's TRC.

Re: the 30' buffer – Staff will be asking them to better label it on the plan. All structures appear to adhere to the buffer requirements, although staff will be seeking clarification on the apparent pavement impacts to the 30' buffer to the west of the parcel.

Re: the driveway of the existing single-fam home – I had the same thought when this revision was submitted. It turns out that the driveway already exists and simply was not included on the original plan set because alternative parking for the existing structure was proposed, which has now been scrapped, necessitating showing parking for the existing single-fam home on the revised plan set. Regarding this driveway's compliance with sight distances and drainage, as the driveway is existing, there are no grounds for the City to require it to meet current standards.

As to the parking for the new structures, there are indeed 12 new spaces being proposed, with each unit being provided two parking spaces per, which is shown on the plan. I don't believe there is any plan to assign parking spaces for this project.

Finally, regarding the communal fireplace, I don't believe there are municipal rules governing open fires, rather, all such regulations are codified and enforced through the NH Division of Forests & Lands, through which burn permits are issued.

[Quoted text hidden]

[Quoted text hidden]

3. 103 Court Street TRC Response Ltr #2.pdf
3052K

Paul Crouser states staff will clarify 30-foot buffer. There is no statement that 30-foot buffer does not apply for the updated project plan.

Email Thread 4:

Sent 11/15/2024 after third TRC:

Hilary Hamer <hilary.a.hamer@gmail.com> Fri, Nov 15, 2024 at 8:00 AM
To: t.retrosi@dover.nh.gov

Dear Councilor Retrosi,

I am writing to express my deep concern regarding the misuse of Transfer of Development Rights (TDR) in Dover, particularly the proposed development at 103 Court Street. As a resident of Ward 3, I am frustrated by the lack of enforcement of TDR regulations, especially given TDR already bypasses traditional zoning laws.

The 103 Court Street proposal blatantly disregards ordinance 170-27.2(G)7: "A continuous visual buffer shall be created along the perimeter of the parent parcel, which shall include a thirty (30) foot no cut, no disturb buffer." The plan places a road within 10-feet of my property line, a clear violation of this buffer regulation. This TDR places a road within 30-feet of my family's bedrooms. Additionally, the developer's request for relief from the buffer requirement contradicts 170-27.2(G)8d, which states, "Any relief sought should not be caused by the additional density." This TDR project simply does not fit in this 129-foot-wide lot and undermines the purpose of zoning laws, which is to protect quality of life.

Despite failing two previous Technical Review Committees, this project has inexplicably advanced to the Planning Board. I am deeply concerned about the Planning Board being allowed to even consider a proposal that so blatantly violates the law.

I urge you to investigate this matter and advocate for strict enforcement of the TDR regulation. Watching this process has been incredibly stressful and is affecting my family's very wellbeing. This review process will now drag into the holidays. Your intervention could help expedite the process and prevent additional unnecessary stress for residents like myself.

Thank you for your time and attention to this matter.

Sincerely,
Hilary Hamer
91 Court Street
(603) 361-9428
Hilary.A.Hamer@gmail.com

Reply 11/18/2024:

Retrosi, Anthony <A.Retrosi@dover.nh.gov> Mon, Nov 18, 2024 at 3:50 PM
To: Hilary Hamer <hilary.a.hamer@gmail.com>

Ms Hamer.

I reached out to planning board and Donna Benton, director of Planning and Community Development. Although I do not feel this is necessarily the answer you were hoping for- it is a start and I am confident that now that there are some complaints that the city will keep a closer eye on this project.

Tony

Hi Councilor Retrosi,
Thanks for reaching out for more information. As you're likely aware the Transfer of Development Ordinance allows for housing density to occur in excess of the underlying zoning allowances providing the Planning Board grant the request. Ms. Hamer raises two main questions I want to address. The first being the 30' visual buffer on the parent parcel. The parcel is not seeking a subdivision and therefore "parent" is a key word. There have been other instances where the Planning Board has not required the 30' visual buffer depending on the site, proximity to urban core, lack of subdivision or new lot lines, etc.
The other is the criteria of no additional relief being sought. This was added about 2 years ago to the Zoning Ordinance and the intention was in terms of wetland or wetland buffer impacts and not to parts of the TDR ordinance itself. The 30' buffer is a part of the TDR ordinance not underlying zoning like an environmental conditional use permit would be. Relief from wetlands impacts due to additional development is a different level of relief than providing or not providing a 30' visual buffer. Due to discussion during the TRC process, the applicant is proposing fencing and additional landscaping to try to meet the same intent and help screen the project from abutting properties.
Certainly this zoning ordinance could use clearer word smithing which staff plans to discuss with the Planning Board during its annual goal setting in January.
Please let me know if you or Ms. Hamer have any additional questions.
Thanks,
Donna Benton, AICP
Director of Planning and Community Development

Director Benton states 30-foot buffer does not apply to 103 Court St now. Director Benton states (G)8d (no additional relief sought) does not apply to buffers now.

City of Dover, Department of Planning And Community Development

TRANSFER OF DEVELOPMENT RIGHTS

Residential Development Rights

ZONES AFFECTED:

Residential

R-40

R-20

R-12

RM-U

RM-SU

HR

Non-Residential

C

CM

IT

Mixed-Use

O

LBW

RCM

CWD

Fees

600 sf: $0 per credit*
1,000 sf: $7,500 per credit
1,400 sf: $11,000 per credit
Other: $15,000 per credit**
Village: $788 per credit
*requires HUD rent rates
** multi may be $0 if HUD rent

For More Information:

Department of Planning and Community Development
288 Central Ave.
Dover, NH 03820
(603) 516-6008

Introduction

In Dover there are certain lands that possess significant conservation features, including but not limited to wetlands, groundwater recharge zones, forested areas, wildlife habitat, farmland, scenic view sheds, historic landmarks, and linkages to other such areas. Because of their unique assemblages of flora and fauna and their significant contribution to the ecological system and/or the cultural identity of our community, these lands are worthy of special protection.

The City of Dover furthermore, has a limited supply of land suitable for development. Included in Dover's zoning ordinance is an overriding district for transferring development rights (TDR). The purpose is to promote intensive development on the developable land possessing the least conservation value and to permanently protect lands possessing significant conservation features that provide unique values in their undisturbed condition.

Conservation Option

A property owner can conserve land west of the Spaulding and send the development rights to any zone that allows residential uses east of the Spaulding Tpk.

Purchase Option

A property owner may purchase one unit per credit, above the allowed density of a parcel. If the purchaser is willing to limit the size of the resulting single family detached homes, to 600, 1,000 or 1,400 sf, they get bonus units. The number of bonus units depends on if they are free market or rent restricted.

Industrial Option

A property owner who constructs a commercial manufacturing facility get a one unit credit for each 2,000 sf of space constructed above 40,000 sf.

Standards/Process

A property owner uses the formula (see call out) for single family detached units. All other's follow yield plan process, based upon density allowed in the zone. Units above the allowed density may be sold or rented.

Purchase Formula:

- SF of parent lot – Environ constraints: **BASE**
- BASE – * .85: **Net**
- Net * .85 [sliding]: **Developable Area**
- Developable Area/Min lot size: **base units**

Regardless of the method use, the Planning Board may waive:

- Minimum Lot Size
- Minimum Frontage
- Minimum Setbacks

A continuous visual buffer must be provided to abutters.

Any increases in density/intensity of development, on a receiving parcel, is allowed so long as the increase is:
- Consistent with the Master Plan
- Not incompatible with the land uses on neighboring lots

Proceeds from the sale of units are placed within the Conservation Fund and utilized for land preservation. These funds are utilized by the Open Lands Committee and the Conservation Commission to secure fee simple and easement protection.

FACTS ABOUT DOVER'S TDR POLICY

- The TDR process is a discretionary process, and the Planning Board is not obligated to sell units.
- The residential TDR was created in 2003, and revised in 2009, 2018 and 2020.
- TDR promotes intensive development on land that is better suited for development, allows for preservation of more sensitive areas, and provides funding for future preservation.
- The preservation option has sending and receiving areas. They do not have to be in the same ownership.
- The credit purchase option reimburses the City for past land preservation costs, like a revolving loan.
- Since 2018, over $2,000,000 have been raised and placed within the Conservation fund.

CITY OF DOVER

DOVER PLANNING BOARD – MINUTES

Meeting Type:	Regular Meeting
Meeting Location:	City Council Chamber's 288 Central Avenue
Meeting Date:	**Tuesday, November 9, 2021**
Meeting Time:	**7:00 pm**

Members Present: Dennis Ciotti (Councilor), Hayley Harmon (Vice Chair), Dave White, Kyle Pimental, Frank Torr, Tom Clark, Steph George (Alternate), Dave Landry, Mark Speidel, Erinn Reville (Alternate), Jackie Walker (Alternate)
Members Not Present (excused): Gina Cruikshank (Chair)
Members Not Present (un-excused): None
Staff Present: Donna Benton, City Planner

The Chair called the meeting to order at 7:02 p.m and noted he (M. Speidel) would sit as Chair for G. Cruikshank and E. Reville would sit for him.

1. CITIZENS' FORUM

Citizens Forum Open.
No One Spoke.
Citizens Forum Closed.

2. APPROVAL OF THE PRIOR MINUTES

October 26, 2021 Regular Meeting Minutes

Motion: F. Torr moved to approve the minutes as submitted. Seconded by D. White. Vote: U/A

3. OLD BUSINESS

4. NEW BUSINESS

The Chair noted items 4A and B will be heard together.

A. Consideration and acceptance of a Conditional Use Permit for Settlement on 6th, LLC., Assessor's Map B, Lot 5, zoned R-40, located on Sixth Street. (Proposal is for a 14 lot open space subdivision with a 900 foot long road and associated driveways and drainage facilities, creating 131 sq. ft. of temporary impact and 1,613 sq. ft. of permanent impact to a wetland and 12,394 sq.ft. of wetlands buffer impacts). *(P21-44)

B. Consideration and acceptance of a Subdivision/Site Plan using Transfer of Development Rights for Settlement on 6th LLC., Assessor's Map B, Lot 5, zoned R-40, located at Sixth Street. (Proposal is to construct a private roadway with access to a proposed 11 single family lots (including purchasing 1 using TDR) plus 3 open space, non-buildable lots) *(P21-43)

D. Benton noted that this is only the second TDR open space subdivision in the R-40 since the TDR ordinance was amended in 2018. Staff and the applicant reviewed concepts and were originally asking for additional TDR units. Based on those concepts and the environmental constraints, the request tonight has been reduced to only one unit. The Board will be asked to vote separately on the CUP, the TDR, and the Subdivision. The Board may have noticed in the packet a lot line adjustment plan and application. This will appear before the Board in December as it was an oversight on tonight's agenda and there is a recommended condition of approval. This application appeared before the TRC most recently on October 14, 2021 and was endorsed by the Conservation Commission on September 13, 2021.

Christopher Berry of Berry Surveying and Engineering represented the applications. Earlier this year they conducted an existing conditions plan of the site, and wetlands and soils were mapped. The plans have been revised since the initial concept reducing the number of units as well as the environmental impacts. The wetlands permit has been approved by DES and the Alteration of Terrain permit is in progress. A sewer discharge permit will also be required.

Motion: D. White moved to accept the applications and noted that this is not a development of regional impact. Seconded by D. Ciotti. Vote: U/A

Public Hearing Opened
No one spoke. No calls or emails were received.
Public Hearing Closed

C. Berry explained why a sewer hook up to Cottonwood is not feasible due to wetlands.

STAFF RECOMMENDATION- CUP:
The Wetlands Protection District ordinance provides for Conditional Use Permits to allow impacts to wetlands and wetland buffers if standards related to demonstration that no practicable alternative exists, impact avoidance was considered, impacts were minimized, and mitigation has been sought.
This project is consistent with those standards, and staff recommends approval with the following conditions.

Staff understands that the applicant considered the criteria when designing the plan and has altered the plan since the initial concepts to be able to consider alternatives, avoid as much wetland and wetland buffer as reasonably possible and minimize impacts such as with the shared driveways, reduced buffers and lot areas utilizing the TDR ordinance. The applicant further explains their process and how the criteria have been met in the narrative attached to the CUP application.

STAFF RECOMMENDATION:
The Planning Department recommends the Planning Board vote to grant the Conditional Use Permit with the following conditions to be met prior to issuance of the CUP:

1. The Transfer of Development Rights request be approved.
2. Subdivision request be approved.
3. The applicant shall supply the Planning Department with a copy of the NHDES Wetland Impact Permit.

Motion: D. White moved to approve the Conditional Use Permit with conditions, as the request is consistent with the regulations. Seconded by D. Ciotti. Vote: U/A.

STAFF RECOMMENDATION- TDR:
D. Benton noted that the plan is consistent with the TDR ordinance in Chapter 170-27.2.G and that the Planning Department recommends that the Planning Board vote to find the criteria of the TDR ordinance has been met with the following conditions:

1. Payment of TDR fees.
2. Add a note to the plat that the Board found the criteria of Chapter 170-27.2.G(8) have been met.

Motion: F. Torr moved to approve the Transfer of Development Rights request to purchase one unit with conditions, as the request is consistent with the regulations. Seconded by D. White. Vote: U/A.

STAFF RECOMMENDATION- Subdivision
The Planning Department recommends that the Planning Board vote to approve the subdivision with the following conditions:

Conditions to Be Met Prior to Signing of Plans:

1. The Planning Board approve
    a. The TDR application.
    b. The Conditional Use Permit.
    c. A lot line adjustment plan to remediate the existing encroachment.
2. The applicant shall provide
    a. A revised current use plan to the satisfaction of the City Assessor.
    b. The letter to serve from Eversource and City of Dover.
3. The Planning Director, in consultation with the City's General Legal Counsel, will review and approve the homeowners association to ensure private road, stormwater infrastructure maintenance, buffer and common space, conservation district maintenance, prior to converting ownership and maintenance obligations, and deed/easement requirements per Section 170.27.2.
4. Provide physical and digital copies (including CAD) of complete plan set which additionally shall include:
    a. Add signature and stamp of CWS, LLS and PE
    b. Add owners' signatures for recording at Strafford County Registry of Deeds
    c. Add permit numbers

Conditions to be Met Prior to Construction Activities:

5. A site construction sign with the contact information for the general contractor must be located and approved by the City Engineer or Planning Director.

Conditions to be Met Prior to Building Permit:

6. The new dwellings shall be assessed and pay the current Water and Sewer Investment Fees in place at the time of application for service.
7. The applicant shall provide a letter of credit or other form of security acceptable to the City for any unfinished work.

Conditions to Be Met Prior to Occupancy:

8. Issuance of the Certificate of Occupancy.
9. Any applicable easements shall be recorded.
10. Documentation that the HOA has been created and is in place.
11. Impact fees per unit shall be paid per the invoice attached to the Notice of Decision.
12. Prior to the last Certificate of Occupancy being issued, the Engineer of Record shall meet with the Association and review the as-builts for the project.
13. Land use change tax has been paid.

Motion: D. White moved to approve the Major Subdivision with conditions, as the request is consistent with the regulations. Seconded by D. Ciotti. Vote: U/A.

C. Consideration and acceptance of a Transfer of Development Request for Dover Coast, LLC., Assessor's Map 28, Lot 13 & 14, zoned Gateway G&O, located at 725 Central Ave and 4 Brick Road. (Proposal is to purchase 12 units). *(P21-54)

D. Benton noted that the applicant has been to TRC and has done quite a bit of progress on a full site plan, some of which is included in the packets by the nature of the request. The applicant is securing additional parking off site further down on Brick Road and still needs to come back to TRC with fully engineered plans for that parking lot. At this time, the Board is requested to vote on the Transfer of Development Rights request which is to purchase 12 units to total 15 units in the multi-family residential building with associated parking.

Arthur Guadano, AG Architects, PC represented the application to combine two lots and build a three-story plus walk-out basement 15-unit apartment building. They are seeking to purchase 12 TDR units. (14 2-bedroom units and one 1-bedroom unit) Parking will be met by 17 spaces behind the building and across Jefferson Dr will be purchased with 12 spaces there.

Motion: D. White moved to accept the application and noted that this is not a development of regional impact. Seconded by D. Landry.

T. Clark asked for clarification on the ownership of 4 Brick Rd. The property is currently in probate and the applicant has an agreement with the owner. They have a purchase and sale for 10 Brick Rd for the parking lot. T. Clark was concerned about acting on the application before the applicant owns the property.

D. Benton clarified that the applicant has to come back before the board with a full site plan. Tonight's vote is just for the maximum number of units. Everything will have to be in order when they come back for site plan approval.

Scott Silver, Dover Coast LLC confirmed there is a purchase and sale agreement in progress for 4 Brick Rd. The previous owners passed away from COVID and the property is going through probate with their children.
T. Clark withdrew his objection.
Vote: U/A

Public Hearing Opened
Peter Menounos, 720 Central Ave expressed concerns about the traffic.

No calls or emails were received.
Public Hearing Closed

T. Clark is concerned about the number of units requested. It's far above the number allowed by right.
D. Ciotti agreed with T. Clark and noted the proposed building is too large for the area. It is also a high-traffic area.
D. White believes this is a perfect location to use the TDR and for an infill project. If the applicant used only the existing lot, they could provide multiple units with one parking space per unit. By purchasing the additional lot, they are providing more housing as well as two parking spaces per unit. The location is close to downtown and services which make it ideal for a project with increased density.
K. Pimental is concerned about the number of units- not the size of the building. Traffic is a concern.
F. Torr agrees with D. White. The proposal is a massive improvement from what's there now. There were no traffic issues with the project that went in behind.
D. Landry noted the traffic issue is pre-existing, and should be looked at by the traffic commission. The density and size of the building are not an issue for him. It's not directly downtown, but it is close and walkable. The extra parking area is more than what's been offered on other projects.

E. Reville agreed with D. Ciotti and T. Clark that the proposal is too large of a building for the density. She is concerned approving this will set precedence to other properties. D. Ciotti noted each project is looked at individually. All other buildings in the area are two stories.
M. Speidel asked about snow removal and trash, building height, and affordable housing options for some units. Mr. Guadano addressed the questions.

STAFF RECOMMENDATION:
D. Benton noted that the plan is consistent with the TDR ordinance in Chapter 170-27.2.G and that the Planning Department recommends that the Planning vote to find the criteria of the TDR ordinance has been met with the following conditions:

Conditions to Be Met Prior to Granting of the TDR:

1. Payment of the TDR fee
2. Site Plan come back to the Planning Board for review and approval.
3. Lots 13 & 14 be merged.

D. Benton clarified for the Board the two options for the applicant in this zone are to either apply for affordable units or to request to purchase TDR units. TDR fees would be waived if they created HUD rent-restricted approved units.

Mr. Guadano responded to board member comments.

Motion: D. White moved to approve the TDR request and the purchase of up to 12 units with conditions, as the request is consistent with the regulations. Seconded by F. Torr.
E. Reville noted Dover is the fastest growing city in NH and we should start looking at building height as a way to incorporate more density.
Vote: 6-3 with D. Ciotti, K. Pimental and T. Clark opposed.

D. Consideration and acceptance of a TDR Request for Knox Marsh Development, LLC. (Owners: Knox Marsh Development and Gary and Kim Bates), Assessor's Map H, Lot 46 & 50, zoned R-40, located at 51 & 65 Bellamy Road. (Proposal is to purchase 22 units via TDR for a 31 total units). (P21-65)

D. Benton noted that this project has also come to TRC once but needs to return for a follow up TRC. Tonight's vote is to allow the applicant to purchase up to 22 units via TDR to total 31 units. The Board may recall that it approved a 4 unit subdivision on one of these subject lots so if the Board sees the number 18 referenced, that is the difference between what has currently been approved and what they are seeking tonight. The applicant would need to come back to the Planning Board for the lot merger and full site plan and if approved, at that time the previous approval would be considered null and void.

Christopher Berry, Berry Surveying and Engineering represented the application. Part of the project was approved by the board as a private road with 4 units. The abutters approached the applicant to work together on a larger project. He explained the methodology of how they laid out the project.

The original project was 4 units that matched the character of the neighborhood with small homes. They are now looking to extend that Sophie Dr project onto the Bates land and continue with additional single-family homes and 4-unit structures that look like single-family homes which are centered away from the housing on Bellamy Rd with a 30ft buffer along the property lines. There is an existing duplex on site which will be renovated and incorporated into the project. There is an existing barn on site which is proposed to be

converted into four units. The view from Bellamy Rd would remain the same with the duplex the only visible structure.

All single-family homes are proposed at 1,400 sq. ft. The applicant is looking to restrict 25% of the project for HUD housing rates. The applicant will work to provide housing to Dover residents prior to opening to the market.

K. Pimental asked if the rent restricted units will be so in perpetuity. Yes, they will be deed restricted.

Motion: D. White moved to accept the application and noted that this is not a development of regional impact. Seconded by H. Harmon. Vote: U/A

Public Hearing Opened
Helen Labrie, 55 Bellamy is concerned about traffic especially in relation to the high school traffic. She does think the development will be visible- especially to her as a direct abutter. She wondered what environmental impacts there might be for pollution and wildlife.
She works at Dover school district and the classrooms are already full.

Patrick Labrie, 55 Bellamy thanked the developer for sitting down with him to go over some concerns. He doesn't understand why Dover needs more development. Traffic is bad, the schools are full and he is concerned about infrastructure. Other towns should take over development. He expressed concerns about rain gardens and if they work to handle storm water.

Donald Chandler, 65A Bellamy Road is concerned about traffic especially from Sophie Dr. It's dangerous for the students to cross the road to get to the school and this subdivision will be attractive location for families to live. There should be a safer solution for kids crossing there.

D. Benton addressed some of the public comments. The traffic study has been submitted and is being reviewed at TRC.
C. Berry noted as the project goes through the TRC process, pedestrian enhancements can and should be addressed for that area since it is such a walkable area.

K. Pimental listed the current affordable market rental rates for the public.
T. Clark noted just because the TDR ordinance allows for the purchase of more units, doesn't mean we have to sell the additional units. We have to look at density. 31 units is too many units at this location.

One of the applicants spoke about affordability. He is glad the board member listed the rental amounts. These affordable units would qualify for single or two-income families who work as nurses, teachers, city employees. The way the project is affordable for the developer is to have more units so that they can make up the difference from offering affordable units.

Public Hearing Closed

STAFF RECOMMENDATION:
D. Benton noted the plan is consistent with Chapter 170-27.2 of the Zoning Ordinance which allows for developments to buy additional units through the process of Transfer of Development Rights and that the Planning Department recommends that the Planning Board vote to find the criteria of the TDR ordinance

has been met, and the applicant may proceed with laying out up to 31 units on a Site Plan with the following conditions:

Condition to Be Met Prior to Granting of the TDR:

1. Payment of the TDR fee
2. Site Plan come back to the Planning Board for review and include notes about size restrictions
3. That 25% of the 31 units have the HUD rent rate and/or pricing restrictions

Motion: F. Torr moved to approve the TDR request and the purchase of up to 22 units with conditions, as the request is consistent with the regulations. Seconded by D. White. Vote: 6-3 with T. Clark, D. Ciotti and D. Landry opposed.

E. Consideration and acceptance of a Minor Subdivision for Dahn H. & Norma M. Tibbett, (Owner: Jahn H. & Susan G. Janetos), Assessor's Map N, Lot 13, zoned R-40, located at Oak Street. (1 new lot) *(P21-78)

D. Benton noted the applicant is requesting to subdivide lot N/13 into two lots. The lot would be serviced by public water and private septic. As a Minor Subdivision, this application did not appear before the TRC.

When staff received the minor subdivision plans and saw the existing barn was to remain as the only building on the lot, they reached out to the applicant requesting more information on the use of the barn and the lot. The applicant responded with the three letters dated September 30, 2021, October 18, 2021, and October 26, 2021. All have been supplied to the Board. Staff has heard that the owner will be present at the meeting to speak to the farm/haying use of the barn further. The Board can then determine if they have enough information to accept the application as complete to review.

The applicant originally requested the Board grant a waiver from the requirement to survey the lot boundary lines, including the proposed lot line, but is now willing to have that be a condition of approval. They also seek a waiver to not reference the US Geological Survey for topography, rather they use LIDAR. Finally, the property is within 100' of public sewer on Elmwood Avenue, and while no waiver was requested, it is required if they seek to use private subsurface septic systems. Staff notes the need for a waiver, but no explanation or request was provided for this until just before the meeting.

Kevin McEneaney, McEneaney Surveying, represented the application. The new lot will be 1.5 Ac and will have the barn on it. The other lot is 34.3 Ac. He confirmed they will do the survey and are only requesting the two waivers. The barn will be an agricultural use and won't have any occupancy need for sewer hook-up. He clarified the owners of N-13F.

Discussion occurred about water at the barn. There is no sewer, there is no well or city water supply on site. The barn will continue to function as it has for haying purposes.

The applicant addressed the question why they are subdividing this lot. Right now, the property is owned in joint ownership by four individuals. One person will retain the smaller lot and the larger lot will ideally be sold off to a separate buyer.

Motion: F. Torr moved to accept the application and noted that this is not a development of regional impact. Seconded by D. White. Vote: U/A

Public Hearing Opened

Jeff Andress, 2A Country Club Estates is an abutter and spoke in favor of the proposal. The barn is 100 years old and there is a better chance of the barn being preserved if this lot can be divided before the larger parcel is sold to a developer.

Ann Marie Day, 104 Gulf Road is an abutter and is in favor of the barn being subdivided out so it can be preserved.

George Heilshorn, 108 Gulf Rd is an abutter and noted the area is vibrant with habitat and a rich history. The barn is a memento of days gone by and it's an important piece to preserve.

Public Hearing Closed

D. Ciotti asked what the utility easement is for on the plan. Is that for servicing the 34-acre lot when it's developed?
Mr. McEneaney explained the easement is for access to the abutting lot 13-F. The board and applicant discussed future sewer access to the 34-acre lot. There are a few options, but it is not through that easement.
D. Ciotti is concerned that the easement is shown on the plan on the barn parcel, yet the applicant plans to keep the parcel in current use. Mr. McEneaney wasn't sure about the location of the easement and will need to check.

Jahn Janetos, applicant and owner of parcel 13-F clarified the easement is to service 13-F. The lot line should be at the southern end of the fence which puts the easement on the 34-acre lot.
That is not what shows on the plan, but it should be revised. The surveyor said he will make the adjustment.

Mr. McEneaney suggested the board make a condition of approval that the lot line be adjusted to keep the easement in the same location, but it will be on the larger parcel.
Since that will adjust the square footage of each parcel, the board suggested tabling the item for a new plan to be submitted.

Motion: D. White moved to table the application including waiver requests to December 14, 2021. Seconded by D. Ciotti. Vote: U/A.

5. STAFF COMMENTS

- D. Benton updated the Board on:
    - Staff attended the Northern New England planning conference. Some of D. Benton's and C.Parker's takeaways were included in the Planning e-newsletter.
    - Staff received a good amount of interest in both open Assistant City Planner positions and will begin interviewing next week.
    - the latest TRC: the waterfront development both CPI's mixed use project as well as the public right of way and park, both will be coming back for second TRCs. The TRC also reviewed a site plan for Q, LLC on Quality Way and 51 Bellamy Road that the Board reviewed the TDR for tonight.
    - Applications for CDBG projects are due at 4pm on the 19th and are available on the Community Development page on the Planning Department's website.

6. MEMBER COMMENTS

- The Chair signed the subdivision plans for 50 Education Way and revised for Venture Drive and Site Plans for Atlantic Broadband.

- D. Benton welcomed new Planning Board alternate, Jackie Walker.
- Tom Clark requested men take off their hats at the podium.
- E. Reville asked if TDR could be reviewed to cap a percentage of how many units can be purchased over what's allowed.
    - D. Landry noted this is the time of year for the board to think about what to focus on next year and that should be one of the items including whether the TDR is appropriate in the R40 zone.
    - K. Pimental noted he was more open to the project tonight which offered affordable rates. He wondered if we could look at the end of the year how much money has come in from TDR and what land acquisitions have been made with it.
    - D. Ciotti noted there is $1M in the TDR funds. Perhaps if applicants don't incorporate rent restricted units to their projects, those TDR funds could go towards funding a homeless shelter.
- K. Pimental suggested the board members look ahead at the Waterfront plans that will be coming before the board soon. Dennis and Kyle will not be able to sit for those Planning Board meetings since they are on the Waterfront Committee.
- M. Speidel noted NH just received funds for roads, bridges, and water infrastructure. He asked what share Dover can expect. D. Benton wasn't sure of the amount, but noted Dover has several projects ready and can apply for funding for multiple projects that should be good choices for those funds.

7. ADJOURNMENT

Motion: D. White moved to adjourn at 9:28p.m. Seconded by F. Torr. Vote: U/A

DOVER PLANNING BOARD – MINUTES

CITY OF DOVER

Meeting Type:	Regular Meeting
Meeting Location:	City Council Chamber's 288 Central Avenue
Meeting Date:	**Tuesday, June 28, 2022**
Meeting Time:	**7:00 pm**

Members Present: Gina Cruikshank (Chair), Mark Speidel, Ken Mavrogeorge, Frank Torr, Tom Clark, Fergus Cullen (Councilor), Kyle Pimental, and Erinn Kaspari
Members Not Present (excused): Hayley Harmon (Vice Chair)
Members Not Present (un-excused): Stephanie George (Alternate)

Staff Present: Donna Benton, Director of Planning and Development; Mike Asciola, City Planner

G. Cruikshank called the meeting to order at 7:00 p.m., noted items New Business B, C, and F will be continued to another meeting. And noted Erinn Kaspari will sit in for Vice Chair Harmon.

1. **CITIZENS' FORUM**
   Citizens Forum Open
   No one spoke
   Citizens Forum Closed

2. **APPROVAL OF THE PRIOR MINUTES**
   June 14, 2022 Regular Meeting Minutes
   Motion: F. Torr moved to approve the minutes as submitted. Seconded by T. Clark
   Vote: All in favor with Pimental abstaining

3. **OLD BUSINESS**
   A. Public hearing to consider amendments to Chapter 170 entitled "Zoning Ordinance" of the code of the City of Dover. Amendments include changes to vehicle refueling and recharging stations and auto service stations, self-storage facilities criteria, rezoning of lots on Fisher St and Rutland St to HR, amending Gateway District Table of Use, replacing sub-grade with "fully below-grade", adding solar/green roof requirements to the C, CM, and IT Districts, and fixing an errant reference in the sign ordinance.

   D. Benton noted the board has been looking at these amendments since February and this is the second of three public hearings for public input.

   Public hearing opened.
   Elizabeth Bratter, 16 St John St commented about drive thru buffers and screening and green roof/solar requirements

   Christopher Parker, Deputy City Manager spoke on behalf of the Dover Business Industrial Development Authority and commented that they endorsed these amendments. They also suggest two changes regarding self-storage.

   Motion: T. Clark moved to table the public hearing to July 26th. Seconded by: M. Speidel. Vote: U/A

   Public hearing tabled.

4. **NEW BUSINESS**
   A. Consideration and possible adoption of the 2022 Community Infrastructure Chapter of the Master Plan.

   D. Benton described to the board the updated 2022 Community Infrastructure Master Plan Chapter draft and general process. She thanked the consultant, committee members, and city staff who helped put this

chapter together. She announced that Liz Kelly from Resilience Planning and Design was here with a brief presentation and to answer any questions.

Motion: F. Cullen voted to adopt the 2022 Facilities and Utilities Chapter of the Master Plan. Seconded by: T. Clark. Vote: U/A

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

Motion: T. Clark moved to continue this item to July 26, 2022. Seconded by: M. Speidel. Vote: U/A

C. Consideration and acceptance of a Conditional Use Permit for Unitil Granite State Transmission, Assessor's Map M, Lot 47-C, zoned R-12, located at Gerrish Road. (Proposal is to construct a pipeline inspection equipment station which will impact 3,500 s.f. of wetlands.) *(P22-36)

Motion: F. Torr moved to continue this item to August 23, 2022. Seconded by: M. Speidel. Vote: U/A

D. Consideration and acceptance of a Transfer of Development Rights for John P. Warren, Assessor's Map 32, Lot 21, zoned R-12 and located at 16 Prospect Street. (Proposal is to relocate current apartment in rear of house to above a newly constructed garage.) *(P22-40)

D. Benton introduced the proposed project to relocate an apartment in rear of an existing three (3) family residential structure to above a newly constructed detached garage. The applicant requests a TDR unit to allow the unit to be relocated. The request will not create an additional residential unit on the property. This application was not heard by the Technical Review Committee, as it was below the review threshold. Should the applicant wish to create an additional unit rather than move the unit, the Board would need to be clear on that vote tonight.

Jack Warren, owner, represented the application.

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

Public hearing opened.
Don Briand, abutter at Washington St supports the application, but is concerned about the displacement of rainwater onto his property due to the new garage.

Catherine Casey, abutter supports the application, but has concerns about parking on the property.
Public hearing closed.

D. Benton addressed public comment.
Mr. Warren addressed the parking and water concerns. K. Mavrogeorge suggested a condition of approval for engineering.

Consistency with Land Use Regulations
§170-27.2 provides for additional density to be purchased through Transfer of Development Rights. The process allows the applicant to come to the Board with a plan indicating the TDR but does not trigger the need of full site plan review.

The proposed TDR creates no additional units and relocates an existing unit into a newly constructed an accessory structure.

STAFF RECOMMENDATION:
The Planning Department recommends that the Planning Board vote to find the criteria of the TDR ordinance has been met with the following conditions:

Conditions to Be Met Prior to Granting of the TDR:

1. Proposed garage and TDR unit footprint may not exceed the existing multifamily building.
2. Record deed restriction for TDR unit at SCRD to the satisfaction of the Planning Director.
3. Revise plan and resubmit for Final Planning Board signature with:
   - 3.1. Add owner's signature
   - 3.2. Update title to TDR Plan
   - 3.3. Add TDR unit to "proposed" garage
   - 3.4. Add note to the plan that no additional dwelling units may added to the property without review and approval by the Planning Board or Zoning Board.
   - 3.5. One of the existing Certificate of Occupancy be relinquished or Planning Board agree to an extra unit and payment of the TDR fees is provided.
4. Prior to construction, coordinate with engineering office on drainage/stormwater

Motion: F. Torr moved to approve the TDR with the recommended conditions. Seconded by T. Clark. Vote: U/A

E. Consideration and acceptance of a Minor Lot Line Adjustment for Northam Survey LLC., (Owners: Carrie & Scott Vaughn and Gabriel P. & Brittany R. Edgar & Paul T. & Susan D. Edgar), Assessor's Map D, Lots 18A & 18P, zoned R-12, located at 101 & 103 Glenwood Avenue. (Between 2 lots) *(P22-42)

D. Benton explained the applicant is before the board requesting to complete a lot line adjustment between two lots, totaling in 3,000± s.f. The lots would still meet the minimum lot area post adjustment, as well as the required frontage. As a Lot Line Adjustment, this application did not appear before the TRC.

Eric Salovitch, Northam Survey, LLC represented the application explaining that the lot line between the two properties is curved and both owners agree to have it straightened out. One party is interested in selling, and this would make the boundaries clearer for the new owners.

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

Public hearing opened.
No one spoke
Public hearing closed.

Consistency with Land Use Regulations
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.

STAFF RECOMMENDATION:
The Planning Department recommends the Planning Board to vote to approve the application with the following conditions:

Conditions to Be Met Prior to Signing of Plans:
1. Provide physical and digital copies (including CAD) of complete plan set for recording at Strafford County Registry of Deeds which additionally shall include:
    a. Planning File Number P22-42
    b. Add line of intent as a plan note (Common Note 1)
    c. Revise references to the satisfaction of the City Assessor
    d. Revise signature block to be 2" x 2" blank square
    e. The owner's signatures
    f. The LLS stamp and signature
    g. Indicate which lot the tree near new property line is on

As staff started verbally reading the conditions of approval (previously read into record by Surveyor Erik Salovitch), further discussion on the application ensued regarding two questions. Afterwards, the Chair understood there to be an intended motion by F.Torr, or an assumed motion, to approve the lot line adjustment subject to the staff conditions outlined above, seconded by T.Clark.

Motion: Motion to approve the Lot Line Adjustment with the recommended conditions. Seconded by T. Clark. Vote: U/A

F. Consideration and acceptance of a Transfer of Developments Rights Request for Scott & Heidi Drapeau & Anthony Sillitta, (Owners: Scott & Heidi Drapeau and Anthony Sillitta), Assessor's Map 35, Lot 1, zoned R-12, located at 77 Sixth Street. (Requesting to purchase 1 new lot) *(P22-43)

Motion: M. Speidel moved to continue this item to July 26, 2022. Seconded by: E. Kaspari. Vote: U/A

G. Consideration and acceptance of Conditional Use Permit for Jeffrey Loring, Assessor's Map 15, Lot 106, zoned Gateway, located at 132-134 Central Avenue. (Proposal is to remove existing garage and construct a 1-unit residential building behind the existing duplex whereas the front buildout is 54% whereas 60% is required, a side setback of 5' where 10 is required and front build to line of approximately 100' where 20' is required). *(P22-45)

D. Benton introduced the proposal to remove existing garage and construct a one (1) unit residential building behind the existing duplex whereas the front buildout is 54% whereas 60% is required, a side setback of 5' where 10' is required and front build to line of approximately 100' where 20' is required.

The property is within the Gateway Zoning District which has a density requirement of 4,000 sf.

Jeff Loring, owner, represented the application noting that the reasons not to add to the back of the duplex: keep the green space, work well for parking, and maintain the look of the lot. He mentioned a few of the conditions for approval and asked for some clarifications.

The board asked some clarifying questions which were answered.

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

Public hearing opened.
No one spoke
Public hearing closed.

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

Planning Staff believes this proposal is consistent with the §170-20.B.(1)(a)-(i) criteria as described in the applicant's narrative. The applicant's design supports the intent and goals of the Gateway District, to be a mixed use transitional neighborhood from less densely developed area to the urban core of the City.

STAFF RECOMMENDATION:
The Planning Department recommends the Planning vote to grant the Conditional Use Permit with the following conditions, as the plans meet the standards outlined:

Conditions to Be Met Prior to Issuance of Conditional Use Permit:
1. A survey or plan performed by a NH licensed land surveyor and/or engineer be submitted to the satisfaction of the Planning Director to ensure compliance with dimensional regulations and granting of Conditional Use Permit.
2. A Development Agreement per Chapter 170-27.B.(3) be signed and recorded at the Strafford County Registry of Deeds.
3. Add rear setback dimension to plan.
4. Existing trees on subject property to remain in place unless determined to be diseased or a safety hazard by the City Arborist.
5. Define on the plan the walkway between parking area and structure.

M. Speidel expressed concerns about the side setback being less than 10'.

Motion: T. Clark moved to approve the Conditional Use Permit with the recommended conditions. Seconded by F. Cullen. Vote: 7-1 with Speidel opposed.

H. Consideration and acceptance of a Minor Subdivision for Fortuna North III, LLC. Assessor's Map D, Lot 17-F, zoned Commercial, and located at 343 Sixth Street. (1 new lot) *(P22-41)

D. Benton explained the applicant is proposing to subdivide Assessor's Map D Lot 17-F into two lots, resulting in the creation of one new lot. Both lots would be accessed from Sixth Street. The lots are

proposed to be serviced by municipal water and sewer. As a minor subdivision, this application did not appear before the TRC.

Kevin McEneaney represented the application.

T. Clark mentioned a previous condition to stake out a green orchid and asked for that condition to be added.

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

Public hearing opened.
No one spoke
Public hearing closed.

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

STAFF RECOMMENDATION - Minor Subdivision:
The Planning Department recommends that the Planning Board Planning Board vote approve the minor subdivision with the following conditions:

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. The owner's signatures
    1.2. Include Planning File Number, P22-41
    1.3. Stamp and signature of the LLS
    1.4. Add signature block, 2" by 2" square
    1.5. Add note 10 that wetlands survey will need to occur before any development on new vacant lot.
    1.6. Stake out and note to plan indicating steel fence posts and wetland placards around green orchids.

Motion: T. Clark moved to approve the Minor Subdivision with the recommended conditions. Seconded by F. Torr. Vote: U/A

I. Consideration and acceptance of a Site Review for Dover Housing Authority Assessor's Map 33, Lot 1-A, zoned RM-U, located at 48 Whittier Street. (Proposal is to construct a six-unit multi-family residential building utilizing TDR to purchase 4 units.) *(P21-37)

D. Benton provided the Board with an overview of the proposal to construct a six (6)-unit multi-family residential building utilizing TDR to purchase four (4) units on a 0.37 acre vacant lot on Whittier Street in the Urban Density Multi Residential (RM-U) District. All proposed units will be HUD restricted units to increase the attainable housing stock within the City. TDR Fees will be waived due to the HUD rental restrictions option being chosen.

This application was most recently before the Technical Review Committee on May 27, 2021.

Christopher Berry, Berry Survey and Engineering, represented the application and explained the details of the project.

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

Public hearing opened.
Lynn Marie Reid, 1 Arcola St is concerned about traffic and pedestrian safety.
Public hearing closed.

D. Benton clarified there was a traffic study done during the TRC process. No improvements were determined necessary for this project.

Consistency with Land Use Regulations
§170-27.2 provides for additional density to be purchased through Transfer of Development Rights. The process allows the applicant to come to the Board with a plan indicating the TDR but does not trigger the need of full site plan review.

The applicant seeks a waiver of the no cut no disturb 30' perimeter buffer requirement of §170-27.2.G.(7) due to the characteristics and circumstances of the subject parcel.

STAFF RECOMMENDATION- Waiver:
The Planning Department recommends that the Planning Board vote to grant the waiver with the following condition:

Condition to be Met Prior to the Signing of the Plans:
1. Add a note that the Planning Board approved a waiver of the no cut no disturb 30' perimeter buffer requirement of §170-27.2.G.(7).

Motion: F. Torr moved to grant the waiver and that §153-21 has been met. Seconded by: T. Clark. Vote: U/A.

STAFF RECOMMENDATION - TDR:
The Planning Department recommends that the Planning vote to find the criteria of the TDR ordinance has been met with the following conditions:

Conditions to Be Met Prior to Granting of the TDR:
1. Add note to the plan that no additional dwelling units may added to the property without Planning Board approval and note TDR restrictions.
2. Provide draft deed/leases noting TDR/HUD restrictions to the Planning Department.
3. Submit a development agreement to be reviewed in consultation with the Legal Department and recorded at the SCRD indicating the HUD rental restriction, income verification requirements, TDR restrictions.

Motion: F**.** Torr moved to approve the Transfer Development Rights application with the recommended conditions. Seconded by T. Clark. Vote: U/A

STAFF RECOMMENDATION – Site Plan:
The Planning Department recommends that the Planning Board vote to approve the Site Plan with the following conditions:

Conditions to Be Met Prior to Signing of the Plans:
1. Address the following concerns to the satisfaction of the City Engineer:
    1.1. Revise detail C5 to show the underdrain in relation to the porous pavement section;
    1.2. Consider reducing the amount of porous pavement on property by limiting porous pavement to parking spaces. Porous in areas of high vehicle movements (aisles and entrance) are not recommended;
    1.3. Provide a sign identifying porous asphalt is present and that there are restrictions on deicing materials on porous surfaces are noted in the inspection and maintenance plan that is provided;
    1.4. Provide a commitment to maintain stormwater and specifically the porous pavement that can be recorded at the registry of deeds; and
    1.5. According to the BMP worksheets, groundwater is expected to be into the filter media, applicant shall provide a liner below the porous pavement section or explain how the system will properly function as submitted.
2. Revise plan and resubmit for Final Planning Board signature and then recording at the SCRD with:
    2.1. Add owner's signature;
    2.2. Add architect stamp and signature to Architectural Plan Set;
    2.3. Add LLS signature to Sheet 2 of Site Plan Set; and
    2.4. Remove reference to Shoreland file no. 2021-02336 accepted 7/26/2021 as it is no longer applicable due to the use of pervious pavement.

Conditions to Be Met Prior to Building Permit:
3. Payment of the water/sewer fees at time or request of service.
4. Development agreement has been recorded.
5. Construction sign with hours of operation has been installed to the satisfaction of the City Engineer and Planning Director.

Conditions to Be Met Prior to Occupancy:
6. Issuance of Certificate of Occupancy.
7. Payment of Impact Fees as noted in the invoice attached to the Decision Letter.
8. Surety or other form of security acceptable to the City is provided for any unfinished work.

Motion: T. Clark moved to approve the Site Plan application with the recommended conditions. Seconded by F. Torr. Vote: U/A

The Vice Chair noted Items 4J, K, and L will be heard together.

J. Consideration and acceptance of a Conditional Use Permit for Equine Properties, LLC., Assessor's Map H, Lot 37A, zoned Commercial, located at 239 Knox Marsh Road. (Proposal is to allow 10,699 square feet of wetland buffer.) *(P21-05)

K. Consideration and acceptance of a Conditional Use Permit for Equine Properties, LLC., Assessor's Map H, Lot 37A, zoned Commercial, located at 239 Knox Marsh Road. (Proposal is 33.8% impervious cover in a Secondary Groundwater Protection Zone, where 20% is allowed.) *(P22-46)

L. Consideration and acceptance of a Site Review for Equine Properties, LLC., Assessor's Map H, Lot 37A, zoned Commercial, located at 239 Knox Marsh Road. (Proposal is to construct two(2) three-story mixed - use buildings with 26 residential units on the second and third stories and non-residential uses on the first story of each building, 12 single family residences, and a private roadway to provide access) *(P21-04)

D. Benton introduced the proposed project as a multi-family, mixed-use development consisting of two (2) three-story mixed-use buildings with 26 residential units on the second and third stories and non-residential uses on the first story of each building, 12 single family residences, and a private roadway to provide access in two phases. The development requires two (2) CUP requests for wetland buffer disturbance and additional impervious surface in the Secondary Groundwater Protection Zone. The development as proposed, requires the Board to grant waivers of §157-32.G, for 3% road grade within 75' of an intersection and §153-14.K.(1)(a), to require 70% of parking behind the principal buildings.

The applicant seeks a CUP for an impervious surface cover of 33.8% exceeding the 20% maximum requirement of the Groundwater Protection Secondary Zone. A second CUP for wetland buffer impact 10,394 sf of permanent buffer disturbance and 456 sf of temporary disturbance is also requested for the proposed development. All of this disturbance will be for the construction of the proposed road and relating grading through the buffer, as well as the construction of a gravel wetland for stormwater treatment.

The site is proposed to be serviced by municipal water and sewer. The plan appeared before the TRC on February 11, 2021, June 24, 2021, & February 24, 2022. The CUPs were endorsed by the Conservation Commission at their July 12, 2021 meeting.

Christopher Berry, Berry Survey and Engineering represented the application. He explained the single family home that used to be there has been demolished. The applicants had taken the plan to ZBA prior to the zoning change which now allows for much of what is proposed. They had received zoning board approval for the mixed-use buildings (which are now allowed by right) and also for the 12 additional units.
He described the details of the proposed project.

The board members asked some clarifying questions which were answered by Mr. Berry.

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

Public hearing opened.
Richard Keyes 251 Knox Marsh Rd is an abutter and is concerned about traffic, wondered if the traffic study has occurred, and would like more information about lighting.

Brandon Kimble, 756 Knox Marsh Rd is concerned about traffic and the extra traffic anticipated as well as the added impervious surfaces being asked for. There is currently some pooling.

Mr. Berry addressed public comment regarding traffic. He asked the state to reduce the speed in that area. He encouraged the City to look into this. He also explained the proposed lighting and drainage for the site.
Public hearing closed.

Summary of Waiver Requests:
The applicant is requesting the Board grant a waiver from the §157-32.G requirement that the Board to allow -4% grad off Knox Marsh rather than 3% within 75' of an intersection. The applicant believes that although the proposed roadway has -4% road grade within 75' of the intersection, it will still be a safe intersection. The road is designed to transition from a -4% grade to a 2% grade. And they believe this will allow for a safe platform for vehicles to stop at. The -4% slope is a requirement of NHDOT and the applicant would be nonconforming to NHDOT regulations if held to the City's requirement set forth in §157-32.G.

The applicant is also requesting the Board grant a waiver from the §153-14.K.(1)(a) to require 70% of parking behind the principal buildings where 47% is being proposed. Due to the street facing location of the commercial uses access to the mixed-use buildings, parking is provided in the front for pedestrian access and safety.

Consistency with Land Use Regulations – Waiver
§153-21 of the Site Plan Review Regulations and §157-51 of the Land Subdivision Regulations both 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."

STAFF RECOMMENDATION- Waiver:
Planning Staff finds the waiver requests are supported under criterion (1) above and the intent of the requirements are upheld.

Motion: T. Clark moved to grant the waivers and that §153-21 and §157-51 requirements have been met. Seconded by: F. Torr. Vote: U/A.

Consistency with Land Use Regulations - CUP Wetlands
The Wetlands Protection District ordinance provides for Conditional Use Permits to allow impacts to wetlands and wetland buffers if standards related to demonstration that no practicable alternative exists, impact avoidance was considered, impacts were minimized, and mitigation has been sought.

Staff feels that the applicant reviewed options and due to existing site conditions, there were no additional design alternatives for the impacts, which have been minimized and mitigation actions taken to improve the impacted wetland buffer function. Staff believes this proposal conforms to the standards set forth in §170-27.1.F.(1) and is consistent with the CUP's intent and purpose.

STAFF RECOMMENDATION - CUP Wetlands:
The Planning Department recommends the Planning Board to vote to grant the Conditional Use Permit with the following conditions, as the plans meet the standards outlined:

Condition to Be Met Prior to Signing of Plans:
1. Site Plan (P21-04) and Conditional Use Permit (P22-46) be approved.

Motion: F. Torr moved to approve the Wetlands Protection District CUP application with the recommended condition. Seconded by K. Mavrogeorge. Vote: U/A

Consistency with Land Use Regulations - CUP Secondary Groundwater Protection Zone:
The Secondary Groundwater Protection Zoning Ordinance §170-28.3., provides for Conditional Use Permits approved by the Planning Board to allow certain land uses within the Groundwater Protection Primary and Secondary Zones and provide additional development performance standards.

Staff feels that the applicant reviewed options and due to existing site conditions related to hydrology and poor soil drainage and mitigation actions taken to improve the impacted hydrological function. Staff believes this proposal conforms to the standards set forth in §170-28.3. is consistent with the CUP's intent and purpose.

STAFF RECOMMENDATION - CUP Secondary Groundwater Protection Zone:
The Planning Department recommends the Planning Board vote to grant the Conditional Use Permit with the following conditions, as the plans meet the standards outlined:

Conditions to Be Met Prior to Signing of Plans:
1. Site Plan (P21-04) and Conditional Use Permit (P21-05) be approved.
2. Applicant must resubmit and receive Conservation Commission endorsement of the current site plan as the impervious surface increased from 28.6% to 33.8%.
3. NHDES grant the waiver of the Water Recharge requirements of Env-Wq 1507.04(b)

Condition to Be Met Prior to Issuance of a Building Permit:
4. The applicant shall prepare the Development Review Model required by Chapter 170-28.3-G and submit it to the City Engineer for review and approval.

Motion: T. Clark moved to approve the Secondary Groundwater Protection Zone CUP application with the recommended conditions. Seconded by K. Pimental. Vote: U/A

STAFF RECOMMENDATION – Site Plan:
The Planning Department recommends the Planning Board vote to approve the Site Plan with the following conditions, as the plans meet the standards outlined:

Conditions to Be Met Prior to Signing of Plans:
1. Conditional Use Permit (P21-05) and Conditional Use Permit (P22-46) be approved.
2. The applicant shall provide the Planning Department with a digital version of the final plan set.
3. Provide a CAD file to the satisfaction of the Asset Management Administrator's satisfaction.
4. The applicant shall enter into a development agreement with the City of Dover to provide a payment in lieu of construction of a sidewalk towards Progress Drive;
5. Notice of Restriction be filed regarding the living space square foot restriction;
6. Letter to serve from Eversource.
7. The applicant shall revise the plan set to:
   7.1. Add owners' signatures;
   7.2. Revise street name spelling;

7.3. Add all professional signatures and stamps for each submission;
7.4. Add permit numbers when received; and
7.5. Add snow storage details.

Conditions to Be Met Prior to any Construction:

8. A site construction sign with the contact information for the general contractor must be located and approved by the City Engineer or Planning Director.
9. The wetland buffer placards be installed every 30 feet;
10. Off-site traffic improvements to the satisfaction of the City Engineer and NHDOT in consultation with the TAC be added to the plan.

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

11. Payment of Water and Sewer Investment Fees;
12. The applicant shall provide payment for active and passive recreation. Active Rec fee will be $500 per unit. Passive Rec fee will be $500 per unit as well;

Conditions to Be Met Prior to Occupancy:

13. Impact fees per unit shall be paid per the invoice attached to the Notice of Decision;
14. Confirmation, by staff, that the wetlands buffer signs are in place, or replaced if damaged during construction;
15. The applicant shall provide a letter of credit or other form of security acceptable to the City for any unfinished work;
16. Issuance of the Certificate of Occupancy.

Motion: F. Cullen moved to approve the Secondary Site Plan application with the recommended conditions. Seconded by E. Kaspari. Vote: U/A

5. STAFF COMMENTS

- *TRCs since last meeting*:
  - Site Review using Transfer of Development Rights Knox Marsh Development LLC.'s 8 unit residential development, zoned G, located at 757 Central Avenue;
  - Site Review for City of Dover Recreation Skate Park
  - Site Review for Bonterra Farms accessory building, located at 31 Saddle Trail Drive.
- *Upcoming TRCs:*
  - Site Review for Dover Coast, LLC., located at 725 Central Ave & 4 Brick Road to construct a new 4 story apartment building with 13 units;
  - Site Review using Transfer of Development Rights for Heron Bay Partners, LLC located at Cielo Drive to construct 51 TDR age restricted (55+) units in seven (7) townhouse style multi-family buildings in place of the two previously approved congregate care buildings;
  - Site Review located at 6 Trask Drive to pave 5,400 sf of private driveway;
  - Site Review for Weave Filtration, LLC, located at Quality Way to construct a 23,125 sf building for manufacturing with office space. A CUP for wetland impact will also appear before the Planning Board; and
  - Site Review for Storage Barn, LLC, Assessor's Map D, Lot 12-2, zoned IT, located at Production Drive to construct five (5) storage buildings totaling 12,000 sf. A CUP for wetland impact will also appear before the Planning Board.

- RFP for Vision Chapter of the Master Plan is out, then we will be looking for a PB representative for that steering committee.
- Still looking for members to serve on a subcommittee regarding the Gateway District.
- We have received applications for the alternate vacancies and is expected to be filled soon. The Appointments Committee meeting on June 1st was cancelled and yet to be rescheduled.
- New permitting software will launch July 1st. Plans will be filed electronically.
- Congratulations to Jackson Kaspari who successfully defended his PhD dissertation yesterday.
- Congratulations to Mike Asciola for passing his AICP exam.

6. MEMBER COMMENTS

- T. Clark commented he prefers to receive the packets electronically, but they are many pages (500-1400) and difficult to maneuver through.
    - Board members gave added info on how to review separate batches of information by using the agenda links and meeting materials tab
    - Other board members agreed to have the traffic studies/ drainage research pulled out and accessible as a separate document.
- F. Torr commented:
    - encouraged other members of the board to make motions
    - round-about at Silver St is something the City should be proud of regarding maintenance
    - sign pollution: example = on 108 directional sign/ weight limit sign. Example = one on his road which is rusted out
        - K. Mavrogeorge noted a consultant just went through and assigned condition ratings to all signs. They have been photographed and located on GIS. They will be updated as needed.
- K. Pimental noted:
    - he wasn't sure where the crosswalk is that the woman mentioned, but that area is where the trails link up and it is very dangerous for pedestrians to cross
    - the Dover Download podcast is really great. He listened to all three episodes that are out.

7. ADJOURNMENT

Motion: F. Torr moved to adjourn at 9:07 pm. Seconded by M. Speidel. Vote: U/A

DOVER PLANNING BOARD – MINUTES

CITY OF DOVER

Meeting Type:	Regular Meeting
Meeting Location:	City Council Chamber's 288 Central Avenue
Meeting Date:	**Tuesday, July 26, 2022**
Meeting Time:	**7:00 pm**

Members Present: Gina Cruikshank (Chair), Hayley Harmon (Vice Chair), Ken Mavrogeorge, Frank Torr, Dennis Shanahan (Councilor), and Kyle Pimental
Members Not Present (excused): Mark Speidel, Fergus Cullen (Councilor), Erinn Kaspari, Tom Clark,
Members Not Present (un-excused):
Staff Present: Donna Benton, Director of Planning and Development; Mike Asciola, City Planner

G. Cruikshank called the meeting to order at 7:00 p.m.

1. CITIZENS' FORUM

Citizens Forum Open
No one spoke
Citizens Forum Closed

2. APPROVAL OF THE PRIOR MINUTES

June 28, 2022 Regular Meeting Minutes
D. Benton explained that there was an intended motion and clear vote but no clear motion and second on the lot line adjustment on Glenwood at the last meeting. The Board could make a motion to amend the minutes as outlined that there was an intended motion by F. Torr and seconded by T. Clark.
F. Torr confirmed.
Motion: F. Torr moved to amend the minutes and approve as amended. Seconded by D. Shanahan.
Vote: U/A

3. OLD BUSINESS

A. Public hearing to consider amendments to Chapter 170 entitled "Zoning Ordinance" of the code of the City of Dover. Amendments include changes to vehicle refueling and recharging stations and auto service stations, self-storage facilities criteria, rezoning of lots on Fisher St and Rutland St to HR, amending Gateway District Table of Use, replacing sub-grade with "fully below-grade", adding solar/green roof requirements to the C, CM, and IT Districts, and fixing an errant reference in the sign ordinance.

Motion: F. Torr moved to remove the item from the table. H. Harmon seconded. Vote: U/A

D. Benton noted the board has been looking at these amendments since February and this is the third of three public hearings for public input. Following public input, staff recommends the board forward these to Council.

Public hearing opened.
Laurie Smith, 36 Fisher St spoke in favor of expanding the Heritage district and to implement the height restrictions in that area. She proposed that parcel 15042 be added to the height restriction as well.
(it was clarified later in the meeting that the parcel in question is actually 15040A)

Chad Kageleiry, asked why his property is on the screen. Board and staff explained a citizen is requesting it be added to the Heritage district. He expressed he would not be in favor of that and made comments about the history of the property.

Letters of support were received from the following residents:

Melissa Henerberry	26 Fisher Street
James Henerberry	26 Fisher Street
Katherine Cox & Jason Lucey	101 Belknap St

Laurie Smith	36 Fisher St
Peter Michaud & Paul Chung	93 Belknap Street
Matthew B. Cox, Esq.	255 Washington Street
Marisa Didio	105 Belknap St.
Sandra Cohen-Holmes	34 Fisher Street
Lauren Serafin	54A Rutland St

Mary and Carly Glovinski and Tyler Conaway 92 Belknap Street
Anthony McManus (provided in packets)
Public hearing closed.

D. Benton noted staff is not proposing any changes to the posted amendments as they would relate to the discussion thus far this evening but that staff is proposing changes to other amendments. D. Benton reviewed these changes to the amendments for the board including clarifying the same language regarding vehicle refueling and recharging stations, adding the IT district to the self-storage amendments and clarifying screening and parking requirements, and a few minor changes to verbiage in the Gateway amendments for further clarification for future interpretation.

Motion: D. Shanahan moved to amend the amendments. Seconded by: F. Torr.

K. Pimental asked if staff has considered forming a sub-committee to look at the property mentioned in public comment this evening. D. Benton noted it has been requested that a sub-committee be formed to look at all gateways and that no Planning Board members had volunteered when she had asked previously. D. Shanahan commented that lot is uniquely shaped and should be looked into from all points of view. Changes should not be made today- but having a sub-committee look into it seems right.
K. Pimental and G. Cruikshank volunteered to be on the sub-committee.

Vote: U/A

Motion: K. Mavrogeorge moved to vote to recommend the amendments to City Council. Seconded by: H. Harmon. Vote: U/A

4. NEW BUSINESS

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

K. Mavrogeorge and F. Torr would have recused themselves from this case.
Therefore, there was not a quorum available to hear the case. (No motion could be made without a quorum, but the Chair announced that the case is continued to August 23, 2022.

B. Consideration and acceptance of a Site Review for City of Dover Recreation, Assessor's Map 26, Lot 2, zoned RM-U, located at 150 Portland Avenue. (Proposal is to construct a 17,000 s.f. skate park in two phases.) RSA 674:54 Governmental Land Use applies. *(P22-25)

D.Benton introduced the proposal to develop a skate park at Guppy Park in the field adjacent to Oak St. and the park and ride. The proposal is to develop the 17,000 sq ft concrete structures in two phases to replace the

current skate park on River St. Additional improvements will include access paths, additional parking spaces, a gazebo, and stormwater management infrastructure.

She explained the Planning Board will review the entire proposal and may approve it as a whole, however, an additional plan review will be required prior to the construction of phase 2.

Bob Stowell, Tritech Engineering represented the application. The parking is in place. This proposal takes lawn area and converts it into the skate park. Mr. Stowell addressed drainage, walkways, lighting.
There are a couple of waiver requests for EV charging and landscaping as those are intended to be looked at as part of the full park and park and ride area rather than just the skate park portion. There is also a drainage waiver which deals with storm water runoff.

The Recreation Director commented that this project is 20 years in the making. He gave a few details about how the process has come to be.

F. Torr asked about parking details which Gary addressed.

K. Pimental had comments regarding pedestrian safety and arts commission mural/ graffiti art. Gary addressed the comments in response.

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

Public hearing opened.
Andy Cochran, Salmon Falls Stoneware spoke to the railroad, and they are concerned about kids walking the tracks. This is unsafe. His building gets vandalized by graffiti. He requested a property value impact report. Money should be set aside to compensate for abutters needing to clean the vandalism.

Matt Johnson, 26 Sunset Dr spoke in favor of the new skate park. He has been trying to get this going for 17 years.

Nelson Wormstead, 17 Sunset Dr commented having a world class facility in the City is important. It will attract world-class level competitors. It could be a site where qualifying events are held for Olympic level competition.
Public hearing closed.

Summary of Waiver Requests:
The applicant is requesting the Board grant a waiver from §153-14.A.(3)(b)[3] "Measures shall be taken to control the post-development surface water runoff volume so that it does not exceed predevelopment runoff for the two-, ten-, twenty-five- and fifty year, twenty-four-hour storm events...", §153-14.D.(3) "Electric Vehicle Supply Equipment (EVSE) and dedicated charging spaces and from §153-14.G. "Landscaping".

The applicant is requesting these waivers due to the complex nature of the multi-use park and believes that such improvements should be part of the Guppy Park Master Plan with input from all park stakeholders. They believe that they should look to make these drainage, EVSE and landscaping improvements as part of a larger parking redesign that could be funded through possible outside grant sources in the near future and that the existing landscaping is adequate and meets the intent of the regulations.

STAFF RECOMMENDATION-Waivers:
§153-21 of the Site Plan Review Regulations 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."

The Planning Department recommends the Planning Board vote to grant the waivers with the following non-binding conditions, as the plans meet the standards outlined.

Condition to be Met Prior to the Signing of the Plans:
1. Add a note to plan that the Planning Board approved waivers for §153-14.A.(3)(b)[3] "Measures shall be taken to control the post-development surface water runoff volume so that it does not exceed predevelopment runoff...", §153-14.D.(3) "Electric Vehicle Supply Equipment (EVSE) and dedicated charging spaces and from §153-14.G. "Landscaping" that the criteria for Chapter 153-21 have been met.

K. Pimental stressed that if we are putting EV requirements on private developments, the City also needs to adhere to them. D. Benton clarified the plan is to have them on site in a later phase, just not at this time.

Motion: F. Torr moved to grant the waiver and that §153-21 criteria has been met. Seconded by: K. Mavrogeorge. Vote: U/A.

STAFF RECOMMENDATION-Site Plan:
RSA 674:54 provides for Planning Board review of governmental land uses with nonbinding written comments relative to conformity or nonconformity of the proposal with normally applicable land use regulations.

§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. This plan is consistent with those regulations.

The Planning Department recommends the Planning Board vote to approve the Site Plan with the following non-binding conditions, as the plans meet the standards outlined:

Conditions to Be Met Prior to Signing of Plans:
1. The applicant shall provide the Planning Department with a digital version of the final plan set.
2. Provide a CAD file to the satisfaction of the Asset Management Administrator's satisfaction.
3. Provide copies of permits once received;
4. The applicant shall revise the plan set to:
   4.1. Add owner's signatures;
   4.2. Combine plan sets into one set;
   4.3. Add all professional signatures and stamps to final plans;
   4.4. Add note stating construction is permitted for phase 1 only;
   4.5. Add snow storage details.

Conditions to Be Met Prior to any Construction:
5. A site construction sign with the contact information for the general contractor must be located and approved by the City Engineer or Planning Director.

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Conditions to Be Met Prior to Occupancy:
6. Issuance of the Certificate of Occupancy.

Motion: K. Pimental moved to approve the Site Plan application with the non-binding conditions. Seconded by K. Mavrogeorge. Vote: U/A

C. Consideration and acceptance of an amendment to a previously approved Site Review for Katz Development Corporation, Assessor's Map K, Lot 19-10, zoned IT and RCM overlay, and located at Pointe Place. (Proposal is to amend to one of the previously approved buildings to 24 residential units instead of 40 units and a building footprint of 14,575 sq. ft. instead of 16,770 sq. ft. from the original approved Site Plan.) *(P18-37A)

D. Benton introduced the proposal to amend to one of the previously approved buildings to 24 residential units instead of 40 units and a building footprint of 14,575 sq. ft. instead of 16,770 sq. ft. from the original approved Site Plan.

She explained the original project was approved by the Planning Board on September 25, 2018 (P18-37), as part of the Pointe Place Master Plan development and consisted of three buildings located on the south side of Pointe Place roadway. The buildings have access from the parking and sidewalks along Pointe Place, as well as from the parking lot and access drive that loops around the south side of the buildings. The three buildings are identified as buildings #3, #4, and #5 on the site approved plans. The westerly most Building #3 is completed and construction is continuing with the remaining portions of the site. This proposed amendment is for the westerly Building #5 only.

The site plan amendment is brought before the Board to allow an opportunity for a public hearing and the Board to review and vote on the amendment to the previous plan with slight alterations to the access and parking and architecture. The remaining conditions of approval for P18-37 would still apply. The Board should review the proposed materials with the applicant at the meeting.

FX Bruton, Bruton & Berube represented the application.
The proposal is a minor alteration to the plan. He handed out a document which explains the changes.

K. Pimental asked what is the reason for reducing the number of units with the need for housing so great.
Mr. Bruton explained this developer is more familiar and interested in building the newly proposed style of structure which he has built before.

Motion: F. Torr moved to accept and declared no regional impact for the application. Seconded by D. Shanahan. Vote: U/A.

Public hearing opened.
No one spoke
Public hearing closed.

Chair Cruikshank asked if the photo shown tonight is an exact rendering of the proposal.
Eric Katz, developer explained the new proposal is for condo ownership where the previous approval was for apartments. These units are a little bigger. This will be the 20th building of this style they have built and will be built as shown in the updated photo presented tonight.

STAFF RECOMMENDATION:
§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. This plan is consistent with those regulations.
The Planning Department recommends the Planning Board vote to approve the Site Plan amendment with the following conditions, as the plans meet the standards outlined:

Conditions to Be Met Prior to Signing of Plans:
1. The applicant shall provide the Planning Department with a digital version of the final plan set.
2. Provide a CAD file to the satisfaction of the Asset Management Administrator's satisfaction.
3. The applicant shall revise the plan set to:
   3.1. Add owner's signatures;
   3.2. Add 2" x 2" Planning Board approval block;
   3.3. Add all professional signatures and stamps for each submission;
   3.4. Add materials to building elevations.
   3.5. Replace architectural rendering with one less pixelated.
   3.6. Update landscape plan and building floor plans to match amended site plan including egresses, bike rack location, sidewalk connections, and lighting changes.
   3.7. Update grading plan to provide ADA compliant grades in accessible parking spaces and accessible routes
   3.8. Update utility plan to show connections to previously installed utilities.
   3.9. Note all previous conditions of approval for P18-37 are still in place.

Motion: F. Torr moved to approve the Site Plan Amendment with the recommended conditions. Seconded by H. Harmon. Vote: U/A

D. Consideration and acceptance of an amendment to a previously approved Site Review for Little Bay Development, LLC., Assessor's Map 8, Lot 9, zoned LBW, and located at 5 Little Bay Dr. (Proposal is to revise the building elevation of the marina building to increase the living area of the existing dwelling unit by increasing the building height from two (2) to three (3) stories.) *(P19-04B)

D. Benton explained the proposed amendment is to add an additional story to the mixed use building identified as 5 Little Bay Drive containing the retail use and accessory apartment unit. She further informed the board of the previously approved site plan (P19-04A) as a condominium development containing 25 units plus marina/marina office with one (1) accessory apartment and 27 parking spaces. This project was previously approved by the Planning Board for TDR (P18-41), then received site plan approval (P19-04), then amended to add 2 units (P18-41A), and then received approval relocate 2 units (P19-04A), and is now seeking to have the marina building with accessory apartment be 3 stories instead of 2 as previously presented to the Planning Board.

The site plan amendment was below the threshold for TRC review but was a significant enough of a change that staff wanted the Planning Board to hold a public hearing and vote.

Tim Noonan, managing partner for Little Bay Development LLC represented the application and was available for questions. The rest of the proposed and approved project includes 3-story buildings so this would mirror those designs. The footprint would not change- only the height. There is no opposition from the neighbors- in fact a letter of support was sent in by the neighbors.

Board members asked some clarifying questions which Mr. Noonan answered.

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Motion: F. Torr moved to accept and declared no regional impact for the application. Seconded by K. Mavrogeorge. Vote: U/A.
Public hearing opened.
D. Benton noted two emails which came into the office:

- Ann Shine and Kevin Callaghan in opposition to the added floor.
- The abutters (Blackwells) sent in a letter of support included in the packet

Public hearing closed.

STAFF RECOMMENDATION:
§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. The proposed amendment does not add additional uses or units and is consistent with the regulations and prior Planning Board approvals.

The Planning Department recommends the Planning Board vote to approve the Site Plan amendment with the following conditions, as the plans meet the standards outlined:

Conditions to Be Met Prior to Signing of Plans:
1. The applicant shall provide the Planning Department with a digital version of the final plan set.
2. The applicant shall revise the plan set to:
   2.1. Add owner's signatures;
   2.2. Add 2" x 2" Planning Board approval block to lower corner
   2.3. Add all applicable professional signatures and stamps;
   2.4. Add note that all previous conditions of approval still apply.

Motion: F. Torr moved to approve the Site Plan Amendment with the recommended conditions. Seconded by H. Harmon. Vote: U/A

F. Torr suggested newer board members go to the property to take a look if they weren't at the original site walk. There has been major improvement to the site.

The Vice Chair noted Items 4E & F will be heard together.

E. Consideration and acceptance of a Conditional Use Permit for Knox Marsh Development LLC., Assessor's Map 28, Lot 7, zoned G, located at 757 Central Avenue. (Proposal is to allow a frontage build-out of 57.5% where 60% is required.) *(P22-17)
F. Consideration and acceptance of a Site Review using Transfer of Development Rights for Knox Marsh Development LLC., Assessor's Map 28, Lot 7, zoned G, and located at 757 Central Avenue. (Proposal is to construct two (a 4-unit & a 2-unit) multi-family buildings on a site with an existing single-family home. Three (3) of the seven (7) proposed units are to be purchased through TDR.)*(P22-15)

D. Benton introduced the proposal seeking to further develop a 0.45 acre under developed lot containing a single family residence in the Gateway District by constructing a duplex and four unit townhouse building. The proposed development requires three (3) of the proposed units through the Transfer Development Rights (TDR) process for density purposes.

Vehicular site access will be off of Abbey Sawyer Memorial Drive. Streetscape and sidewalk improvements are proposed adjacent to Central Ave. A CUP (P22-17) is requested for frontage buildout along Central Ave and Abbey Sawyer Memorial Drive. The property is to be serviced by City Water and Sewer.

She also described the Conditional Use Permit sought by the applicant for frontage buildout in the Gateway District. She also stated the applicant is seeking two waivers for site specific soils and lighting uniformity ratio.

Christopher Berry, Berry Surveying and Engineering represented the applications. He explained the project including layout, stormwater and amenities ironed out through TRC process.

The buffer reduction request was explained and discussed with staff as to whether it's even needed for this project.

Motion: F. Torr moved to accept and declared no regional impact for the applications. Seconded by K. Pimental. Vote: U/A.

Public hearing opened.
No one spoke
Public hearing closed.

Summary of Waiver Requests:
The applicant seeks the following waivers:

§153:14.A.(3)(f)[2][c] Site Specific Soils Map (SSSM) due to the existing development on the parcel and the relatively small site the applicant believes using a Natural Resources Conservation Services (NRCS) soil mapping dataset as a substitute to a SSSM will not adversely affect stormwater calculation accuracy.

§153:14.E.(2)(b) Lighting uniformity ratio (5:1) due to the size and the shape of the site the applicant believes in order to achieve this ratio, additional light fixtures would have to be added which they believe would adversely affect abutting residences and contrary to the intent of the lighting requirements.

STAFF RECOMMENDATION-Waivers:
Section 153-21 of the Site Plan Review Regulations state the "Planning Board may waive specific provisions of these regulations. The Planning Board may only grant a waiver if the Planning Board finds, by majority vote, that:
(1) Strict conformity would pose an unnecessary hardship to the applicant and the waiver would not be contrary to the spirit and intent of the regulations; or
(2) Specific circumstances relative to the subdivision, or conditions of the land in such site plan, indicate that the waiver will properly carry out the spirit and intent of the regulations."

The Planning Department recommends the Planning vote to grant the waivers with the following condition:

Condition to be Met Prior to the Signing of the Plans:
1. Add a note to plan that the Planning Board approved waivers for §153:14.E.(2)(b) Lighting uniformity ratio (5:1) and §153:14.A.(3)(f)[2][c] Site Specific Soils Map and that the criteria for Chapter 153-21 have been met.

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Motion: F. Torr moved to grant the waivers and that §153-21 requirements have been met. Seconded by: D. Shanahan. Vote: U/A.

STAFF RECOMMENDATION-TDR:
§170-27.2 provides for additional density to be purchased through Transfer of Development Rights.

The Planning Department recommends the Planning Board vote to grant the TDR request of purchasing 3 units by finding the criteria of the TDR ordinance has been met with the following conditions:

Condition to be Met Prior to Granting of TDR:
1. Payment of the TDR Fees

Motion: F. Torr moved to approve the Transfer Development Rights application with the recommended condition. Seconded by D. Shanahan. Vote: U/A

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

Planning staff finds that the Conditional Use Permit request is reasonable due to the following:
- The existing development is non-conforming to many standards of the Gateway District and is not in the intended spirit of the district. The proposed development significantly improves zoning conformity.
- The proposed development supports the intent of the Gateway District and meets criteria set forth in §170-20.B(1).
- The proposed development significantly improves the streetscape along Central Ave.

The Planning Department recommends the Planning Board vote to grant the Conditional Use Permit with the following conditions, as the plans meet the standards outlined.

Conditions to Be Met Prior to Issuance of Conditional Use Permit:
1. A Development Agreement per Chapter 170-27.B(3) be signed and recorded at the Strafford County Registry of Deeds.
2. The Site Plan (P22-15) shall be approved.

Motion: D. Shanahan moved to approve the CUP application with the recommended conditions. Seconded by K. Mavrogeorge. Vote: U/A

STAFF RECOMMENDATION-Site Plan:
The Planning Department recommends the Planning vote to approve the Site Plan with the following conditions, as the plans meet the standards outlined:
1. Conditional Use Permit (P22-17) be approved;
2. The applicant shall provide the Planning Department with a digital version of the final plan set;
3. Provide a CAD file to the satisfaction of the Asset Management Administrator;
4. The applicant shall revise the plan set to:

4.1. Add owners' signatures;
4.2. Revise indicated black chain link fence with slats to the satisfaction of the Planning Director;
4.3. Add note to plan regarding TDR being utilized and if any size restrictions are to be used;
4.4. Add CUP (P22-17) approval note.

5. Provide draft deeds, lease, or COA documents to the satisfaction of the Planning Director to be reviewed in consultation with the City Attorney. Said documents should discuss long term operation and maintenance, common areas, reserve amount, and TDR restrictions;
6. Provide letters to serve from utility providers;

Condition to Be Met Prior to any Construction:

7. A site construction sign with the contact information for the general contractor must be located and approved by the City Engineer and Planning Director.

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

8. Payment of Water & Sewer Investment Fees at the time of request for service;
9. The applicant shall provide payment for active and passive recreation.

Conditions to Be Met Prior to Occupancy:

10. Issuance of the Certificate of Occupancy.
11. The applicant shall pay impact fees according to the invoice attached to the Notice of Decision.
12. The Engineer of Record go over any operation and maintenance needs with owner at the time.

Motion: K. Mavrogeorge moved to approve the Site Plan application with the recommended conditions. Seconded by D. Shanahan. Vote: U/A

5. STAFF COMMENTS

- *TRCs since last meeting*:
  - Site Review for Storage Barn, LLC, located at Production Drive. (Proposal is to construct five (5) storage buildings totaling 12,000 sf). A CUP for wetland impact will also appear before the Planning Board. (P22-50);
  - Site Review for Michael Robinson, located at 6 Trask Drive. (Proposal is to pave 5,400 sf of private driveway)(P22-49); and
  - Site Review for Weave Filtration, LLC., (located at Quality Way. (Proposal is to construct a 23,125 sf building for manufacturing with office space). A CUP for wetland impact will also appear before the Planning Board. (P22-47).
- *Upcoming TRCs:*
  - Site Review for Knox Marsh Development LLC., zoned Gateway & R-12, located at 36 & 38 New Rochester Road. (Proposal is for construction of six single family homes behind the existing single-family homes for a total of 8 units);
  - Site Review for Tolwood Realty Group LLC, zoned CBD- Mixed Use, located at 53 Silver Street. (Proposal is for the construction of a residential building containing three (3) townhouse style units partially developed within a portion of the existing parking lot to the rear of the commercial office building.); and
  - Site Review for Storage Barn, LLC, (Owner: TSB Properties, LLC.) zoned IT, located at Production Drive. (Proposal is to construct five (5) storage buildings totaling 12,000 sf). CUPs for use and wetland impact will also appear before the Planning Board. (P22-50)
  - Site Review for Pope Memorial Humane Society on County Farm to add a pavilion.

DRAFT

- Staff are finalizing the Steering Committee for the Vision Chapter of the Master Plan and hope to have those appointed in August by the Planning Board Chair.
- Staff have received applications for the alternate vacancies and they are expected to be filled soon.
- New permitting software launched July 1st. Plans will be filed electronically.
- The Planning Department Staff would also like to congratulate Erinn Reville Kaspari on her dissertation defense.
- The Planning Department Staff would also like to congratulate Mike Asciola on getting his AICP officially today.

6. MEMBER COMMENTS

- K. Pimental
    - Relay to DPW: trees hanging over are blocking the light at Oak St and Rt 4
    - NHMA has a webinar tomorrow on grants program as part of INVESTNH
- Chair read lot merger for Littleworth Road and signed it with consensus of the board
- Chair Cruikshank noted that S. George resigned from the Planning Board.

7. ADJOURNMENT

Motion: K. Pimental moved to adjourn at 8:29 pm. Seconded by M. K. Mavrogeorge. Vote: U/A

DRAFT

CITY OF DOVER

PLANNING BOARD - STAFF MEMO FILE #P22-15

Application Type:	TDR Site Review
Applicant(s):	Knox Marsh Development LLC
Owner(s):	Knox Marsh Development LLC
Location:	757 Central Avenue (Tax Map 28, Lot 7)
Meeting Date:	July 26, 2022

INTENT: To construct one (1) 4-unit multi-family and one (1) duplex buildings utilizing TDR (requesting three (3) units to be purchased) with parking under the structure as well as purchase the existing single-family home.

AGENDA ITEM #: 4-F

UNITS PROPOSED: 7 (4-plex & duplex) + existing SFR

ACREAGE: 0.45± acres

ZONING DISTRICT: Gateway, Conservation District Overlay (20% slope)

EXISTING LAND USE: Single family residence

PROPOSED LAND USE: Residential (Multi-family)

SURROUNDING LAND USE: - Residential, mixed use, commercial, vacant land, Wentworth-Douglass Hospital, Garrison Hill Park

ZBA ACTION: None

PERMITS REQUIRED: (P22-17) CUP for Frontage Build-out

WAIVERS REQUESTED:
-§153:14.A.(3)(f)[2][c] Site Specific Soils Map
-§153:14.E.(2)(b) Lighting uniformity ratio (5:1)

TRC: March 17, 2022 & June 16, 2022

APPLICATION IS COMPLETE: Yes

ATTACHMENTS: Application materials, Site & Architectural Plan Sets, Traffic analysis

Summary of Request and Background
The applicant is seeking to further develop a 0.45 acre under developed lot containing a single family residence in the Gateway District by constructing a duplex and four unit townhouse building. The proposed development requires three (3) of the proposed units through the Transfer Development Rights (TDR) process for density purposes.

Vehicular site access will be off of Abbey Sawyer Memorial Drive. Streetscape and sidewalk improvements are proposed adjacent to Central Ave. A CUP (P22-17) is requested for frontage buildout along Central Ave and Abbey Sawyer Memorial Drive. The property is to be serviced by City Water and Sewer.

Summary of Waiver Requests:
The applicant seeks the following waivers:

§153:14.A.(3)(f)[2][c] Site Specific Soils Map (SSSM) due to the existing development on the parcel and the relatively small site the applicant believes using a Natural Resources Conservation Services (NRCS) soil mapping dataset as a substitute to a SSSM will not adversely affect stormwater calculation accuracy.

§153:14.E.(2)(b) Lighting uniformity ratio (5:1) due to the size and the shape of the site the applicant believes in order to achieve this ratio, additional light fixtures would have to be added which they believe would adversely affect abutting residences and contrary to the intent of the lighting requirements.

The applicant is also requesting that as part of the TDR Request, the Planning Board grant relief to the 30' buffer requirement.

Consistency with Land Use Regulations -TDR
§170-27.2 provides for additional density to be purchased through Transfer of Development Rights.

Consistency with Land Use Regulations – Waiver
Section 153-21 of the Site Plan Review Regulations state the "Planning Board may waive specific provisions of these regulations. The Planning Board may only grant a waiver if the Planning Board finds, by majority vote, that:
(1) Strict conformity would pose an unnecessary hardship to the applicant and the waiver would not be contrary to the spirit and intent of the regulations; or
(2) Specific circumstances relative to the subdivision, or conditions of the land in such site plan, indicate that the waiver will properly carry out the spirit and intent of the regulations."

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

CITY OF DOVER

PLANNING BOARD - STAFF MEMO FILE #P22-15

Application Type:	TDR Site Review
Applicant(s):	Knox Marsh Development LLC
Owner(s):	Knox Marsh Development LLC
Location:	757 Central Avenue (Tax Map 28, Lot 7)
Meeting Date:	July 26, 2022

Consistency with Land Use Regulations – Site Plan
§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. This plan is consistent with those regulations.

Planning staff believes the proposed development meets the intent and spirit of the Gateway District by providing dense infill development which improves the streetscape of Central Avenue close to the CBD and urban center. The design of the development manages the increased density purchased through TDR and is in harmony with the neighborhood. Site design requirements were met unless waivers or CUPs were sought.

STAFF RECOMMENDATION-TDR:
The Planning Department recommends the Planning Board accept the application, open the public hearing, and vote to grant the TDR request of purchasing 3 units by finding the criteria of the TDR ordinance has been met with the following conditions:

Condition to be Met Prior to Granting of TDR:
1. Payment of the TDR Fees

STAFF RECOMMENDATION-Waivers:
The Planning Department recommends the Planning vote to grant the waivers with the following condition:

Condition to be Met Prior to the Signing of the Plans:
1. Add a note to plan that the Planning Board approved waivers for §153:14.E.(2)(b) Lighting uniformity ratio (5:1) and §153:14.A.(3)(f)[2][c] Site Specific Soils Map and that the criteria for Chapter 153-21 have been met.

STAFF RECOMMENDATION-Site Plan:
The Planning Department recommends the Planning vote to approve the Site Plan with the following conditions, as the plans meet the standards outlined:

Conditions to Be Met Prior to the Signing of Plans:
1. Conditional Use Permit (P22-17) be approved;
2. The applicant shall provide the Planning Department with a digital version of the final plan set;
3. Provide a CAD file to the satisfaction of the Asset Management Administrator's satisfaction;
4. The applicant shall revise the plan set to:
   4.1. Add owners' signatures;
   4.2. Revise black chain link fence with slats to the satisfaction of the Planning Director;
   4.3. Add note to plan regarding TDR being utilized and if any size restrictions are to be used;
   4.4. Add CUP (P22-17) approval note.
5. Provide draft deeds, lease, or COA documents to the satisfaction of the Planning Director to be reviewed in consultation with the City Attorney. Said documents should discuss long term operation and maintenance, common areas, reserve amount, and TDR restrictions;
6. Provide letters to serve from utility providers;
7. Payment of the TDR fees.

Condition to Be Met Prior to any Construction:
8. A site construction sign with the contact information for the general contractor must be located and approved by the City Engineer and Planning Director.

Conditions to Be Met Prior to Issuance of a Building Permit:
9. Payment of Water & Sewer Investment Fees at the time of request for service;
10. The applicant shall provide payment for active and passive recreation.

Conditions to Be Met Prior to Occupancy:
11. Issuance of the Certificate of Occupancy.
12. The applicant shall pay impact fees according to the invoice attached to the Notice of Decision.
13. The Engineer of Record go over any operation and maintenance needs with owner at the time.

BERRY SURVEYING & ENGINEERING
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crberry@metrocast.net

February 22, 2022 / Rev: July 13, 2022

City of Dover
Attention: Donna Benton, Director of Planning and Community Development
288 Central Ave
Dover, NH 03820

Re: TDR Site Plan
Knox Marsh Development LLC
757 Central Ave
Tax Map 28, Lot 7
Dover File #P22-15

Dear Mrs. Benton,

On behalf of our client Knox Marsh Development LLC, Berry Surveying & Engineering (BS&E) is submitting a proposed TDR Site plan for 757 Central Ave.

Background and General Narrative:

Knox Marsh Development LLC, owns the parcel known as 757 Central Ave in Dover, NH (Tax Map 28, Lot 7). Berry Surveying & Engineering has conducted an on-site survey of the parcel which includes a topographic analysis as well as a wetlands analysis. No wetlands were found on site as determined by Deidra Benjamin CWS. The site contains an historical single-family structure, which is accessed from Central Ave., with two driveway curb cuts which loop around the rear of the site. The site sits on the corner of Abbey Sawyer Memorial Drive and contains 0.45 acres. On the south there exists an existing white vinyl fence which is owned by the abutting land owner. The north side of the site, abutting Abbey Sawyer, contains woodland as does the rear of the site. The rear of the site contains slopes that are greater than 20%, however the land mass on the site which contains the slope is less than 2,000 Sq.Ft. The site is located in the Gateway District. There are no other overlays which affect the project site.

The Proposal:

The Gateway District permits the establishment of residential housing in a multifamily format with a maximum density requirement of one unit for every 4,000 Sq.Ft., free of wetlands. To develop a site which conforms closely with frontage build-out

requirements, additional building and density is required above what is permitted in the underlying zone. The unit density that is permitted on site using the Gateway requirement is 4.9 residential units, which rounds to 4 units, with one of those units being the existing single-family home on site. The applicant is requesting to purchase 3 additional units through the Transfer of Development Rights (TDR) program. The purchase will allow for the construction of a 2 unit multi-family building, which will contain two bedroom units to be constructed along the frontage of Central Ave. The proposed architecture of this building was taken from many of the surrounding structures keeping with a colonial style streetscape. The additional 4 units will be used to construct a multi-family structure in a townhouse style format. The chosen building design works with the topography on site, allowing the building to be benched into the slope. This style building also provides for parking under the structure, which increases the availability for building coverage and reduces the need for at grade parking. The private driveway will be known as Goose Tail Drive.

The TDR request also proposes to remove the 30' buffer required by the TDR. In this case the buffer is not needed to abutting land owners whereas they are either remote to the site or commercial in nature.

Access to the site is modified through this design to remove both of the current driveways on Central Ave. in favor of one main access point off the low volume Abbey Sawyer Memorial Drive. The curbing and sidewalk panels will be replaced along Central Ave. at the former driveway locations, which will create a more congruent sidewalk at the front of the site, increasing the pedestrian safety in the area. Access to the existing structure will be taken from the rear parking area, however pedestrian accesses are created for both structures to the sidewalk along Central Ave. The area between the buildings is proposed to be landscaped and lighted to invite pedestrian use to the surrounding amenities.

Street scape is enhanced through the use of landscaping, hardscaping and typical urban amenities. The existing tree found along the southern boundary is proposed to remain and project design was careful to be as far from the root structure as practical. Bushes and ornamental grasses are used at the front of the site and at proposed walk areas to create an inviting entrance, while flower beds are used to fill in smaller areas so as to not over power the site with shrubbery. The rear of the site, due to the intensity of use, has less opportunity for larger landscaping features. It does, however, provide space for flower beds and lower bushes to soften the feel of the entrance areas, creating an inviting residential nature to the rear of the project.

Water utility and power utility is proposed to be taken from Abbey Sawyer Memorial Drive. Water utility is proposed to be a 6" CLDI line which is then run to a fire hydrant

at the end of Goose Tail Drive. A 2" fire line is run to the water closet for the townhouse for fire protection/will be sprinkled. Individual units receive a 1" water service with curb stop. Sewer is serviced via gravity to central Avenue. The proposed 2 unit building is currently 15' from the existing structure to remain. Central Ave and Abbey Sawyer Memorial Drive are considered fire lanes whereas the furthest corner from either roadway is 124'. The drive aisle is less than 150' in length so no turn around is required, though it is designed to be 20' in width for accessibility. "No Parking" signs are placed where appropriate. Dover T1 Fire Truck turning template into the site is provided within the plan set. There is a hydrant on the opposite corner of Old Rollinsford Road, which 370'+/- from the southerly corner of the project site.

Stormwater is collected in catch basins and a slot drain on site and routed to an underground sand filter for attenuation and treatment. Off site flow is routed around the buildings and around the sand filter and discharged directly to the municipal system. Existing flows from the site as well as some off-site flows enter the municipal system at the catch basins at the front of the project site.

The project requires the following approvals:

- TDR Approval for the purchase of 3 units and the removal of the 30' buffer.
- Waiver to the requirement for site specific soils mapping and lighting uniformity ratio
- CUP for Frontage Build-Out
- Site Plan Approval.

Respectfully Submitted,
BERRY SURVEYING & ENGINEERING

Christopher R. Berry
Principal, President

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18. AMENDMENT

Chapter 170 entitled "Zoning" is hereby amended by revising Section 170-27.2, "Transfer of Development Rights", to read as follows:

(8) 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 narrative shall be submitted indicating how the following criteria are met.~~

(a) Is consistent with the Master Plan

(b) Is compatible with the land uses on neighboring LOTs (e.g. a multifamily building fits in within 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.

19. AMENDMENT

Chapter 170 entitled "Zoning" is hereby amended by revising Section 170-32, "Sign Review and Regulations", to read as follows:

C. General provisions. All SIGNs shall conform to the following regulations:

(1) SIGN Location. SIGNS shall relate only to the premises upon which they are located, excluding TEMPORARY SIGNs as regulated in Subsection O.

(2) All SIGNs shall be constructed, erected and maintained so as not to present a hazard to persons and property.

(3) All SIGNs shall be erected in such a manner so as not to obstruct free and clear vision along or onto a public right-of-way.

(4) All SIGNs shall be erected in such a manner so as not to obstruct the view of, be confused with or mistaken for any authorized traffic SIGN, signal or like device.

(5) The illumination of any SIGN shall be nonflashing; spot or floodlights shall be arranged so that the direct rays of light do not shine or reflect directly into adjacent properties or the line of vision of a motorist.

(a) FLASHING SIGNs are prohibited.

(b) Illuminance of the SIGN face shall not exceed the following standards:

(i) EXTERNAL ILLUMINATION: fifty (50) foot-candles as measured on the SIGN face.

(ii) INTERNAL ILLUMINATION: five thousand (5,000) nits (candelas per square meter) during daylight hours, and five hundred (500) nits between dusk and dawn, as measured at the SIGN's face.

(iii) DIRECT ILLUMINATION: five thousand (5,000) nits during daylight hours, and five hundred (500) nits between dusk and dawn, as measured at the SIGN's face.

CITY OF DOVER

PLANNING BOARD - STAFF MEMO FILE #TRAN-2023-0004

Application Type:	Transfer of Development Rights
Applicant(s):	Heron Bay Partners, LLC
Owner(s):	Heron Bay Partners, LLC
Location:	Cielo Drive (Assessor's Map H, Lot 4)
Meeting Date:	November 14, 2023

INTENT: Proposal is to develop 56 residential units in a townhouse development. TDR is requested for 20 of the 56 units. The units are intended to be age restricted at the request of the applicant but no TDR size or HUD restrictions.

UNITS PROPOSED: 56 Units (20 TDR)

AGENDA ITEM #: 4-D

ACREAGE: 9.6 ±acres

ZONING DISTRICT:
IT, RCM Overlay & Secondary Groundwater Protection

EXISTING USE: SFR and Duplex Residential Condominium Development with Club House

PROPOSED USE: Eight (8) building multi-family development

SURROUNDING USE: Retail, Residential, Industrial, Vacant, Utility Easement

ZBA ACTION: N/A

ATTACHMENTS: Application materials including site plan

APPLICATION IS COMPLETE: Yes

REGIONAL IMPACT: No

NOTICES SENT: Abutter notices were sent by certified mail to all abutters for this meeting

PERMITS REQUIRED:
NHDES AOT, Sewer Discharge, DWGB Permits; - Natural Heritage Bureau (NHB); - Department of Historical Resources (DHR); US EPA NOI & SWPPP;
PB - TDR Site Plan, Subdivision, & CUP Amendment

TRC: April 28 & June 30, 2022

Summary of Request and Background
The applicant is proposing to construct fifty-six (56) residential townhouse units in a series of eight (8) buildings. Twenty (20) of the units are to be achieved by acquiring Transfer Development Rights (TDR) which would not be restricted in size or HUD rates and therefore would require the full TDR fee. There was a previous request for 52 TDR units however the applicant has completed a new yield plan that indicates 20 units would need to be purchased through the TDR ordinance.

The proposal is a to amend a previously approved Site Plan Approval dated 12/20/2011 allowing a total of seventy-two (72) residential units (single family homes, duplexes, and triplexes) and seventy-two (72) congregate care units between two (2) buildings. To date sixty-nine (69) of the residential units have been constructed. The applicant is proposing an age restriction on the proposed units, however, there are no requirements or standards in the City's Site Plan Regulations that relate to age restricting the development.

The development will create a new private road (Windsor Dr.) which will be part of a private roadway system which connects to Durham Rd. and Mast Rd. It will be serviced by public water and sewer. Twenty-two stand-alone parking spaces are provided in two areas for visitors and guests.

This application was most recently before the Technical Review Committee on June 30, 2022 (minutes attached).

This site plan had been reviewed and approved by Planning Board but the approval expired so they are coming back for another review and vote.

Summary of Waiver Requests:
The applicant seeks a waiver of the no-cut, no-disturb 30' perimeter buffer requirement of §170-27.2.G.(7) in the area of the frontage along Cielo Drive (creating a streetscape) and the parking lot area which is adjacent to another small parking array off of Cielo Drive due to the characteristics and circumstances of the subject parcel related to the previously approved development. Parameter buffers of the original development on adjacent parcels (following subdivision) are still in place.

Consistency with Land Use Regulations –Waiver/Relief
Section 153-21 of the Site Plan Review Regulations state the "Planning Board may waive specific provisions of these regulations. The Planning Board may only grant a waiver if the Planning Board finds, by majority vote, that:

(1) Strict conformity would pose an unnecessary hardship to the applicant and the waiver would not be contrary to the spirit and intent of the regulations; or

(2) Specific circumstances relative to the subdivision, or conditions of the land in such site plan, indicate that the waiver will properly carry out the spirit and intent of the regulations."

and requirements is not contrary to the spirit or intent.

STAFF RECOMMENDATION - Waivers/Relief:
The Planning Department recommends that the Planning Board accept the application as complete, note it is not of regional impact, hold a public hearing, 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 waiver for the road grade within 75' of an intersection standard of §157-32.G and found that the criteria of Chapter 153-21.A have been met.

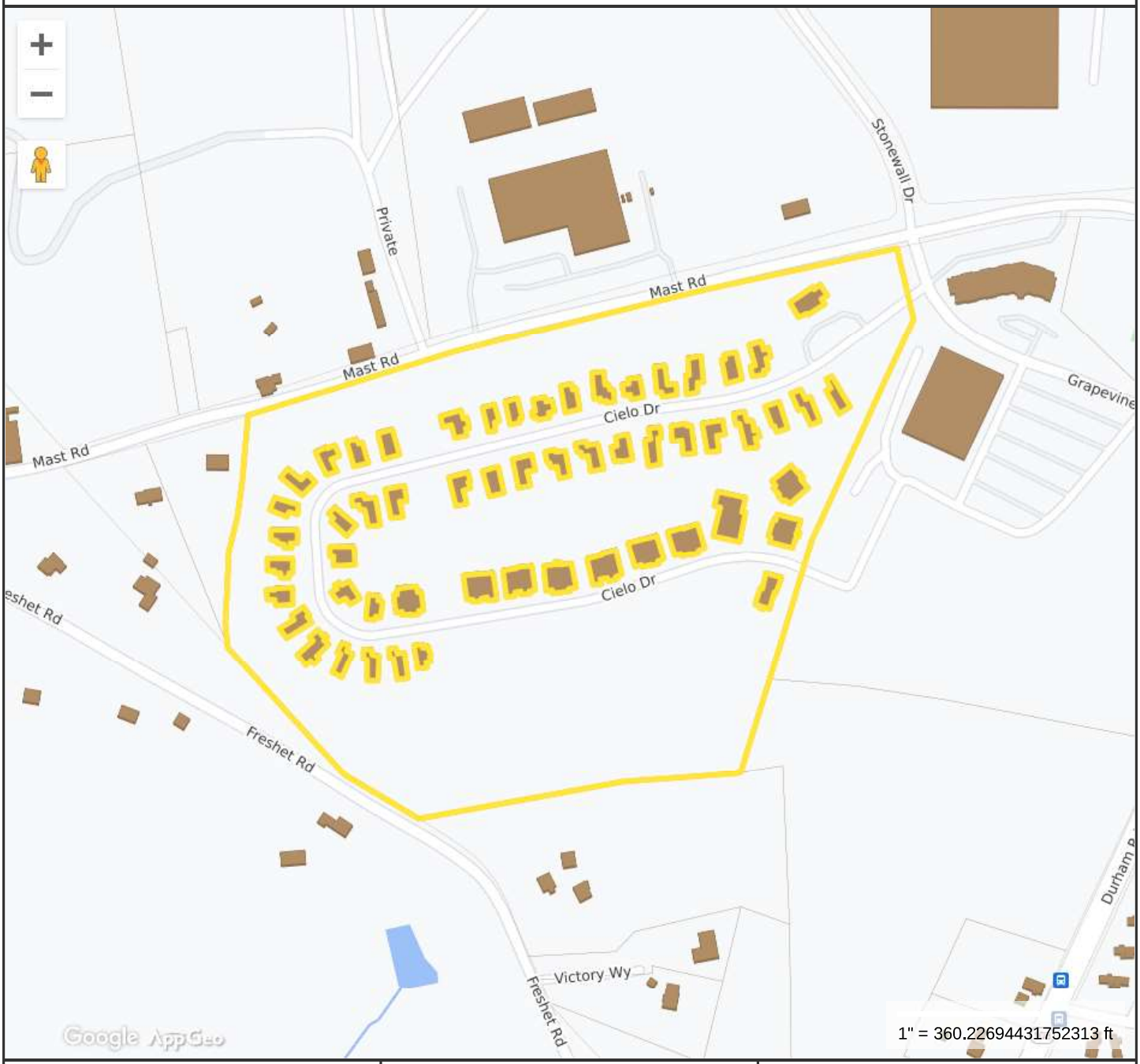
Consistency with Land Use Regulations - TDR
§170-27.2 provides for additional density to be purchased through Transfer of Development Rights. This application meets the ordinance.

STAFF RECOMMENDATION - TDR:
The Planning Department recommends that the Planning Board vote to find the criteria of the TDR ordinance has been met with the following subsequent conditions:

Subsequent Conditions to Be Met Prior to Granting of the TDR:
1. Approval of Site Plan (SITE-2023-00016) and approval of the one lot subdivision (SUBM-2023-0006);
2. Add note to the plan that no additional dwelling units may added to the property without Planning Board approval and note number of TDR units approved; and
3. Payment of TDR fees for each TDR unit approved.

Planning Staff believes the applicant's rational for the waiver meets both criterion and waiving such standards

TRAN-2023-0004 Cielo Drive



Property Information

Property ID	H0004-000000
Location	CIELO DR
Owner	HERON BAY PARTNERS LLC
Land Use	386
Zoning Code	IT

MAP FOR REFERENCE ONLY
NOT A LEGAL DOCUMENT

City of Dover, NH makes no claims and no warranties, expressed or implied, concerning the validity or accuracy of the GIS data presented on this map.

Geometry updated 10/30/2023
Data updated Daily

Print map scale is approximate. Critical layout or measurement activities should not be done using this resource.

CITY OF DOVER

DOVER PLANNING BOARD – MINUTES

Meeting Type:	Regular Meeting
Meeting Location:	City Council Chamber's 288 Central Avenue
Meeting Date:	**Tuesday, November 14, 2023**
Meeting Time:	**7:00 pm**

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

K. Pimental called the meeting to order at 7p.m, explained the citizens' forum process and noted that M. Speidel would Vice Chair and that G. DeBoer would sit in for Hayley Harmon.

1. CITIZENS' FORUM

Citizens Forum Open
No one spoke
Citizens Forum Closed

2. APPROVAL OF THE PRIOR MINUTES

- October 24, 2023 Regular Meeting Minutes

Motion F. Cullen moved to approve October 24, 2023 as amended. Seconded by: T. Clark. Vote: U/A

3. OLD BUSINESS

None

4. NEW BUSINESS

A. Consideration and acceptance of a Conditional Use Permit for A & H Welding Academy (Owner: Carlton Realty, LLC), Assessor's Map D, Lot 14-3B, zoned IT, located at 69 Venture Drive. (Proposal is the start-up of a welding school with ten (10) welding booths and a large classroom to teach students). *(COND-2023-0057)

D. Benton explained that the applicant is proposing to open a welding school at 69 Venture Drive. This type of use requires a Conditional Use Permit per the Zoning Ordinance which can be granted after two criteria have been met. However, as part of an Industrial Park and depending on the size of the change of use, additional review by Dover Business and Industrial Development Authority (DBIDA) and the Technical Review Committee (TRC) are suggested as precedent conditions of approval.

This application was not reviewed by the Technical Review Committee.

Adrian Hill, A&H Welding Academy represented the application and discussed the need for the CUP and that they meet the criteria of the school being a trade, vocational, career technical school and accredited by NH.
The course is a six-month course to teach the skill of welding. Various certifications are available to receive. Operating hours are 7am-3:30pm Monday through Friday.

Board members asked clarifying questions.
Mr. Hill clarified that they will be an approved trade school before they start, but in order to get accredited by the state, they have to run the school for two years.

F. Cullen commented that he believes the applicant meets the intent of the criteria and would not want the accreditation criteria to be a barrier towards the applicant's progress. M. Speidel agreed.

Jesse Anderson, A&H Welding Academy, noted they will be a licensed secondary trade school through NH immediately once the building is set up and inspected.

The applicants further clarified there will be four courses offered and 10 students per course.

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

Public hearing opened
No one spoke
Letter from James Kenny, President of Sarnia Properties, 71 Venture Dr is not opposed to the school, but does not want the parking to affect his property.
Public hearing closed.
The applicants confirmed they have adequate parking on-site.

STAFF RECOMMENDATION:
The second page of the Innovative Technology (IT) Tables of Use provides the Conditional Use Permit Criteria for Educational Institution, Post Secondary:

A. The school is a trade/vocational/career technical school
B. The school is accredited by the State of New Hampshire

The Planning Department recommends that the Planning Board make findings, and vote to approve the Conditional Use Permit with the following precedent conditions:

Precedent Conditions to Be Met Prior to the Issuance of the Conditional Use Permit:

1. The applicant shall:
   a. Provide overall site plan to show any site changes to parking, lighting, landscaping, stormwater, number of employees, number of students for review with by the Technical Review Committee.
   b. Get endorsement from Dover Business and Industrial Development Authority.
   c. Provide proof that the school is licensed by the State of New Hampshire.
   d. Impact fees are paid as applicable prior to occupancy.
   e. Water and Sewer Investment fees, as applicable, shall be paid prior to renovations.
   f. Provide proof of accreditation by the State of NH after two years of operation.

Motion: F. Cullen moved to approve the Conditional Use Permit with precedent conditions as it meets the criteria of type of school and on a path to accreditation. Seconded by: G. DeBoer. Vote: U/A

B. Consideration and acceptance of a Site Review for Horizons Engineering, Inc. (Owners: Hellenic Realty Partners, LLC), Assessor's Map 2, Lot 19, zoned CBD-G, located at 333 Central Avenue. (Proposal is to convert 3,155 sf on 2nd floor space into 2 residential units and retain 1,875 sf for commercial space). *(SITE-2023-0014)

D. Benton explained the applicant is the applicant had previous approval for a mixed-use project in the former Fosters Daily Democrat building. The previously approved plan (P18-04) was amended (building façade, minor site changes) on October 9, 2018 (P18-04A). To fulfill one of the conditions of approval for the amendment, the applicant needed to come back to the Planning Board for a compliance hearing regarding architectural changes to the façade of the building which was held on December 11, 2018 (P18-04B). Then another amendment to add 14 residential units was conditionally approved by the Planning

Board on July 23, 2019 (P18-04C). Now the applicant is looking to convert approximately 3,155 s.f. on the second floor into 2 residential units and retain approximately 1,875 s.f. for commercial space.
The applicant is back for another amendment to allow 2 additional residential units to be built.
This application was reviewed by the TRC on October 12, 2023 (minutes attached).

George Kostis, Hellenic Realty and Mike Sievert, Horizons Engineering, represented the application.
Their plan when they purchased the property in 2018 was to keep the historic building and with that comes challenges. The property topography is such that one side of the building's first floor lines up with the third floor on the other side. They have tried to lease the building, but the feedback from interested parties in the post-COVID world is that the space is too large, and could it be subdivided?
They are now proposing to subdivide in a way where the front half would be commercial and visible from the street and the back half would divide into apartments.

The applicant answered some clarifying questions from board members.

Motion: M. Speidel moved to accept the application and declared no regional impact. Seconded by: E. Kaspari. Vote: U/A

Public hearing opened
No one spoke
Public hearing closed.

STAFF RECOMMENDATION:
Chapter 153-4 of the Site Review Regulations of the City Code provides for site review by the Planning Board of new construction or redevelopment of various types. This plan is consistent with those regulations.

The Planning Department recommends that the Planning Board make findings, and vote to approve the amendment to the site plan with the following subsequent conditions:

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

1. All conditions of approval from the December 11, 2018 meeting be met and July 23, 2019 shall be met.
2. The applicant shall provide:
   a. A digital version of plan set
   b. Copy of lease for 3-4 additional parking spaces off-site at lot 23/21 or alternative
3. The applicant must revise final plan set to:
   a. Add the owner's signatures to the final plat
   b. Add PE and Architect signatures and stamps to final plan
   c. Replace planning file number with SITE-2023-0014

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

4. The amended building shall be assessed and pay the current water and sewer investment fees in place at the time of application for service.

Subsequent Conditions to Be Met Prior to Occupancy:

5. Issuance of a certificate of occupancy.
6. Impact fees shall be paid per the invoice.

7. The applicant shall provide a letter of credit or other form of security acceptable to the City for any unfinished work.

Motion: F. Cullen moved to approve the Site Plan Amendment with subsequent conditions as it meets land use regulations. Seconded by: K. Mavrogeorge. Vote: U/A

The Vice Chair noted that Items 4C, D, & E would be heard together.

C. Consideration and acceptance of a Minor Subdivision for Berry Surveying & Engineering (Owners: Heron Bay Partners, LLC), Assessor's Map H, Lot 4, zoned IT, located at Cielo Drive. (Proposal is to subdivide 1 lot into a total of 2 lots). *(SUBM-2023-0006)

D. Consideration and acceptance of a Transfer of Development Rights for Berry Surveying & Engineering (Owners: Heron Bay Partners, LLC), Assessor's Map H, Lot 4, zoned IT, located at Cielo Drive. (Proposal is to purchase 20 units through Transfer of Development Rights). *(TRAN-2023-0004)

E. Consideration and acceptance of a Site Review for Berry Surveying & Engineering (Owners: Heron Bay Partners, LLC), Assessor's Map H, Lot 4, zoned IT, located at Cielo Drive. (Proposal is for the construction of 56 townhouses along Cielo Drive). *(SITE-2023-0016)

D. Benton explained that the applicant is requesting to construct fifty-six (56) residential townhouse units in a series of eight (8) buildings. Twenty (20) of the units are to be achieved by acquiring Transfer Development Rights (TDR) which would not be restricted in size or HUD rates and therefore would require the full TDR fee. There was a previous request for 52 TDR units however the applicant has completed a new yield plan that indicates 20 units would need to be purchased through the TDR ordinance.

The proposal is to amend a previously approved Site Plan Approval dated 12/20/2011 allowing a total of seventy-two (72) residential units (single family homes, duplexes, and triplexes) and seventy-two (72) congregate care units between two (2) buildings. To date sixty-nine (69) of the residential units have been constructed. The applicant is proposing an age restriction on the proposed units, however, there are no requirements or standards in the City's Site Plan Regulations that relate to age restricting the development.

It will be serviced by public water and sewer. This application was most recently before the Technical Review Committee on June 30, 2022 (minutes attached).

The first item is to subdivide lot H/4 into two lots, resulting in the creation of one new lot. The new lot is to be accessed from Cielo Drive. The lots are proposed to be serviced by municipal water and sewer.

The Planning Board had conditionally approved this request in September 2022, but their approval expired so the applicant is back with the same subdivision request and site plan. The CUP is still active. There are two waiver requests as well that the applicant can go into more detail on.

Christopher Berry, Berry Surveying and Engineering represented the application. He confirmed this is the same project approved last year with no changes. The TDR fee was not paid in time, so the approvals have lapsed. Tonight, they seek reapproval of the same project previously presented and approved. The request for TDR units is less, but the total units remains the same.

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

Public hearing opened
A letter was received from Richard Dolbec, 47 Cielo Drive which outlined questions about the subdivision of the lots, age restriction and regulations, parking and crosswalks.
Public hearing closed

Mr. Berry noted they have met with Mr. Dolbec and resolved the questions he has.
He confirmed for the board it is still an age restricted development and the amenities will be separate from the existing development.

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

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

Subsequent Conditions to Be Met Prior to Signing of Plans:
1. Provide physical and digital copies (including CAD) of complete plan set for recording at Strafford Country Registry of Deeds, which additionally shall include:
    1.1. The owner's signatures
    1.2. Include the Planning File #SUBM-2023-0006
    1.3. The stamp and signature of the LLS on the final plans
    1.4. Confirm lot numbering with City Assessor

Motion: M. Speidel moved to approve the Minor Subdivision with subsequent conditions set by staff and amended by the Planning Board. Seconded by: T. Clark. Vote: U/A.

STAFF RECOMMENDATION – Transfer of Development Rights Waivers:
The applicant seeks a waiver of the no-cut, no-disturb 30' perimeter buffer requirement of §170-27.2.G.(7) in the area of the frontage along Cielo Drive (creating a streetscape) and the parking lot area which is adjacent to another small parking array off of Cielo Drive due to the characteristics and circumstances of the subject parcel related to the previously approved development. Parameter buffers of the original development on adjacent parcels (following subdivision) are still in place.

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

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

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 waiver and found that the criteria of Chapter 153-21.A have been met.

Mr. Berry clarified for the board the need for this waiver and where on the property it applies.

Motion: T. Clark moved to grant the waiver with subsequent conditions set by staff. Seconded by: F. Cullen. Vote: U/A.

STAFF RECOMMENDATION-TDR:

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

STAFF RECOMMENDATION - TDR:

The Planning Department recommends that the Planning Board vote to find the criteria of the TDR ordinance has been met with the following subsequent conditions:

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

1. Approval of Site Plan (SITE-2023-0016) and approval of the one lot subdivision (SUBM-2023-0006);
2. Add note to the plan that no additional dwelling units may added to the property without Planning Board approval and note number of TDR units approved; and
3. Payment of TDR fees for each TDR unit approved.

Motion: T. Clark moved to grant the Transfer of Development Rights request with subsequent conditions set by staff. Seconded by: E. Kaspari. Vote: U/A.

STAFF RECOMMENDATION- SITE PLAN WAIVERS:

A waiver of §157-32.G: Road grade within 75' of an intersection is being sought for a grade greater than 4% on a collector road. The applicant proposes a 5% grade where Windsor Dr. intersects Cielo Dr. The applicant's original amendment proposal featured a designed cul-de-sac, which was replaced by a loop road to satisfy TRC comments from several departments to provide two points of access into the development.

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

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

Planning Staff believes the applicant's rationale for the waivers meets both criterion and waiving such standards and requirements is not contrary to the spirit or intent.

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 waiver for the road grade within 75' of an intersection standard of §157-32.G and found that the criteria of Chapter 153-21.A have been met.

Motion: F. Cullen moved to grant the waivers with subsequent conditions set by staff. Seconded by: T. Clark. Vote: U/A.

STAFF RECOMMENDATION – Site Plan:
§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. This plan is consistent with those regulations.

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. Final Approval of the revised CUP (P06-25G) and minor subdivision (SUBM-2023-0006);
2. Revise plan and resubmit for Final Planning Board signature with the following revisions:
   2.1. Add owner's signature;
   2.2. Add at least two windows to the ends of the townhouse buildings;
   2.3. Add architect stamp and signature to Architectural Plan Set; and

Subsequent Condition to Be Met Prior to Construction:
3. A site construction sign with the contact information for the general contractor must be displayed in a location approved by the City Engineer or Planning Director; and

Subsequent Conditions to Be Met Prior to Building Permit:
4. Payment of the water/sewer fees at time or request of service;
5. Development agreement has been recorded;

Subsequent Conditions to Be Met Prior to Occupancy:
6. Issuance of Certificate of Occupancy.
7. Payment of Impact Fees as noted in the invoice.
8. Surety or other form of security acceptable to the City is provided for any unfinished work.

Mr. Berry explained the payment timeline proposed by the applicant. D. Benton further explained the financing proposal and how it will be implemented. Board discussion ensued.

Motion: T. Clark moved to approve the site plan with subsequent conditions set by staff. Seconded by: F. Cullen. Vote: U/A.

5. STAFF COMMENTS

- CIP joint meeting will be at 7pm on the 29th
- Seacoast Workforce Housing Coalition Visionary Award recipient on the 30th.
- Housing Committee held its first meeting and will continue to meet monthly
- We have a conditional offer out to a Zoning Administrator candidate. Hopefully starting in a couple of weeks.
- TRCs since last meeting:

- Site Review for Stonefield Engineering & Design (Owners: Dover Retail Management, LLC & R W Realty Inc.), zoned Commercial, located at 1-3 Webb Place and Webb Place. (Proposal is for demolition of current building and constructing a 3,300-sf bank with a drive through ATM, (28) twenty-eight parking spaces. One (1) related Conditional Use Permit application would also appear before the Planning Board. (SITE-2023-0011 & COND-2023-0054)
- Site Review for Jared Lusk (Owners: Lionel R Jr & Kristina L Paradis), zoned IT and R-40, located at 180 Tolend Road. (Proposal is to construct and operate a 104' wireless telecommunications facility) (SITE-2023-0012)

- TRCs coming up:
  - Site Review for H.J. Stabile & Son, Inc, zoned G, located at Locust Street. (Proposal is to construct a Townhouse Condominium Complex of 22 units with associated parking & drainage. A Conditional Use Permit application would also appear before the Planning Board. (SITE-2023-0015)
  - Site Review for TF Moran (Owners 256-264 Central Avenue, LLC), zoned Central Business District, located at 256 & 264 Central Avenue. (Proposal is to replace gravel parking with 10,595 sf of paved parking related to their renovation of the buildings). (SITE-2023-0013)
  - Site Review for Knox Marsh Development, LLC, (Owner: Robert Baldwin), Assessor's Map 39, Lot 103, zoned Gateway, located at 34 New Rochester Road. (Proposal is to construct 6 duplex structures (12 units total) with the single-family dwelling to remain on the property). (SITE-2023-0007). [*This item was previously heard on October 12, 2023]*

6. MEMBER COMMENTS

- The amendment at the corner of Grove St (retaining wall) is ready for the Chair's signature.
- K. Pimental
  - Fosters building applicant noted 2,000 sq ft is optimal size for filling commercial space leases which is interesting. He wondered if the mixed used buildings which have remained vacant would benefit from subdividing the spaces.
- D.Benton answered questions about the Planning Board meeting schedule.

7. ADJOURNMENT

Motion: G. DeBoer moved to adjourn at 8:11pm. Seconded by K. Mavrogeorge. Vote: U/A

BERRY SURVEYING & ENGINEERING
335 Second Crown Point Road
Barrington, NH 03825
Phone: (603) 332-2863
Fax: (603) 335-4623
www.BerrySurveying.Com

City of Dover
Planning Office
Attn: Mrs. Donna Benton, Director of Planning and Community Development
288 Central Ave
Dover, NH 03820

November 29, 2023

Re: Notice of Decision Response
Berry Surveying & Engineering
Heron Bay Partners, LLC
Cielo Drive & Windsor Drive
Tax Map H, Lot 4
Dover File #SITE-2023-0016

Based on comments from the Conditions of Approval from November 14, 2023, we respectfully submit the following comments and revisions. Our comments are in **bold**.

Site Plan Waivers – Subsequent Conditions to Be Met Prior to the Signing of Plans:

1.) Add a note that the Planning Board approved waivers for (1) Partial relief from no cut no disturb 30' perimeter buffer requirement of Chapter 170-27.2.G.(7) in the area of the frontage along Cielo Drive and the parking lot area which is adjacent to another small parking array off of Cielo Drive; (2) The road grade within 75' of an intersection standard of Chapter 157-32.G and found that the criteria of Chapter 153-21.A have been met.
This has been added to the Overview Site Plan at the end of the Waiver Request Table.

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

1.) Final Approval of revised CUP (P06-25G) and minor subdivision (SUBM-2023-0006)
The required approvals has been received at this time.

2.) Revised plan and resubmit for Final Planning Board signature with the following revisions:
2.1) Add owners' signatures
Please find owner's signature on the cover sheet and recording plans.

2.2) Add at least two windows to the ends of the townhouse buildings
Please find revised architectural renderings.

2.3) Add architectural stamp and signature to the architectural plan set.
Please find revised architectural renderings.

Very truly yours,
BERRY SURVEYING & ENGINEERING

Christopher R. Berry
Principal, President

Kenneth A. Berry, PE, LLS
VP – Technical Operations

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CITY OF DOVER

PLANNING BOARD - STAFF MEMO FILE #P21-25

Application Type:	TDR Major Subdivision
Applicant(s):	Zeland Schwartz Revocable Trust
Owner(s):	Zeland Schwartz Revocable Trust
Location:	26.5 Bellamy Road (Tax Map H, Lot 14D)
Meeting Date:	June 22, 2021

INTENT: To subdivide one lot into five and increase residential units from 3 to 5 via a TDR subdivision (two being existing residential structures).

UNITS PROPOSED: 3 new

AGENDA ITEM #: 4-C

ACREAGE: 3.71 acres

ZONING DISTRICT: R-20

EXISTING LAND USE: Residential

PROPOSED LAND USE: Residential

SURROUNDING LAND USE: Residential, Bellamy River, Dover High School

ZBA ACTION: N/A

ATTACHMENTS: Application materials including subdivision plan, abutter list

APP. COMPLETE: Yes

DECLARE REGIONAL IMPACT: No

NOTICES SENT: Abutter notices were sent by certified mail to all abutters for this meeting

PERMITS REQUIRED: -
NHDES Shoreland Permit
-CUPs for steep slope and 100' Conservation District

WAIVERS REQUESTED:
-Traffic Impact (157-10.D)
-Block Length and Dead end streets (157-31.F and 32.J)
-Road width (157-47.A)
-allow ROW within the 30' no cut/no disturb buffer

Summary of Request and Background
The applicant is requesting to subdivide one lot into 5 using Transfer of Development Rights. The lots would be 0.36 acres, 0.91 acres, 0.63 acres, 0.75 acres and 0.52 acres. The site is proposed to be serviced by municipal water and sewer.

As a Major Subdivision, this application appeared twice before the TRC, most recently on April 22, 2021 (minutes attached). The Conservation Commission endorsed the CUP application on June 14, 2021 with the condition that the reforested area will remain undisturbed except for tree removal consistent with DES Shoreland rules.

The applicant is requesting the Board grant a waiver to Section 157-10.D to waiver the full traffic impact analysis, Section 157-31.F/32.J Block Length of Dead-end Streets to allow approximately 397' instead of the required 500', Section 157-47.A to allow a road width of 20' instead of 24'and to allow the right of way to be within the 30' no cut no disturb buffer.

This is a TDR subdivision. The Board will need to take three votes.

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

Chapter 157-51 states a waiver may be granted if the Board finds 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 subdivision, indicate that the waiver will properly carry out the spirit and intent of the regulations."
Staff believes criterion 2 has been met for this request.

STAFF RECOMMENDATION- TDR:
The Planning Department recommends that the Planning Board accept the TDR application for review, open the public hearing, and vote to grant the additional 2 units via Transfer of Development Rights with the following conditions:

1. Payment of TDR fees.
2. Add a note to the plat that the Board granted a waiver to Chapter 170-27.2.G(7) and 170-27.2.G(7)

STAFF RECOMMENDATION- Waivers:
The Planning Department recommends that the Planning Board accept the application for review, open the public hearing, and vote to grant the waivers with the following condition:

Condition to Be Met Prior to Signing of Plans:

1. Add a note to the plat that the Board granted a waiver to Chapter 157-10.D (traffic impact analysis), Chapter 157-31.F and 32.J (for road/block length), and Section 157-47.A (minimum road width) and that the

DOVER PLANNING BOARD – MINUTES

CITY OF DOVER

Meeting Type:	Regular Meeting, continued
Meeting Location:	City Council Chamber's 288 Central Avenue
Meeting Date:	**Tuesday, June 22, 2021**
Meeting Time:	**7:00 pm**

Members Present: Gina Cruikshank (Chair), Dennis Ciotti (Councilor), Steph George (Alternate), Mark Speidel (Alternate), Dave Landry, Jackson Kaspari, Dave White, Kyle Pimental, Hayley Harmon (Vice Chair), Erin Allgood (Alternate)
Members Not Present (excused): Tom Clark, Frank Torr
Members Not Present (un-excused): None
Staff Present: Christopher Parker, Assistant City Manager

Chair G. Cruikshank called the meeting to order at 7:00 p.m and noted Frank Torr and Tom Clark are absent, and Erin Allgood and Steph George will be sitting in. She also noted that the City of Dover has taken extra steps to ensure the physical location of this meeting conforms with all safety provisions during the pandemic, including social distancing, face coverings, and frequently sanitized facilities. Although qualified members of the public can participate in the meeting by speaking at the physical location, the public is encouraged to leave comments in advance by calling 516-MEET (6338), emailing Dover-Planning@dover.nh.gov, or mailing written comments to Planning Board, Dover City Hall, 288 Central Ave., Dover, NH 03820. Messages must be received no later than 4 p.m. the day of the meeting and should identify the name and Dover address of the person leaving the message or providing the comment.

1. CITIZENS' FORUM

Citizens Forum Open.
None
Citizens Forum Closed.

2. APPROVAL OF THE PRIOR MINUTES

May 25, 2021 Regular Meeting Minutes

Motion: D. White moved to approve the minutes as submitted. Seconded by H. Harmon. Vote: U/A

3. OLD BUSINESS

A. Public hearing to consider amendments to Chapter 170, entitled "Zoning Ordinance" of the code of the City of Dover. Amendments include changes to the wetland protection district, floodplain ordinance, accessory structure definition, rezoning part of the R-40 to R-20 on Bellamy Road and Cold Springs Road, allowing all residential structures in the R-12, R-20, and R-40 districts to be converted into a duplex, increasing lot area required in the RM-U table for 3-4 family dwellings, revising exceptions to lot size, frontage and setback requirements using TDR, swimming pools, customary home occupations, allowing residential to make up any 20% of a building in the CBD, allowing an extra Accessory Dwelling unit if it meets HUD Fair Market rent rates, revising the RCM Overlay District, nonconforming structure setbacks, TDR regulations, changing definitions of nonconforming lot and conservation lot.*

C. Parker explained the process to develop these zoning amendments and reviewed the posted zoning amendments. He noted tonight is the first of three public hearings that will be held on this item to hear public comment. No Board action will be taken tonight.

D. Landry asked about the properties not fronting on Bellamy and where the access is. C. Parker explained. D. Ciotti asked if a particular lot is losing access and becoming landlocked and commented to make sure the parcel doesn't get left off the maps in the future. C. Parker noted the deed says they have access through Cold Springs off Bellamy.

D. Landry asked for clarification on amendment 10: more than one ADU. The density for the R40 zone is bothersome to him. C. Parker noted the amendment will affect any zone that allows residential.

K. Pimental asked if the second ADU is accepted by any other communities in NH and is there anything in place to prevent the additional ADUs from becoming condos (separate ownership).
C. Parker is not aware of any other community in NH looking to allow this. The ordinance restricts that the ADU can be a rental but cannot be a condo. The deed has to be restricted to ensure it stays with the land.

Public Hearing Opened
No calls were received. An email from Liz Brater, 77 Spur Road, and Kyle Dacruzer were received and forwarded on to the Board.
Public Hearing Closed

B. Public hearing to consider amendments to Chapter 153, entitled "Site Review Regulations" of the code of the City of Dover. Amendments include electric vehicle charging readiness and stations, eliminating I-1, replacing I-2 with CM, replacing B-1 with G, replacing I-4 or ETP with IT, replacing B-3, B-4, or B-5 with C, revising certification section, location of parking lots section, revising Various Sections of the City section, and Physical Arrangements section to allow outdoor dining and display of goods.*

C. Parker explained the process that there will be one more public hearing on this item next month and the Board can take action at that next meeting if they want.

Public Hearing Opened
No calls were received. An email from Liz Brater, 77 Spur Road, was received with suggestion about Electric Vehicles.
Public Hearing Closed

C. Public hearing to consider amendments to Chapter 157, entitled "Land Subdivision Regulations" of the code of the City of Dover. Amendments include revising the Final Plat requirements, street layouts to a 30 ft easement, reference monument size, street markers and traffic signs to conform with MUTCD.*

C. Parker explained the process that there will be one more public hearing on this item next month and the Board can take action at that next meeting if they want.

Public Hearing Opened
No calls or emails were received.
Public Hearing Closed

4. NEW BUSINESS

Motion: K. Pimental moved to hear item E first. Seconded by J. Kaspari Vote: U/A

K. Pimental recused himself from item E because he works for the consulting firm Dover used. M. Speidel sat in.

E. Discussion of Complete Street Policy endorsed by the Transportation Advisory Committee

C. Parker noted the City created a Complete Street and Traffic Calming policy in 2014. As part of a resiliency grant the City and Strafford Regional Planning reviewed the policy after reviewing and creating the downtown street tree plan. The Transportation Advisory Commission reviewed and endorsed the policy in May and it is before the Board for endorsement.

C. Parker reviewed the proposed changes.
Colin Lentz, SRPC, was present to address technical questions.

D. Landry asked about regional projects and if the other cities have a similar document as this. C. Lentz noted Somersworth and Rochester agree with it and follow it, but might not have a document this specific.

J. Kaspari asked if once we start gathering data, target values will be placed on the metrics so we understand of our performance. The consultant did not go that far, but the City can look at that.

Motion: D. Landry moved to endorse the policy changes and encourage staff to use them as a guide in creating Capital Improvements Program projects. Seconded by H. Harmon. Vote: U/A

A. Consideration and acceptance of a waiver request for Stabile Townhomes at the Landing, LLC., Assessor's Map K, Lot 19, zoned IT & RCM, located at Pointe Place. (Proposal is for minor architectural adjustments). *(P20-32A)

C. Parker explained the amendment was a result of the developer wishing to change the basic look of the townhomes from "Craftsman Style" to "Farmhouse" to help differentiate the units from units on Artisan Way. The Board doesn't have jurisdiction over the color, but it does over the shingle style vs board and batten and the stonework on the columns.

This amendment was simple enough to not require review by the Technical Review Committee.

Eric Jackson, Stabile Homes, 1 Steeple Ln Amherst NH, presented the request.

D. Landry clarified that there are some units already built in the craftsman style.

Motion: D. Ciotti moved to accept the application and that it is not a development of regional impact. Seconded by D. White. Vote: U/A

Public Hearing Opened
Debbie Impietro, 53Artisan Way would like more screening between the buildings.
No calls or emails were received to the office
Public Hearing Closed

C. Parker noted the Planning Department finds that request is within the Board's purview under 153-4 of the Site Review Regulations of the City of Dover Code. Staff recommends the Planning Board vote to amend the original approval to allow for the proposed architectural features and materials provided in this application with the following conditions:

Conditions to Be Met Prior to Amending the Plans:

1. Four copies of the revised architectural design be submitted for review by staff and signature by the Planning Board Chair.

2. All other Conditions Prior to Building Permit and Occupancy from P20-32 must also be met.

Motion: D. Ciotti moved to approve the amendment. Seconded by D. White. Vote: U/A

The Vice Chair noted that items B and C would be heard together.

B. Consideration and acceptance of a Conditional Use Permit for Zeland Schwartz Revocable Trust, (Agent: Stephen Haight, Civilworks New England), Assessor's Map H, Lot 14D, zoned R-20, located at 26 ½ Bellamy Road. (Proposal is for a 5 lot subdivision with the construction of a 400 foot long road. The project proposes 23 s.f. impact to a 20% slope and 8,630 s.f of grading impact in the Conservation District adjacent to the Bellamy River). *(P21-27)

C. Consideration and acceptance of a Subdivision using Transfer of Development Rights for Zeland Schwartz Revocable Trust, Assessor's Map H, Lot 14D, zoned R-20, located at 26 ½ Bellamy Road. (Proposal is to buy 2 units through TDR and subdivide one lot into 5 with the existing house and converting accessory structure). *(P21-25)

C. Parker explained the applicant is requesting to subdivide one lot into 5 using Transfer of Development Rights. The lots would be 0.36 acres, 0.91 acres, 0.63 acres, 0.75 acres and 0.52 acres. Twenty-three square feet of impact is expected to the 20% slope/Conservation District area and 8,630 square feet of grading impact is expected in the Conservation District to the Bellamy River.

As a Major Subdivision, this application appeared twice before the TRC, most recently on April 22, 2021, and the project is served by municipal water and sewer.

The applicant is requesting the Board grant a waiver to Section 157-10.D to waiver the full traffic impact analysis, Section 157-31.F/32.J Block Length of Dead-end Streets to allow approximately 397' instead of the required 500', Section 157-47.A to allow a road width of 20' instead of 24'and to allow the right of way to be within the 30' no cut no disturb buffer.

The Conservation Commission endorsed the CUP application on June 14, 2021 with the condition that the reforested area will remain undisturbed except for tree removal consistent with DES Shoreland rules which is a recommended condition of approval for this CUP and the Site Plan.

There will be four votes tonight, CUP for steep slope impact, TDR, waivers, and subdivision.

Steve Haight and Jayce Gregwire, Civilworks New England reviewed the application and project.

J. Kaspari asked some clarifying questions regarding drainage and flooding which Mr. Gregwire and Mr. Haight answered.

K. Pimental asked if there is a chance of undercutting/ river erosion on the property. S. Haight explained there isn't an issue.

D. Landry asked about the shore land impact permit and impervious surfaces. Mr. Haight explained this plan addresses the shore land permit regulations.

D. Ciotti is concerned about the spacing of the walkway and the trees and the building. If it's paved, that will cause issues with the root system of the trees.

M. Speidel had a question about vegetation in front of unit 26 which makes turning around difficult. S. Haight noted that vegetation will be cut back.
The width of the road is only 20' and M. Speidel is concerned about fire access. S. Haight noted this is designed to handle a fire truck, there are hydrants and no parking signs.

Discussion occurred regarding the road width of 20' vs 24'.

Motion: D. White moved to accept the applications and noted that this is not a development of regional impact. Seconded by J. Kaspari. Vote: U/A

Public Hearing Opened
No calls or emails were received.
Public Hearing Closed

STAFF RECOMMENDATION: CUP
C. Parker noted the plan is consistent with the Conservation District ordinance which provides for Conditional Use Permits to allow impacts to conservation districts if standards related to demonstration of need, avoidance, minimization, and mitigation are met. The Planning Department recommends that the Planning Board vote to grant the Conditional Use Permit with the following conditions:
Conditions to Be Met Prior to Granting of the Conditional Use Permit:

1. Provide copy of the NHDES Shoreland Permit to the Planning Department.
2. Revise plan set to add a note that that the reforested area will remain undisturbed except for tree removal consistent with DES Shoreland rules
3. Revise plan set to indicate the walkway from new driveway to existing home be pavers or permeable-not paved.

Motion: D. White moved to grant the Conditional Use Permit with Conditions, as it is consistent with the regulations. Seconded by E. Allgood. Vote: 8-1 with D. Landry opposed.

STAFF RECOMMENDATION- TDR:
C. Parker noted the proposal is consistent with Chapter 170-27.2 for the sale of units, if the proposed intensity and density is consistent with the neighborhood and master plan. The Planning Department recommends that the Planning Board vote to grant the additional 2 units via Transfer of Development Rights with the following conditions:

1. Payment of TDR fees.
2. Add a note to the plat that the Board granted a waiver to Chapter 170-27.2.G(7).

Motion: D. White moved to approve the sale of two units with conditions, as the request is consistent with the regulations. Seconded by J. Kaspari. Vote: 8-1 with D. Landry opposed.

STAFF RECOMMENDATION- Waivers:
C.Parker noted that Chapter 157-51 states a waiver may be granted if the Board finds 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 subdivision, indicate that the waiver will properly carry out the spirit and intent of the regulations."

Staff believes criterion 2 has been met for this request, and recommends that the Planning Board vote to grant the waivers with the following condition:

Condition to Be Met Prior to Signing of Plans:

1. Add a note to the plat that the Board granted a waiver to Chapter 157-10.D (traffic impact analysis), Chapter 157-31.F and 32.J (for road/block length), and Section 157-47.A (minimum road width) and that the Board found the criteria of Chapter 157-51.A have been met.

Motion: D. White moved to approve the waiver with conditions, as the request is consistent with the regulations. Seconded by D. Landry. Vote: 8-1 with D. Ciotti opposed

STAFF RECOMMENDATION- Subdivision

C. Parker noted that the plan is consistent with Chapter 157-15 of the City's Land Subdivision Regulations, which provides for subdivision of existing lots. The Planning Department recommends that the Planning Board vote to approve the subdivision with the following conditions:

Conditions to Be Met Prior to Signing of Plans:

1. The Planning Board approve
    a. The TDR application
    b. The Conditional Use Permit.
2. The applicant shall provide the Planning Department with:
    a. A digital version of the final plat.
    b. A CAD file to the satisfaction of the Asset Management Administrator.
    c. A Copy of a sample deed for lots 3 and 4 documenting that portions of the property within the 250' shoreline buffer, 100' conservation district, and the 100-year floodplain, and that the reforested area will remain undisturbed except for tree removal consistent with DES Shoreland rules
3. The Assistant City Manager in consultation with the City's General Legal Counsel will review and approve the homeowners association to ensure private road, stormwater infrastructure maintenance, buffer and common space, space, conservation district maintenance, prior to converting ownership and maintenance obligations, and deed/easement requirements per Section 170.27.2.
4. The applicant shall revise the plat to:
    a. Add signature and stamp of LLS and PE
    b. Add owners' signatures for recording at Strafford County Registry of Deeds
    c. Add a note that that the reforested area will remain undisturbed except for tree removal consistent with DES Shoreland rules.
    d. Show new water line from street be added rather than reuse existing water line to the satisfaction of the City Engineer.
    e. Add a note that the existing detached garage structure and the single family dwelling at 26 ½ Bellamy Road will require renumbering.

Conditions to be Met Prior to Building Permit:

5. The new dwellings shall be assessed and pay the current Water and Sewer Investment Fees in place at the time of application for service.
6. The applicant shall provide a letter of credit or other form of security acceptable to the City for any

unfinished work.

7. A site construction sign with the contact information for the general contractor must be located and approved by the City Engineer or Assistant City Manager.

Conditions to Be Met Prior to Occupancy:

8. Issuance of the Certificate of Occupancy.
9. Any applicable easements shall be recorded.
10. Documentation that the HOA has been created and is in place.
11. Impact fees per unit shall be paid per the invoice attached to the Notice of Decision.
12. Prior to the last Certificate of Occupancy being issued, the Engineer of Record shall meet with the Association and review the as-builts for the project.
13. Proof that the deeds to be recorded for lots 3 and 4 match the sample deeds provided.

Motion: D. White moved to approve the site plan, with Conditions, as it is consistent with the regulations. Seconded by K. Pimental. Vote: 8-1 with D. Landry opposed

D. Consideration and acceptance of an Extension Request for a previously approved Site Plan for Gulf Landing Properties, Assessor's Map 38, Lot 9-A-2, zoned C, and located at Central Avenue. (Proposal was to construct a three story medical rehabilitation facility). The Site Plan was approved by the Board, with conditions, on October 27, 2020. *(P19-85B)

C. Parker noted the applicant received conditional approval (for a second time) in December 2020. Due to financing, the applicant was not able to meet the initial 90 day period to meet conditions of approval or the extra 90 day administrative extension and is now requesting a second extension which requires Planning Board approval.

The administrative extension expired on June 13th. The request was made before that, so the Board is acting to extend the request until September 12, 2021.

The applicant is still proposing a medical withdrawal management facility on Central Ave near Dover Bowl. The secured building is proposed to have 64 beds and 24/7 staff.

James Hayden, Berry Survey and Engineering presented the request.

Motion: D. White moved to accept the applications and noted that this is not a development of regional impact. Seconded by D. Ciotti. Vote: U/A

Public Hearing Opened
No calls or emails were received.
Public Hearing Closed

C. Parker noted Chapter 153-8 of the Site Review Regulations of the City Code provides that the Planning Director may grant one 90-day administrative extension for Conditional Approvals. Any further extensions must be approved by the Planning Board. This request is consistent with those regulations.

The Planning Department recommends the Planning Board vote to approve the extension request, establishing a new date for completion of September 12, 2021.

Motion: D. White moved to grant the 90-day extension. Seconded by J. Kaspari. Vote: U/A

5. STAFF COMMENTS

- C. Parker updated the Board on:
  - the latest TRC: Old Courthouse Project, two adjacent projects on Dover Point Road
- FY 22 Budget includes a new position: Resiliency Coordinator. Position is posted and interviews will be the end of July.
- The bus tour did not happen as planned two weeks ago, but if the Board is interested it can be scheduled.

6. MEMBER COMMENTS

- G. Cruickshank noted she had signed plans for 379 Tolend Road
- K. Pimental asked why there are updates to the signs. One was hit so needs to be replaced.
- D. Ciotti received a complaint that a sign was put right in a resident's yard. He wondered if those affected were notified. C. Parker said they were notified, and no changes will be made in the first few months.
- D. Ciotti asked for an update with the City's talks with Severino. As far as C. Parker knows, all changes discussed have been made and there have been no additional complaints.
- D. Landry noted the SRPC annual meeting is coming up on Thursday June 24th and C. Parker will be speaking about pipelines for funding projects and how to use the funds.
- K. Pimental noted Mirage Studios on Union St is being recognized as the birthplace of Teenage Mutant Ninja Turtles
- K. Pimental noted a conversation occurred whether the NH Planners Association spring conference should be virtual or in-person

7. ADJOURNMENT

Motion: D. White made a motion to adjourn at 8:38 p.m. Seconded by H. Harmon.

N/F DODIER, SCOTT B. & SARAH J.
147 COTTONWOOD DRIVE
DOVER, NH 03820
TAX MAP B, LOT 4-52
S.C.R.D. BOOK 2303, PAGE 535
PLAN REF. #10 & #11

N/F WORKMAN, MARSHALL K. & CATHERINE A.
151 COTTONWOOD DRIVE
DOVER, NH 03820-6027
TAX MAP B, LOT 4-51
S.C.R.D. BOOK 3559, PAGE 166
PLAN REF. #10 & #11

MATCH POINT (TYP.)
3/4" REBAR W/ ID CAP ~SET~ (0.6' HIGH)
3/4" REBAR W/ ID CAP ~SET~ (0.5' HIGH)
24" PINE W/ BARBED WIRE ~HELD~
16" MAPLE W/ BARBED WIRE ~HELD~
1 1/2" IRON PIPE ~FND~ (2.0' HIGH)
S33°31'20"W 84.81'
S33°31'20"W 150.18'
S33°31'20"W 160.78'
S33°31'20"W 190.10'
S38°39'21"W 160.58'
S26°45'46"W 108.56'
30' EXTERIOR BUFFER

TAX MAP B, LOT 5-10
26,736 Sq. Ft. 0.61 Ac.
CONTIGUOUS UPLAND AREA: 24,424 Sq. Ft
CONTIGUOUS UPLAND AREA OUTSIDE WETLAND BUFFER: 17,997 Sq. Ft.

N40°17'43"W 151.01'
N1°11'45"W 82.50'
3/4" REBAR W/ ID CAP ~SET~ (0.8' HIGH)
N21°39'11"W 103.74'
164.16'
N34°45'44"E
R 225.00'
L 140.67'
S34°45'44"W 56.00'
GRANITE BOUND ~TBS~ (TYP.)
WILDCAT DRIVE (PVT.)
R =175.00
L =169.80
BUILDING SETBACK LINE (TYP.)
WATER LINE
R 225.00'
L 77.38'
S89°42'36"E 39.19'
24.92' N89°42'36"W
L =64.61'
R =60.00'
L =34.83'
R =25.00'
92.00' N89°42'36"W
259.92' N00°19'36"E
323.06' N00°19'36"E
20.0'
10.0'
10.0'
5.94' N89°42'36"W
R =60.00
L =28.37
R =60.00
L =59.89

TAX MAP B, LOT 5-9
59,692 Sq. Ft., 1.16 Ac.
CONTIGUOUS UPLAND AREA: 31,064 Sq. Ft
CONTIGUOUS UPLAND AREA OUTSIDE WETLAND BUFFER: 17,889 Sq. Ft.

TAX MAP B, LOT 5-3
26,817 Sq. Ft., 0.62 Ac.
CONTIGUOUS UPLAND AREA: 24,226 Sq. Ft
CONTIGUOUS UPLAND AREA OUTSIDE WETLAND BUFFER: 14,979 Sq. Ft.

TAX MAP B, LOT 5-4
22,241 Sq. Ft., 0.51 Ac.
CONTIGUOUS UPLAND AREA: 22,241 Sq. Ft
CONTIGUOUS UPLAND AREA OUTSIDE WETLAND BUFFER: 22,241 Sq. Ft.

TAX MAP B, LOT 5-2
31,962 Sq. Ft., 0.73 Ac.
CONTIGUOUS UPLAND AREA: 24,539 Sq. Ft
CONTIGUOUS UPLAND AREA OUTSIDE WETLAND BUFFER: 12,845 Sq. Ft.

TAX MAP B, LOT 5-12
51,695 Sq. Ft.
1.18 Ac.

TAX MAP B, LOT 5-5
18,490 Sq. Ft., 0.42 Ac.
CONTIGUOUS UPLAND AREA: 18,490 Sq. Ft
CONTIGUOUS UPLAND AREA OUTSIDE WETLAND BUFFER: 18,490 Sq. Ft.

TAX MAP B, LOT 5-6
25,490 Sq. Ft., 0.58 Ac.
CONTIGUOUS UPLAND AREA: 23,285 Sq. Ft
CONTIGUOUS UPLAND AREA OUTSIDE WETLAND BUFFER: 19,439 Sq. Ft.

TAX MAP B, LOT 5-13
OPEN SPACE #2
68,695 Sq. Ft.
1.58 Ac.
(NON BUILDABLE LOT)

TAX MAP B, LOT 5-8
83,212 Sq. Ft., 1.91 Ac.
CONTIGUOUS UPLAND AREA: 59,168 Sq. Ft
CONTIGUOUS UPLAND AREA OUTSIDE WETLAND BUFFER: 42,354 Sq. Ft.

TAX MAP B, LOT 5-2
83,212 Sq. Ft.
1.91 Ac.

TAX MAP B, LOT 5-7
67,623 Sq. Ft., 1.55 Ac.
CONTIGUOUS UPLAND AREA: 62,986 Sq. Ft
CONTIGUOUS UPLAND AREA OUTSIDE WETLAND BUFFER: 46,938 Sq. Ft.

EDGE OF POORLY DRAINED JURISDICTIONAL WETLANDS (TYP.) BY: FRAGGLE ROCK ENVIRONMENTAL DAMON BURT CWS#163
PROPOSED GRADING, DRAINAGE AND ACCESS EASEMENT #4 13,026 Sq. Ft.
PROPOSED GRADING, DRAINAGE AND ACCESS EASEMENT #3 16,903 Sq. Ft.
PROPOSED GRADING AND DRAINAGE EASEMENT #2 6,226 Sq. Ft.
PROPOSED GRADING AND ACCESS EASEMENT #5 1,478 Sq. Ft.
PROPOSED 30' TDR BUFFER
AREA OF TDR RELIEF 891 Sq.Ft.
50' WETLAND BUFFER (TYP.)
50.0'
420.80' N06°06'47"W
275.52' N15°28'40"W
N15°28'40"W 165.28'
S15°28'40"E 130.00'
S17°06'45"W 180.00'
S44°30'07"W 273.08'
130.09' S35°35'02"E
180.00' N13°34'23"E
60.36' N13°34'23"E
R =60.00' L =41.18'
R =60.00' L =43.71'
R =60.00' L =34.54'
3/4" REBAR W/ ID CAP ~SET~ (0.7' HIGH)
3/4" REBAR W/ ID CAP ~SET~ (0.5' HIGH)
3/4" REBAR W/ ID CAP ~SET~ (0.6' HIGH)
3/4" REBAR W/ ID CAP ~SET~ (0.3' HIGH)
BUILDING SETBACK LINE (TYP.)

N/F FARMHAVEN DEVELOPMENT ASSOCIATES, LLC
2 CHESTNUT AVE
DOVER, NH 03820
TAX MAP B, LOT 21-33
S.C.R.D. BOOK 4808, PAGE 822
PLAN REF. #8 & #9
130.62' N49°07'09"W
80.65' N43°35'33"W
74.70' N47°37'59"W
4.08' N39°41'26"W
36" PINE W/ BARBED WIRE ~HELD~
22" TREE W/ BARBED WIRE ~HELD~
DRILL HOLE ~SET~
88.09' N48°33'18"W
70.86' N45°09'35"W
DRILL HOLE ~SET~

N/F MERKLEY, MARY B.
98 COUNTY FARM ROAD
DOVER, NH 03820
TAX MAP B, LOT 12
S.C.R.D. BOOK 2160, PAGE 276
PLAN REF. #7

114.49' N 46°30'27" W

FRAGGLE ROCK ENVIRONMENTAL
DAMON BURT, CWS 163

STATE OF NEW HAMPSHIRE
DAMON E. BURT
No. 163
WETLAND SCIENTIST
1-21-22

SEE OVERVIEW PLAN FOR WETLAND NOTE

EDGE OF POORLY DRAINED JURISDICTIONAL WETLANDS (TYP.) BY: FRAGGLE ROCK ENVIRONMENTAL DAMON BURT CWS#163

1.69' N35°35'50"E
52.82' N32°29'17"E
119.56' N36°17'54"E
95.00' N35°35'50"E
67.75' N35°35'50"E
169.57' N36°32'23"E
62.74' N33°29'00"E
16.88' N46°49'04"W
DRILL HOLE ~SET~
2" ALUMINUM PIPE ~FND~ (2.2' HIGH) NOT HELD OFF STONE WALL
LLS 941 IRON BOUND ~FND~ (0.3' HIGH)
LLS 941 IRON BOUND ~FND~ (0.6' HIGH) NH GRID COORD. N: 266887.15 E: 1179766.76 ELEV.: 178.58

N/F SEAVER, PAUL J. & PENNY L.
30 COUNTY FARM CROSS ROAD
DOVER, NH 03820
TAX MAP B, LOT 6-H
S.C.R.D. BOOK 3500, PAGE 327
PLAN REF. #1-4

N/F TORR, ZACHARY J. & MEAGAN L.
62 COUNTY FARM CROSS ROAD
DOVER, NH 03820
TAX MAP B, LOT 6-D
S.C.R.D. BOOK 4471, PAGE 958
PLAN REF. #5

N/F SIGNH, RAGHBIR
15 OLIVE MEADOW LANE
DOVER, NH 03820
TAX MAP B, LOT 6-C-OPN
S.C.R.D. BOOK 4436, PAGE 810
PLAN REF. #5 & #6

LEGEND:
- 3/4" REBAR W/ ID CAP ~SET OR TBS~
- GRANITE BOUND ~TBS~
- 1/2" EASEMENT REBAR W/ ID CAP ~TBS~
- DRILL HOLE ~FND OR SET~
- IRON PIPE ~FND~
- IRON BOUND ~FND~
- UTILITY POLE
- TREE W/ BARBED WIRE
- STONE WALL
- PERIMETER BOUNDARY
- APPROX. ABUTTING LOT LINE
- POORLY DRAINED WETLAND LINE
- 50' WETLAND SETBACK
- BUILDING SETBACK LINE
- PROPOSED PROPERTY LINE
- PROPOSED EASEMENT LINE

TBS TO BE SET
FND FOUND
S.C.R.D. STRAFFORD COUNTY REGISTRY OF DEEDS

GRAPHIC SCALE
40 0 20 40 80 160
(IN FEET)
1 inch = 40 ft.

N16°53'33"E MAGNETIC
NORTH PER PLANS

APPROVED
DATE 2/8/22
City of Dover, N.H.
PLANNING BOARD
CHAIRMAN / DIRECTOR
APPROVED DOVER

I CERTIFY THAT THIS PLAT EXCEEDS THE MINIMUM REQUIREMENT FOR ACCURACY AND COMPLETENESS OF THE STATE OF N.H. AND OF THE CITY OF DOVER, N.H. – 1:10,000–
KENNETH A. BERRY L.L.S. 805 1-21-22 DATE

LOCATION PLAN
DOVER, NH
NOT TO SCALE
COUNTY FARM CROSS ROAD
LONG HILL ROAD
ROUTE 16
SINGH DRIVE
APPROX. LOCATION
WILDERWOOD LANE
SIXTH STREET
COUNTY FARM ROAD

NOTES:

OWNER: SETTLEMENT ON 6TH, LLC
4 HALL STREET
DOVER, NH 03820

OWNER SIGNATURE

APPLICANT: SETTLEMENT ON 6TH, LLC
4 HALL STREET
DOVER, NH 03820

1. TAX MAP B, LOT 5
2. LOT AREA: 836,616 Sq. Ft., 19.21 Ac.
3. S.C.R.D. BOOK 4861, PAGE 409
4. ZONING: RURAL RESIDENTIAL, R-40
   LOT SIZE: 40,000 Sq. Ft.
   MAX. LOT COVERAGE: 10%
   MINIMUM FRONTAGE: 150'
   FRONT SETBACK: 40'
   ABUT A STREET SETBACK: 40'
   SIDE SETBACK: 25'
   REAR SETBACK: 30'

   ZONING: TRANSFER OF DEVELOPMENT RIGHTS (TDR)
   LOT SIZE: N/A Sq. Ft.
   MAX. LOT COVERAGE: N/A
   MINIMUM FRONTAGE: 40'
   FRONT SETBACK: 20'
   ABUT A STREET SETBACK: 20'
   SIDE SETBACK: 10'
   REAR SETBACK: 30'
5. I HEREBY CERTIFY THAT, TO THE BEST OF MY KNOWLEDGE & BELIEF, THIS PARCEL DOES NOT FALL WITHIN THE FLOOD PLAIN FLOOD HAZARD REF.: FEMA COMMUNITY #330145, MAP #33017C0310E, DATED: SEPTEMBER 30, 2015.
6. VERTICAL DATUM BASED ON NAVD88 ELEVATIONS. HORIZONTAL COORDINATES BASED ON NAD83. COORDINATES GATHERED USING TOPCON HIPER SR SURVEY GRADE GPS RECEIVERS.
7. THE BOUNDARY LINES SHOWN ON THIS PLAN ARE THE RESULT OF A CLOSED TRAVERSE PERFORMED BY THIS OFFICE IN FEBRUARY OF 2021, WITH AN ERROR OF CLOSURE BETTER THEN 1 PART IN 10,000.
8. THE INTENT OF THIS PLAN IS TO SHOW THE TDR SUBDIVISION PLAN OF TAX MAP B, LOT 5.
9. ALL LOTS WILL BE SERVICED BY MUNICIPAL WATER AND SEWER.
10. WILDCAT DRIVE IS PROPOSED TO BE PRIVATE. REFER TO THE HOA DOCUMENTS FOR ROAD & DRAINAGE RESPONSIBILITIES. 155-48B THERE ARE NO CITY SERVICES PROVIDED UNLESS THE ROADWAY CONFORMS WITH PUBLIC ROAD SPECIFICATIONS AND THE PLANNING BOARD HAS REVIEWED AND AGREED TO AMEND THE APPROVAL TO ALLOW A PUBLIC ROADWAY.
11. SEE OVERVIEW SUBDIVISION FOR PLAN REFERENCES AND ADDITIONAL NOTES.
12. THE BOARD HAS FOUND THAT THE CRITERIA OF CHAPTER 170-27-2.G(8) HAVE BEEN MET.

#	REVISION	DATE	DESCRIPTION
#8		1-21-22	REVISED PER FINAL CONDITIONS OF APPROVAL SHOW BOUNDS SET & REVISIONS PER STAKEOUT

DETAIL TDR SUBDIVISION PLAN WEST
LAND OF
SETTLEMENT ON 6TH, LLC
SIXTH STREET
DOVER, N.H.
TAX MAP B, LOT 5

BERRY SURVEYING & ENGINEERING
335 SECOND CROWN POINT ROAD
BARRINGTON, NH 03825 (603)332-2863

SCALE : 1 IN. EQUALS 40 FT.
DATE : JUNE 10, 2021
FILE NO. : DB 2021-011

STATE OF NEW HAMPSHIRE No. 805 KENNETH A. BERRY LICENSED LAND SURVEYOR SIGNATURE

CITY OF DOVER

PLANNING BOARD - STAFF MEMO FILE #P21-43

Application Type:	TDR Major Subdivision
Applicant(s):	Settlement on 6th, LLC
Owner(s):	Settlement on 6th, LLC
Location:	Sixth Street (Tax Map B, Lot 5)
Meeting Date:	November 9, 2021

INTENT: To subdivide one lot 14 including one utilizing Transfer of Development Rights, and three open space lots.

UNITS PROPOSED: 11 new

AGENDA ITEM #: 4-B

ACREAGE: 19.3 acres

ZONING DISTRICT: R-40

EXISTING LAND USE: Vacant

PROPOSED LAND USE: Residential

SURROUNDING LAND USE: Residential and vacant

ZBA ACTION: None

ATTACHMENTS: Application materials including subdivision plan

APPLICATION COMPLETE: Yes

DECLARE REGIONAL IMPACT: No

NOTICES SENT: Abutter notices were sent by certified mail to all abutters for this meeting

PERMITS REQUIRED: CUPs for wetland buffer, NHDES AOT, NHDES Wetland Impact Permit, NHDES Sewer Discharge Permit, US EPA NOI and SWPPP, NHB NHDHR

WAIVERS REQUESTED: None

Summary of Request and Background
The applicant is requesting to subdivide one lot into 14 (11 residential lots, 3 common open space lots). They also seek to use the Transfer of Development Rights to purchase 1 lot. The site is proposed to be serviced by municipal water and sewer.

As a Major Subdivision, this application appeared twice before the TRC, most recently on October 14, 2021 (minutes attached). Previous concepts including purchasing more units but based on the environmental constraints the current proposal is requesting only one TDR unit. The Conservation Commission endorsed the CUP application on September 13, 2021.

The TDR relief allows for a 30' perimeter buffer instead of 50' required in Open Space subdivisions. The applicant has applied that buffer to the plan.

This is a TDR subdivision. The Board will need to vote on the TDR request and the subdivision separately.

Consistency with Land Use Regulations
The plan is consistent with Chapter 157-15 of the City's Land Subdivision Regulations, which provides for subdivision of existing lots, and by following the TDR ordinance in Chapter 170-27.2.G.

STAFF RECOMMENDATION- TDR:
The Planning Department recommends that the Planning Board accept the applications for review, open the public hearing, and vote to grant the additional unit via Transfer of Development Rights with the following conditions:

1. Payment of TDR fees.
2. Add a note to the plat that the Board found the criteria of Chapter 170-27.2.G(8) have been met.

STAFF RECOMMENDATION- Subdivision
The Planning Department recommends that the Planning Board vote to approve the subdivision with the following conditions:

Conditions to Be Met Prior to Signing of Plans:

1. The Planning Board approve
    a. The TDR application.
    b. The Conditional Use Permit.
    c. A lot line adjustment plan to remediate the existing encroachment.
2. The applicant shall provide
    a. A revised current use plan to the satisfaction of the City Assessor.
    b. The letter to serve from Eversource and City of Dover.
3. The Planning Director, in consultation with the City's General Legal Counsel, will review and approve the homeowners association to ensure private road, stormwater infrastructure maintenance, buffer and common space, space, conservation district maintenance, prior to converting ownership and maintenance obligations, and deed/easement requirements per Section 170.27.2.

3. Provide physical and digital copies (including CAD) of complete plan set which additionally shall include:
    a. Add signature and stamp of CWS, LLS and PE
    b. Add owners' signatures for recording at Strafford County Registry of Deeds
    c. Add permit numbers

Conditions to be Met Prior to Construction Activities:

4. A site construction sign with the contact information for the general contractor must be located and approved by the City Engineer or Planning Director.

Conditions to be Met Prior to Building Permit:

5. The new dwellings shall be assessed and pay the current Water and Sewer Investment Fees in place at the time of application for service.
6. The applicant shall provide a letter of credit or other form of security acceptable to the City for any unfinished work.

Conditions to Be Met Prior to Occupancy:

7. Issuance of the Certificate of Occupancy.
8. Any applicable easements shall be recorded.
9. Documentation that the HOA has been created and is in place.
10. Impact fees per unit shall be paid per the invoice attached to the Notice of Decision.
11. Prior to the last Certificate of Occupancy being issued, the Engineer of Record shall meet with the Association and review the as-builts for the project.
12. Land use change tax has been paid.

CITY OF DOVER

DOVER PLANNING BOARD – MINUTES

Meeting Type:	Regular Meeting
Meeting Location:	City Council Chamber's 288 Central Avenue
Meeting Date:	**Tuesday, March 28, 2023**
Meeting Time:	**7:00 pm**

Members Present: Gina Cruikshank (Chair), Hayley Harmon (Vice Chair), Mark Speidel, Ken Mavrogeorge, Fergus Cullen (Councilor), Tom Clark, and George DeBoer (Alternate)
Members Not Present (excused): Erinn Kaspari, Frank Torr, and Jon Elliard (Alternate), Kyle Pimental, Melina Gambino (Alternate)
Members Not Present (un-excused):
Staff Present: Donna Benton, Director of Planning and Development

G. Cruikshank called the meeting to order at 7p.m. and noted that George DeBoer would sit for Frank Torr.

1. CITIZENS' FORUM

Citizens Forum Open
No one spoke
Citizens Forum Closed

2. APPROVAL OF THE PRIOR MINUTES

- February 14, 2023 Regular Meeting Minutes

Motion: M. Speidel moved to approve February 14, 2023 Regular Meeting Minutes. Seconded by: T. Clark. Vote: U/A

3. OLD BUSINESS

A. Consideration and possible vote on posting the proposed Amendments to Chapter 170 (Zoning). The full text of the amendments is available in Planning Department & at www.dover.nh.gov located under meeting materials and on the Planning Department page. *

F. Cullen recused himself from the item.

Motion: H. Harmon moved to remove this item from the table. Seconded by: K. Mavrogeorge. Vote: U/A

D. Benton mentioned the Board last reviewed these at their February meeting. Staff made some adjustments based off feedback from Mr. Packy Campbell and the Board with the intention of providing a compromise to providing mechanisms and more flexibility for solar trackers but still maintaining the charm, look, and feel to Dover. She reviewed the changes for the board.

Public Hearing opened
Packy Campbell, Bright Spot Solar appreciates the changes to the language and requested some additional changes:

- Amendment 2 language change relating to location of the solar in relation to the primary structure rather than setback distances
- Change/remove language: 'clearly visible'

He expounded on how he uses solar arrays on a couple of car washes he owns and the savings in cost and propane consumption.
Public hearing closed

D. Benton noted that this amendment will be valid for every property in the City. There are options for property owners to receive exceptions or relief on location of the panels through the Planning Board processes.

D. Benton addressed for board members some of the concerns brought up in public hearing comments.

Motion: T. Clark moved to post the amendments as submitted by staff. Seconded by: K. Mavrogeorge. Vote: U/A

4. NEW BUSINESS

A. Consideration and acceptance of a Lot Line Adjustment for Laurie S. Anderson and Andrew R. and Holly Welsh Smith, Assessor's Map 17, Lots 132 and 131, zoned R-12, located at 13 & 11 Hawthorn Road. *(LOTA-2023-0001)

Chair Cruikshank announced the applicant has withdrawn this application.

B. Consideration and acceptance of an Amendment of Site Review for American Durafilm Co., Inc. (Owner: AD Dover, LLC), Assessor's Map D, Lot 11-10, zoned (IT), located at 9 Innovation Way. (Proposal is to relocate a transformer pad and site landscaping, including a request for a waiver to not screen the transformer). *(WAIV-2023-0002)

D. Benton explained that certain site plan amendments that are made out in the field are large enough to need Planning Board approval. This application is for two parts, one is the request for the waiver to not screen a transformer and the second to approve the amendment to the approved site plan.

Jase Gregoire, CivilWorks, NE presented the application and explained the move of the transformer to a different location.

Motion: T. Clark voted to accept and declared no regional impact. H. Harmon seconded. Vote: U/A

Public hearing opened
None
Public hearing closed

STAFF RECOMMENDATION-Waiver:
Section 153-21 of the Site Plan Review Regulations states the "Planning Board may waive specific provisions of these regulations. The Planning Board may only grant a waiver if the Planning Board finds, by majority vote, that:
(1) Strict conformity would pose an unnecessary hardship to the applicant and the waiver would not be contrary to the spirit and intent of the regulations; or
(2) Specific circumstances relative to the subdivision, or conditions of the land in such site plan, indicate that the waiver will properly carry out the spirit and intent of the regulations."

Staff was informed by the applicant that Eversource placed the transformer at that location and that due to sight distance concerns at the driveway, vegetation or other screening cannot be used as required. Staff typically would not support transformers or generators not being screened but in this case understands the applicant was not provided an option that would meet the regulations and that criterion 1 would be met.

The Planning Department recommends the Planning Board to vote to grant the waiver with the following subsequent condition:
Subsequent Condition to be Met Prior to the Signing of the Plans:
1. Add a note that the Planning Board approved waiver to Section 153-15.B(5) utility screening and have found the criteria of Chapter 153-21.A. have been met.

Motion: M. Speidel moved to grant the waiver as it met the criteria of Section 153-21. Seconded by T. Clark. Vote: U/A

STAFF RECOMMENDATION-Amendment:
The Planning Department recommends the Planning Board vote to grant the amendment with the following subsequent conditions:

Subsequent Conditions to be Met Prior to the Plans Being Signed:

1. The applicant shall provide the Planning Department with:
    a. Electronic copy of the revised site plan including in PDF and DWG formats
    b. A note be added to the amended site plan sheet that all previous conditions of approval still apply.
    c. Two full size copies of the plan are submitted to the Planning Department and submitted on the online portal.

Motion: T. Clark moved to approve the amendment as it met the criteria of Section 153-21. Seconded by H. Harmon. Vote: U/A

C. Consideration and acceptance of an Amendment of Site Review for Macs Convenience Stores, LLC, Assessor's Map K, Lot 19-C, zoned R-12, C & IT, located at 30 Dover Point Road. (Proposal is to relocate landscaping and an additional transformer for EV charging). *(WAIV-2023-0003)

D. Benton explained that this is a similar amendment request that Eversource informed the applicant that a second transformer would be needed for the EV charging which is added to the as-built and that the applicant has bonded for the shrubs shown on the landscaping plan but is requesting to relocate one of the street trees so that it doesn't block the sign that was installed.

Steve Haight, CivilWorks, NE presented the application and explained the need for the changes.

Motion: T. Clark voted to accept and declared no regional impact. G. DeBoer seconded. Vote: U/A

Public hearing opened
None
Public hearing closed

STAFF RECOMMENDATION-Amendment:
The Planning Department recommends the Planning Board vote to grant the amendment with the following subsequent conditions:

Subsequent Conditions to be Met Prior to the Plans Being Signed:

1. The applicant shall provide the Planning Department with:
    a. Electronic copy of the revised site plan including in PDF and DWG formats
    b. A note be added to the amended site plan sheet that all previous conditions of approval still apply.
    c. Provide shrubs around existing and proposed sign bases.
    d. Two full size copies of the plan are submitted to the Planning Department and submitted on the online portal.

Motion: T. Clark moved to approve the amendment as it met the criteria. Seconded by G. DeBoer. Vote: U/A

The Vice Chair announced items D-H will be heard together.

D. Consideration and acceptance of a Conditional Use Permit for Public Service Company of New Hampshire, (d/b/a Eversource Energy, c/o Kurt Nelson), Assessor's Map H, Lot 4, zoned IT, located near Cielo Drive. (Proposal is to perform maintenance work on the 345kV 307 Transmission Line involving a single utility structure replacement and optical ground wire replacement creating 773 sf of temporary impact to wetlands and 624 sf of temporary impact to the wetland buffer). *(COND-2023-0029)

E. Consideration and acceptance of a Conditional Use Permit for Public Service Company of New Hampshire (d/b/a Eversource Energy, c/o Kurt Nelson), Assessor's Map K, Lots 2 & 4-C, zoned R-12 & CWD, located in an existing M183 utility ROW, between Henry Law Avenue & the Cocheco River. (Proposal is the replacement of 5 wooden utility poles with weathered steel structures creating 3,489 sf of temporary impact to wetlands and 12,100 sf of temporary impact to the wetland buffer). *(COND-2023-0030)

F. Consideration and acceptance of a Conditional Use Permit for Public Service Company of New Hampshire, (d/b/a Eversource Energy, c/o Kurt Nelson), Assessor's Map K, Lot 6 & Map M, Lot 4-OPN, zoned R-40 & IT, located at existing M183 ROW between Pointe Place and Middle Road. (Proposal is the replacement of 3 wooden utility poles with weathered steel structures creating 2,494 sf of temporary impact to wetlands and 6,915 sf of temporary impact to the wetland buffer). *(COND-2023-0031)

G. Consideration and acceptance of a Conditional Use Permit for Public Service Company of New Hampshire, (d/b/a Eversource Energy, c/o Kurt Nelson), Assessor's Map M, Lots 47,49, 138, 142, 143 & 163, zoned R-12, G & R-20, located at existing M183 ROW between Polly Ann Trailer Park, Dover Point Road & Toftree Lane. (Proposal is the replacement of 3 wooden utility poles with weathered steel structures creating 9,416 sf of temporary impact to wetlands and 9,835 sf of temporary impact to the wetland buffer. *(COND-2023-0032)

H. Consideration and acceptance of a Conditional Use Permit for Public Service Company of New Hampshire, (d/b/a Eversource Energy, c/o Kurt Nelson), Assessor's Map M, Lots 83-5, 10, 9, 6, 11,12 & 13, zoned R-40, located at 38, 39, 47 & 48 Overlook Drive, 8 Canney Lane, 34 & 44 Quaker Lane. (Proposal is the maintenance work on the 345KV 307 Transmission Line involving a single utility structure replacement and optical ground wire replacement creating 2,023 sf of temporary impact to wetlands and 12,847 sf of temporary impact to the wetland buffer). *(COND-2023-0033)

D. Benton explained that PSNH/Eversource requests to do some pole replacements and other improvements to their transmission lines. Staff has separated the items by area which will require separate votes, though the item can be heard together with one public hearing.

Matthew Carden, Eversource presented the applications. He explained for M. Speidel the use of helicopters. He clarified for G. DeBoer the size and scope of the replacement poles.

Motion: T. Clark voted to accept all applications and declared no regional impact. H. Harmon seconded. Vote: U/A

Public hearing opened
None
Public hearing closed

STAFF RECOMMENDATION: CUP
The Wetlands Protection District ordinance §170.27.1.F. provides for Conditional Use Permits to allow impacts to wetlands and wetland buffers if standards related to demonstration that no practicable alternative exists, impact avoidance was considered, impacts were minimized, and mitigation has been sought.

Planning Staff feels that the applicant considered the criteria of practical alternative, avoidance, minimization, and mitigation and propose to create minimal wetland/wetland buffer disturbance on the site.

The Planning Department recommends the Planning Board vote to approve the CUP with the following subsequent conditions:

Subsequent Condition to Be Met Prior to the Issuance of the Conditional Use Permit:

1. The applicant shall provide the Planning Department with a copy of the NH Department of Environmental Services approved Utility Maintenance Activity Statutory Permit by Notification.

   Motion: M. Speidel moved to approve the CUP as it met the criteria. Seconded by T. Clark. Vote: U/A

STAFF RECOMMENDATION: CUP
The Planning Department recommends the Planning Board vote to approve the CUP with the following subsequent conditions:

Subsequent Condition to Be Met Prior to the Issuance of the Conditional Use Permit:

1. The applicant shall provide the Planning Department with a copy of the NH Department of Environmental Services approved Utility Maintenance Activity Statutory Permit by Notification.

   Motion: T. Clark moved to approve the CUP subject to the condition set by the Planning Department as it met the criteria. Seconded by M. Speidel. Vote: U/A

STAFF RECOMMENDATION: CUP
The Planning Department recommends the Planning Board vote to approve the CUP with the following subsequent conditions:

Subsequent Condition to Be Met Prior to the Issuance of the Conditional Use Permit:

1. The applicant shall provide the Planning Department with a copy of the NH Department of Environmental Services approved Utility Maintenance Activity Statutory Permit by Notification.

   Motion: T. Clark moved to approve the CUP subject to the condition set by the Planning Department as it met the criteria. Seconded by M. Speidel. Vote: U/A

STAFF RECOMMENDATION: CUP
The Planning Department recommends the Planning Board vote to approve the CUP with the following subsequent conditions:

Subsequent Condition to Be Met Prior to the Issuance of the Conditional Use Permit:
1. The applicant shall provide the Planning Department with a copy of the NH Department of Environmental Services approved Utility Maintenance Activity Statutory Permit by Notification.

   Motion: T. Clark moved to approve the CUP subject to the condition set by the Planning Department as it met the criteria. Seconded by H. Harmon. Vote: U/A

STAFF RECOMMENDATION: CUP
The Planning Department recommends the Planning Board vote to approve the CUP with the following subsequent conditions:

Subsequent Condition to Be Met Prior to the Issuance of the Conditional Use Permit:

1. The applicant shall provide the Planning Department with a copy of the NH Department of Environmental Services approved Utility Maintenance Activity Statutory Permit by Notification.

   Motion: T. Clark moved to approve the CUP subject to the condition set by the Planning Department as it met the criteria. Seconded by M. Speidel. Vote: U/A

I. Consideration and acceptance of Transfer of Development Rights Request for Diamond Capital, LLC, Assessor's Map D, Lot 10, zoned R-12, located at 42 Long Hill Road. (Requesting to purchase (6) six TDR units for a project up to 34 residential lots including the existing single family home). *(TRAN-2023-0001)

D. Benton explained the applicant was using the TDR ordinance to purchase 6 units. She explained that the applicant is changing their request from their original application as the City's ordinance does not have a provision for for-sale units so the applicant is now requesting 4 units to be the 1,400 s.f. size restricted rate and 2 to be full rate. This is the first step in the process and if approved, the applicant would still need to do full engineering and go through the TRC process and come back to the Planning Board for subdivision review.

FX Bruton, Bruton and Berube presented the item, explained the proposed development, highlighted the 1,400 s.f. restricted affordable units and addressed the criteria.

He answered for M. Speidel why only four of the six additional units are earmarked for affordable housing.

D. Benton and Mr. Bruton clarified that there is a change in the request from what is in the applicant's paperwork. Rather than requesting to restrict the sale price which does not work with the City's ordinance, the specified units will be size restricted to 1400 sq ft or less.

Motion: M. Speidel voted to accept the application and declared no regional impact. F. Cullen seconded. Vote: U/A

Public hearing opened
Danielle Ouimette, 21 Strafford Rd asked some questions about when the construction will begin, how long it's expected to take, and if there are any limits to construction hours. There are flags in the wooded area- is that part of this proposal?

Theresa and Robert Daneau, 23 Strafford Rd expressed concerns regarding the 50' wetland buffer, would the construction affect the wetland and therefore the existing homes, will there be a right of way request from Strafford Rd to the proposed site. They would request a buffer zone of trees or fence or wall at the property line and are also curious about the surveying in the area around their home- what is it for?

Lisa Stacy, 75 Long Hill Rd wondered if the units are age restricted or not and is concerned about the density and number of families/kids in schools if not restricted. Could the driveway of the development line up with the other street so it is safer? That is a school bus stop. She has concerns about water and is not in favor of this amount of density in this location.

D. Benton summarized emails that were received to the office:

- Jordan Plante, 92 Long Hill
- James Simard and Kathleen Kroll-Simard

Public hearing closed

Mr. Bruton addressed public comment and noted he spoke with his client about making all six additional units affordable housing and they are amenable to that.

- This proposal will be restricted to 55 and older.
- Some of the comments are more appropriate for the next level of approvals where they will address them.
- The wetlands will be a restricted area and will be discussed more in-depth at the site review level.

D. Benton clarified:

- Adding a condition that the 30' buffer is shown on the plans
- Traffic study will be addressed at future hearings
- Conditions of approval will include the changes mentioned today
- There is no project proposed that the City is aware of in the park
- The water question will be addressed as part of the City's review of the project.
- There is no right of way from Strafford being proposed.
- The term affordable keeps getting used but the applicant is looking at size restricting not the rental rate as other projects have proposed.

Kevin McEneaney, McEneaney Surveying represented the applicant and explained the flags are part of the work that is being researched for this project. It is common to need to go beyond the property line for some of the research that is done and to mark which areas are complete.

Regarding wetlands, the City has a requirement that signs are posted every 50' along the wetland buffer and that will be done. There will be no request for right of way from Strafford.

Steve Haight, CivilWorks Engineering responded regarding whether they've looked at doing a T intersection with Phillips St. They did look at it, but due to site distance and driveway access they didn't choose that option.

STAFF RECOMMENDATION: TDR
§170-27.2 provides for additional density to be purchased through Transfer of Development Rights.

The proposed TDR request in an impact sense creates six additional units after following the calculation provision in the TDR ordinance. The applicant is currently requesting 4 of those TDR units/lots would be size restricted to 1,400s.f. in perpetuity, and two of the TDR units/lots would pay the full TDR fee.

The Planning Department recommends the Planning Board make findings, and vote to grant the TDR request with the following subsequent conditions:

Subsequent Conditions to Be Met Prior to Granting of Transfer of Developments Right:

1. Recognition by the applicant in writing that the applicant understands the Board voted to allow up to a maximum amount but that they have the ability to reduce that unit count after seeing more fully-engineered plans, waiver requests, or any other relief requested.
2. Payment of the TDR fees.
3. Revise the application narrative to meet the most recent request.
4. Future subdivision plat shall show the 30' visual buffer.

Motion: M. Speidel moved to approve the request subject to the conditions set by the Planning Department. Seconded by G. DeBoer. Vote: U/A

Motion: K. Mavrogeorge moved to recess the meeting. Seconded by H. Harmon. Vote: U/A
Motion: F. Cullens moved to return to the meeting. Seconded by G. DeBoer. Vote: U/A

J. Public hearing to consider amendments to Chapter 170, entitled "Zoning" of the code of the City of Dover. Amendments include re-titling, formatting, construction signs, ground mounted solar, rooftop solar, window sign definitions, CWD green roof requirements, clarifying Gateway lot coverage and screening requirements, dark sky compliance for general site lighting, moving and amending non-environmental conditional use permit criteria, wetland protection district purpose and intent, wetland CUP criteria, TDR waiver criteria, TDR criteria, window and development signs, amendment notice requirements, removing Educational Institution from CM table of uses, and reducing RCM threshold area to 20 acres*.

D. Benton walked through the posted zoning amendments and explained another public hearing would be scheduled and notified using the City wide mailing process.

Public hearing opened

Laurie Smith, 36 Fisher commented that last year when the board added height restrictions to the extended Heritage district that was great. She has been part of the committee to look at these issues in the City and expressed thanks to the board and staff for the time given.
She asked about screening requirements. She prefers the height restrictions include the rest of Fisher St as was suggested by the neighborhood. She would also like to increase setbacks. When large multi-level structures go in next to single story homes it will have quite an affect.

Jack Mettee, 56 Rutland agreed with Ms. Smith with regard to the height restriction for Fisher St. He referenced the design standards for site plan for Gateway district.

Matt Cox, 33 Fisher agreed with Mrs. Smith and Mr. Mettee noting this is some of the oldest part of town, but seems to have some of the least amount of restrictions. He would like to expand the provisions that are in the other gateway districts to the Fisher st area and protect the look of the area and the old homes.

Sandra Cohen-Holmes, 34 Fisher wondered why a four-story structure is allowed next door to these old homes.

Finola Cox, 33 Fisher agreed with Ms. Cohen-Holmes' question and wondered who benefits from it. Only the people coming to live in the units and the builders and workers- not the people who already live there.

Chad Kageleiry, 100 Dover Neck is the owner of the lot most people are speaking about. After years of study the City elected to change the zone to gateway which is much more benign than what it was: Industrial.
He noted that all of the residential owners who have spoken tonight purchased their homes while the zone was industrial. There is also no project planned yet- so the concerns are without merit. The planning process will vet the projects that want to come in.

D. Benton summarized emails that were received to the office:

- JK C Holmes, 34 Fisher St.
- Martha Wilson 8 Auburn St
- Liane Smith, 13 Fisher St.
- Sandra Cohen Holmes, 34 Fisher St.
- Marisa Didio, 105 Belknap
- Laurie Smith, 36 Fisher St.
- Carmel Casey 36A Fisher St.

Public hearing tabled

Motion: H. Harmon moved to table the public hearing. Seconded by M. Speidel. Vote: U/A

K. Public hearing to consider amendments to Chapter 153-A, entitled "Site Review Regulations" of the code of the City of Dover. Amendments include amount of copies include site plan applicability, application requirements, and removing the 90 day extension for Planning Board action.*

D. Benton walked through the Site Plan amendments which were posted on February 14th and are mostly housekeeping in nature.

Public Hearing Opened
None

Public Hearing Closed

Motion: T. Clark moved to adopt the amendments as submitted. Seconded by H. Harmon. Vote: U/A

5. STAFF COMMENTS

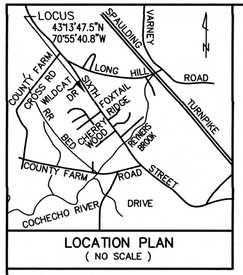
- Vision Chapter Sessions will continue and wrap up with a full day on April 18th so save the date and locations are being finalized.
- Unless anything is continued tonight, it is likely we won't meet on April 11.
- TRCs that have occurred:
  - Site Review for VC Dover Investment, LLC, Assessor's Map H, Lot 4-3-1, zoned Commercial, located at 30 Grapevine Drive. (Proposal is to build a new 15,040 sf (footprint), 4 story mixed use building next to the Hannaford's Grocery Store on Grapevine Drive.) (P22-72/SITE-2022-0017). *[This item was previously heard on November 17, 2022, January 5, 2023 & February 16, 2023]*
  - Open Space Subdivision for Chinburg Development, LLC, Assessor's Map N, Lot 13-1, zoned R-40, located at Oak Street & Gulf Road. (11 new lots.) (SUBD-2023-0001).
- TRCs coming up:
  - Site Review for Cooperative Alliance for Seacoast Transportation, (Assessor's Map H, Lot 35-C-4, located at 42 Sumner Drive. (Proposal is to build a 28,700 s.f vehicle storage building and 17,000 s.f. administration, operations and maintenance building.) (SITE-2023-0002).
  - Site Review for Crosshill Housing Associates, Limited Partnership, (Assessor's Map H, Lot 41-M, located at 1 Martha's Way. (Proposal is to add a 4,600 s.f. building with outdoor patio, walkways, and parking restriping to add ADA spaces.) (SITE-2023-0001).

6. MEMBER COMMENTS

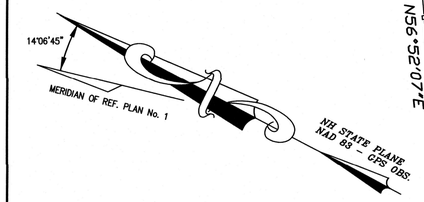
- The Chair signed plans for 7 West LLC the Medical Office Building at Exit 7.

7. ADJOURNMENT

Motion: M. Speidel moved to adjourn at 9:03pm. Seconded by G. DeBoer. Vote: U/A



LOCATION PLAN
(NO SCALE)



A / 67
NORMAN E. VANDINI
SHARON J. VANDINI
569 SIXTH STREET
DOVER, NH 03820
1452 / 241

A / 56
LEON A. DROUIN, TRUSTEE
LEON A. DROUIN REVOCABLE TRUST
565 SIXTH STREET
DOVER, NH 03820
4724 / 277

A / 66
RHONDA M. ZABIELSKI
MICHAEL P. ZABIELSKI
563 SIXTH STREET
DOVER, NH 03820
1895 / 740

OWNER SIGNATURES

SMH
RIM = 209.70'
INV. IN = 203.17' 6"PVC
INV. OUT = 203.02' 8"PVC
BRICK SHELF = 203.64'

SIXTH STREET
{PUBLIC; VARIABLE WIDTH R.O.W.}

S 8" PVC
W 12" CL DI
12" RCP
INV. = 205.94'
TBM
SPIKE IN UP
ELEV.209.08'
UP 58/32
UP 20/31.5
SMH
RIM = 209.81'
INV. IN = 198.47' 8"PVC NW
INV. IN = 201.57' 8"PVC SE
INV. OUT = 186.23' 10"PVC (SITE)
BRICK SHELF = 186.85'

S27°41'30"E 100.00'
S27°41'30"E 111.23'
S27°41'30"E 88.77'
I.R.(tbs)
(5')
30.00'

B / 4J
CAITLIN VERVILLE
RORY WILKIE
568 SIXTH STREET
DOVER, NH 03820
4613 / 638

PROPOSED DUPLEX
39' x 29'
1,184 S.F.
FOOTPRINT
10.5'
5.0'
29.0'
39.0'

1 STORY WOOD FRAME HOUSE
#566
F.F. = 213.9'
DRIVE UNDER GARAGE
F.F. = 204.2'
STONE RETAINING WALL
ASPHALT DRIVE
WALK
EXISTING ASPHALT DRIVE
73.02'

HOUSE
#568

PROPOSED PAVED DRIVEWAY
PROPOSED 30' WIDE UTILITY EASEMENT
30.14'
73.89'
70.87'
30.00'
S 27°31'40" E
95.87'
98.79'
N 27°31'40" W
PROPOSED 30' WIDE ACCESS EASEMENT
(73.32')
S57°03'29"W 200.87'
30.13'

N56°52'07"E 194.62'
FENCE
BUILDING SETBACK LINE (TYP.)
S59°52'07"W 196.73'
S62°36'50"W 197.77'
12" W
S 10" PVC

B / 4F
PARCEL AREA
19,942 S.F.
0.45 Ac.

B / 4F-1
PARCEL AREA
19,480 S.F.
0.45 Ac.

B / 4F-2
PARCEL AREA
19,580 S.F.
0.45 Ac.

30' EXTERIOR NO CUT BUFFER (TYP.)

I.P.(fnd)
100.22'
N26°29'30"W
I.R.(tbs)
91.55'
N26°29'30"W
I.R.(tbs)
108.23'
N26°29'30"W
I.P.(fnd)

B / 4R
JAMES P. GOWEN
SHARON GOWEN
562 SIXTH STREET
DOVER, NH 03820
988 / 448

SMH
RIM = 201.06'
INV. IN = 184.90' 10"PVC
INV. OUT = 184.90' 10"PVC
BRICK SHELF = 186.11'

B / 4-53
EMILY S. DAVIE
TIMOTHY W. MALLARD
141 COTTONWOOD DRIVE
DOVER, NH 03820
4221 / 508

LEGEND

- I.P.(fnd) – IRON PIPE (FOUND)
- I.R.(tbs) ● – IRON ROD W/ I.D. CAP (TO BE SET)
- SMH – SEWER MANHOLE
- CB – CATCH BASIN
- DMH – DRAIN MANHOLE
- WV ⋈ – WATER GATE VALVE
- S.F. – SQUARE FEET
- Ac. – ACRE
- (TYP.) – TYPICAL
- ± – MORE OR LESS
- ø – DIAMETER
- S.C.R.D. – STRAFFORD COUNTY REGISTRY OF DEEDS
- UP 410/5 – UTILITY POLE W/ I.D. Nos.
- R.O.W. – RIGHT OF WAY
- INV. – INVERT
- PVC – POLYVINYL CHLORIDE
- CL DI – CEMENT LINED DUCTILE IRON
- ELEV. – ELEVATION
- 204 – – – – – CONTOUR LINE (2 FOOT INTERVAL)
- WSO – WATER SHUT OFF (CURB STOP)
- HYD. – FIRE HYDRANT
- W – WATER SERVICE LINE
- S – SEWER LINE
- S SMH – SEWER MANHOLE
- OHU – OVERHEAD UTILITIES

NO.	DATE	DESCRIPTION	BY	CHK
CNE 24081		REVISIONS		

24–2571	TDR SUBDIV	23–12	37–42
PROJECT NO	TYPE	FIELDBOOK & PAGES	

REFERENCE PLANS:

1.) ALDEN WOODS SUBDIVISION, SIXTH STREET, DOVER, NEW HAMPSHIRE, SHEET 7 OF 26: SCALE: 1" = 60'; DATED: APRIL 27, 1998; BY: MCENEANEY SURVEY ASSOCIATES, INC.; RECORDED S.C.R.D. PLAN 54–34.

2.) SUBDIVISION OF LAND OF SCOTT L. WEEDEN, DOVER, NEW HAMPSHIRE; SCALE: 1" = 50'; DATED: FEB., 1975; BY: RICHARD P. TOWLE; RECORDED S.C.R.D. PLAN 43, POCKET 15, FOLDER 43.

"I HEREBY CERTIFY THAT THIS PLAN IS BASED ON AN ACTUAL GROUND SURVEY PERFORMED WITH A TOTAL STATION, BY ME OR THOSE UNDER MY DIRECT SUPERVISION AND THAT, TO THE BEST OF MY KNOWLEDGE AND BELIEF, SAID SURVEY MEETS OR EXCEEDS THE MINIMUM PRECISION REQUIREMENTS FOR SURVEY CLASSIFICATION "U" AS SET FORTH IN TABLE 500.1 OF THE NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES OF THE BOARD OF LICENSURE FOR LAND SURVEYORS."

NOTES:

1.) OWNER OF RECORD:
FERGUS CULLEN
JENNIFER CULLEN
152 BOXWOOD LANE
DOVER, NEW HAMPSHIRE 03820
S.C.R.D. VOLUME 5152, PAGE 7

2.) B / 4F – DENOTES TAX MAP AND PARCEL NUMBER.

3.) TOTAL PARCEL AREA = 59,002 S.F. / 1.35 Ac.

4.) THE INTENT OF THIS PLAN IS TO DEPICT A PROPOSED TDR SUBDIVISION CONSISTING OF THREE (3) LOTS, ONE LOT CONTAINING A SINGLE FAMILY DWELLING AND TWO LOTS CONTAINING DUPLEXES.

5.) ZONING DISTRICT: RURAL RESIDENTIAL (R40)

DIMENSIONAL REQUIREMENTS:	
MINIMUM LOT SIZE	= 40,000 S.F.
MAXIMUM LOT COVERAGE	= 10 PERCENT
MINIMUM FRONTAGE	= 150 FEET
BUILDING SETBACK REQUIREMENTS:	
FRONT SETBACK	= 40 FEET
SIDE SETBACK	= 25 FEET
REAR SETBACK	= 30 FEET
MAXIMUM BUILDING HEIGHT	= 35 FEET
WETLAND BUFFER	= 50 FEET

TRANSFER OF DEVELOPMENT RIGHTS REGULATIONS:	
ABUTTING A ROAD SETBACK	= 20 FEET
ABUTTING A LOT LINE SETBACK	= 10 FEET
STREET SIDES OF UNITS	= 20 FEET
ABUTTING STRUCTURES	= 20 FEET
NO CUT BUFFER FROM EXTERIOR LOT LINE	= 30 FEET

6.) THE SUBJECT PARCEL IS NOT LOCATED WITHIN A SPECIAL FLOOD HAZARD AREA (SFHA) AS SHOWN ON FLOOD INSURANCE RATE MAP 33017C0310E, EFFECTIVE DATE 9/30/2015.

7.) BASIS OF BEARING IS NH STATE PLANE (NAD83) AND VERTICAL DATUM IS NAVD88 BASED ON GPS OBSERVATION DATED JANUARY 30, 2024.

8.) ALL EXISTING UTILITY LOCATIONS ARE APPROXIMATE AS SHOWN. THE CONTRACTOR SHALL VERIFY THEIR EXACT LOCATIONS WITH THE RESPECTIVE UTILITY OWNERS PRIOR TO ANY WORK BEING PERFORMED. CALL DIGSAFE AT 1–888–344–7233.

9.) THE SOIL TYPES ON THE SITE ARE:
WdB – WINDSOR LOAMY SAND, 3–8% SLOPES
THE SOURCE FOR THE SOIL TYPE DATA IS USDA SCS SOIL SURVEY OF STRAFFORD COUNTY DATED MARCH 1973 & USDA NRCS WEB SOIL SURVEY http://websoilsurvey.nrcs.usda.gov/app/WebSoilSurvey.aspx

10.) NO WETLANDS WERE OBSERVED ON SITE BASED ON SITE INSPECTION PERFORMED DURING APRIL, 2024 BY BRUCE A. GILDAY, N.H.C.W.S. #088; N.H. C.S.S. #012 OF B A G LAND CONSULTANTS.

11.) TDR UNIT CALCULATIONS:
A) 59,002 S.F. – CONSERVATION (0 S.F.)= 59,002 S.F.
B) 59,002 * 0.85 = 50,150 S.F.
C) 50,150 * 0.85 = 42,628 S.F.
D) 42,628 / 40,000 BASE UNIT COUNT = 1 UNIT *
* EXISTING SINGLE FAMILY HOME HAS RIGHT TO CONVERT TO DUPLEX; (2) UNITS BY RIGHT.
E) REMAINING 3 UNITS TO BE PURCHASED, THUS ALLOWING FOR 5 UNITS.

12.) PROPERTY LINE INFORMATION HAS BEEN OBTAINED FROM A SURVEY PERFORMED BY MCENEANEY SURVEY ASSOCIATES OF NEW ENGLAND DURING JANUARY AND MARCH, 2024 WITH AN ERROR NOT GREATER THAN 1 IN 10,000.

13.) PARCEL IS SERVICED BY MUNICIPAL SEWER AND WATER.

TDR SUBDIVISION PLAN
PREPARED FOR
FERGUS & JENNIFER CULLEN
TAX MAP B, LOT No. 4F
566 SIXTH STREET
CITY of DOVER
COUNTY of STRAFFORD
STATE of NEW HAMPSHIRE

DOVER PLANNING FILE No.	SUBM 2024–	
DRAWN BY: RJM		FILE: MSA\2571\D\23–2571
SCALE: 1" = 20'		DATE: SEPT. 25, 2024

20 10 0 10 20 40 60 80

STATE OF NEW HAMPSHIRE LICENSED LAND SURVEYOR No. 661 KEVIN M. McENEANEY SIGNATURE

McEneaney Survey Associates
of NEW ENGLAND
P.O. Box 1166 – 181 WATSON ROAD
DOVER, NH 03820 (603) 742–0911
SURVEYING – PLANNING – CONSULTING

9/26/2024 15:56:02 File: M:\2571\Drawings\23-2571.dwg Layout: 2571 SUBDIVISION

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.

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 SCRD 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.

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;

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.

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.

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.

- 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:

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.

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 or 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)

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.

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.

Jim Gowen, 206 County Farm Cross Rf (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

- 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.

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 arborvitaes 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.

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

- 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

DONNA P. BENTON, AICP
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City of Dover, New Hampshire

DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

NOTICE OF DECISION

June 2, 2025

Fergus & Jennifer Cullen
152 Boxwood Lane
Dover, NH 03820

Re: 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)

Dear Mr. & Mrs. Cullen,

Please be advised that on Tuesday, May 27, 2025 the Dover Planning Board voted to conditionally grant final approval of the above referenced plat and found the criteria of 157-16 have been met.

The specific subsequent conditions are included with this letter.

In addition to the conditions of approval, please provide the following to the Planning Office:

- ☐ Two (2) full size plans and one (1) 11'x17" plan (plus any additional copies for the applicant or owner);
- ☐ One (1) recordable paper copy of the plan:
- ☐ One (1) CAD file format of the plan; and
- ☐ One (1) PDF digital version of the plan

The plans must be submitted within ninety (90) days from Planning Board approval. Upon receipt, the Planning Board Chair will sign them approved. Any application which is not signed by the Planning Board Chair as complete, in accordance with the regulations, is deemed expired, and null and void.

If you have any questions, please do not hesitate to contact my office.

Sincerely,

Donna P. Benton

Donna P. Benton, AICP
Director of Planning & Community Development

EC: Building Inspection Office
Engineering Office
Assessing Office
McEneaney Survey Associates
Civilworks New England

Subsequent Conditions to be Met Prior to Signing of the Plans:	**Submitted**	**Reviewed**
1. Approval of TRAN-2024-0014;	☐	☐
2. Provide physical and digital copies (including CAD) of complete set which additionally shall include:	☐	
2.1 Signature and stamp of PE, LLS, CWS, and LLA.		
2.2 The owners' signatures for recording at Strafford County Registry of Deeds.		
2.3 Provide draft driveway and roof maintenance agreements to the Director of Planning and Community Development.		
2.4 Add where future treeline will be or if existing, show existing treeline and removed treeline currently shown on plan.		
2.5 Add note about no-cut buffer placards to be installed.		
2.6 Add note that no sump pumps or roof leaders will be tied to the public sewer.		
2.7 Revise driveway to a minimum 14' width.		
2.8 Identify FDC if any are proposed.		
2.9 Revise sewer lines to be off Sixth Street.		
2.10 Provide individual water lines for each unit.		
2.11 Remove cleanout outside of building.		
2.12 Add note about addressing as assigned by the Building Official.		
3. The applicant withdraws the previously approved subdivision SUMB-2024-0006	☐	☐
Subsequent Conditions to be Met Prior to Water and Sewer Tie In:	**Submitted**	**Reviewed**
4. Payment of water and sewer investment fees.	☐	☐
Subsequent Conditions to be Met Prior to Occupancy:	**Submitted**	**Submitted**
5. Certificate of Occupancy.	☐	☐
6. Buffer placards shall be in place or if damaged during construction replaced.	☐	☐

STATE OF NEW HAMPSHIRE

HOUSING APPEALS BOARD

FERGUS CULLEN & JENNIFER CULLEN
152 Boxwood Lane
Dover, NH 03820

v.

CITY OF DOVER, NEW HAMPSHIRE
CITY OF DOVER PLANNING BOARD
288 Central Avenue
Dover, NH 03820

APPEAL FROM DECISION OF THE CITY OF DOVER PLANNING BOARD PURSUANT TO RSA 679:5

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Counsel For:
Fergus Cullen & Jennifer Cullen

A copy of this document will be sent to the City of Dover in accordance with RSA 679:6, I, Hab 201.04 (b), and Hab 201.13(a).

STATE OF NEW HAMPSHIRE

HOUSING APPEALS BOARD

FERGUS CULLEN & JENNIFER CULLEN
152 Boxwood Lane
Dover, NH 03820

v.

CITY OF DOVER, NEW HAMPSHIRE
CITY OF DOVER PLANNING BOARD
288 Central Avenue
Dover, NH 03820

APPEAL FROM DECISION OF THE CITY OF DOVER PLANNING BOARD PURSUANT TO RSA 679:5

Petitioners Fergus Cullen and Jennifer Cullen (collectively, the "Applicant") appeal a decision of the City of Dover (the "City") Planning Board (the "Board") in accordance with RSA 679:5 and RSA 679:7 as follows:

INTRODUCTION

The Applicant appeals the Board's unlawful and unreasonable denial of a Transfer of Development Rights ("TDR") application to allow the construction of two new, attainably priced duplexes on property owned by the Applicant. The City enacted the TDR ordinance to encourage "intensive [residential] development on the developable land possessing the least conservation value." The Dover Master Plan pronounces the City's goal of housing that is "affordable, and attainable to a variety of individuals, families, and households at a range of income levels." It states that "Well-designed development includes density" and that the City should "Encourage residential development at a moderate density on smaller lots served by municipal water and sewer. Many of these areas already have established neighborhoods." The Master Plan applies this

intention directly to the Planning Board, including among the Board's "Priorities for Change" "Attainable housing, keeping current residents while growing (economically, culturally, etc.) for future generations."

As an elected member of the Dover City Council and appointed member of the Planning Board, Mr. Cullen is acutely aware of these objectives. The TDR ordinance was created to encourage and incentivize projects exactly like the one he proposed. He submitted a TDR application compliant with the regulations and consistent with the goals spelled out in the Master Plan. Possibly motivated by not wanting to appear biased in favor of the Applicant given his public roles in the community, the Board held the Applicant to an unreasonable and unlawful standard it would not have held another applicant to and ultimately denied the application in a 4-3 decision that is not supported by the record.

PARTIES AND PROPERTY

1. Petitioners, Fergus Cullen and Jennifer Cullen, reside at 152 Boxwood Lane, Dover, New Hampshire. On or about November 29, 2023, they purchased 566 Sixth Street, Dover, New Hampshire (Dover Assessor's Map B, Lot 4-F) (the "Property") at auction. The Property is ±1.37 acres in the R-40 zoning district and is currently improved by a ±1,440 square foot single-family home built in 1957 and fully renovated by the Applicants.

2. The Respondent, the City of Dover, New Hampshire is, on information and belief, a New Hampshire municipality with a principal address at 288 Central Avenue, Dover, New Hampshire.

3. The Respondent, the City of Dover Planning Board is, on information and belief, a lawfully constituted land use board within the City of Dover with a principal address at 288 Central Avenue, Dover, New Hampshire.

JURISDICTION

4. The Housing Appeals Board ("HAB") has jurisdiction over the instant appeal of the Planning Board decision pursuant to RSA 679:5 and RSA 679:7.

FACTS

Transfer of Development Rights

5. By the authority granted under RSA 674:21, Section 170-27.2 of the Dover Code ("DC") creates overlay districts for the purpose of allowing increased density on lots with lower conservation value through a transfer of development rights ordinance. *See* DC § 170-27.2 (A). If the units created are to be purchased, the development area may be in any zoning district that allows residential development, including the R-40 district. *See* DC § 170-27.2-D(2)(a).

6. Following amendments in 2018 and 2020 designed to encourage the use of TDR, the Dover Planning Board has approved scores of TDR projects involving the creation of hundreds of new housing units. The Planning Board has approved several TDR projects in the R-40 zone, including three in close proximity to the Property. Approved TDR projects in R-40 include: 144 Mast Road; 51 & 65 Bellamy Road; 537 Sixth Street; 512 Sixth Street; and, Wildcat Drive.

7. Procedurally, the use of the TDR provisions allows the Planning Board to waive certain zoning requirements, including minimum lot size, frontage, and setbacks. *See generally*, DC § 170-27.2-F.

8. 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:
>
> (a) Is consistent with the Master Plan
>
> (b) Is not incompatible with the land uses on neighboring lots (e.g. a multifamily building in a single-family neighborhood)
>
> (c) Is created on property served by public water and sanitary sewer.
>
> (d) Any relief sought should not be caused by the additional density."

See also Dover Planning Board Minutes, October 22, 2024, at 14.

9. Dover's TDR ordinance is designed to support the creation of more attainable housing by incentivizing smaller housing units. The TDR fee is reduced by 50 percent for units under 1,000 square feet, with the expectation that smaller units will cost less to rent or purchase than larger units. The Applicant's proposal responded to this incentive by designing two-bedroom, 1.5 bath units of less than 1,000 square feet intended to be priced at or below the median cost of new housing in Dover.

The Applicant's Proposal

10. On October 1, 2024, Civilworks New England, on behalf of the Applicant, submitted the proposal for a TDR minor subdivision and site plan at the Property for consideration by the Planning Board.

11. The existing lot contains one single-family home. The proposal would create two additional lots, each with a duplex, utilizing four TDR units. The result of the proposal would be three lots containing five total living units.

12. The Applicant sought to create housing units consistent with the City's goal of developing more "attainable" housing. The intended result of the proposal is new units priced at or below the median cost of new residential housing units in Dover.

13. Achieving attainable housing at the Property cannot be accomplished on this lot by building one or two single-family homes given contemporary site development and construction costs and current interest rates. To be financially viable, the resulting homes would need to be priced at the higher end of the market and would, therefore, not qualify as "attainable."

14. Additionally, the Applicant's TDR proposal would contribute $22,500.00 for land conservation in Dover as calculated by adding three more 1,000-square-foot size-restricted units

above what is allowed by right at the Property at a cost of $7,500 per credit. The TDR ordinance has raised millions of dollars to support the purchase of development rights and land conservation in Dover, as it was intended to do.

October 22, 2024 Planning Board Hearing and Denial

15. At the Board's October 22, 2024 hearing, it elected to consider the Applicant's request for a three-lot TDR minor subdivision and site plan, with each lot containing ±0.45 acres.

16. In the public hearing, abutters voiced the frequently-heard concerns about density, traffic, safety, affordable housing, tree cutting, keeping "the rural areas the way they are," and general preference that development occur someplace else. As part of their effort to oppose any development on the Property, and without any evidence, an abutter also charged the Applicant of vague conflicts of interest and ethics violations due to his public positions in the community.

17. No Board member expressed agreement with these charges. Chair Cruikshank noted the Applicant had recused himself from the meeting and stated she would "review the application based on its merits." Member Shanahan noted he had spoken to legal counsel about the possible conflict of interest and stated "He [Shanahan] would not be sitting here tonight if there was a conflict of interest."

18. The Applicant has the same property rights as any other individual and does not give them up by serving in volunteer public roles. Nevertheless, it appears members of the Board were so concerned about the possible appearance of giving this application favorable consideration due to the Applicant's public roles in the community that they failed to give the application a fair and impartial review, instead holding the application to an unreasonable standard.

19. The Board considered the staff recommendation which stated "§ 170-27.2 provides for additional density to be purchased through Transfer of Development Rights. **This application**

meets the ordinance." (Emphasis added). The recommendation concludes "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..." and listed certain conditions.

20. Dover, a city of 33,000 people, has a planning department staffed by full-time professionals. Projects often go through a Technical Review Committee ("TRC") process prior to reaching the Planning Board, as the Applicant's proposal did. As a result, projects have had a thorough vetting before they even reach the Planning Board. Projects that do not meet local ordinances are weeded out or amended until they do. The current Director of Planning has been in her position for three years. The only time her staff recommendation was rejected by the Board was this application.

21. Despite the staff recommendation and overwhelming evidence that the proposal meets the ordinance criteria, the Board nevertheless voted 4-3 to deny the application. Member Clark made the motion to deny, which was seconded by Member DeBoer. When the chair called the vote, at first only Clark and DeBoer voted in support of their motion to deny and the motion appeared to fail. When the chair called for those opposed to the motion to deny, three members (Cruikshank, Shanahan, and Mavrogeorge) voted against the motion to deny. At that point, the final two members Gambino and Pimental, who had not initially indicated support for or against the motion when the vote was called, stated they opposed the application and voted for the motion to deny. The motion to deny, which had appeared to fail 2-5, instead passed 4-3 in this unconventional and highly questionable procedural voting process. Following the denial of the TDR application, the Board elected not to vote on the subdivision application.

CLAIM I

The Planning Board acted unlawfully and unreasonably in denying the application because the Applicant met each of the relevant criteria for TDR approval.

22. The Applicant incorporates by reference the allegations set forth in the preceding paragraphs.

23. The HAB may reverse or affirm, wholly or partly, or may modify the Planning Board's decision when there is an error of law or when the HAB is persuaded by the balance of probabilities, on the evidence before it, that the Planning Board's decision is unreasonable. *See Motorsports Holdings v. Town of Tamworth*, 160 N.H. 95, 99 (2010).

24. Here, the Applicant met each of the criteria enumerated in Section 170.27.2-G(8) necessary for receipt of the TDR approval, namely: the Application (a) Is consistent with the Master Plan; (b) Is not incompatible with the land uses on neighboring lots; (c) Is created on property served by public water and sanitary sewer; and, (d) Any relief sought should not be caused by the additional density.

25. With regard to criterion (a), the Applicant presented concrete evidence that the proposal complies with the Master Plan. In particular, the Master Plan calls for a range of affordable and attainable housing. The Applicant carefully balanced development rights, and even reduced project density between the TRC review and Planning Board submission, as a means of keeping the unit prices attainable. The submission was carefully designed and revised to comply with the City's Master Plan and to hold otherwise is unreasonable.

26. In comparing the proposed use with those in the area, the Applicant's proposal clearly complies with criterion (b). TDR is allowed in all residential zones, including R-40. Testimony was provided that, despite being in the present R-40 district, the neighboring lots are more in keeping with the smaller lots found in the R-20 or even R-12 zoning districts. Many of the

lots on upper Sixth Street have roughly 100 feet of frontage and are under one acre. Additionally, the Board has already granted TDR approvals on three nearby properties. The proposed mix of a single-family home and two duplexes does not conflict with the residential use of the neighborhood.

27. Criteria (c) and (d) are objective standards the Property complies with. The Property is served by public sewer and water, and (d) is not relevant to the Applicant because no waivers from the TDR regulation were requested.

28. Because the Applicant met each criteria, the Board's denial was unreasonable and unlawful.

29. Planning boards cannot base their decisions upon personal opinion or vague concerns. *See Ltd. Editions Props. V. Town of Hebron*, 162 N.H. 488, 497 (2011). Additionally, they cannot rely on *ad hoc* decision making or by over relying on the considerations of abutters. *See Trustees of Dartmouth College v. Town of Hanover*, 171 N.H. 497, 507 (2018).

30. In deliberating the vote, one member (DeBoer) voted to deny after reasoning the Board "is trying to have additional density and housing, but we also have this R-40 zone which needs to be protected." Clark cited his discomfort with the use of TDR in R-40 as the reason for his opposition. However, TDR is allowed in the R-40 zone. Another member who opposed the application (Pimental) cited his opinion that the application was not consistent with the Master Plan, but he failed to cite any specific basis to support his conclusion. These are examples of unlawful rationales employed by the Board's majority in denying an application it could not reasonably deny.

WHEREFORE, Fergus Cullen and Jennifer Cullen respectfully request that the Housing Appeals Board:

A. Find that the Planning Board's October 22, 2024 denial of the application was unlawful and/or unreasonable for one or more of the reasons set forth above;

B. Reverse the Planning Board's October 22, 2024 denial of the Application accordingly or, in the alternative, modify the Planning Board's decision and/or remand it to the Planning Board for further proceedings consistent with the above; and,

C. Grant such other and further relief as may be equitable and just.

Respectfully submitted,

Fergus Cullen & Jennifer Cullen

By their attorneys,
Bernstein, Shur, Sawyer & Nelson, P.A.

Dated: November 21, 2024

/s/ Roy W. Tilsley, Jr.

Roy W. Tilsley, Jr., Esq. (NHBA #9400)
A. Eli Leino, Esq. (NHBA #269065)
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(603) 623-8700
rtilsley@bernsteinshur.com
eleino@bernsteinshur.com

CITY OF DOVER

PLANNING BOARD - STAFF MEMO FILE #TRAN-2024-0007

Application Type:	Transfer of Development Rights
Applicant(s):	Stephen R. & Deborah A. Scotton
Owner(s):	Stephen R. & Deborah A. Scotton
Location:	131 Littleworth Road (Assessor's Map F, Lot 21)
Meeting Date:	June 11, 2024

INTENT: To request the purchase of additional units through the Transfer of Development Rights ordinance for nine (9) non-restricted TDR units to allow a total of ten (10) units on the site. A full site plan review would still be required by the Planning Board and Technical Review Committee.

AGENDA ITEM #: 4-H

APPLICANT/OWNER: Stephen R. & Deborah A. Scotton

LOCATION: 131 Littleworth Road (Assessor's Map F, Lot 21)

UNITS PROPOSED: Ten (10) units total (including nine (9) non-restricted TDR units)

ACREAGE: 2.59± acres

ZONING DISTRICT: R-40, Secondary Groundwater Protection District

EXISTING USE: Residential

PROPOSED USE: Residential

SURROUNDING USE: Residential

ZBA ACTION: N/A

PERMITS: N/A

WAIVERS REQUESTED: N/A

APPLICATION IS COMPLETE: Yes

REGIONAL IMPACT: No

NOTICES SENT: Abutter notices were sent by certified mail.

TRC: Required, as construction disturbance will occur within 50' of Wetland Protection District and will impact more than 1,000 sf.

ATTACHMENTS: Application materials including site plan

Summary of Request and Background
The applicant is proposing the demolition of all existing structures on the property and to create five (5) separate duplexes, totaling ten (10) units, nine (9) of which will be non-restricted, purchased through the Transfer of Development Rights ordinance.

Staff provided the applicant with a memo (attached) regarding their TDR on June 6, 2024 with information related to the environment, transportation, zoning, neighborhood context, etc. Staff does not think 10 units is feasible on this site and therefore would recommend two options:

1) Allow up to 3 single family homes
2) Convert exiting home to a duplex as allowed in the R-40 District.

Consistency with Land Use Regulations - TDR
§170-27.2 provides for additional density to be purchased through Transfer of Development Rights. Staff does not believe this meets the intent of the TDR ordinance.

STAFF RECOMMENDATION - TDR:
The Planning Department recommends the Planning Board accept the application, open the public hearing, make findings, and vote to allow no more than a total of 3 residential units with the following subsequent conditions:

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

1. Add note to the plan that no additional dwelling units may added to the property without Planning Board approval and note number of TDR units approved;
2. The project must be reviewed by the Technical Review Committee; and
3. Payment of TDR fees for each TDR unit approved.

TRAN-2024-0007 131 LITTLEWORTH ROAD

Property Information

Location	131 LITTLEWORTH RD
Owner	SCOTTON STEPHEN F &
Land Use	
Zoning Code	R-40
Property Id	F0021-000000

MAP FOR REFERENCE ONLY
NOT A LEGAL DOCUMENT

City of Dover, NH makes no claims and no warranties, expressed or implied, concerning the validity or accuracy of the GIS data presented on this map.

Geometry updated 10/30/2023
Data updated Daily

Print map scale is approximate. Critical layout or measurement activities should not be done using this resource.

To: JJ McBride
From: Donna Benton, AICP
Cc: Steven and Deborah Scotton
Tony Fusco
Staff
Date: June 6, 2024
Re: TDR 131 Littleworth Rd

ISSUE:
In February 2020, the Board recommended amendments to the Transfer of Development Rights (TDR) Ordinance. In June 2020, the Planning Board approved the amendments and on July 22, 2020, the City Council ratified them. One element is the requirement for staff to draft a review statement on the need for a sketch plan. Since then the criteria for TDR has also been amended.

INTENT:
This memo will serve as part of the staff report.

GOALS:
Provide background on balancing development vs. conservation needs and current housing shortage, and describe the TDR applications in Dover.

Background

On behalf of your client, you submitted a plan and application materials including a narrative for a project for 10 residential units (via 5 duplexes) by purchasing 9 through TDR. The project is located at 131 Littleworth Road.

Staff performed this review based upon the information below, and is now providing the required staff report (Chapter 170-27.2 E.(4)a).

Project Information

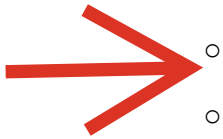
Project:	131 Littleworth TDR project
Where:	131 Littleworth
What:	9 units. Nine of which are requested to be purchased through TDR using the unrestricted option. The density calculation per Chapter 170-27.2.G(3)(a) was used to determine base calculation of 1 unit.
Acres:	2.588
Zone:	R-40
Public Water:	On site
Public Sewer:	Would be extended ~525 ft. (no cost estimate was provided)
Units:	10 total units are proposed, via 5 duplexes. New duplexes are only allowed by right if part of an open space subdivision with commercial component or if converting an existing unit. There are no other duplex units in the surrounding area.
CUP:	Not required per the submitted information

Staff Comment

When reviewing projects, review the context, discuss options with the applicant, and advise on the feasibility of requesting the purchase or exchange before or after designing a fully laid out plan. From our initial conversations, staff indicated 10 units seemed too high for this site.

In reviewing this project, we note:

- Traffic
  - Littleworth Road is a public arterial road connecting Dover and Barrington. Sight distance and traffic study should be discussed with the Technical Review Committee and Planning Board during site plan review if Planning Board votes favorably on TDR.
  - Traffic seems to travel faster than the posted speed limit and the 85th percentile of actual traffic data should be utilized when reviewing sight distance for the roadway.
  - This section of Littleworth Road is controlled by NHDOT, who would need to review and issue a driveway permit.
- Existing layout/topography
  - You are proposing an approximate 425' cul-de-sac which would require a waiver from Chapter 153 for block length.
  - The lot is currently using city water and you are proposing to extend sewer to the lot (approximately 525') to tie into. Has the applicant reviewed the feasibility of tying into the sewer line with Community Services?
- Environmental
  - The site is semi-wooded, has wetlands towards the rear which abuts conservation land owned by the Indian Ridge Homeowners Association.



- The duplex furthest from Littleworth Road is placed in a way that would make it difficult for future residents to use their backyards without impacting the wetland buffer.
- No real open space is shown for this lot outside of the required no-cut, no-disturb buffers.
- The R-40 District is intended to be the most rural in nature with 40,000 s.f. minimum lot sizes, longer frontage requirements, and open space subdivisions required for any major subdivision. This plan does not seem to meet the intent of the R-40 district or the TDR ordinance.

Staff Recommendation

Currently, the TDR unit cost is $15,000 per unit, which is reduced if the units are restricted by size or the HUD rental rates. To staff's knowledge, the applicant is not proposing to restrict the units in either size or rental rates. The application is proposing 9 units to unrestricted TDR units plus one unit by right.

Staff understands the need for additional housing units, but also understands the importance of the rural nature of the R-40 district as laid out in the Vision Chapter of the Master Plan:

> "*Dover maintains distinct areas that have defining land uses and characteristics, such as an urban, historic downtown center, residential neighborhoods, business districts, and rural residential, agricultural, and open lands.*"

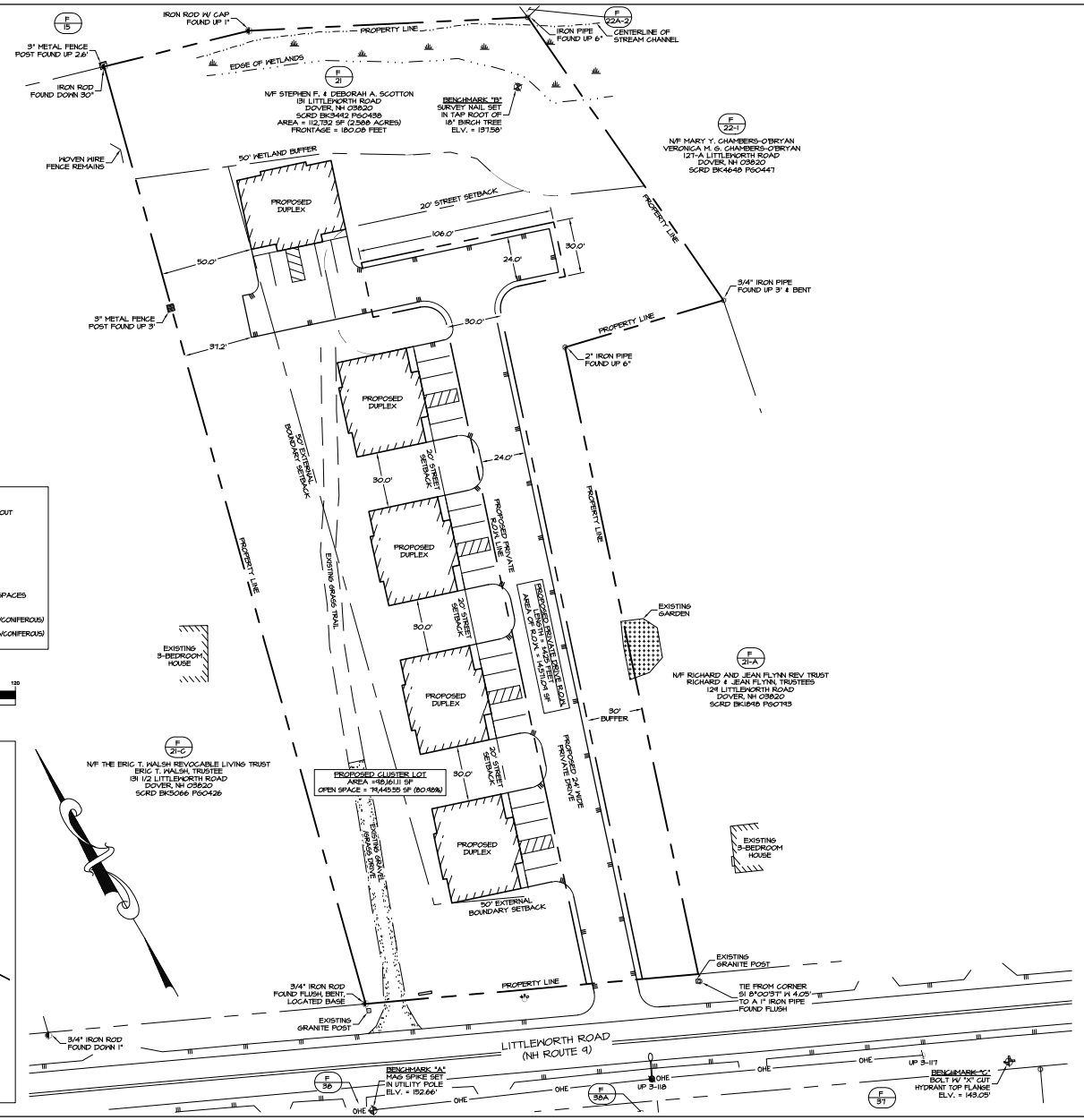
Staff would want to see open space as part of this plan if 10 units are being proposed. This would allow for the wetlands to be protected from any buffer encroachment and for open space to be able to be conserved adjacent to other conservation land.

Staff recommends these potential alternative options, that would increase housing on the subject parcel while being in line with the surrounding neighborhood and the R-40 district as a whole:

- Reducing the TDR request to include three single-family homes and include open space towards the rear of the lot.
- Converting the existing home, by right, to a two-family dwelling.

You are using your opportunity to bring this to Planning Board for TDR only, and then would need to come back for a full TRC site plan review and Planning Board review of the site plan again. The site plan application would require additional information such as a landscape plan, lighting plan, turning template, draft HOA documents, traffic study, stormwater management plan, etc.

Staff has concerns if the Planning Board allows for this TDR project, then several other Littleworth Road lots may have similar designs come forward which would greatly impact Littleworth Road and Dover's R-40 District.



LEGEND

- GRANITE POST
- IRON PIPE FOUND
- IRON ROD FOUND (TYP.)
- PROPERTY LINE
- WETLAND DELINEATION
- WETLAND SYMBOL
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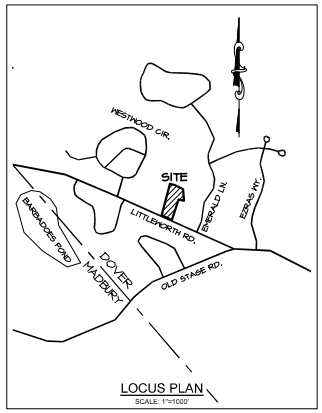
GRAPHIC SCALE

30 0 15 30 60 120

(IN FEET)
1 inch = 30 ft.



LOCUS PLAN
SCALE: 1"=1000'

ADDITIONAL ABUTTERS:

F 15
N/F INDIAN RIDGE HOMEOWNERS' ASSOCIATION
42 J DOVER POINT ROAD
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SCRD BK4832 PG0309
SCRD BK4648 PG0447

F 22A-2
N/F SAMUEL J. MOKLER
28 EMERALD LANE
DOVER, NH 03820
SCRD BK4308 PG0796

F 37
N/F ROBERT GEORGE CLEMENT
92 LITTLEWORTH ROAD
DOVER, NH 03820
SCRD BK4016 PG0123

F 38
N/F KENAAN AL-DARRAJI
96 LITTLEWORTH ROAD
DOVER, NH 03820
SCRD BK4484 PG0898

F 38-A
N/F KEITH R. AUTIO
DIANNE E. AUTIO
94 LITTLEWORTH ROAD
DOVER, NH 03820
SCRD BK4852 PG0540

REFERENCE PLANS:

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TRANSFER OF DEVELOPMENT RIGHTS (TDR) CALCULATION:

- LOT AREA = 112,732 SF
- WETLAND AREA = 36,713 SF
- WETLAND PERCENTAGE = 36,713 SF / 112,732 SF = 33%
- BASE LOT SIZE = LOT AREA - ENVIRONMENTAL CONSTRAINTS = 112,732 SF - 36,713 SF = 109,059 SF
- NET AREA = BASE LOT SIZE X 0.85 = 109,059 SF X 0.85 = 92,700 SF
- DEVELOPABLE AREA = NET AREA X 0.85 = 78,795 SF
- MINIMUM LOT SIZE = 40,000 SF
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- UNITS PROPOSED = 10 UNITS (REQUIRES TDR RELIEF FOR 9 ADDITIONAL UNITS)

NOTES:

1. OWNER OF RECORD:
   TAX MAP F, LOT 21
   STEPHEN F. & DEBORAH A. SCOTTON
   131 LITTLEWORTH ROAD
   DOVER, NH 03820
   SCRD BOOK 3442 PAGE 438
2. THE INTENT OF THIS PLAN IS TO SHOW A PROPOSED CONDOMINIUM/CLUSTER SUBDIVISION DEPICTING FIVE (5) SEPARATE DUPLEXES ON DOVER, NH TAX MAP F, LOT 21. ADDITIONALLY, A +/-425-FOOT-LONG PAVED DRIVEWAY IS PROPOSED ALONG ASSOCIATED PARKING TO SERVICE THE DUPLEXES.
3. PARCEL IS ZONED "RURAL RESIDENTIAL (R-40)" PER THE CITY OF DOVER, NH ZONING DERIVED ONLINE VIA MAPGEO CURRENT TO JULY 10, 2023. PARCEL IS WITHIN THE "SECONDARY GROUNDWATER PROTECTION DISTRICT" PER THE "GROUNDWATER PROTECTION ZONES MAP" DATED APRIL 15, 2015.
4. PARCEL IS NOT IN A FLOOD HAZARD ZONE; REFERENCE FLOOD INSURANCE RATE MAP 33017C0510E, DATED SEPTEMBER 30, 2015.
5. THE PLAN IS BASED UPON A FIELD SURVEY COMPLETED BY JAMES VERRA & ASSOCIATES, INC. IN MAY OF 2023 WITH TRIMBLE S5 ROBOTIC TOTAL STATION, CARLSON BRX7 RTK GPS UNITS, PANASONIC FZ-M1/TRIMBLE TSCT DATA COLLECTORS. HORIZONTAL DATUM: NAD83, VERTICAL DATUM: NAVD88. UNITS = SURVEY FOOT. ESTABLISHED BY SURVEY GRADE GPS OBSERVATION AND PROCESSED BY OPUS.
6. WETLANDS WERE DELINEATED BY JOSEPH NOEL CWS #86 ON MAY 4, 2023.
7. SOILS WERE DELINEATED VIA THE USDA-NRCS ONLINE WEB SOIL SURVEY RESEARCHED BY EMANUEL ENGINEERING, INC. ON OCTOBER 6, 2023.
8. PROPERTY TO BE SERVICED BY PUBLIC SEWER AND WATER. PUBLIC SEWER WILL NEED TO BE EXTENDED FROM EMERALD LANE.
9. ALL CONSTRUCTION SHOULD COMPLY WITH FEDERAL, STATE, AND LOCAL STANDARDS AND REGULATIONS.
10. THIS PLAN WAS PREPARED WITH ON-SITE FIELD SURVEY AND EXISTING PLANS. THE CONTRACTOR SHOULD NOTIFY EMANUEL ENGINEERING, INC. DURING CONSTRUCTION IF ANY DISCREPANCY TO THE PLAN IS FOUND ON SITE.
11. BEFORE ANY EXCAVATION, DIG SAFE AND ALL UTILITY COMPANIES SHOULD BE CONTACTED 72 HOURS BEFORE COMMENCING BY THE CONTRACTOR. CALL DIG SAFE @ 811 OR 1-888-DIG-SAFE.
12. ALL UTILITIES SHALL BE LOCATED UNDERGROUND EXCEPT AS NOTED ON PLAN APPROVED BY THE PLANNING BOARD.
13. CITY OF DOVER CLUSTER SUBDIVISION DIMENSIONAL REQUIREMENTS PER DOVER CODE SUBDIVISION OF LAND CHAPTER 188 (RURAL RESIDENTIAL (R-40 ZONE)
    - MIN DISTANCE AROUND INDIVIDUAL UNITS IN CLUSTERS (STREET SIDE OF UNIT) = 20'
    - MIN DISTANCE AROUND INDIVIDUAL UNITS IN CLUSTERS (BETWEEN UNITS) = 30'
    - MINIMUM DISTANCE FROM EXISTING STRUCTURES OF SMELLING UNITS = 100'
    - MINIMUM DISTANCE FROM EXTERNAL BOUNDARIES = 50'
14. CITY OF DOVER SITE REVIEW REGULATIONS CHAPTER 141 – PRIVATE DRIVEWAY AND INTERNAL ROAD REQUIREMENTS FOR RESIDENTIAL UNITS (5-24)
    - RIGHT-OF-WAY = 50'
    - ROAD WIDTH = 24'
    - BASE COURSE = 18" BANK RUN GRAVEL
      4" CRUSHED GRAVEL
      2" ASPHALT TIGHT BINDER
      3' GRAVEL SHOULDER
    - PARKING REQUIREMENT = 2 SPACES PER UNIT (RESIDENTIAL (1 OR 2 UNITS))
    - PARKING PROVIDED = 2.5 SPACES PER UNIT
    - PARKING SPACE DIMENSIONS = 9'x18'

ISS.	DATE:	DESCRIPTION OF ISSUE:	CHK.
1	MAY 7, 2024	FOR APPROVAL	

DRAWN: JJM | DESIGN: JJM
CHECKED: BDS | CHECKED: BDS

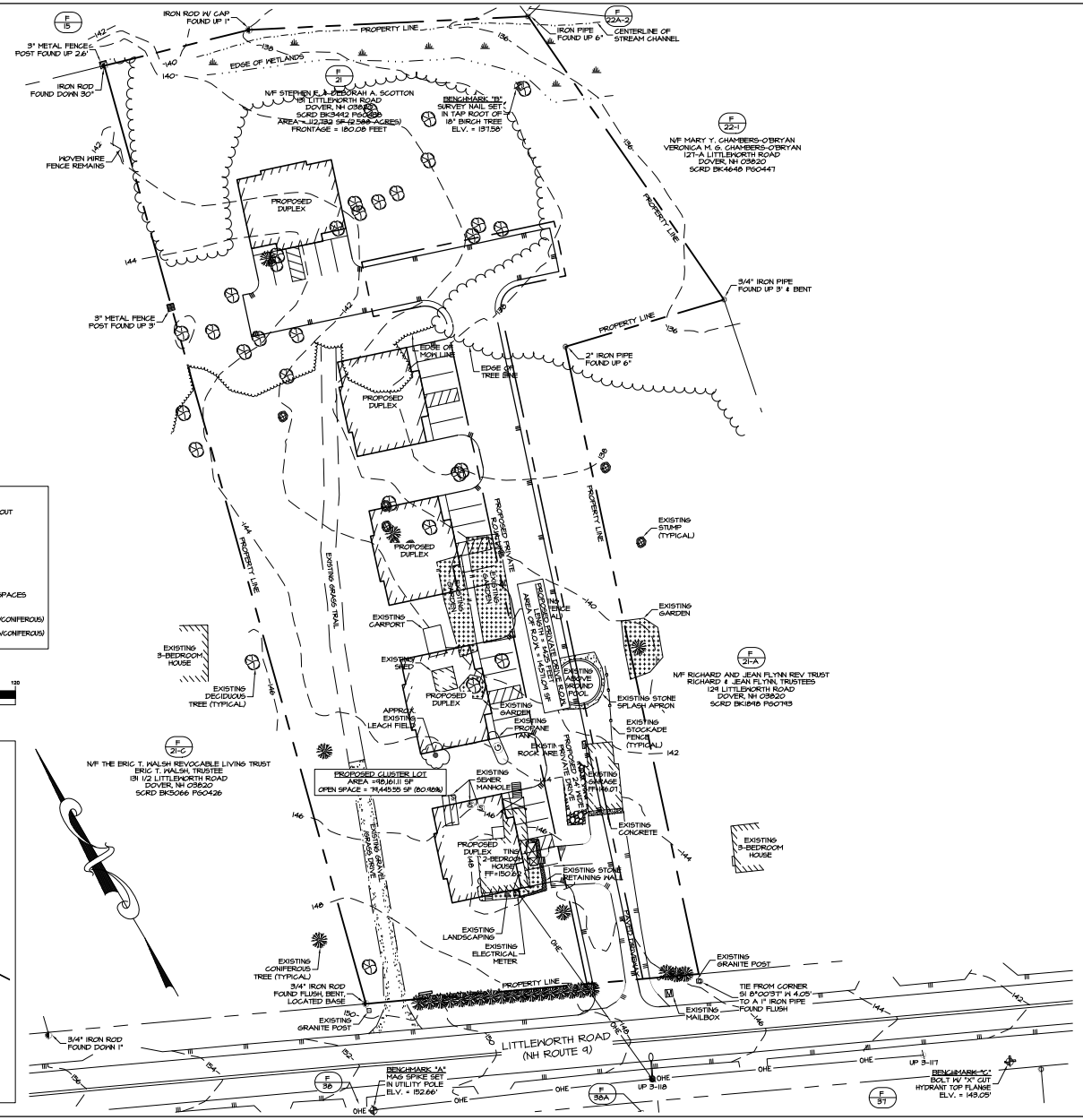
EMANUEL ENGINEERING
118 Portsmouth Avenue, A202
Stratham, NH 03885
P: 603-772-4400 F: 603-772-4487
www.emanuelengineering.com

CLIENT:
FOX CONSTRUCTION
196 NOTTINGHAM ROAD
DEERFIELD, NH 03037

SEAL:

TITLE:
CONDO PLAN
FOR
STEPHEN F. &
DEBORAH A. SCOTTON
131 LITTLEWORTH ROAD (SITE)
DOVER, NH 03820

PROJECT:	SCALE:	SHEET:
24-1067	1"=30'	C2



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- (TYP.) TYPICAL
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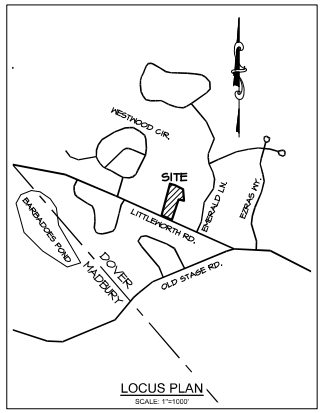

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SCRD BK4884 PG0858

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3. PARCEL IS ZONED "RURAL RESIDENTIAL (R-40)" PER THE CITY OF DOVER, NH ZONING DERIVED ONLINE VIA MAPGEO CURRENT TO JULY 10, 2023. PARCEL IS WITHIN THE "SECONDARY GROUNDWATER PROTECTION DISTRICT" PER THE "GROUNDWATER PROTECTION ZONES MAP" DATED APRIL 15, 2015.
4. PARCEL IS NOT IN A FLOOD HAZARD ZONE; REFERENCE FLOOD INSURANCE RATE MAP 33017C0316E, DATED SEPTEMBER 30, 2015.
5. THE PLAN IS BASED UPON A FIELD SURVEY COMPLETED BY JAMES VERRA & ASSOCIATES, INC., IN MAY OF 2023 WITH TRIMBLE S5 ROBOTIC TOTAL STATION, CARLSON BRX7 RTK GPS UNITS, PANASONIC FZ-M1/TRIMBLE TSC7 DATA COLLECTORS. HORIZONTAL DATUM: NAD83, VERTICAL DATUM: NAVD88. UNITS = SURVEY FOOT. ESTABLISHED BY SURVEY GRADE GPS OBSERVATION AND PROCESSED BY OPUS.
6. WETLANDS WERE DELINEATED BY JOSEPH NOEL CWS #86 ON MAY 4, 2023.
7. SOILS WERE DELINEATED VIA THE USDA-NRCS ONLINE WEB SOIL SURVEY RESEARCHED BY EMANUEL ENGINEERING, INC. ON OCTOBER 6, 2023.
8. PROPERTY TO BE SERVICED BY PUBLIC SEWER AND WATER. PUBLIC SEWER WILL NEED TO BE EXTENDED FROM EMERALD LANE.
9. ALL CONSTRUCTION SHOULD COMPLY WITH FEDERAL, STATE, AND LOCAL STANDARDS AND REGULATIONS.
10. THIS PLAN WAS PREPARED WITH ON-SITE FIELD SURVEY AND EXISTING PLANS. THE CONTRACTOR SHOULD NOTIFY EMANUEL ENGINEERING, INC. DURING CONSTRUCTION IF ANY DISCREPANCY TO THE PLAN IS FOUND ON SITE.
11. BEFORE ANY EXCAVATION, DIG SAFE AND ALL UTILITY COMPANIES SHOULD BE CONTACTED 72 HOURS BEFORE COMMENCING BY THE CONTRACTOR. CALL DIG SAFE ® 811 OR 1-888-DIG-SAFE.
12. ALL UTILITIES SHALL BE LOCATED UNDERGROUND EXCEPT AS NOTED ON PLAN APPROVED BY THE PLANNING BOARD.
13. CITY OF DOVER CLUSTER SUBDIVISION DIMENSIONAL REQUIREMENTS PER DOVER CODE SUBDIVISION OF LAND CHAPTER 155 (RURAL RESIDENTIAL R-40 ZONE):
    - MIN DISTANCE AROUND INDIVIDUAL UNITS IN CLUSTERS (STREET SIDE OF UNIT) = 20'
    - MIN DISTANCE AROUND INDIVIDUAL UNITS IN CLUSTERS (BETWEEN UNITS) = 30'
    - MINIMUM DISTANCE FROM EXISTING STRUCTURES OF SWELLING UNITS = 100'
    - MINIMUM DISTANCE FROM EXTERNAL BOUNDARIES = 50'
14. CITY OF DOVER SITE REVIEW REGULATIONS CHAPTER 14E – PRIVATE DRIVEWAY AND INTERNAL ROAD REQUIREMENTS FOR RESIDENTIAL UNITS (5-24):
    - RIGHT-OF-WAY = 50'
    - ROAD WIDTH = 24'
    - BASE COURSE = 18" BANK RUN GRAVEL
      4" CRUSHED GRAVEL
      2" ASPHALT TIGHT BINDER
      3' GRAVEL SHOULDER
    - PARKING REQUIREMENT = 2 SPACES PER UNIT (RESIDENTIAL (1 OR 2 UNITS))
    - PARKING PROVIDED = 2.5 SPACES PER UNIT
    - PARKING SPACE DIMENSIONS = 9'x18'

ISS.	DATE:	DESCRIPTION OF ISSUE:	CHK.
1	MAY 7, 2024	FOR APPROVAL	

DRAWN: JJM | DESIGN: JJM
CHECKED: BDS | CHECKED: BDS

EMANUEL ENGINEERING
118 Portsmouth Avenue, A202
Stratham, NH 03885
P: 603-772-4400 F: 603-772-4487
www.emanuelengineering.com

CLIENT:
FOX CONSTRUCTION
196 NOTTINGHAM ROAD
DEERFIELD, NH 03037

SEAL:

TITLE:
CLUSTER OVERLAY
FOR
STEPHEN F. &
DEBORAH A. SCOTTON
131 LITTLEWORTH ROAD (SITE)
DOVER, NH 03820

PROJECT:	SCALE:	SHEET:
24-1067	1"=30'	C3

From: merlinmason <merlinmason@comcast.net>
Sent: Friday, December 6, 2024 8:00 AM
To: Planning Board - All <PlanningBoard-All@dover.nh.gov>; City of Dover - Planning <Dover-Planning@dover.nh.gov>
Subject: 103 Court St projects

Security Notice: External sender. Use caution with hyperlinks or attachments.

To Dover Planning -

I request that you deny the TDR project at 103 Court St because it overreaches for TDR at triple the existing density, offers no consistency with the neighborhood, offers no buffer to neighbors, and also, perhaps most importantly, **it simply makes no sense for housing.** It does NOT provide 'missing middle' housing but instead creates a bizarre mix of HUD and restricted 'cottages' trapped under high HOA fees that will inevitably result in high turnover.

There is a very run-down single-family house at 103 Court St presently. The gutters have been falling off for years, and I expect there are serious structural issues from any external view. **Has anyone offered an honest inspection on the status of this home?** The TDR proposal leaves the existing single-family house as-is. There is no mention of any major improvements here. This unit - to become HUD - will cost the developer nothing in TDR fees. *Is the motivation to provide decent affordable housing, or to get a free TDR unit?*

In the future, how are major repairs to this falling-apart house going to be funded? When the window sills inevitably rot - given there are fabric curtains hanging out of the upper stories at all times already - how will this repair be funded? By the HOA - of course - which currently plans for up to $185,000 infrastructure replacement at year 30. Personally, I know new windows alone will cost about $40-50,000. The crack in the foundation of this old home? That's another $10k- and how's the heating system? Won't arguably almost all of the infrastructure costs sink into this one single HUD structure - since all of the other construction will be new? So all of the new properties will pay equal HOA fees to maintain this one HUD unit.... is that sustainable or desirable for the cottage owners?

Let's consider the condominium association budget of $333/unit - which is based on 7 units. Are the 3 HUD units going to be chipping in with the $500k cottages in the back equally? I'd like to understand how that works and where that money comes from - certainly not the tenants. Or are the HOA fees going to be really paid by the cottages - and therefore actually split four ways and starting at **$583/unit** monthly (assuredly to increase over time)?

This project has taken a single-family home at 103 Court St assessed at $422k - an attainable fixer-upper project to be sure - turns it into HUD which will burden the HOA with repairs and maintenance that is inevitable given its current state already - and throws onto the back of this property overcrowded $500k+ permanently restricted cottage homes that may be "attainable" at initial listing but then will trap residents under $333 monthly *or is it $583 monthly* HOA fees forever.

The developer narrative says "these cottages are designed to meet the needs of a diverse group of residents, including those looking to downsize, new families, and recently married couples." Has anyone asked a retired couple how they feel about $333/month HOA fees on social security income? Or a new family, or a recently married couple? As part of a recently married couple myself, I cannot imagine the

burden of a mortgage combined with this type of HOA fee. At least the mortgage is an investment, but the HOA fees are just money lost. This HOA fee covers what I do for my own property, and what my friends and coworkers do for theirs - it's part of the great challenge and joy of homeownership to maintain your own property.

What could be done using normal zoning without pushing the existing density under TDR? Maybe leave a $422k attainable fixer-upper in the existing single-family home, and add a second single-family home to the back of the lot, much like Chinburg did next door. The second home may be more expensive initially, but it would have no HOA and no restrictions so could actually be invested in and become a true family home.

My wife and I have friends and coworkers who have left Dover due to housing, but they don't qualify for HUD - they make too much money for HUD but not enough for $500+k new homes with HOA fees on top. They would have loved an opportunity for a $422k fixer-upper project that has been effectively removed from the market by this TDR project. This is the **"missing middle"** - not served by HOA-restricted $500k new constructions and not served by HUD. Are they able to buy a new $1mil home? Maybe not - but as someone else moves there, it opens up a smaller, less expensive home in town. And mortgages are investments - property eventually owned, not HOA money lost forever. What about the community created by neighbors' teenagers helping mow lawns, or hiring the guy down the street for that small job - not possible with a HOA.

On a final note, TDR has to be looked at in the context of the growth already underway in Dover as well as the troubles with existing infrastructure - we have over 1500 new units coming already in the large-scale developments across Dover. These alone provide over 10% growth for Dover. How much more growth do we need? Do we really need to push unwanted extra density into this neighborhood to get a few more units in here? Is our infrastructure really prepared for the extra TDR density on top of these new projects, when we've seen almost weekly water main breaks across town?

Regards,
Merlin Mason, 91 Court St

From: Rachel Cookson <rachel.e.cookson@gmail.com>
Sent: Tuesday, December 10, 2024 9:58 AM
To: Planning Board - All <PlanningBoard-All@dover.nh.gov>
Subject: 103 Court street

Security Notice: External sender. Use caution with hyperlinks or attachments.

Please reject the plans for 103 court street. Putting 2 duplexes and 5 mini homes on that tiny lot is absolutely insane. If you allow this you totally negate any zoning laws and my backyard could become a development. Stop the madness.

From: Amber Bebeau <arbocko@gmail.com>
Sent: Saturday, December 7, 2024 6:02 PM
To: Planning Board - All <PlanningBoard-All@dover.nh.gov>
Subject: 103 Court Street

Security Notice: External sender. Use caution with hyperlinks or attachments.

I am writing today to inform you of my disappointment in the potential development at 103 Court Street. I walk in this area daily and was already disappointed to see three oversized, overpriced houses being stuffed into a formerly one property lot.

Now I see that this new development next to it is not in line with local residences, defies the buffer law for neighbors, and knocks out nature in favor of a paved parking lot. It will no doubt retract from the peaceful beauty of the abutting cemetery, and continue to take away the natural habitat of the area.

This is a beautiful area of Dover, and I am dismayed to see it rapidly becoming another overdeveloped, nature-less area of an increasingly overdeveloped city.

Thank you,
Amber Bebeau
22 Samuel Hanson Ave.

From: Kerry <sankalpa0820@gmail.com>
Sent: Tuesday, December 10, 2024 1:19 PM
To: Planning Board - All <PlanningBoard-All@dover.nh.gov>
Subject: 103 Court St

Security Notice: External sender. Use caution with hyperlinks or attachments.

To whom it may concern,

The 30 foot buffer law must be applied. It is a TDR law. Under 30 feet is not consistent with our neighborhood.

Please don't turn Dover into Portsmouth. Dover is a wonderful city with charm and character.

Kerry Wolf
72 Court St

From: Kevin Hamer <kevin.hamer@gmail.com>
Sent: Sunday, December 1, 2024 9:44 PM
To: City of Dover - Planning <Dover-Planning@dover.nh.gov>
Subject: 103 Court St Proposal

Security Notice: External sender. Use caution with hyperlinks or attachments.

I am a Dover resident (11 Birch Drive) and just voicing opposition to the proposal at 103 Court St. While I'm sympathetic to the need to grow and add housing, buying a dilapidated property at 450,000 and flipping it into 5 buildings / 7 units is excessive. I don't think the city would benefit from the proposed development. This kind of plan seem to be testing the waters on what Dover will tolerate - which no doubt is common nowadays. Please stand up for our town.

Thanks,
--Kevin

From: jrvachon-1@comcast.net <jrvachon-1@comcast.net>
Sent: Wednesday, November 27, 2024 2:44 PM
To: City of Dover - Planning <Dover-Planning@dover.nh.gov>
Subject: 103 Court St

Security Notice: External sender. Use caution with hyperlinks or attachments.

Writing to express my concern over the proposed development at 103 Court St, which if I am understanding correctly, under TDR, would completely bypass the perimeter 30 -foot buffer law
.

Why should this be allowed?

If we're already bypassing zoning laws and using TDR, shouldn't strict adherence to the TDR regulations that are in place be paramount?

Sincerely, concerned taxpayer

James Vachon
12 Browning Drive
Dover

Dorna Hamer
18 Tuttle Ln
Dover, NH, 03820

City of Dover, Planning Board
288 Central Ave
Dover, NH 03820

Subject: 103 Court St. TDR/ Site Plan Proposal

Dear Planning Board Department and Members ~

I am writing to express my concerns regarding the proposed development at 103 Court Street. While I understand the desire for development in our city, I believe that the proposed project will have significant implications for the historic Pine Hill Cemetery and surrounding residential area. Pine Hill Cemetery is an important part of Dover's History as evidenced by the 'Voices from the Cemetery' annual event put on by the Woodman Museum. Gravestones in the area of 103 Court St. date to the mid-1800s and several prior owners of 103 Court Street are buried in this cemetery as well.

NH RSA 289:3 - Cemetery Buffer

From experience as a design engineer on a NH state project in Rochester involving a cemetery, I am aware that there is a state law requiring a 25-foot no dig/ no build buffer along cemetery property lines. I spoke with Paul Crouser in September about this buffer and was assured it would be enforced. However, there is no sign of the buffer on any of the plans submitted to date. The current plans also show activities that seem contrary to the law. I reached out to the State of NH to see if I could get clarification on what is and isn't allowed in this area. Please see the email below from a State of NH archeologist.

State law RSA 289:3, III clearly mandates a 25-foot no dig/ no build buffer zone along a cemetery's property lines on abutting property. This law pertains to all properties abutting cemeteries. It is crucial to adhere to this law to protect the sanctity of the cemetery and its historical significance as well as possible unknown burials.

The proposed development encroaches on the 25-foot no dig/ no build buffer zone along the cemetery where ground disturbance is prohibited by state law. Any activities like construction, excavation, stump removal, grubbing, and planting would disturb the ground. Since this development is not an essential service, no waiver for disturbing this area can be given by the planning board.

Cutting of vegetation above the ground may be allowed as long as the ground isn't disturbed. However, this will leave the site with NO visual buffer between it and the cemetery, negatively impacting the cemetery's environment and

aesthetics. Implementing the TDR requirement for a 30' no cut, no disturb buffer will go a long way in protecting the cemetery and this buffer area.

Email concerning NH State law RSA 289:3, III

From: Doperalski, Mark <Mark.W.Doperalski@dncr.nh.gov>
Sent: Wednesday, November 27, 2024 10:49 AM
To: [redacted]@gmail.com <[redacted]@gmail.com>
Cc: Wilson, Benjamin <benjamin.h.wilson@dncr.nh.gov>; Labash, Marika <Marika.S.Labash@dncr.nh.gov>; Miller, Nadine <Nadine.M.Miller@dncr.nh.gov>; Spoerl, Robert <robert.f.spoerl@dncr.nh.gov>
Subject: RE: Cemetery Buffer Zone

Hi Dorna,

You are correct regarding the state law, if the City of Dover has not established local zoning regulations concerning cemeteries that allow for construction within 25 feet of said burial resources, then as RSA 289:3, III states, "New construction, excavation, or building in the area of a known burial site or within the boundaries of an established burial ground or cemetery shall comply with local zoning regulations concerning burial sites, burial grounds or cemeteries, whether or not such burial site or burial ground was properly recorded in the deed to the property. In the absence of such regulations, no new construction, excavation, or building shall be conducted within 25 feet of a known burial site or within 25 feet of the boundaries of an established burial ground or cemetery, whether or not such burial site or burial ground was properly recorded in the deed to the property, except when such construction, excavation, or building is necessary for the construction of an essential service, as approved by the governing body of a municipality in concurrence with the cemetery trustees, or in the case of a state highway, by the commissioner of the department of transportation in concurrence with the cemetery trustees.

So as the law states, the governing body of the municipality in concurrence with the cemetery trustees can waive that setback when the construction is deemed necessary for an essential service. In such a case we would still recommend that an archaeologist be on site to monitor the ground disturbing activities to ensure no unmarked burials are inadvertently disturbed. You could contact the City of Dover and check to see if they have deemed the tree clearing and development of this area as necessary for an essential service. If so, they may have issued a waiver for the project. Regarding your daughter and her husband, any work they propose to do on their property within 25' of the cemetery that would require ground disturbance would be prohibited without a waiver from the City.

Technically trees could be cut down without a waiver so long as they were cut down without disturbing the ground surface; however, the stumps would have to be left in place as their removal would obviously cause ground disturbance. Removal of the stumps, planting new trees, and other ground disturbing activities would require a waiver from the City of Dover.

I hope this helps answer your questions.

Sincerely,

Mark

Mark Doperalski
State Archaeologist
Division of Historical Resources
NH Department of Natural and Cultural Resources
172 Pembroke Road
Concord, NH 03301
www.nh.gov/nhdhr

Additional Concerns Regarding the Cemetery Buffer:

The mandatory cemetery buffer is missing from all site plans, despite multiple requests for its inclusion by the Planning Department. The alignment of the end of the proposed fence with the buffer's proposed location suggests this omission may be intentional. Additionally, the buffer zone is not referenced in the landscaping or condominium documents. While not required in the documents, including this information would be beneficial in a development with a potentially high turnover rate to ensure all parties are aware of the buffer zone.

The base density units for the TDR proposal should be calculated as 2 units, not the 3 units currently listed on Sheet SP-1 in the plan set. According to Dover Zoning Ordinance Ch 170-29, Sec G(3(a)[1][a], "The square footage of the parent lot minus unsuitable areas is the base lot size." The 25-foot cemetery buffer zone is considered unsuitable for development and therefore, is removed from the total area, similar to the treatment of wetlands or other undevelopable land.
The original parcel is 52,241sf based on the site plans. The buffer zone is approximately 3,525 sf. After further reductions of 15% for the roadway and 15% unsuitable areas, the developable area is 35,197 sf. Dividing that by the minimum lot size of 12,000 sf results in 2.9 units. Since rounding up is not permitted, the correct number of base density units is 2.

Transfer of Development Rights

The use of Transfer of Development Rights (TDR) for this lot raises concerns. This area of Dover is characterized by single-family homes on small parcels, interspersed with open spaces and mature trees and vegetation. It is a beautiful, unique residential area adjacent to the Historic Pine Hill Cemetery. Many residents have lived in this area for a long time, with the majority of homes over 50 years in age. Notably, the house at 103 Court Street was built in 1830, and the neighboring house dates back to 1790.

The proposed design significantly increases density by placing a 7- unit design with 6 buildings on a 1.2 - acre parcel, whereas zoning regulations would allow 3 units and up to 3 buildings. This more than doubles the density the zoning regulations allow and represents a sevenfold increase to the single-family home. The proposed density is excessive for this area. Although the developer has slightly reduced the project from the original 9-unit, 7-building proposal, the current proposal still relies on waiving the required 30-foot no-cut, no-build visual buffer to achieve its increased density. (Chapter 170-29, Section G(7))This buffer is intended to protect nearby homeowners and abutters (Pine Hill Cemetery) from the potential negative impacts of such development. Maintaining this buffer will offer additional protection to the cemetery and its required buffer zone.

A project of this scale, located in a residential area of single-family homes, should either have to adhere to all current TDR requirements, including the 30-foot no cut, no build buffer, or be denied any relief, as relief is clearly due to the increased density. (Chapter 170-29, Section G(8d).) Waivers and relief for development projects of this nature should be granted judiciously to ensure the best possible outcome for the community and to maintain the public trust in the process.

I strongly urge the Planning Board to:

- Enforce state law RSA 289:3, III, ensuring the 25-foot buffer zone is strictly maintained, consulting with state archaeologists, if necessary, to guarantee full compliance with all laws and regulations.
- Thoroughly evaluate the implications of utilizing TDR for this parcel including granting any waiver or relief when it is clearly due to the increase in density.
- Carefully review the proposed plans and documents for adherence to all regulations and laws and for accuracy including but not limited to the 25-foot no dig/ no build buffer zone. What else is missing or incorrect?

Preserving the unique character of this area and ensuring that any development respects its history and environment are paramount.

Sincerely,

Dorna W Hamer

Dorna W Hamer

From: Sean Hoeing <shoeing4003@gmail.com>
Sent: Friday, November 29, 2024 4:41 PM
To: Planning Board - All <PlanningBoard-All@dover.nh.gov>
Subject: TDR Critical Review Request - 1 Cold Spring Road and 103 Court Street

Security Notice: External sender. Use caution with hyperlinks or attachments.

Dear City of Dover Planning Board,
Today, I received a mailing informing me of TDR developments at 1 Cold Spring Road and 103 Court Street that disregard a law requiring a 30-foot perimeter buffer around the lot that is required in order to reduce the impact on neighbors. Please critically review these development proposals for TDR misuse. I am all for the development of affordable housing in Dover, but please also protect our environment. Bellamy Road is zoned R20 (low density residential zone) and 7 mini-homes plus 4 multifamily units would far exceed the intended use of this land. If approved, this appears to be an extreme deviation from the approved zoning.

Thank you for your service to the City of Dover.

Sean Hoeing
25 Lisa Beth Circle
Dover, NH
-

Sean Hoeing
603.969.7529
shoeing4003@gmail.com

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From: Cynthia Mamigonian <clkmamigonian@gmail.com>
Sent: Monday, December 2, 2024 1:06 PM
To: City of Dover - Planning <Dover-Planning@dover.nh.gov>
Subject: Site Review for 5 Sherman Street, LLC, Assessor's Map 19, Lot 8, zoned R-12, located at 103 Court Street.

Security Notice: External sender. Use caution with hyperlinks or attachments.
To Whom it May Concern:

I live at 89 Court Street and can not believe the town of Dover is trying to pass yet another non qualifying TDR zoning law.

There is absolutely nothing on Court Street that constitutes that parcel of land being a transition between RMU and Residential.

The proposed size of said "cottages" have no consistency with any surrounding neighborhoods.

The project proposed is 2.7x higher in density than current homes in a 300 ft radius. (That being the criterion recommended by the Planning Board.)

There is definitely not enough room for these 20x30' buildings and remain within the 30 foot "no-cut, no-disturb" buffer law.

Please don't let another developer "pay their way" into overlooking the TDR laws. If so, then the old saying is, "Build and they will come." And come, and come, and come. We will no longer be a medium density residential zone but a very packed Urban area.

Sincerely,
Cindy Mamigonian

From: merlinmason <merlinmason@comcast.net>
Sent: Friday, December 6, 2024 8:00 AM
To: Planning Board - All <PlanningBoard-All@dover.nh.gov>; City of Dover - Planning <Dover-Planning@dover.nh.gov>
Subject: 103 Court St projects

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To Dover Planning -

I request that you deny the TDR project at 103 Court St because it overreaches for TDR at triple the existing density, offers no consistency with the neighborhood, offers no buffer to neighbors, and also, perhaps most importantly, **it simply makes no sense for housing.** It does NOT provide 'missing middle' housing but instead creates a bizarre mix of HUD and restricted 'cottages' trapped under high HOA fees that will inevitably result in high turnover.

There is a very run-down single-family house at 103 Court St presently. The gutters have been falling off for years, and I expect there are serious structural issues from any external view. **Has anyone offered an honest inspection on the status of this home?** The TDR proposal leaves the existing single-family house as-is. There is no mention of any major improvements here. This unit - to become HUD - will cost the developer nothing in TDR fees. *Is the motivation to provide decent affordable housing, or to get a free TDR unit?*

In the future, how are major repairs to this falling-apart house going to be funded? When the window sills inevitably rot - given there are fabric curtains hanging out of the upper stories at all times already - how will this repair be funded? By the HOA - of course - which currently plans for up to $185,000 infrastructure replacement at year 30. Personally, I know new windows alone will cost about $40-50,000. The crack in the foundation of this old home? That's another $10k- and how's the heating system? Won't arguably almost all of the infrastructure costs sink into this one single HUD structure - since all of the other construction will be new? So all of the new properties will pay equal HOA fees to maintain this one HUD unit.... is that sustainable or desirable for the cottage owners?

Let's consider the condominium association budget of $333/unit - which is based on 7 units. Are the 3 HUD units going to be chipping in with the $500k cottages in the back equally? I'd like to understand how that works and where that money comes from - certainly not the tenants. Or are the HOA fees going to be really paid by the cottages - and therefore actually split four ways and starting at **$583/unit** monthly (assuredly to increase over time)?

This project has taken a single-family home at 103 Court St assessed at $422k - an attainable fixer-upper project to be sure - turns it into HUD which will burden the HOA with repairs and maintenance that is inevitable given its current state already - and throws onto the back of this property overcrowded $500k+ permanently restricted cottage homes that may be "attainable" at initial listing but then will trap residents under $333 monthly *or is it $583 monthly* HOA fees forever.

The developer narrative says "these cottages are designed to meet the needs of a diverse group of residents, including those looking to downsize, new families, and recently married couples." Has anyone asked a retired couple how they feel about $333/month HOA fees on social security income? Or a new family, or a recently married couple? As part of a recently married couple myself, I cannot imagine the

burden of a mortgage combined with this type of HOA fee. At least the mortgage is an investment, but the HOA fees are just money lost. This HOA fee covers what I do for my own property, and what my friends and coworkers do for theirs - it's part of the great challenge and joy of homeownership to maintain your own property.

What could be done using normal zoning without pushing the existing density under TDR? Maybe leave a $422k attainable fixer-upper in the existing single-family home, and add a second single-family home to the back of the lot, much like Chinburg did next door. The second home may be more expensive initially, but it would have no HOA and no restrictions so could actually be invested in and become a true family home.

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On a final note, TDR has to be looked at in the context of the growth already underway in Dover as well as the troubles with existing infrastructure - we have over 1500 new units coming already in the large-scale developments across Dover. These alone provide over 10% growth for Dover. How much more growth do we need? Do we really need to push unwanted extra density into this neighborhood to get a few more units in here? Is our infrastructure really prepared for the extra TDR density on top of these new projects, when we've seen almost weekly water main breaks across town?

Regards,
Merlin Mason, 91 Court St

From: Matt Prugger <mattprugger@gmail.com>
Sent: Thursday, December 5, 2024 9:38 AM
To: Planning Board - All
Subject: TDR for 103 Court street

Security Notice: External sender. Use caution with hyperlinks or attachments.

Good Morning sir, ma'am;

I am reaching out to show my disapproval of the proposed construction on 103 Court Street. A development of this size on a lot this small is outrageous and unnecessary. That one lot will not be sustainable if a single family home transforms into a duplex with 5 additional mini-homes. This is not consistent with our neighborhood and this could spark a domino effect that leads to multiple lots transforming into this catastrophe. Only causing more congestion and overpopulation in the area. Also, there is a 30 foot buffer law that should be followed. If laws are being manipulated by some then why must the rest of us be governed by them? There has already been plenty of overdevelopment in Dover, especially on this street. I will not be in favor of more construction just for profit and not necessity. The proposed construction on 103 Court Street should be denied and TDR misuse should be critically reviewed by the planning board. This is coming from the owner and resident of 81 Court street.

Respectfully,

Matthew Prugger

From: Rob Weir <rob@robweir.com>
Sent: Thursday, December 5, 2024 2:15 PM
To: Planning Board - All <PlanningBoard-All@dover.nh.gov>
Subject: Concerns regarding TDR at 103 Court St.

Security Notice: External sender. Use caution with hyperlinks or attachments.

Dear Dover Planning Board,

I live here in Dover, at 106 Court St. It will probably not surprise you entirely to read that I have some concerns regarding the proposed TDR development at 103 Court St. which is coming to the Planning Board for your December 10th meeting.

I am aware that TDRs, in general, are currently a heated topic in our city, and I don't want to waste your time reciting generalities. Personally, I appreciate attempts to increase the housing stock in Dover. But, like most things, it is a balancing act.

The Zoning Ordinance at section 170-29 (B) talks about the purpose of the TDR as protecting lands that "possess significant conservation features, including but not limited to unsuitable development areas, groundwater recharge zones, forested areas, wildlife habitat, farmland, scenic view sheds, historic landmarks, and linkages to other such areas," while promoting "intensive development on the developable land possessing the least conservation value."

I'd draw your attention to that last part. Although any land east of the Spaulding is called out in 170-29 (C) as defining the "receiving area," TDRs are still intended for that subset of land that has "the least conservation value."

OK, I'll be the first to admit that we're not Silver Street. But consider:

- The subject parcel itself, #103, is nearly 200 years old, built in 1830.
- The neighboring parcel, #109, the residence of the late Ray and Joanne Richard, was built in 1790, the year of Washington's first term as president.
- Abutting the rear is Pine Hill Cemetery, which you know is an absolute jewel and the site of many civic ceremonies. It was established in 1731.

So, far from having the "least conservation value," I'd argue that this part of Court St. more aligns with the values of parcels that should be protected as having, among other conservation values, "scenic view sheds, historic landmarks, and linkages to other such areas."

The applicant, in their narrative to support their 170-29 (G)(8)(b) claim that the proposed development is "compatible with the land uses on neighboring lots," observes that "The property borders the RMU zone along its rear 160-foot line, which allows higher density (one unit per 2,500 sq. ft.)." It should be noted that the RM-U parcel referred to there is, in fact, Pine Hill Cemetery. I think this fact hurts, more than helps, their argument.

I'll draw your attention as well to the precise language in 170-29 (G)(8)(b): "compatible with the land uses on neighboring lots." It does not say, "compatible with the furthest extent of what zoning allows on neighboring lots." It speaks of actual use. In fact, if you review the actual use of residences on Court St., both the RM-U portion and the RD-12 portion (where #103 is), you find that the street is almost entirely single family and duplexes.

By my count, of the 30 parcels in the RD-12 portion of Court St., all but two are single family. And within the RM-U portion (ignoring #11 which is an empty lot, sometimes used for gardening), there are 37 parcels, of which 30 of them (81%) are single family or duplexes. So, in terms of "land uses on neighboring lots," the proposed development is far out of character for Court Street, where land use, both in the RD-12 as well as in the RM-U portion, is almost entirely single family and duplexes (and an early eighteenth-century cemetery, previously mentioned).

I could go on, but I want to be respectful of your time. I'm hoping you will find these arguments at least somewhat persuasive and agree that the proposed development does not meet the purpose of a TDR, to increase density in areas that have "the least conservation value," nor is a development of this density "compatible with the land uses on neighboring lots."

Per 170-29 (C), "Upon request by an applicant for development approval and at the discretion of the Planning Board, the provisions of this section may apply to the district(s) defined in Subsection D below." Words matter. "Discretion" means discretion and "may" does not mean "shall." It is in your power to deny this TDR or at least send it back to the drawing board.

Regards,

Rob Weir, 106 Court St.

What will our neighborhood look like after 103 Court St is approved for 900% development, and then developers start on any of these other similar size lots? Green spaces will be eliminated. Traffic will increase. Parking will become a battle. Our "medium density" residential zone will be urban next. 1/3 of the lot will be paved. "Cottages" will be spaced 20ft apart.

It's not about development.
It's about tripling the legal zoning density using TDR.

And when TDR bypasses zoning laws, projects should strictly adhere to the remaining TDR regulations. Holding Dover accountable ensures that development is responsible and respects the character of our neighborhoods. A 30-foot buffer is a TDR law. 103 Court St is 129-feet wide, and the entire project relies on ignoring that law.

What kind of example are we setting for our children if we allow the city to break its own rules?

It's time to speak up and demand better.

Join a concerted effort to tell Dover enough now by writing the Planning Board before they vote on 103 Court St.

PlanningBoard-All@dover.nh.gov

Let's ensure a sustainable future for Dover.

Before December 10th

Hilary Hamer, OD, MA, MS
Abutter, 91 Court St
Dover, NH 03820
Tel: (603) 361-9428

City of Dover, Planning
288 Central Ave
Dover, NH 03820

Subject: 103 Court St, TDR Proposal

To the Planning Board:

I urge you to thoroughly review the following information before considering accepting the TDR proposal at 103 Court St. TDR serves a purpose, but as so many expressed at the 566 Sixth Street project hearing on October 22nd, is this the correct use of it? While there may be a housing shortage right now, is it fair to homeowners like me to approve TDR that permanently changes our streets while admitting it is not the intended use of TDR? TDR is not required for this lot to be developed.

Consider the implications of 103 Court St for Dover but also for yourselves. This site will open a floodgate to additional TDR proposals as the densest and smallest residential TDR ever, except for one little past site next to Walgreens off Central Ave. I urge you to look at Court St and then scan the Dover map and see just how many long, skinny lots like this there are across the city.

I especially urge you to look at the applicability of code G(7) regarding a buffer and G(8d). The lack of any semblance of a 30-foot buffer provides an easy reason to dismiss this project. Deny this project due to lack of the required buffer as well as the overreaching density request.

My husband and I have poured our hearts into this home since moving here in 2022. The idea of nine new units on the mostly wooded single-family lot next to us when it first came out in September was shocking. The slightly revised proposal still represents an enormous increase in density and would fundamentally change the character of our street. This is a unique area. We are next to the Pine Hill cemetery. It does not have an urban feel to it. Our backyard creates a lovely field continuous with two neighbors' backyards by the cemetery. Many people both recreate and reflect there, a lovely and peaceful historic space.

We understand the need for housing, but this type of overdevelopment in our neighborhood is not the solution. It is not compatible with the neighborhood. Develop the lot under normal zoning which allows for three units. Four more housing units using TDR will do nothing to fix the larger housing problems of this city.

Thank you,

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TDR Density

This is the densest proposed residential TDR to date, except for one previous site next to Walgreens.

Right-to-Know provided this list of approved and pending TDR projects since 2021 which I then researched to add the acres and final number of approved units:

Approved TDR Projects

8/4/21	51-65 Bellamy	R40	7.79 acres	17 units	2.2 units/acre
8/4/21	725 Central	G			
7/26/22	757 Central	G			
5/20/22	16 Prospect	R12	1.56 acres	3 units	1.9 units/acre
10/18/22	Little Bay Road	LBW			
6/30/23	5 Glenwood	R12	0.36 acres	2 units	5.6 units/acre
10/27/23	Cielo Drive	IT			
12/23/23	105 Durham	R20	1.28 acres	9 units	4.1 units/acre
3/26/24	30 Grapevine	C			

I did not include further details for TDR examples located in non-residential zones, as surely these are not relevant to 103 Court St.

Pending TDR Projects

6/27/22	77 Sixth	R12	0.26 acres	4 units	No action? Abandoned?	
3/8/23	41 Long Hill	R12	11 acres	34 units	3.1 units/acre	In TRC
11/21/23	306 Dover Point	R20	1.64 acres	5 units	3.0 units/acre	
5/2/24	512 Sixth	R12	1.87 acres	5 units	2.7 units/acre	
5/22/24	131 Littleworth	R40	Withdrew – not relevant			
6/4/24	101 Back Rd	R40	Village Theme – not relevant			
6/6/24	566 Sixth	R40	1.35 acres	5 units	3.7 units/acre	Denied
7/15/24	52 Old Rochester	C				
8/15/24	103 Court	R12	1.19 acres	7 units	**5.9 units/acre**	

This represents the densest residential TDR ever, and the second smallest TDR lot ever except for one located at 5 Glenwood Ave, a site next to Walgreens:

This lot is small and sets an example by which almost any residential lot in Dover would be a candidate for TDR development.

Minimum frontage by residential zone:

- R12: 100-feet
- R20: 125-feet
- R40: 150-feet

103 Court St frontage is 129.36 feet, and it is 141.18 feet in the rear. By this example, every single R40 lot, almost every R20 lot in town, and an awful lot of R12 are candidates for TDR. Dover is littered with long skinny lots like this in residential neighborhoods. This project is a floodgate for more TDR proposals.

Neighborhood Analysis

Arguing 103 is a transition between RMU and R12

From the developer: "The property borders the RMU zone along its 160-foot rear property line… This project respects the transition between the higher-density RMU zone and the medium-density residential R-12 zone"

Pine Hill Cemetery does border 103 Court St in the back. It is technically RMU zone. It is a cemetery. It will never be developed. This is not a transition.

Detailed Analysis

Existing Density and Building Coverage within 300-feet

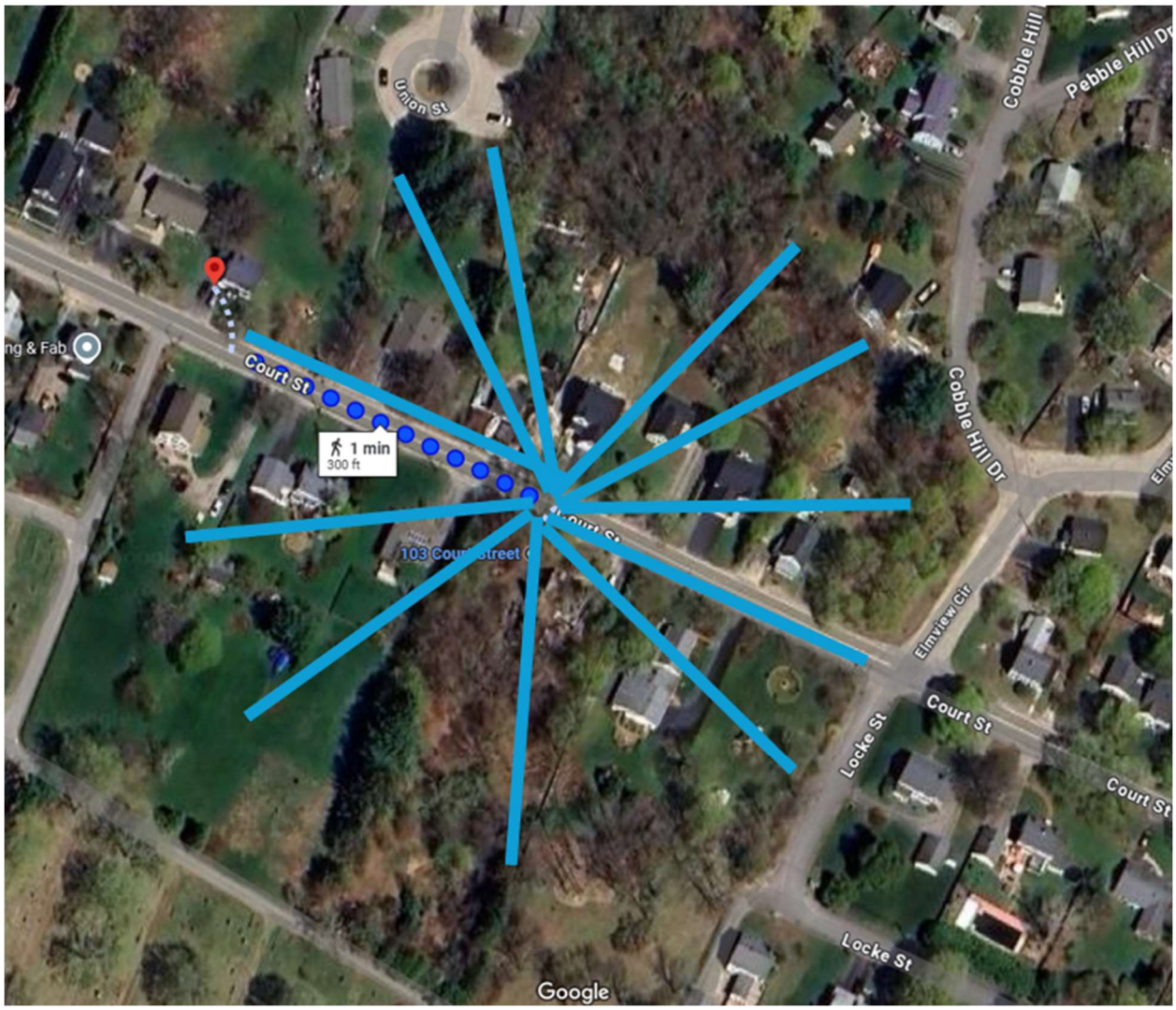


Figure 1: 300-foot circle around the existing home on 103 Court St (the recommended range from TRC #2 9/26/24)

In the 300’ circle centered on the current single-family home at 103 Court St, these are the residences:

Address	Lot Size (acres)	Type	Existing Home ground floor (sqft)	Unit /Acre	Existing Building Coverage*
85 Court St	0.687	1 family	1065	1.45	3.56%
89 Court St	0.904	1 family	864	1.11	2.19%
91 Court St	0.865	1 family	1008	1.16	2.67%
103 Court St	1.19	1 family	936	0.84	1.81%
109 Court St	0.439	1 family	741	2.28	3.87%
111 Court St	0.39	1 family	Unsure- new	2.56	
Tranquility Way	0.36	1 family	Unsure- new	2.78	
Tranquility Way	0.408	1 family	Unsure- new	2.45	
108 Court St	0.367	1 family	580	2.72	3.63%
106 Court St	0.33	1 family	918	3.03	6.39%
104 Court St	0.32	1 family	576	3.13	4.13%
102 Court St	0.31	1 family	737	3.23	5.46%
100 Court St	0.38	1 family	480	2.63	2.90%
92 Court St	0.698	1 family	768	1.43	2.53%
			AVERAGE:	**2.2 units/acre**	**3.56%**

**I was unable to calculate proper lot coverage as I cannot readily access the impermeable area per lot. The houses along Court St are all located towards the front of the properties, so the impermeable areas (driveways) reflect the building sizes, so I feel this is still a very valid assessment to use.*

Versus proposal at 103 Court St:
Unit Density = 7 units/1.19 acres = 5.88 units/acre – **This is 2.7X higher than the average**

4 cottages at ~20x30’ + current single family (936sqft) + barn (estimate 1000sqft) = 8.36% building coverage – **This is 2.3X higher than the average**

Presence of duplexes

There are no duplexes in a 300-foot radius of 103 Court St currently.

Spacing of Existing Homes

If a buffer is not enforced, then the cottages in the rear of the lot will be visible and should be therefore considered relative to their consistency to the neighborhood as well as the front buildings.

Houses are an average of 36-feet spaced apart on the North of Court St and 40-feet from each other on the South of Court St in the immediate area. The proposal meanwhile places a row of identical cottages each spaced 20-feet apart.

Figure 2: Developer diagram of existing houses.

Home Sizes and Diversity

The homes on Court St are diverse, built over many years. Every single house is unique. I will not include a photo of every home in the immediate area, but I invite you to travel down Court St. There is no example of a row of identical houses anywhere. Our homes also cover a wide range of sizes but are all larger than the ~20'x30' cottages proposed. These cottages are not visually consistent to the local street in size, nor in their spacing and uniformity.

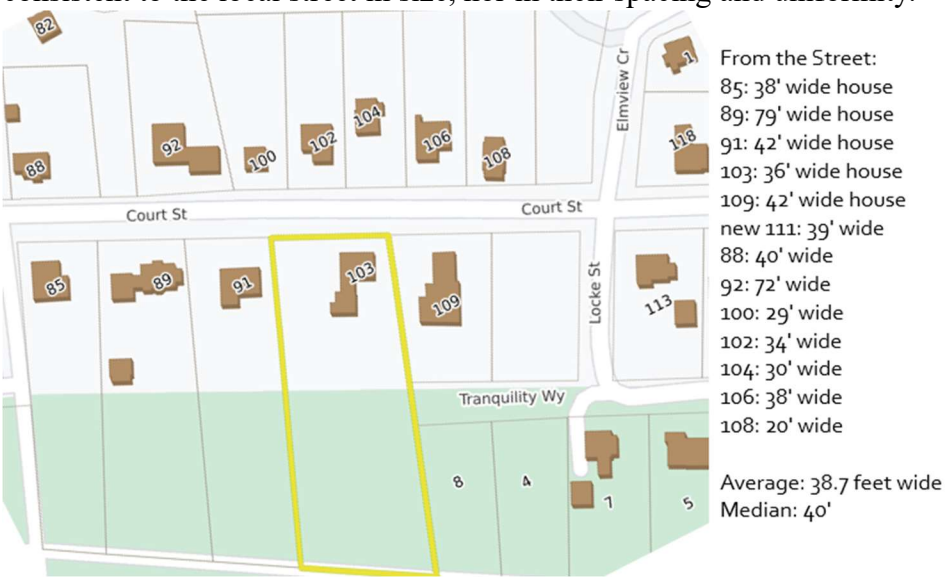


Figure 3: All of the sizes of houses along Court St in immediate area from the street

The parcel “within 165’ has 59 units on 6 acres”

The developer alludes to a “parcel within 165’ has 59 units on 6 acres.” I assume they are referring to the property at the end of Union Street based on the maps. However, the corner of that parcel is 300-feet from 103 Court St. Furthermore, topographically this parcel exists at an entirely different elevation to Court St and is not even visible from the paved walkway that connects it to Court St.

Figure 4: This is the view to that parcel from Court St

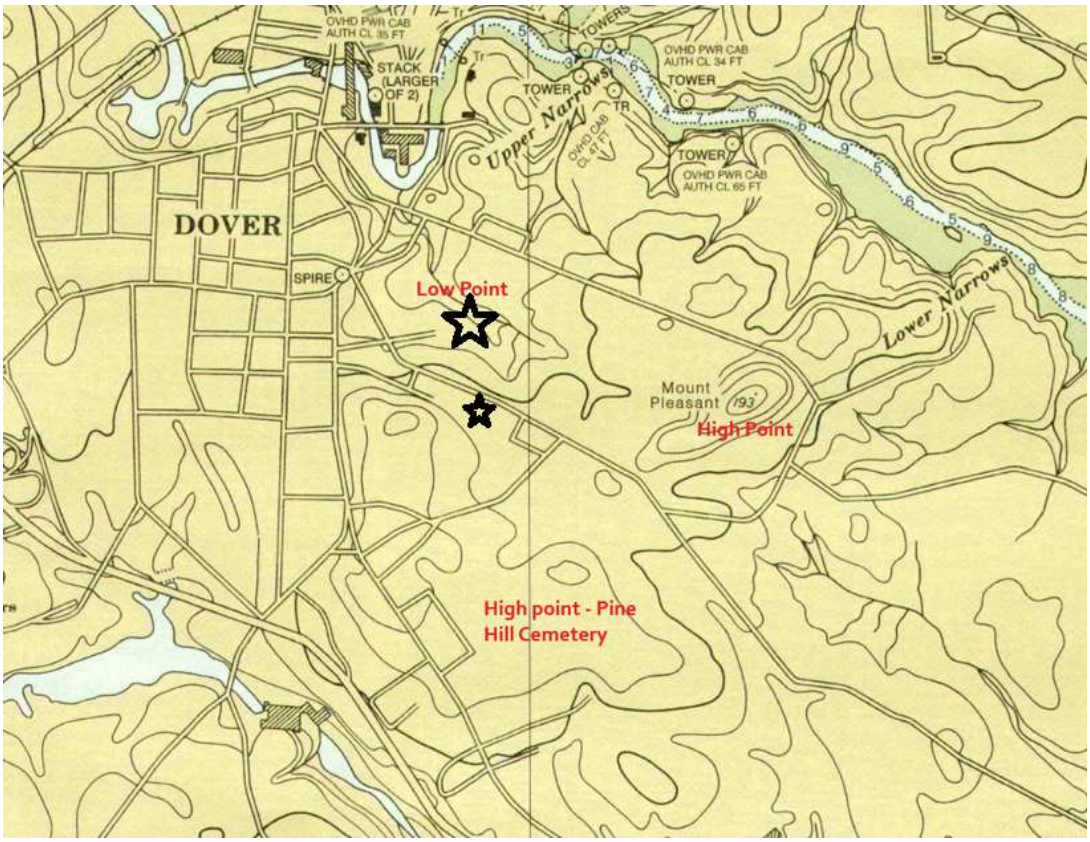


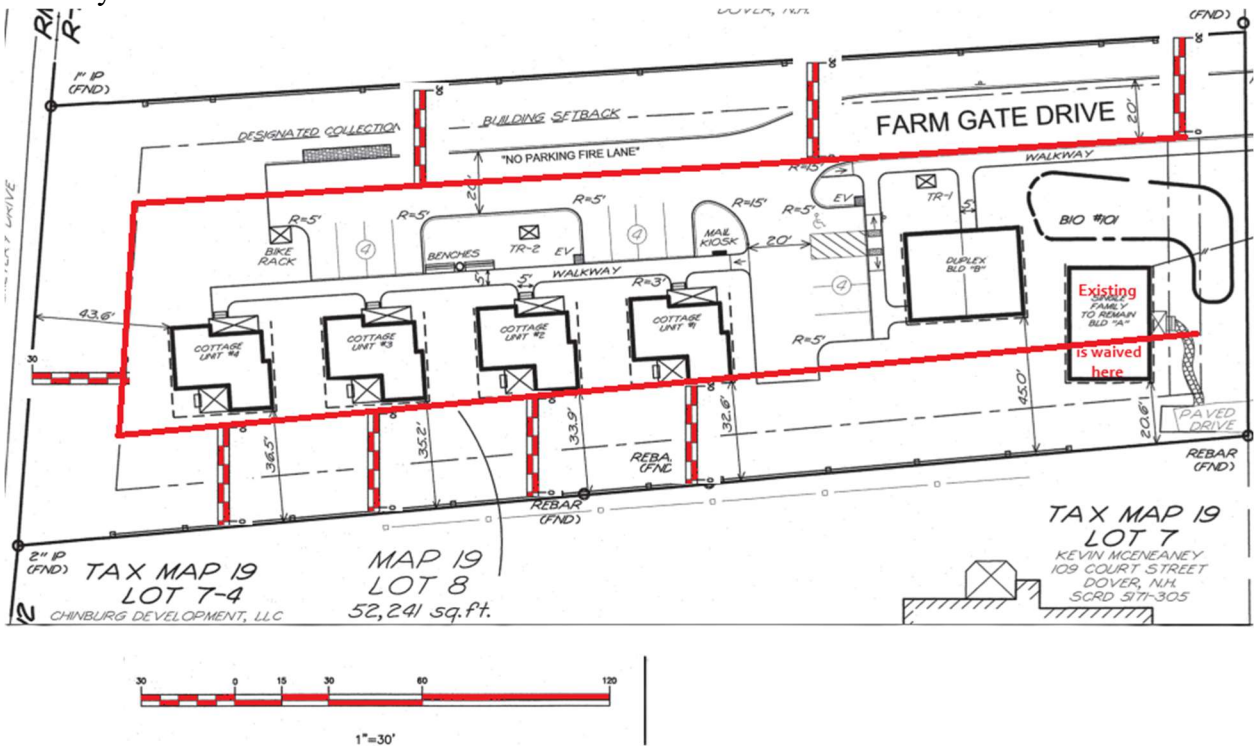
Figure 5: USGS Survey Topographical Map of Dover showing the significantly lower topographical elevation to the Union St area residences relative to 103 Court St.

The Buffer Ordinance

170-27.2(G)7: "A continuous visual buffer shall be created along the perimeter of the parent parcel, which shall include a thirty (30) foot no cut, no disturb buffer."

There is no 30-foot no-cut, no-disturb buffer in the plan.

I apologize for my poor rendering skills. There was no buffer drawn onto the submitted plans, so I did my best:



On the 109 Court St side, the cottages are at 36.5-feet, 35.2-feet, 33.9-feet and 32.6-feet from the property line. This is obviously not providing any semblance of a 30-foot no-cut, no-disturb buffer. On the 91 Court St side, there is a paved road about 10 to 20-feet from the property line. Again, no semblance of a 30-foot no-cut, no-disturb buffer.

After initially seeing this project and reading the TDR code, my neighbors and I thought surely this TDR cannot move forward as there is clearly no room for the buffer. We watched the first and second TRC meetings closely and thought that would be it. The committee clearly indicated the proposal would have to meet the buffer requirement, and it was denied twice.

From the online recording under Meeting Minutes from 9/26/2024 second TRC at:
https://publicrecords.dover.nh.gov/Tabs/Index/21116/public/1/deptnum/0/cab/Public_Meetings

Transcribed with minute references:

- 1:30 Director Benton, "I know we chatted last time about trying to add more than the existing 10-foot visual buffer so if we can still look to make the 30 that is technically required."

- 7:17 Dir. Benton, "The issue is the TDR ordinance is clear that if you're asking for relief because of the extra density, then you shouldn't be getting the extra density. So, we're just trying to make sure that you're meeting the buffer requirements.
    - [Developer asks for clarification]
- So the ordinance is clear that you can't be asking for relief if it's caused by the extra density. So you really shouldn't be getting extra density if you can't meet the buffer requirements, and the setbacks. So you may need to lose units or figure out a redesign."

The buffer comes up repeatedly in the meeting as a requirement. When the slightly modified proposal you are now viewing was approved at the third TRC meeting on November 14, 2024, it was an utter shock to myself and neighbors.

I inquired with my City Council representative for ward 3, Anthony Retrosi, on how this could possibly be happening. He procured this explanation from Director Benton on November 18, 2024:

> "*Hi Councilor Retrosi,*
> *Thanks for reaching out for more information. As you're likely aware the Transfer of Development Ordinance allows for housing density to occur in excess of the underlying zoning allowances providing the Planning Board grant the request. Ms. Hamer raises two main questions I want to address. The first being the 30' visual buffer on the parent parcel. The parcel is not seeking a subdivision and therefore "parent" is a key word. There have been other instances where the Planning Board has not required the 30' visual buffer depending on the site, proximity to urban core, lack of subdivision or new lot lines, etc.*
> *The other is the criteria of no additional relief being sought. This was added about 2 years ago to the Zoning Ordinance and the intention was in terms of wetland or wetland buffer impacts and not to parts of the TDR ordinance itself. The 30' buffer is a part of the TDR ordinance not underlying zoning like an environmental conditional use permit would be. Relief from wetlands impacts due to additional development is a different level of relief than providing or not providing a 30' visual buffer. Due to discussion during the TRC process, the applicant is proposing fencing and additional landscaping to try to meet the same intent and help screen the project from abutting properties.*
> *Certainly this zoning ordinance could use clearer word smithing which staff plans to discuss with the Planning Board during its annual goal setting in January.*
> *Please let me know if you or Ms. Hamer have any additional questions.*
> *Thanks,*
> *Donna Benton, AICP*
> *Director of Planning and Community Development*"

This is entirely inconsistent with every single part of the past TRC discussions and none of us can understand what changed between 9/26 and 11/18. It is extremely upsetting to see this complete reversal in language and utterly confusing.

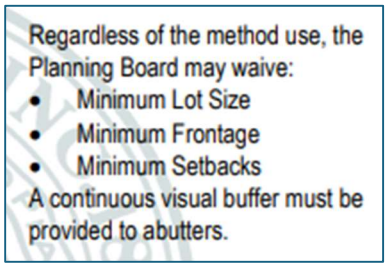
The buffer applies under all interpretations of TDR code.

Imagine my and my neighbors' utter shock at these statements which are in contradiction with the TRC meetings, TDR code and prior discussions at Planning Board meetings relative to TDR. It's pretty obvious that ordinance G(7) located under the section of residential TDR code would apply to a residential TDR project. It makes sense because the buffer is to protect neighbors from the increased density that would never occur under regular zoning.

The parent parcel is the lot of 103 Court St. I have asked a licensed surveyor with frequent business in Dover, a zoning lawyer in Dover, civil engineers and others what they consider a "parent parcel" to be for TDR. The answer is unanimous that the "parent parcel" for the TDR application is the original lot.

Whether the TDR functions as a subdivision or a site plan is immaterial for residential TDR projects, as both fall under the hierarchy of the full section G. Look at (E)4 in the TDR code which states that a TDR proposal is subject to all of section F or all of section G. 103 Court St as a residential TDR application is subject under this language to all of section G, including the buffer.

170-27.2(G)7: "A continuous visual buffer shall be created along the perimeter of the parent parcel, which shall include a thirty (30) foot no cut, no disturb buffer."

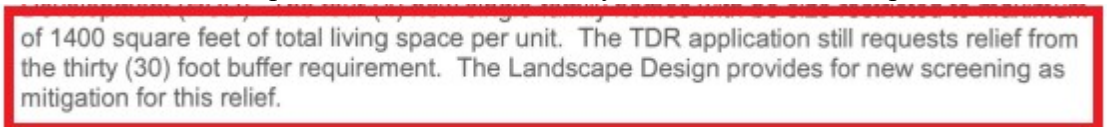

Regardless of the method use, the Planning Board may waive:
- Minimum Lot Size
- Minimum Frontage
- Minimum Setbacks

A continuous visual buffer must be provided to abutters.

Furthermore, the City of Dover Transfer of Development Rights Fact sheet for Residential Development Rights specifically promises a "continuous visual buffer" (to the left here) without any restriction to a subdivision or site plan format.

It does not spell out thirty feet of buffer. However, it clearly implies that a buffer is a requirement for all residential TDR projects. The "continuous visual buffer" and the 30-feet distance is specified in the full clause of G(7). There is no separation of a visual buffer and a 30-foot buffer in the written ordinance. You cannot say a visual buffer is a requirement here while not the 30-foot no cut, no disturb zone.

Additionally, in the Planning Board Submittal letter from the developer, the developer asks for relief from the "buffer requirement". Therefore, they understand it as a requirement.


of 1400 square feet of total living space per unit. The TDR application still requests relief from the thirty (30) foot buffer requirement. The Landscape Design provides for new screening as mitigation for this relief.

In the Plan Snapshot Report, the comments from the TRC committee include mentioning the "TDR 30' no-cut-no-disturb area":

Comments: • The narrative says that the design is context-sensitive with the neighborhood and consistent with the master plan, but doesn't provide much analysis to support the claims. The following information would make it easier to evaluate compatible density vs. overdevelopment:
o Define the "surrounding area" for the purposes of evaluating density and visual character
o Provide density comparisons between the proposed development and surrounding area (units/acre, building massing, lot coverage, presence of duplexes, prevailing setbacks and/or separation of buildings, etc.)
• Many structures/areas of disturbance are within the TDR 30' no-cut-no-disturb area/still do not appear to have a visual buffer in place. If requesting a waiver, data suggestions above would also be important for evaluating waiver.
may improve both the architectural consistency and free up space to lessen buffer impacts.
• Review RSA 289:3 III for compliance – "no new construction, excavation, or building" within 25' of the boundary of an established cemetery.
• Plan orientation is not consistent across all sheets (e.g. both Court Street and the Cemetery appear on plan left on different sheets) – it is confusing the way it flips.

The 30-foot no cut, no disturb buffer requirement does apply to 103 Court St, and all TDR for that matter, for the perimeter of the existing lot. Under section 8d, as Director Benton so clearly said at the 9/26 TRC meeting, this buffer cannot be waived to achieve the extra TDR density.

There are no similar examples of residential TDR waiving the buffer in an R-12, R-20 or R-40 project.

Let's look at all the other residential TDR projects since 2021 and the very well-defined buffers on their plans.

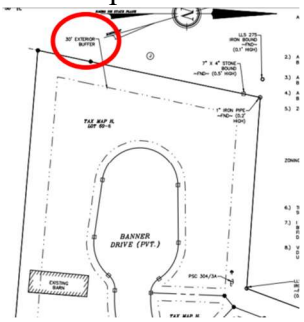


Figure 6: Approved at 51-65 Bellamy Road

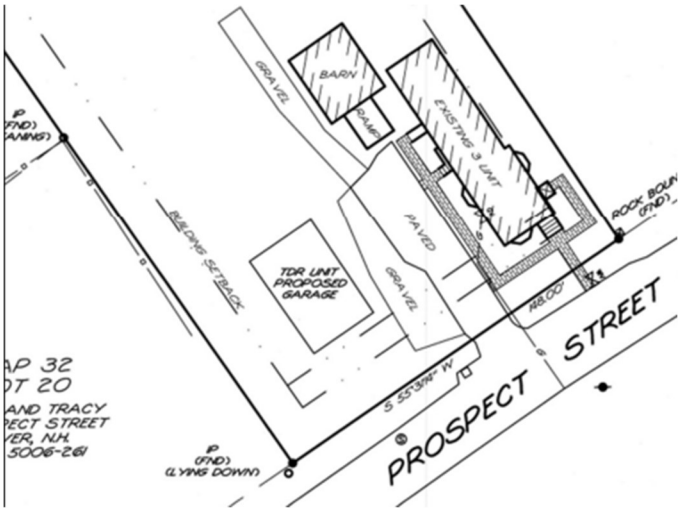


Figure 7: Approved at 16 Prospect St - buffer not drawn, but clearly obeys 30-feet by scale on plan

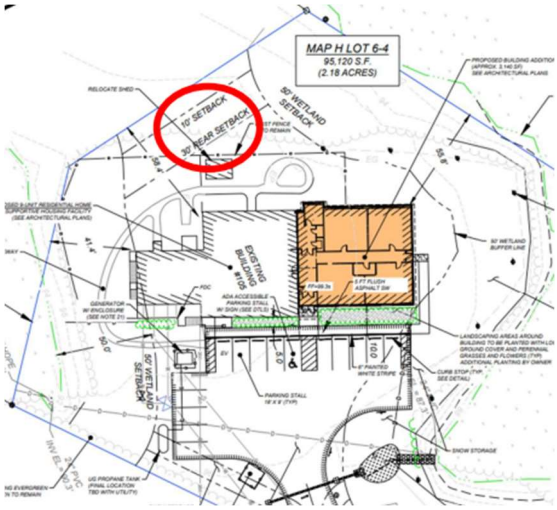


Figure 8: Approved at 105 Durham Road

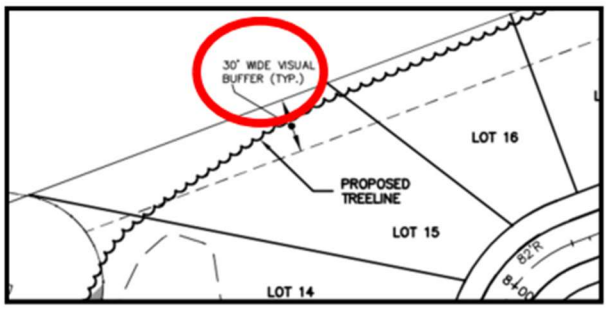


Figure 9: Pending at 42 Long Hill Road

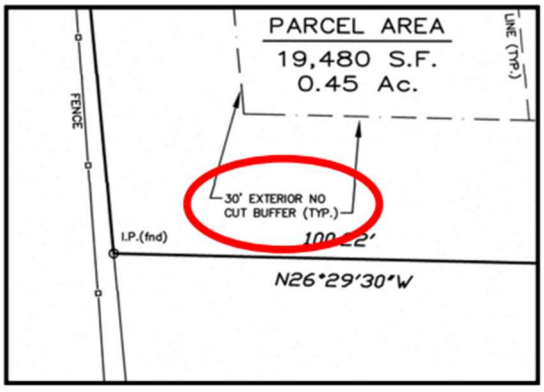


Figure 10: Proposal at 566 Sixth St

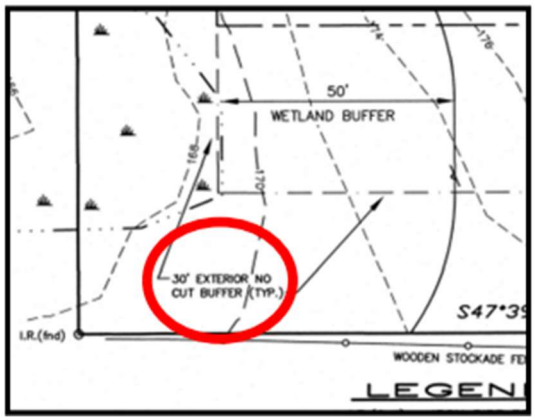


Figure 11: Proposal at 512 Sixth St

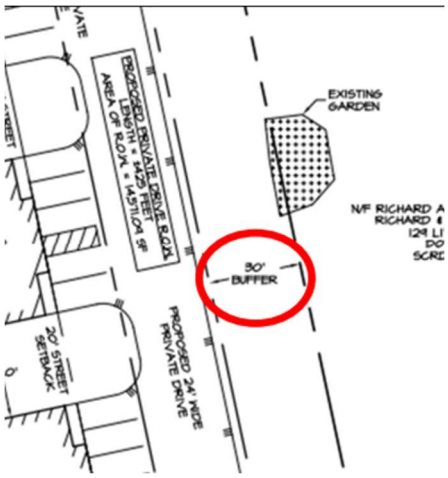


Figure 12: Proposal at 131 Littleworth Road - even though they withdrew

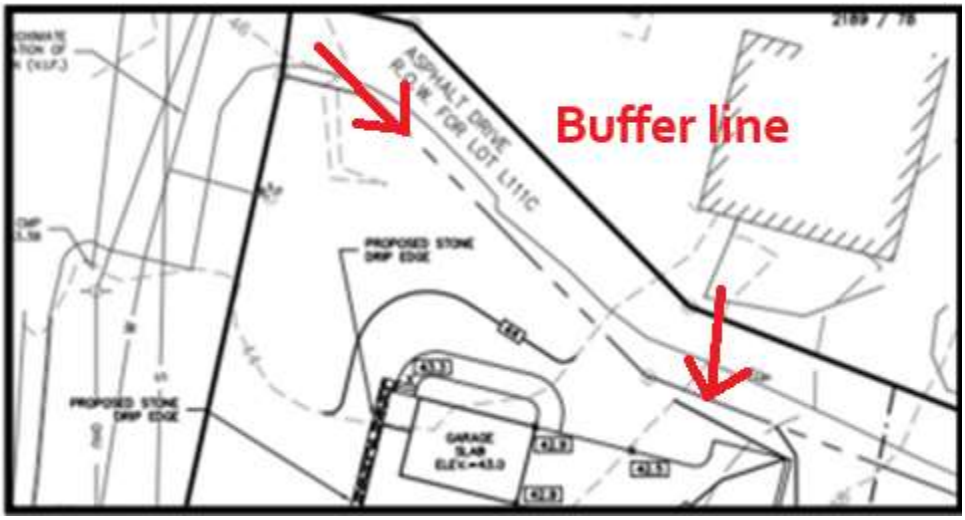


Figure 13 306 Dover Point Rd, even though it's bordered by driveways to lower coastal lots, still maintained a buffer.

Acknowledging the single example of residential TDR without a buffer, for fairness.

5 Glenwood Ave (a site next to Walgreens off Central Ave) is the one example that waived a buffer. It provided a very clear explanation and requested only one unit. It was also approved on 6/30/23, prior to the amendment creating 8d in the TDR ordinance which disallows buffer relief.

There is no attempt at a valid argument for waiving a buffer at 103 Court St.

The project narrative literally includes no argument for waiving the buffer at all. It is not mentioned in the current material (as of 11/25/2024). The only comment from the developer is in the "TRC Response Letter #2":

- *Shrink common area or unit count to gain more than the 10' visual buffer. Narrative would be needed for TDR relief being sought from setback and buffer. However, seeing the density being sought is double what the base calculates out to be would indicate the buffers and setbacks should be met or unit request reduced.*
    - This comment has not been adequately addressed. Still seems to have too many units and not enough buffer area.

      The revised Site Plan provides a radical revision to the site layout. The unit count has been reduced by 2 units. The existing house will remain as a single-family home, which will utilize its existing utilities, trash collection and driveway. The new duplex has been moved slightly to more closely coincide with the existing barn foot print and will provide additional buffer to the east. These units will remain HUD restricted. Cottage #5 has been removed. The remaining cottages have been pushed to the west another 15 feet and completely out side of the 30-foot buffer.

      The aerial photographs from the City of Dover GIS shows that in 2005, 2010 and as recently as 2018 much of the property was maintained as field and much of the growth on site does not provide effective screening. The proposal still requests a waiver from the 30-foot perimeter buffer which will allow for clearing of the existing undergrowth and the installation of stockade fence with an additional vegetative screen.

As previously highlighted in my diagram, the cottages are not within 30-feet of the property line. However, a backyard is not a buffer. This also fails to acknowledge that the pavement on the other side of the lot is 10-feet from that property line.

Furthermore, what does the past aerial photography have to do with this? The lot is currently wooded. In fact, the current single-family home is barely visible from any view except from the front. Here's some photos from this November for you – when there's not even full leaves on the trees. There is currently a very good visual buffer surrounding the entirety of the 103 Court St lot.

Figure 14: Small orange flag in the middle is rear property marker for 103 Court St. The house is just barely visible.

Figure 15: View of the 103 Court St from the West.

Figure 16: View of 103 Court St from Court St

Figure 17: View of 103 Court St from Locke St/Tranquility Way

Landscaping has been proposed to provide a continuous visual buffer without a 30-foot no-cut, no-disturb zone. How is sufficiently dense landscaping going to screen this property from all of these angles within the 10-foot strip remaining unpaved on the East and in the 30-foot backyards on the West? As previously mentioned, if the cottages in the rear are visible at all, then they must be consistent with the neighborhood context which, as I argued, they are not.

What about section 8d – is seeking relief for the buffer allowed?

170-27.2(G)7: "A continuous visual buffer shall be created along the perimeter of the parent parcel, which shall include a thirty (30) foot no cut, no disturb buffer."

170-27.2(G)8d reads, "Any relief sought should not be caused by the additional density."

Transcribed from the online recording under Meeting Minutes from 9/26/2024 second TRC meeting for 103 Court St with minute references, again:

7:17 Director Benton, "The issue is the TDR ordinance is clear that if you're asking for relief because of the extra density, then you shouldn't be getting the extra density. So, we're just trying to make sure that you're meeting the buffer requirements.

[Developer asks for clarification]

So the ordinance is clear that you can't be asking for relief if it's caused by the extra density. So you really shouldn't be getting extra density if you can't meet the buffer requirements, and the setbacks. So you may need to lose units or figure out a redesign."

If you agree that the buffer is a requirement, as I argue every single discussion and prior example demonstrates for TDR, then the buffer cannot be waived for 103 Court St just to get the extra TDR density under ordinance 8d.

In conclusion, deny this project on the basis that it overreaches even under TDR, is not compatible with the existing neighborhood in density and appearance, and fails to meet the buffer requirement for TDR.

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.

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. Sanderon 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

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.

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.

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-2024-0015
   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.

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 ±s.f. of permanent impacts to the 50-foot wetland buffer and 756± 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 ±1,467 square feet of permanent impacts to the 50-foot wetland buffer and ±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.

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.

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.

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.

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.

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.

Michaell 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)

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:

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

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

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± s.f. of wetland impact and 6,400± 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± square feet of wetland impact and 6,400± 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, Tritech 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

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 rational for the waivers meets criterion (1) 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 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.

- 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

Gmail Hilary Hamer <hilary.a.hamer@gmail.com>

Request for correction to 12/10/2024 Planning Board Meeting Minutes

City of Dover - Planning <Dover-Planning@dover.nh.gov> Thu, Jan 16, 2025 at 2:43 PM
To: Hilary Hamer <hilary.a.hamer@gmail.com>

Hi Dr. Hamer,

I apologize for not seeing this email before Tuesday's meeting. The Board did not directly get legal counsel from the City Attorney and if they were to that typically isn't part of the public record to protect attorney-client privilege. From Tuesday night's discussion, it seems like the TDR ordinance will be looked at more closely in whole and the Board and public will have an opportunity to suggest amendments. Any amendment also has public hearing opportunities. If you have any further questions, please let me know.

Thanks,
Donna

Donna Benton, AICP

Director of Planning and Community Development

City of Dover, NH

288 Central Avenue

Dover, NH 03820-4169

e: d.benton@dover.nh.gov

p: 603.516.6008 f: 603.516.6049

Dover: First in New Hampshire, First with you!

From: Hilary Hamer <hilary.a.hamer@gmail.com>
Sent: Monday, January 13, 2025 8:00 AM
To: City of Dover - Planning <Dover-Planning@dover.nh.gov>
Subject: Request for correction to 12/10/2024 Planning Board Meeting Minutes

Security Notice: External sender. Use caution with hyperlinks or attachments.

Good morning,

Before the 12/10 Planning Board meeting minutes are finalized by vote tomorrow, I respectfully ask for an addition.

Before planning the site walk date for item 4G&H (103 Court St), Chair Gina Cruikshank said, "I think we'll probably have the city attorney weigh in and get further clarification [about the buffer]. If not by the site walk, by the next time we see it."

This felt like a very important statement for myself and neighbors, as an actionable promise to seek legal counsel. As such, I ask that it be included in the 12/10/2024 meeting minutes.

Thank you,

Dr. Hilary Hamer

91 Court St, Dover

Please consider conserving our natural resources before printing this e-mail and/or any attachments.

This electronic message and any attachments may contain information that is confidential and/or legally privileged in accordance with NH RSA 91-A and other applicable laws or regulations. It is intended only for the use of the person and/or entity identified as recipient(s) in the message. If you are not an intended recipient of this message, please notify the sender immediately and delete the material. Do not print, deliver, distribute or copy this message, and do not disclose its contents or take any action in reliance on the information it contains unless authorized to do so. Thank you.

CITY OF DOVER ETHICS COMMISSION
RECOMMENDATIONS REGARDING ETHICS COMPLAINT OF
CAITLIN WILKIE AGAINST COUNCILOR FERGUS CULLEN

On January 2, 2025, the Ethics Commission held a hearing in this matter pursuant to Section 21-12(E) of the Dover Ethics Code. The Ethics Commission provided all parties fourteen calendar days' notice pursuant to Section 21-12(F) of the Dover Ethics Code. Present at the hearing were the complainant, Caitlin Wilkie, and the respondent, City Councilor Fergus Cullen. The parties were afforded an opportunity to present evidence and argument in support of their respective positions pursuant to Section 21-12(H) of the Dover Ethics Code. The hearing was not subject to the rules of evidence. No evidence was excluded. The Commission deliberated the matter in public following the hearing. Commission members Allan Krans Sr. (Chair), Matthew Keane, Dr. James Fiesher, and Charles Carey were present. Member Marion Cheney was absent. Also present was Attorney Christopher D. Hawkins representing the Ethics Commission.

The Chair of the Commission inquired whether Ms. Wilkie or Councilor Cullen had any reason to believe any member of the Commission should not participate in the hearing. Neither Ms. Wilkie nor Councilor Cullen asked that any member of the Commission be recused. Chair Krans explained the hearing process and asked the parties if they had any preliminary questions. Neither party raised any questions about the process. The hearing was audio recorded pursuant to Section 21-13(I) of the Dover Ethics Code. At the conclusion of the hearing, Chair Allan Krans asked whether either party felt the proceeding had been unfair. Neither party raised any specific concern about the fairness of the process.

COMPLAINT

On November 26, 2024, Caitlin Wilkie of 568 6th St. filed an Ethics Complaint against Councilor Fergus Cullen.

Ms. Wilkie raised three issues, which are briefly summarized below:

1. Whether Councilor Cullen, sitting as a member of the Planning Board, should have recused himself from participating in the discussion and vote of the Transfer of Development Rights ("TDR") and site plan application of DBS Holdings, LLC during a meeting on June 11, 2024. Ms. Wilkie alleges that by participating in that discussion, Councilor Cullen shed favorable light on a similar TDR and site plan application he had filed or intended to file for his own property adjacent to Ms. Wilkie's property on 6th St.

2. Whether Council Cullen should have used his position as a Councilor to defend his private business interests and rebut statements Ms. Wilkie made at the July 10, 2024, City Council meeting regarding the DBS Holdings matter. Ms. Wilkie also questioned whether Councilor Cullen acted improperly in seeking advice from the City Attorney regarding his obligations when "[a] private citizen wouldn't have been afforded that same right, and would need private legal counsel."

3 Whether Councilor Cullen should recuse himself from any vote as a Councilor allocating Conservation Funds to which he contributed TDR fees.

On December 4, 2024, the Commission determined the Complaint raised sufficient issues to merit a hearing. Fourteen calendar days' notice of the hearing was provided to all parties pursuant to Section 21-13(F) of the Dover Ethics Code.

JURISDICTION

The Ethics Commission has jurisdiction over the complaint pursuant to section 21-12(A) of the Dover Ethics Code, which states in relevant part that the activities of all elected officers and members of all board, commissions, committees and subcommittees whose members are appointed by the City Council shall be within the scope of authority of the Ethics Commission. See Article II(i) of the Ethics Commission Operating Rules.

SUMMARY OF RULINGS

Based upon the findings of fact outlined below, the Commission reached the following conclusions as to the issues raised by Ms. Wilkie pursuant to Section 21-13(J) of the Dover Ethics Code:

1. **Councilor Cullen's participation in the June 11, 2024, Planning Board hearing on the DBS Holdings TDR and Site Plan Matter.**

   Finding and Recommendation: The Ethics Commission unanimously finds based on Clear and Convincing evidence that Councilor Fergus Cullen violated the ethical provisions of Dover Ethics Code 21-2 as an appointed officer when **"he took part in a decision concerning the business of this City…(when) he had a financial or other private interest, directly or indirectly, which is in conflict with his official duties"** as a Planning Board member subject to the juror standard by State law (RSA 673:14 and RSA 500-A:12(g)), Dover Ethics Code **21-5** by participating in official business of the City of Dover without disclosing the nature and extent of a private interest in a matter of official business in the City of Dover, and Dover Ethics Code **21-8** in holding an investment in a private transaction that created a conflict with his official duties.

   The rationale for actionable Findings of violations of Dover Code 21-2, 21-5 and 21-8 is the failure of Councilor Cullen to recuse in light of his business relationship with Kevin McEneaney and/or Civilworks NE at the Planning Board meeting of June 11, 2024. Mr. McEneany presented for DBS Holdings regarding development of 512 Sixth Street. The official duty of Councilor Cullen is defined by RSA 673:14 and RSA 500-A:12.

   Councilor Cullen's defense that the Ethics Commission cannot alter his private property rights is unpersuasive since none of the Findings and Recommendations address his rights to development. This report addresses Councilor Cullen's ethical obligations as a Planning Board member, not property rights.

Councilor Cullen also asserts that Dover is a small region of a small state and that knowing people is "inevitable." This assertion is also unpersuasive as a defense to his actions. Knowing people is inevitable; establishing business relationships with people is a **choice**. Attempting to perform a quasi-judicial function as a member of the Planning Board after establishing a business relationship with the representative of an applicant is a **choice** in violation of an official duty.

2. **Councilors Cullen's comments at the July 10, 2024, City Council meeting in response to Ms. Cullen's comments.**

Finding and Recommendation: The Ethics Commission unanimously finds based on Clear and Convincing evidence that Councilor violated the ethical provisions of Dover Ethics Code 21-3 by appearing on behalf of his private interests before the City Council during City Council Matters of Interest.

The Rationale for actionable Findings of violation of Dover Code 21-5 at the City Council meeting on July 10, 2024 results from Councilor Cullen discussing his private development at 566 Sixth Street. Nothing about the 566 Sixth Street project was before the Dover City Council. Private matters may only be discussed privately. The public option for Councilor Cullen was to file a statement with the City Clerk.

3. **Councilor Cullen's participation as a member of the City Council in the allocation of conservation funds derived from TDR applications.**

Finding and Recommendation: The Commission finds this issue is premature because there is no evidence Councilor Cullen has paid any TDR funds into the Conservation Fund nor voted on the allocation of conservation funds derived from such funds. Pursuant to Section 21-12(G) of the Dover Ethics Code, the Commission does not issue advisory opinions based upon hypothetical situations and offers no opinion at this time on whether such a vote would violate the Dover Ethics Code. Ms. Wilkie, or any other Dover resident, may file an ethics complaint in the future if they believe Councilor Cullen has violated the Dover Ethics Code with respect to such a vote, or with respect to any other issue they believe may violate the Dover Ethics Code.

The Rationale for dismissing the Complaint regarding the Conservation funds is no evidence was presented that Councilor Cullen had paid in, or voted on, the use of Conservation funds.

BURDEN OF PROOF

The Commission explained to the parties that the complainant bore the burden of proving a violation of the Dover Ethics Code or other applicable law by clear and convincing evidence. Dover Ethics Code 21-12(K).

Pursuant to Dover Ethics Code 21-12(L), clear and convincing evidence is an intermediate standard of proof that calls for more proof than that based on more probable than not but less proof that that based on beyond a reasonable doubt. It is defined as that evidence which establishes a factual conclusion to be highly probable, rather merely than more probable than not. It requires that the party having the burden of proof placed in the trier of fact an abiding conviction that the true or his or her factual contentions are highly probable; otherwise, he or she has failed to prove it.

SCOPE OF INQUIRY

Pursuant to Article V(I), the scope of the hearing included review of all pertinent sections of the City Charter and ordinances involving facts alleged in the Complaint, in addition to the provisions cited in the Complaint.

CODE PROVISIONS AND STATUTES CONSIDERED (Emphasis added in yellow)

Dover Planning Board Code § 9-8(G)

Disqualification. All members shall comply with relevant sections of the City Code of Ethics (Chapter 21) concerning conflicts and disqualification rules pursuant to RSA 673:14.

Dover Ethics Code § 21-1

APPOINTED OFFICER – Includes all positions appointed by the Mayor and Council or the City Manager, including appointment to the Housing Authority, but not employees.

Dover Ethics Code § 21-2

No elected or appointive officer or employee of the City shall take part in a decision concerning the business of this City or engage in any business or transaction in which he/she or a member of his/her family, directly or indirectly, has a financial interest, aside from his/her salary as such officer or employee, greater than any other citizen or taxpayer, nor shall he/she have any financial or other private interest, directly or indirectly, which is in conflict with the proper discharge of his/her official duties.

Dover Ethics Code § 21-3. Representation of private interests before City agencies.

No elected or appointed officer or employee shall appear on behalf of private interests before the City board, commission, committee, subcommittee or authority on which he/she serves. Councilors, however, may appear without compensation on behalf of constituents or in the performance of public or civic obligations.

Dover Ethics Code § 21-5. Required disclosure by officers and employees; recusal

A. An appointed officer or employee who, whether paid or unpaid, has a direct or indirect financial interest or other private interest in any legislation or matter of official business in the City of Dover and who participates in discussion before or gives official opinion to the Council, or otherwise participates in the official business of the City of Dover, shall

publicly disclose on the official record the nature and extent of such interest. Such disclosures shall be made orally prior to the legislation being discussed as part of a Council meeting agenda, or the officer or employee may elect to file a written specific conflict-of-interest disclosure statement with the City Clerk. The statement shall be read aloud into the record at a public meeting. In the case of a nonpublic session, the statement shall be read aloud at the next public meeting.

B. Appointed officers and employees with a conflict of interest shall recuse themselves from further participation in the matter. "Recusal "means to immediately remove themselves from discussion and voting. "Recusal" shall also mean the officer or employee is required to physically vacate his or her seat. During a nonpublic session, the appointed officer or employee shall remove himself or herself from the meeting room.

Dover Ethics Code § 21-8. Investments in conflict with official duties.

No elected or appointed officer or employee shall invest or hold any investment, directly or indirectly, in any financial, business, commercial, or other private transaction which creates a conflict with his/her official duties.

Dover Ethics Code 21-11 Ethics Commission established; purposes.

A. There is hereby established an Ethics Commission consisting of five Commissioners who shall be Dover residents and appointed by the City Council. At least one Commissioner shall be a former City Councilor or former School Board member as provided in § C11-4 of the Dover City Charter. The purposes of the Ethics Commission are:

(1) To provide a forum to hear and accept complaints of violations of ethical standards of behavior for elected and appointed officers under the jurisdiction of the Ethics Commission.

(2) To encourage Dover elected and appointive officers and all members of boards, commissions, committees and subcommittees to act in the best interests of the City and perform their duties and responsibilities according to the ethical provisions of the City Charter and City ordinances.

(3) To require the disclosure of financial interests or other interests in matters affecting City business where the interests constitute a conflict of interest.

(4) To prohibit those holding public office and volunteer positions in our City from using their positions for personal gain and to foster the use of such positions only to advance public interests.

(5) To promote the integrity of City government.

Dover Ethics Code § 21-12(A)

The Ethics Commission shall operate in an advisory role to the City Council. The activities of all elected officers and members of all boards, commissions, committees and

subcommittees whose members are appointed by the City Council shall be within the scope of authority of the Ethics Commission. The Ethics Commission members shall also be subject to the jurisdiction of the Ethics Commission. If a member of the Ethics Commission is the subject of an ethics complaint, the member shall be replaced in all proceedings by an alternate member. The Ethics Commission shall not have jurisdiction over the City Manager or other employees of the City of Dover.

Dover City Charter Provision 11-5

In addition to the provisions of § C11-3 City Councilors and members of standing city commissions and boards may be removed from office by a vote of the City Council upon such a recommendation having been forwarded to the Council by the Ethics Commission.

RSA 674:13 Disqualification of Member

I. No member of a zoning board of adjustment, building code board of appeals, planning board, heritage commission, historic district commission, agricultural commission, or housing commission shall participate in deciding or shall sit upon the hearing of any question which the board is to decide in a judicial capacity if that member has a direct personal or pecuniary interest in the outcome which differs from the interest of other citizens, or if that member would be disqualified for any cause to act as a juror upon the trial of the same matter in any action at law. Reasons for disqualification do not include exemption from service as a juror or knowledge of the facts involved gained in the performance of the member's official duties.

II. When uncertainty arises as to the application of paragraph I to a board member in particular circumstances, the board shall, upon the request of that member or another member of the board, vote on the question of whether that member should be disqualified. Any such request and vote shall be made prior to or at the commencement of any required public hearing. Such a vote shall be advisory and non-binding, and may not be requested by persons other than board members, except as provided by local ordinance or by a procedural rule adopted under RSA 676:1.

III. If a member is disqualified or unable to act in any particular case pending before the board, the chairperson shall designate an alternate to act in the member's place, as provided in RSA 673:11.

RSA 500-A:12 Examination

I. Any juror may be required by the court, on motion of a party in the case to be tried, to answer upon oath if he:

(a) Expects to gain or lose upon the disposition of the case;
(b) Is related to either party;

(c) Has advised or assisted either party;
(d) Has directly or indirectly given his opinion or has formed an opinion;
(e) Is employed by or employs any party in the case;
(f) Is prejudiced to any degree regarding the case; or
(g) Employs any of the counsel appearing in the case in any action then pending in the court.

II. If it appears that any juror is not indifferent, he shall be set aside on that trial.

EVIDENCE CONSIDERED

The Ethics Commission considered only publicly available information with respect to this matter, as follows:

- The Complaint filed by Ms. Wilkie with attached exhibits.
- The Commission pre-marked Ms. Wilkie's Complaint as Exhibit 1, the June 11, 2024 Planning Board Meeting Minutes as Exhibit 2, the July 10, 2024 City Council Meeting Minutes as Exhibit 3, a letter from Councilor Cullen to his neighbors dated December 1, 2023 as Exhibit 4, and a letter from Councilor Cullen to his neighbors dated May 20, 2024 as Exhibit 5.
- The testimony and documentary evidence presented by the parties at the hearing. This includes 29 exhibits submitted by Councilor Cullen marked FC1-FC29. The Commission also viewed excerpts of the June 11, 2024 Planning Board meeting and July 10, 2024 City Council meeting presented by Councilor Cullen.
- Transcript of Ms. Wilkie's comments to the Planning Board on June 11, 2024. Exhibits FC19 and FC21.
- Transcript of Mr. Cullen's comments to the Planning Board on June 11, 2024. Exhibit FC20.
- Transcript of Ms. Wilkie's comments to the City Council on July 10, 2024. Exhibit FC23.
- Transcript of Mr. Cullen's comments to the City Council on July 10, 2024. Exhibit FC24.
- Transcript of Attorney Scott Hogan's comments to the Planning Board on October 22, 2024. Exhibit FC25.
- Letter dated January 15, 2025 from Councilor Cullen to the Ethics Commission.

FINDINGS OF FACT

1. Fergus Cullen ("Mr. Cullen") is a member of the City Council of the City of Dover.

2. Mr. Cullen was appointed by the City Council to serve as a member of the Planning Board.

3. On November 28, 2023, Fergus and Jennifer Cullen acquired the property known as 566 Sixth St. Book 5152, Page 7, Strafford County Registry of Deeds.

4. On or about December 1, 2023, Councilor Cullen delivered a letter to neighbors of his property at 566 Sixth St. stating that he expected to seek approval to add at least two or maybe more housing units to the 566 Sixth St. property. Testimony of Fergus Cullen. Exhibits 4 and FC5.

5. No later than April 24, 2024, Councilor Cullen retained Civilworks and McEneany Survey Associates to draft a TDR plan and Drainage and Landscape Plan with respect to his property at 566 Sixth St. Plans bearing those dates appear in the Planning Board file.

6. No later than April 26, 2024, Civilworks and McEneany Survey Associates drafted a TDR Open Space plan on behalf of DBS Holdings, LLC for the property at 512 Sixth St. A plan bearing that date appears in the Planning Board file for DBS Holdings, LLC.

7. The TDR plans for the DBS Holdings Project and the Cullen project at 566 Sixth St. are very similar.

8. On May 20, 2024, Councilor Cullen delivered a letter to neighbors of his property at 566 Sixth St. that included the TDR and site plan he intended to submit for the property. See Exhibits 5 and FC10.

9. Rory and Caitlin Wilkie own and reside at the property at 568 Sixth St., which borders 566 Sixth St. to the north. The Wilkies received copies of Councilor Cullen's letters of December 1, 2024 and May 20, 2024. Testimony of Caitlin Wilkie.

10. On May 24, 2024, DBS Holdings submitted a TDR plan and application for site plan review to the City of Dover Planning and Development Office for technical review. The application documents appear in the DBS Holdings File in the Planning Board file.

11. At 3:31 p.m. on June 6, 2024, Ms. Wilkie sent an email to the Dover Planning Board claiming Councilor Cullen had a conflict of interest with respect to the DBS Holdings application. Exhibit FC15.

12. At 7:30 p.m. on June 6, 2024, Councilor Cullen responded to Ms. Wilkie's email and copied the members of the Planning Board, City Manager Joyal, and City Attorney Josh Wyatt. Exhibit FC16.

13. By June 6, 2024, Councilor Cullen was aware that Ms. Wilkie was raising concerns about conflict of interest. Councilor Cullen testified that those concerns "raised alarm bells" with him and that he sought advice from Planning Board Chair Gail Cruikshank and City Attorney Josh Wyatt. Councilor Cullen testified he did not raise the issue with the Planning Board as a whole because he could not disclose the basis of the issue without risking compromising the impartiality of the Board.

14. On June 10, 2024, Mr. Cullen submitted a TDR plan and application for site plan review to the City of Dover Planning and Development Office for technical review. The application documents appear in the Cullen File in the Planning Board file.

15. Councilor Cullen testified that he could not recall whether he spoke with Mr. McEneany about the DBS Holdings application prior to the Planning Board meeting on June 11, 2024.

16. Sometime between June 6 and June 11, 2024, Councilor Cullen contacted Planning Board Chair Gail Cruikshank for advice on the conflict of interest issue and that she told him she did not believe there was a conflict. Councilor Cullen testified he did not disclose to Ms. Cruikshank that he was working with McEneaney Survey Associates on his application. Ms. Cruikshank testified that that disclosure would not have altered her opinion on the matter but she could not say whether the Board as a whole might have been concerned.

17. On June 11, 2024, Councilor Cullen called City Attorney Josh Wyatt to discuss potential conflict of interest issues. Councilor Cullen testified that Attorney Wyatt informed him that he had no conflict issue. Attorney Wyatt testified that he told Councilor Cullen he could offer him no legal advice but that he was aware of no caselaw that a City Councilor could not file a land use application and that Councilor Cullen should consult his own attorney. Attorney Wyatt testified he did not seek detailed information from Councilor Cullen as he did not intend to offer him legal advice. Councilor Cullen testified that he did not disclose to Attorney Wyatt that both he and DBS Holdings were working with McEneaney Survey Associates.

18. On June 11, 2024, the DBS Holdings application was heard by the Planning Board.

19. The minutes of the June 11, 2024, Planning Board hearing reflect that Kevin McEneany appeared on behalf of DBS Holdings and presented the TDR Plan on behalf of DBS Holdings.

20. Mr. Cullen attended the June 11, 2024, Planning Board meeting in his capacity as a member of the Board.

21. Caitlin Wilkie attended the June 11, 2024, hearing,

22. Ms. Wilkie objected to Mr. Cullen voting on the application on the basis of bias or appearance of bias and conflict or appearance of conflict. Ms. Wilkie stated there was an "incredible likeness" to what Mr. Cullen had submitted to the City last week as to his property at 566 Sixth St. Ms. Wilkie expressed concern that Mr. Cullen's vote in favor of the DBS Holding application would set an unfair precedent. Ms. Wilkie referenced a statutory procedure for the Board to vote with reference to Mr. Cullen's participation.

23. Mr. Cullen responded that he owned the property at 566 Sixth St. and would have an application coming before the Board in the coming weeks. Mr. Cullen stated that the Wilkies have concerns about that property and that it is their right to express concerns and that he would recuse himself when his application came before the Board. Mr. Cullen stated that the Wilkies' concerns were misdirected as to the DBS Holdings application. Mr. Cullen stated that he had no connection to DBS Holdings or its owners and had no conflict of interest with respect to the DBS Holdings application. Mr. Cullen referenced discussions he had with the City attorney.

24. The Commission finds that Mr. Cullen had no direct or indirect financial interest in DBS Holdings.

25. Mr. Cullen did not disclose during the June 11 hearing that he had a business relationship with McEneany Survey Associates.

26. No other member of the Planning Board commented directly on Ms. Wilkie's concerns.

27. No member of the Planning Board proposed a motion to recuse Mr. Cullen.

28. The DBS Holdings application was accepted and approved by the Planning Board on a vote of 4-2. Mr. Cullen voted in favor of the application.

29. On July 10, 2024, Ms. Wilkie appeared before the City Council and made a lengthy statement regarding Mr. Cullen's alleged conduct. The Commission listened to that statement in full. In sum, Ms. Wilkie expressed concerns regarding the merits of Mr. Cullen's TDR application and his alleged conflict of interest and the perception of conflict of interest. Ms. Wilkie stated that Mr. Cullen used the same engineering company as DBS Holdings and alleged that the DBS Holdings application was very

similar to Mr. Cullen's application. The Commission notes that Ms. Wilkie's written complaint largely echoes the issues raised in her verbal presentation.

30. Mr. Cullen responded to Ms. Wilkie's comments. The Commission listened to Mr. Cullen's statement in full. In sum, Mr. Cullen noted that chief among the City Council's goals was creating affordable housing. Mr. Cullen noted that he withheld information because he wanted to avoid discussing the matter with the other Planning Board members and his application had not been made, thus it would have been inappropriate to discuss his application with the Planning Board on June 11. Mr. Cullen noted that volunteer public officials do not give up all their rights as private citizens. Mr. Cullen acknowledged the need to follow all disclosure and recusal rules, that he had discussed the matter with the City attorney, and that he had followed the City attorney's guidance.

31. Mr. Cullen testified that he cited the Planning Board's approval of the DBS Holdings application as precedent in the revised site plan application for his property at 566 Sixth Street.

32. The Commission finds no evidence that Councilor Cullen has paid any TDR funds at this time nor any evidence that Councilor Cullen has voted on the allocation of any Conservation Funds paid by him.

RECOMMENDATION

Pursuant to Section 21-14(A) and (B)(2) of the Dover Ethics Code, the recommendation of the Ethics Committee for a remedy is removal of Councilor Cullen from the office of City Council representative to the Dover Planning Board. The rationale is removal will address the issue whether ethical violations will occur in the future.

This recommendation sanction was approved by the Commission 3-1, with member Keane dissenting. In all other respects, the Commission unanimously approved the findings and rulings herein.

Dated: 1/21/25

Allan Krans Sr., Chair

Dated: 1/24/2025

Charles Carey

Dated: 21 January 2025

James Fieseher

Dated: Jan 23 2025

Matthew Keane