

Newburyport Conservation Commission
December 19, 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, David Vine, Paul Healy, Doug Muir, Dan Bourdeau, Steve Moore and Dan Warchol. Conservation Administrator Julia Godtfredsen was also in attendance.

3. Minutes

Paul Healy moved to approve the minutes of the November 21, 2017 meeting as amended. Dan Bourdeau seconded the motion. The motion was unanimously approved.

Paul Healy moved to approve the minutes of the December 5, 2017 meeting as submitted. David Vine seconded the motion. The motion was unanimously approved.

4. Old and New Business

Plum Island Updates

The next meeting of the Merrimack River Beach Alliance is scheduled for December 29.

Upcoming Meetings

Steve Moore moved to cancel the January 2 meeting and reschedule it for January 9. Dan Bourdeau seconded the motion. The motion was unanimously approved. The meeting for the third Tuesday of the month, January 16, will take place as usual.

High Street Subdivision Conservation Restriction

The Commission members only recently received the conservation restriction and homeowners association agreement. They will review the documents and submit their comments in writing to the property owner. The item will be on the agenda for the January 9 meeting.

Little River Trail System

Jerry Mullins has located an Eagle Scout who would be interested in taking on the project of making the dirt paths leading to the old Route 95 roadbed ADA compliant. The Conservation Commission might be able to provide funds for materials.

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

None

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

6. Public Hearings

Evergreen Commons, LLC

18 Boyd Drive and 5 Brown Avenue

Notice of Intent

DEP File #051-0973

Tom Hughes and Lisa Mead represented the applicant. In response to the first two comment letters from the peer reviewer, the applicant submitted an updated set of civil plans, a stormwater report and a letter to Horsley Witten on November 20. Horsley Witten issued a lengthy response letter on December 11 that included both its initial comments and new comments on the applicant's responses or revisions to the plans. Since that time the applicant and peer reviewer have discussed their areas of disagreement and most issues have been resolved. The applicant revised the plans accordingly and submitted a response letter to Horsley Witten today. The final mitigation package has not yet been completed, but elements of the mitigation plan were included in the narrative and on the civil plans. The applicant will submit a variance request and updated landscape plan to the Commission.

Ellie Baker reviewed the comments made in the December 11 Horsley Witten peer review letter. The letter includes recommended conditions to be considered by the Commission, along with comments on the Homeowners Association Covenant and the Conservation Restriction. In most instances the applicant has adequately addressed Horsley Witten's comments. The peer reviewer is satisfied with the compliance of the stormwater management system with the MASWS, the current and proposed boundary elevation of the ISLF and its boundary during the 2006 Mother's Day storm and the seasonal high ground water elevation across the site.

The comment letter included the following recommendations:

- homeowners should be made aware that while the foundations are all above the ISLF boundary, some areas are likely to flood in certain situations and clean up will be necessary.
 - the applicant should submit a wetland mitigation plan that describes existing and proposed conditions, methodology, sequencing, monitoring and reporting.
 - the Commission should make a finding the project meets the standards for a variance because the restored wetland would function better than the existing wetland in terms of water quality and habitat, which would create an overriding public interest.
 - the Homeowners Association Covenant shall prohibit the draining of swimming pools onto the land and the use of pesticides in the wetlands and the Conservation Restriction opens space areas.
 - education should be provided to homeowners on prohibited activities and the value of wetlands.
- It was decided signage could be placed in the garages.
- the annual landscape plan should include information on the name of the landscaper, the maintenance practices intended to promote turf health, a schedule for the application of fertilizers and pesticides, a list of allowable products and a description of pesticides and fertilizers used the prior year.

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The comment letter recommended the Commission consider the following conditions:

- the applicant shall monitor ground water levels within wells 3 and 6 prior to construction and adjust elevations within the IVW to provide sufficient hydrology to support the wetland habitat.
- a wetland scientist should monitor the IVW and ILSF during construction.
- work in the IVW should occur during the non-growing season.
- work in the resource area should be done early in the construction process.
- any area in the wetland or of a slope greater than 3:1 that is not worked within two weeks must be stabilized. Wood chips, mulch or other materials that might wash into the wetland area should not be used. The applicant agreed to provide a list of erosion control materials to be used two weeks before construction begins.
- the applicant shall monitor the IVW for two growing seasons and shall replace any failing materials. The Homeowners Association shall be responsible for the long-term monitoring of the IVW.
- the applicant shall install permanent signage along the boundary of the no-disturb zone prohibiting the dumping of debris or yard waste.
- the Conservation Restriction shall indicate the party financially responsible for the monitoring of the open space.
- because the open space must be constructed before the Conservation Restriction is recorded, the applicant shall submit a construction sequence.
- the maintenance of the open space in the Conservation Restriction area shall be a perpetual part of the order of conditions and the Homeowners Association shall provide a report documenting the third party maintenance of the open space area.
- educational signage shall be installed in the open space area.
- the applicant shall provide a wetland scientist during the construction of the stormwater overflow feature of the constructed wetland to provide varied flow characteristics to create habitats.
- the applicant shall provide a Stormwater Pollution Prevention Plan 14 days prior to any land disturbance.
- the applicant shall provide an inspection and maintenance plan for the infrastructure outside of the rights-of-way to be in effect after the City accepts responsibility for the maintenance of roadways and stormwater facilities in the rights-of-way.
- the applicant shall provide a signed illicit discharge compliance statement prior to any earth disturbance.

The Commission and peer reviewer must have time to review the materials that were submitted today. The Commission also wishes to receive a letter from the Water Department. Steve Moore moved to continue the public hearing to the January 9 meeting. Dan Bourdeau seconded the motion. The motion was unanimously approved.

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Ron Barrett, American Yacht Club

115-119R Water Street

Notice of Intent

DEP File #051-0981

The applicant requested an extension. Steve Moore moved to continue the public hearing to the Jan. 9 meeting. David Vine seconded the motion. The motion was unanimously approved.

Bernie Christopher, Low Street Redevelopment, LLC

255R Low Street

Notice of Intent

The applicant requested an extension. Steve Moore moved to continue the public hearing to the Jan. 9 meeting. Dan Bourdeau seconded the motion. The motion was unanimously approved.

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

7. Enforcement

25 Basin Street

Tom Hughes said he does not expect much work to be done on the site during the winter months. He will provide a list of the outstanding items and a timetable for the completion of the work.

8. Order of Conditions

None

9. Adjournment

Steve Moore moved to adjourn the meeting at 10:10 p.m. Dan Bourdeau seconded the motion. The motion was unanimously approved.