

DOVER PLANNING BOARD – MINUTES

Meeting Type: Regular Meeting
Meeting Location: City Council Chamber's 288 Central Avenue
Meeting Date: **Tuesday, May 28, 2019**
Meeting Time: **7:00 pm**

Members Present: Gina Cruikshank (Chair), Dave Landry, Frank Torr, Tom Clark, Jackson Kaspari, Lee Skinner, Ellen Brooks (Alternate), Matt Sullivan (Alternate), Dennis Ciotti (Councilor),

Members Not Present (excused): D. White, James Burdin (Alternate), Hayley Harmon (Vice Chair)

Members Not Present (un-excused): None

Staff Present: Christopher Parker, Assistant City Manager

The Chair called the meeting to order at 7:00 pm and stated M. Sullivan will sit for D. White and E. Brooks will sit for H. Harmon. D. Landry will act as Vice Chair.

1. CITIZENS' FORUM

Citizens Forum Open No one spoke. *Citizens Forum Closed.*

2. APPROVAL OF THE PRIOR MINUTES

- May 14, 2019 Regular Meeting Minutes

Motion: F. Torr made a motion to approve the minutes. Seconded by L. Skinner. Vote: U/A.

3. OLD BUSINESS

- A. Public hearing and vote to adopt of the posted Architectural Design Standards in Chapter 149. The full text of the amendments is available in Planning Department & at www.dover.nh.gov located under City Documents & View Current City Reports.*

C. Parker gave background of the project.

Public hearing opened. No one spoke. *Public Hearing closed.*

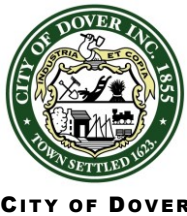
Motion: T. Clark made a motion to approve the Site Review amendments as amended. Seconded by F. Torr. Vote: U/A.

4. NEW BUSINESS

- A. Public hearing and consideration of a request for an excavation permit by Brox Industries, Inc., Assessor's Map C, Lots 12A, 13 & 14, zoned R-40, located on Rochester Neck Road/Tolend Road.
*(P19-39)

C. Parker provided an overview of the extraction permit review process and stated the issue of regional impact under RSA 36:54 for Board review, noting that 2 years ago regional impact was not declared.

C. Parker noted the subject property is located off of Rochester Neck Road and Tolend Road at both the Barrington and Rochester municipal boundaries. The Applicant has submitted excavation and reclamation plans for each of its three lots in Dover, along with an application for an excavation permit. This constitutes a renewal of the permit approved May 9, 2017 (a biennial process).



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David Clough, Plant Manager, Brox Industries, Inc. represented the applicant, displayed the plan for viewing, and presented the application.

L. Skinner asked the applicant to estimate how many more years are remaining for these pits if business continues as-is. D.Clough stated that there is one pit that could be exhausted immediately, they just haven't closed it yet. They are using it for water storage now. Another one might be 5-10 years and the next is probably 20 years.

L. Skinner asked staff what initiates the onset of reclamation? The City? The applicant?

C. Parker noted the ordinance allows for a defined limit of excavation due to ground water level among other items. The City works with the owners in the process.

D. Landry asked about why the bonds are different, and C. Parker stated it's based on the environment.

D. Ciotti asked about the operating hours listed not being the same. C. Parker says it's based on history as well as the impact to abutters.

Motion: F. Torr made a motion to accept the application. Seconded by D. Landry. Vote U/A.

Public hearing opened. No one spoke. Public Hearing closed.

STAFF RECOMMENDATION:

Chapter 170-29 of the Zoning Ordinance of the City Code provides for excavation of earth in the City, pursuant to the authority granted by NH RSA 155-E, and requires that earth excavation operators obtain permits, which are valid for 2 years in Dover. Planning Department recommends that the Planning Board approve the permit with the following condition:

Condition to be Met Prior to Issuing the Permit:

1. The applicant shall provide confirmation from the City's Environmental Consultant and/or Community Services staff that existing conditions are consistent with excavation plan.

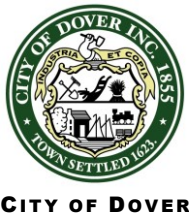
Motion: L. Skinner made a motion that the Planning Board determine that this project does not have regional impact. Seconded by D. Landry. Vote U/A

Motion: F. Torr made a motion to amend the approved plan with staff recommended conditions. Seconded by D. Landry. Vote U/A.

- B. Public hearing and consideration of a request for an excavation permit by Candia South Branch Holdings, LLC, Assessor's Map H, Lots 59, 60 & 61, zoned I-4, located on Mast Road. *(P19-40)

C. Parker explained that the subject property is located on Mast Road between Community Services/City-owned land, the Town of Madbury, and the Bellamy River. The Applicant has submitted excavation and reclamation plans for its lots along with an application for an excavation permit. This constitutes a renewal of the permit approved last approved May 9, 2017 (a biennial process). He addressed the concrete plant on Mast Road is not part of the permit and is not part of the Board review.

Kevin McEneaney, McEneaney Survey Associates, Inc. represented the applicant, displayed plans for viewing, and presented the application.



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D. Landy wondered about the note from last year. K. McEneaney confirmed the majority of material at that site will be out in four years.

Motion: F. Torr made a motion to accept the applications. Seconded by T. Clark. Vote U/A.

Public hearing opened.

Agnes Taranto, 330 Mast Rd sent an email to the office last week and hopes the board has reviewed it. She would like to receive notice regarding when excavation is scheduled to occur and find out how much longer it will continue at this site. There are noise and shaking disturbances at her home. When she purchased the home, she was told it would continue about five years and it's now been six and it looks to be continuing longer.

Public Hearing closed.

Ron Severino, manager of the property responded that the bulk of the material should be depleted in 2-4 years. Sand will remain, but the operation will scale down. There is also a concrete plant on site which they have no control over. He also commented they reclaim the areas as they are finished with them. They won't wait until the end to begin that process.

C. Parker noted the property is zoned industrial, but the City is looking into long-range plans for how best to utilize the property after the pit is exhausted.

D. Ciotti asked if there are there blasting regulations for noticing abutters. C. Parker said they are specific to short-term blasting for roadways and he needs to look into the issue further with regards to abutters.

R. Severino stated they aren't doing any blasting. Everyone was unsure what is causing the noise and shaking at the abutting property. C. Parker will follow up with the applicant and the abutter.

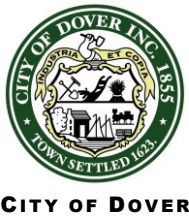
Motion: F. Torr made a motion that the Planning Board determine that this project does not have regional impact. Seconded by L. Skinner. Vote U/A

STAFF RECOMMENDATION:

Chapter 170-29 of the Zoning Ordinance of the City Code provides for excavation of earth in the City, pursuant to the authority granted by NH RSA 155-E, and requires that earth excavation operators obtain permits, which are valid for 2 years in Dover. Planning Department recommends that the Planning Board approve the permit with the following condition:

Condition to be Met Prior to Issuing the Permit:

1. The applicant shall provide confirmation from the City's Environmental Consultant and/or Community Services staff that existing conditions are consistent with excavation plan.
2. The Applicant shall add a note to the excavation plan that the property shall not be used for the storage or introduction of any foreign materials unless the pit operator has sought and received advance written permission from the City's Community Services Department.
3. The Applicant shall add a note to the excavation plan that hours of operation shall be restricted to 7:00 AM to 5:00 PM weekdays and 7:00 AM to 2:00 PM Saturdays, with gates to the site opening no earlier than 6:30 AM and no Sunday hours.
4. The Applicant shall add a note to the plan regarding the schedule of regular access roadway water wash-downs.



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Motion: F. Torr made a motion to approve with staff recommended conditions. Seconded by D. Landry. Vote U/A.

D. Landry noted that 4C and D would be heard together.

C. Consideration and acceptance of a Conditional Use Permit for Little Bay Marina & Development LLC, Assessor's Map 8, Lots 9, 10, 11, & 12, zoned LBW, located at 421, 423, 425, and 427 Dover Point Road. (Proposal will create 2,304 sq. ft. of wetlands impact, 15,579 sq. ft. of 50 foot wetland buffer impact and 58,203 sq. ft. of Conservation District impact on tidal Little Bay. Additionally 4,300 sq. ft. of a soil causeway is proposed to be replaced in the Conservation District.). *(P19-05)

D. Consideration and acceptance of a Site Review for Little Bay Marina & Development, LLC, Assessor's Map 8, Lots 9, 10, 11, & 12, zoned LBW, located at 421, 423, 425, and 427 Dover Point Road. (Proposal is to develop a condominium containing 23 units plus marina/marina office with 1 dwelling unit and 27 parking spaces. This project has TDR approval from the Planning Board). *(P19-04)

C. Parker explained that the applicant proposes to merge the existing lots and develop a condominium with 23 units plus 1 dwelling unit above the marina office. The site would be serviced by public water and sewer. The proposal contains impacts within the wetlands, 100' tidal buffer, and 50' buffer area.

The Board voted to sell the additional TDR units at their September 11, 2018 meeting.

The application was reviewed by the Technical Review Committee on February 28, 2019.

The Planning Board and Conservation Commission held a site walk on April 30th.

The Conservation Commission endorsed the applications at its May 13, 2019 meeting.

FX Bruton of Bruton and Berube along with Steve Haight, Civilworks NE., and Kevin McEneaney, surveyor represented the applicant, displayed plans for viewing, and presented the applications.

D. Landry wondered about the 100' buffer and if the TDR units could have no or minimal impact. S. Haight commented the current structures are very close to the water. The new plans move all structures back out of the 100' setbacks.

Motion: F. Torr made a motion to accept the applications. Seconded by D. Landry. Vote U/A.

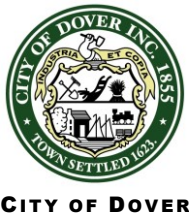
Public hearing opened. No one spoke. Public Hearing closed.

STAFF RECOMMENDATION – Conditional Use Permit:

The Wetlands Protection District ordinance provides for Conditional Use Permits to allow impacts to wetlands and wetland buffers if standards related to demonstration of need, avoidance, minimization, and mitigation are met. This proposal is consistent with those standards. The Planning Department recommends that the Planning Board approve the permit with the following condition:

Conditions to Be Met Prior to the Issuance of a Conditional Use Permit:

1. Provide copies of permits from NHDES



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2. Add permit numbers to site plan.

Motion: D. Landry made a motion to approve with staff recommended conditions. Seconded by L. Skinner. Vote U/A.

STAFF RECOMMENDATION – Site Plan:

Chapter 149-4 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 approve the permit with the following condition:

Conditions to Be Met Prior to the Signing of Plans:

1. Conditional Use Permit (P19-05) is approved
2. All conditions of approval from TDR application (P18-41) shall be addressed including paying the TDR fees.
3. The applicant shall provide
 - a. a digital version of plan set
 - b. cross access easement documentation and Condominium Association Documents to the satisfaction of the Assistant City Manager with consultation from the City's Legal Counsel.
 - c. documentation that Newick's will allow the emergency access onto their property
 - d. traffic study stamped by PE
4. The applicant must revise final plan set to:
 - a. Add the owner's signatures to the final plat submitted for signature to be recorded at the Strafford County Registry of Deeds
 - b. Add LLS, PE, Architect, and LA signatures and stamps to final plan
 - c. Add state permit numbers
 - d. Revise note 3 to indicate what is being provided in the proposed column.
 - e. materials (vinyl clapboard and azek on trim) to the elevations
 - f. Lighting plan to meet regulations
 - g. Label floor plan for marina office as "retail" rather than "shop"
 - h. Remove "variance plan" on architectural plans
 - i. Provide contours 100' feet off the property.

Conditions to Be Met Prior to any Construction Activity:

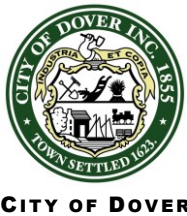
5. A site construction sign with the contact information for the general contractor must be located and approved by the City Engineer or Assistant City Manager.
6. Applicant shall complete Land Use Development Tracking Form, most recently revised version, utilizing the online Pollution Tracking and Accounting Pilot Project (PTAPP) portal. <https://www.unh.edu/unhsc/ptapp>

Conditions to Be Met Prior to Issuance of a Building Permit:

7. The new building shall be assessed and pay the current water and sewer investment fees in place at the time of application for service.
8. The applicant shall provide proof that the cross-access easement has been recorded or is not necessary.

Conditions to Be Met Prior to Occupancy:

9. Issuance of a certificate of occupancy.
10. Impact fees shall be paid per the invoice included with the Notice of Decision.
11. The applicant shall provide a letter of credit or other form of security acceptable to the City for any unfinished work.
12. The applicant shall provide proof that the condominium association has been formed and is active.



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Motion: L. Skinner made a motion to approve with staff recommended conditions. Seconded by D. Landry. Vote U/A.

- E. Consideration and acceptance of a Site Review for Northern Pool & Spa (Owner: 29 Littleworth Road LLC) Assessor's Map G, Lot 6, zoned I-4, and located at 29 Littleworth Road. (Proposal is to construct an 11,728 sq. ft. office and warehouse. Other improvements include access and parking areas, stormwater treatment and an on-site wastewater disposal field). *(P19-26)

C. Parker explained that the applicant proposes to construct a warehouse and office for their pool business at 29 Littleworth Road which is currently a vacant lot near the railroad tracks. The site is proposed to be serviced by municipal water and sewer.

This application was reviewed by the Technical Review Committee on March 28 and May 2, 2019.

Ken Wood, Attar Engineering Inc. represented the applicant, displayed plans for viewing, and presented the application. Owner and developer Peter Paul was also present.

Motion: F. Torr made a motion to accept the application. Seconded by D. Landry. Vote U/A.

Public hearing opened. No one spoke. Public Hearing closed.

STAFF RECOMMENDATION – Site Plan:

Chapter 149-4 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 Department recommends that the Planning Board approve the permit with the following condition:

Conditions to Be Met Prior to the Signing of Plans:

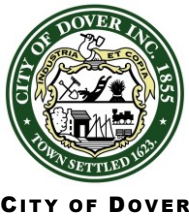
1. The applicant shall provide:
 - a. Approved NHDOT Driveway permit
 - b. A digital version of plan set
 - c. Revised letter to serve from Eversource
2. The applicant must revise final plan set to:
 - a. Add the owner's signatures to the final plat submitted for signature to be recorded at the Strafford County Registry of Deeds
 - b. Add LLS, PE, and LA signatures and stamps to final plan
 - c. Combine colored architectural renderings, floorplans, existing conditions and site plans into one plan set
 - d. Revise the landscape plan to meet the minimal caliper size
 - e. Add commons site notes 18, 22, 26, 28, 29 and 34
 - f. Note NHDOT Driveway Permit number

Conditions to Be Met Prior to any Construction Activity:

3. 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.
4. Applicant shall complete Land Use Development Tracking Form, most recently revised version, utilizing the online Pollution Tracking and Accounting Pilot Project (PTAPP) portal. <https://www.unh.edu/unhsc/ptapp>

Conditions to Be Met Prior to Issuance of a Building Permit:

5. The new building shall be assessed and pay the current water and sewer investment fees in place at the time of application for service.



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Conditions to Be Met Prior to Occupancy:

6. Issuance of a certificate of occupancy.
7. Impact fees shall be paid per the invoice included with the Notice of Decision.
8. The applicant shall provide a letter of credit or other form of security acceptable to the City for any unfinished work.

Motion: F. Torr made a motion to approve with staff recommended conditions. Seconded by D. Ciotti. Vote U/A.

D. Landry noted that 4F and G would be heard together.

F. Consideration and acceptance of a Conditional Use Permit for One First Dover, LLC, Assessor's Map 6, Lot 20, zoned CDB-G, and located at 1 First Street. (Proposal is to allow a sixth story building in an area that only allows five). *(P19-17)

G. Consideration and acceptance of a Site Review for One First Dover, LLC, Assessor's Map 6, Lot 20, zoned CBD-G, and located at 1 First Street. (Proposal is to raze the existing building and construct a five to six story building containing 71 residential units and 4 street-level commercial spaces totaling 6,199 sq. ft. The proposal includes a lower level parking garage containing 29 parking spaces). *(P19-16)

C. Parker explained that the applicant proposes to demolish the existing building and construct a new mixed-use building between First and Second Streets. The project includes 71 dwelling units and commercial space fronting both First and Second Street with garage spaces on First Street. With the elevation change there would be a sixth story on First Street and 5 stories on Second Street. The additional height is allowed on First Street, via a Conditional Use Permit, for either providing subgrade parking, or identifying units as meeting HUD Fair Market Rent rates, as opposed to the open Market. As of April 15, 2019, HUD documents this to be \$909 for an efficiency, \$916 for a 1 bedroom and \$1,161 for a 2 bedroom.

This application was reviewed by the Technical Review Committee on March 7 & April 18, 2019 (minutes attached). May 21st, the Parking Commission endorsed a long-term parking lease until 2041. The City Council will review in June.

Final note, while the architectural design standards were not officially in place when this project was proposed, the applicant agreed to adhere to them creating a design that reflects the built environment around it.

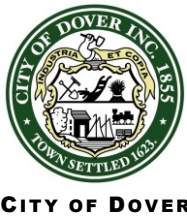
Tucker McCarthy, Keach Nordstrom, represented the applicant, displayed plans for viewing, and presented the applications. Brittany Rotunda, DeStefano Architects and the project attorney Chris Swiniarski were also present.

Motion: F. Torr made a motion to accept the applications. Seconded by L. Skinner. Vote U/A.

Public hearing opened.

D. Choat 500 Market St Portsmouth- Collier's International- the marketing agent for the building has been in the building while they were showing it. The previous owner stored the wood materials from the original finishes in the basement. It is labeled if any historians want it. The cross-braces from the courtroom should be saved. They are like gargoyles with dragon heads. He volunteered to give access to the space if the City representatives want to look at the materials.

Phyllis Woods 1 Berry St and 19 Second St asked the board:



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- How attractive to businesses will the retail space be on a one-way street with limited on-street parking?
- What is the impact with the increased traffic?
- What is the impact to fire and emergency vehicles navigating that road?
- How will the fire department access a sixth-story fire?
- This property is not unusual and has no hardship circumstance to grant this request. This will set precedent.
- The impact this will have on abutters: obstruction of views, air flow, light availability.
- Regarding the demolition of an historical building: she would like to preserve this- one of the last remaining in Dover.

David Thompkins executive director of Woodman Institute says this will completely alter the character of this historic building. He says he was present tonight because the Mayor asked him to be and that she is against this proposal. He wants to protect these few buildings from Dover's history. He appreciates expanding the tax base, but not at the expense of losing this building.

Public Hearing closed.

C. Parker addressed some of the public concerns of traffic, height, fire safety and the historic aspect of the structure. He noted that Dover does not have an Historic District to monitor these issues.

F. Torr would like C. Parker to facilitate communication among the developer and interested parties regarding the materials stored in the basement. He also wondered if the granite lintels will be preserved. The applicant will find out.

F. Torr wondered how the parking will be enforced. C. Parker said the parking manager and the leasing company will be in communication and monitor it.

STAFF RECOMMENDATION – Conditional Use Permit:

Chapter 170-20.D(2) of the City Code allows for approval for the building height to exceed 5 stories, by an additional story, provided that the additional story shall be setback from the allowed height to create a terrace, and additional units resulting from this CUP 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.

Chapter 170-20-B(1) of the City Code states for a Conditional Use Permit to be issued, should the proposed project comply with the standards outlined. This plan is consistent with the criteria as described in the applicant's memo dated February 8, 2019, and as noted on the plan.

The applicant and its architect have noted that the portion of the building upon First Street is 6 stories. If that portion of the building was removed, 6 of the 12 units on the top floor would be removed. The Planning Department recommends that the Planning Board approve the permit with the following condition:

Conditions to Be Met Prior to the Issuance of a Conditional Use Permit:

1. Site Plan (P19-16) is approved.
2. The applicant 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 per Chapter 170-20-B(3), and include:



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- a. A notation that six of the units within the building must be 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.
- b. A recitation of note 25 on sheet 1 of the site plan.

Motion: F. Torr made a motion to approve with staff recommended conditions. Seconded by L. Skinner.
Discussion:

D. Landry asked about losing some units if the elevation is not approved. C. Parker confirmed and stated the HUD units would also be lost if the height is not approved. D. Landry is not in favor of the sixth story.

D. Ciotti agreed with D. Landry and is opposed to the sixth story. He doesn't think this is the right area of the city for this building height.

G. Cruikshank does not have a problem with the height. They are utilizing the topography well and she is in favor of the affordable units.

F. Torr believes this project may open up this area to more development and improvement and increase the value of an area which has been neglected.

Vote: 7-2 with D. Landry and D. Ciotti opposed.

STAFF RECOMMENDATION – Site Plan:

Chapter 149-4 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 approve the permit with the following condition:

Conditions to Be Met Prior to the Signing of Plans:

1. The applicant shall provide a digital version of plan set
2. The applicant must revise final plan set to:
 - a. Add the owner's signatures to the final plat submitted for signature to be recorded at the Strafford County Registry of Deeds
 - b. Add LLS, PE, Architect, and LA signatures and stamps to final plan
 - c. Relocate sewer line to not interfere with transformer pad unless Eversource allows it to remain
 - d. Revise view from the Riverwalk to show building, not the outline
 - e. Confirm 4' fence will properly screen dumpster
 - f. Correct the spelling of Cochecho River on all sheets
3. The City Council shall approve the parking lease

Conditions to Be Met Prior to any Construction Activity:

4. 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.
5. Applicant shall complete Land Use Development Tracking Form, most recently revised version, utilizing the online Pollution Tracking and Accounting Pilot Project (PTAPP) portal. <https://www.unh.edu/unhsc/ptapp>
6. Install signage noting visibility and noise during any earthwork, to the satisfaction of the City Engineer.

Conditions to Be Met Prior to Issuance of a Building Permit:



CITY OF DOVER

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7. The new building shall be assessed and pay the current water and sewer investment fees in place at the time of application for service.

Conditions to Be Met Prior to Occupancy:

8. Issuance of a certificate of occupancy.
9. Impact fees shall be paid per the invoice included with the Notice of Decision.
10. The applicant shall provide a letter of credit or other form of security acceptable to the City for any unfinished work.
11. Contribute a third of the cost of adding a crosswalk, tip downs and ped light at the southerly leg of the Chestnut and First St light.

Motion: F. Torr made a motion to approve with staff recommended conditions. Seconded by J. Kaspari.
Vote U/A.

5. STAFF COMMENTS

- TRC item since the last meeting: Final review of 10 Fourth Street and 22 Fifth Street.
- In addition to the 1 First Street project, the Parking Commission agreed to long term parking for 10 Fourth Street
- Rezoning Committee update
- Kirt Schuman named Citizen Planner of the Year by NHPA
- Regarding TDR: if someone pays for the units and then decides not to build the units, what does the City do? The staff has decided that since site plans are good for five years, then TDR plans are good for five years. If the applicant wants to void the TDR, there is a process to abate the money. If all approved units were not constructed, the money cannot be banked for future use because the fees could increase annually.

6. MEMBER COMMENTS

- D. Ciotti further wondered if TDR units are paid for and the money is spent by the City to purchase conservation land, how would the money be refunded?
- D. Ciotti reported there is no City Counsel meeting until June 26th. The railroad plans to do work this week at Chestnut St.
- L. Skinner suggested a workshop for the TDR discussion.
- L. Skinner is concerned about parking access in the CBD.

7. ADJOURNMENT

Motion: T. Clark made a motion to adjourn at 9:34 pm. Seconded by F. Torr. Vote U/A