

Newburyport Conservation Commission
November 21, 2017
Senior Community Center, 331 High Street
Minutes

1. Call to Order

Chair Joe Teixeira called a meeting of the Newburyport Conservation Commission to order at 6:45 p.m.

2. Roll Call

In attendance were members Joe Teixeira, Dan Warchol, Steve Moore, Dan Bourdeau and David Vine. Paul Healy and Doug Muir were absent. Conservation Administrator Julia Godtfredsen was also in attendance.

3. Minutes

Dan Warchol moved to approve the minutes of the November 8, 2017 meeting as submitted. Dan Bourdeau seconded the motion. The motion was unanimously approved.

4. Old and New Business

Plum Island Updates

- David Vine reported on a meeting of the Merrimack River Beach Alliance that took place on November 17.
- A Storm Surge presentation on emergency preparedness is scheduled for December 7.
- Doug Muir and Julia Godtfredsen met with a graphic designer who will develop design concepts for a Plum Island brochure sometime in the middle of the winter.

5. Certificates of Compliance, Requests for Determinations, Requests for Minor Modifications

Parker 2 Realty Trust

2 Parker Street

Request for Certificate of Compliance

DEP File #051-0946

The applicant did not attend the meeting. Julia Godtfredsen requested the Commission members receive and review a report on the wetland replication area before issuing a certificate of compliance. Steve Moore moved to continue the request to the December 5 meeting. Dan Bourdeau seconded the motion. The motion was unanimously approved.

Geordie Vining

Clipper City Rail Trail, Phase II

Request for Extension of Order of Conditions

DEP File #051-0920

Geordie Vining requested a three-year extension of the order of conditions for the second phase of the Rail Trail. He said delays have been caused by the Commonwealth's bidding process and the discovery of contaminated soils. Steve Moore moved to approve the extension of the order of conditions. Dan Bourdeau seconded the motion. The motion was unanimously approved.

Geordie Vining

Clipper City Rail Trail, Phase II
Request for Minor Modification
DEP File #051-0920

Geordie Vining said the several aspects of the plans for the Rail Trail along the shoreline must be modified. A small section of the trail would be moved slightly away from the river. The stormwater infiltration trench along the shoreline portion of the trail would be deleted from the plans due to the presence of subsurface electrical lines and to avoid the disturbance of contaminated soils and the plants that stabilize the shore. The coir logs that were proposed for stabilizing the bank will be only added in two areas of level soil where erosion is occurring and not along the sections where uneven granite blocks are located. Some contaminated soils associated with the railroad are to be removed and capped, but this activity would not impact the planned erosion control or resource area. Steve Moore moved to approve the minor modifications. Dan Bourdeau seconded the motion. The motion was unanimously approved.

Steve Moore moved to open the public hearings. Dan Warchol seconded the motion. The motion was unanimously approved.

6. Public Hearings

Bernie Christopher, Low Street Redevelopment, LLC
255R Low Street
Notice of Intent
DEP File #051-0984

The applicant requested an extension. Dan Warchol moved to continue the public hearing until the December 5 meeting. Dan Bourdeau seconded the motion. The motion was unanimously approved.

Jon-Eric White, City Engineer

City of Newburyport, Department of Public Services
West End Sewer Right-of-Way
DEP File #051-0985

Assistant City Engineer Diane Gagnon and John Dick represented the applicant, who is proposing to create a 12-foot wide, 966-foot long gravel roadway to provide access to the pumping station. An order of conditions issued for the project in 2014 has expired and the scope of the project has been reduced. It was found that a portion of the line is in good condition and a roadway is not needed for its entire line. An access road is necessary to provide immediate access to an older force main, which would threaten the public water supply if it were to break. The project is within the 100-foot buffer zone to the BVW. The wetlands have been reflagged. A drainage ditch near Storey Avenue has no associated upland and it is not a regulated wetland. The amount of cut and fill has been balanced so no soil would be removed from the site. An effort is to be made to remove as few trees as possible and most that must be removed are small. DEP did not issue any comments. Steve Moore moved to close the public hearing. David Vine seconded the motion. The motion was unanimously approved.

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Frederick Habeeb

5 75th Street

Notice of Intent

DEP File #051-0986

Matt Steinel of Millennium Engineering represented the applicant, who is proposing to construct a single-family residential dwelling on a fully vegetated vacant lot in the AO zone. Julia Godtfredsen pointed out the City has a policy of not creating new water and sewer connections to vacant lots on Plum Island and the City has not listed the lot as a buildable one. In addition the local ordinance prohibits development and redevelopment in the FEMA V or AO zones. It would be necessary for the Commission to grant a variance for the project, which the applicant has not yet requested. Mr. Steinel said the lot was created before the adoption of the Wetlands Protection Act and the local ordinance and the applicant is in possession of a letter from 1994 in which the City Building Inspector stated the lot is buildable. The ordinance does not include a clause that would allow the grandfathering of the lot. Mr. Steinel was asked if he wishes to continue the public hearing so he might prepare a request for a variance or if he would like to withdraw the application. He said he would not wish to spend the time preparing the request if the Commission would not ultimately be able to approve it. The Commission members responded that while it would not be possible for them to determine if a variance might be granted before one has been requested, they do not foresee that the applicant would be able to meet the criteria of a variance, which includes the provision of an overriding public benefit. Mr. Steinel then asked the Commission to approve or deny the application based on the information provided at this meeting.

Joe Teixeira opened the hearing to comments from the public. Ellen Moniz, 6 75th Street, Lee McLaughlin, 9 75th Street and Maureen Adams, 9 75th Street, spoke against the application, saying that the 4,900 square foot lot is not large enough and does not have enough frontage to be a buildable lot, the area is a fragile one due to erosion, the construction would destroy the beach grass that helps to protect the dune and the hubs for water and sewer connections were not added because the lot is not a buildable one.

Steve Moore moved to close the public hearing. Dan Warchol seconded the motion. The motion was unanimously approved. Dan Warchol moved to deny the application based on the location of the lot in the AO zone, in which the local ordinance prohibits development or redevelopment. Dan Bourdeau seconded the motion. The motion was unanimously approved.

Joseph G. Hill, Parker 2 Realty Trust

Parker Street (Hines Way) □

Notice of Intent

DEP File #051-0980

The applicant requested an extension. Steve Moore moved to continue the public hearing to the December 5 meeting. Dan Bourdeau seconded the motion. The motion was unanimously approved.

Dan Bourdeau moved to close the public hearing portion of the meeting. Dan Warchol seconded the motion. The motion was unanimously approved.

7. Enforcement

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None

8. Order of Conditions

Jon-Eric White, City Engineer

City of Newburyport, Department of Public Services

West End Sewer Right-of-Way

DEP File #051-0985

Dan Warchol moved to issue an Order of Conditions for the West End sewer right-of-way. Dan Bourdeau seconded the motion. The motion was unanimously approved.

Frederick Habeeb

5 75th Street

DEP File #051-0986

Steve Moore moved to deny an order of conditions based on the location of the site in the AO zone and the request of the applicant for the Commission to vote on the application without the submission of a request for a variance. David Vine seconded the motion. The motion was unanimously approved.

9. Adjournment

Dan Warchol moved to adjourn the meeting at 8:12 p.m. Dan Bourdeau seconded the motion. The motion was unanimously approved. The next meeting of the Conservation Commission will take place on Thursday, December 5.