

Newburyport Conservation Commission

June 20, 2017

City Council Chambers

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

3. Minutes

Dan Bourdeau moved to approve the minutes of the June 6, 2017 meeting as amended. Steve Moore seconded the motion. The motion was unanimously approved.

4. Old and New Business

Plum Island Updates

Julia Godtfredsen reported the deadline for expending the funds from the CZM grant is June 30. A site visit is scheduled to take place after the MRBA meeting that day. Mobi mats have been purchased and signage has been ordered. It has proven difficult to acquire the 200 posts needed for the fence that would line one of the pathways. A quote was received that was too expensive. The Commission members discussed some alternatives that might be pursued.

David Vine said he attended a CZM pre-application meeting for the dredging of the mouth of the Piscataqua River. The dredged material will be used in Newbury and Salisbury.

42 Hale Street

Joe Teixeira recused from the discussion. Abutters to 42 Hale Street notified the Commission that two large trees were removed along the wetland line. Trees that are dead, dying or hazardous are exempt from the regulations. The prospective buyer of the site shall ask the landscaper to provide documentation that the two trees were dead or dying.

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

None

6. Public Hearings

Paul Healy moved to open the public hearings. Steve Moore seconded the motion. The motion was unanimously approved.

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Thomas Lawrence

17 82nd Street
Notice of Intent
DEP File #051-0971

David Vine recused himself from the discussion. Tom Hughes and Sarah Bellino represented the applicant. The cost to add six cubic yards of sand to the shared property and plant 213 square feet of beach grass has been estimated at \$3,500. This sum shall be placed in an escrow account while an attempt is made to resolve the ownership issues. If progress has been made in resolving the title issue by September 1, an RDA would be filed for the September 19 meeting and work would begin in October. Steve Moore moved to close the public hearing. Dan Bourdeau seconded the motion. The motion was approved with David Vine abstaining.

Ron Guertin

1 Spofford Street
Notice of Intent

Bill Decie represented the applicant, who is proposing to replace an asphalt driveway with permeable pavers. The work is in the riverfront area. Erosion control would be installed across the end of the driveway. The applicant will add the erosion control and stockpile area to the plans. A DEP file number has not yet been received. Steve Moore moved to continue the public hearing to the July 18 meeting. Dan Bourdeau seconded the motion. The motion was unanimously approved.

Evergreen Commons

5 Brown Avenue and 18 Boyd Drive
Notice of Intent

Lisa Mead, Tom Hughes and Steve Sawyer represented the applicant, who has received an OSRD special permit from the Planning Board for the construction of a 38-unit housing development. That board's subdivision review process is now underway. AECOM has tested the soil and water on behalf of the City and the firm of Christensen and Sergi is conducting a peer review for the Planning Board. The Commission issued an ANRAD for the property in June 2016.

Attorney Mead said the proposal would improve the quality and quantity of ground water in the area. Buildings and roadways would occupy 13.36 of the site's 36.84 acres and 22.12 acres would be open space. A conservation restriction would be placed on the open space. The land would be owned and maintained by a homeowners association but would be open to the public.

Tom Hughes reviewed the existing conditions and Steve Sawyer presented the stormwater management plan. The runoff from Boyd Drive would be piped through a large culvert to a constructed stormwater wetland where the TSS removal would be 80%. Within the development a standard drainage system would pipe water into five rain gardens.

Mr. Hughes said currently the groundwater is approximately two feet below the surface of the existing wetland, which is failing and contains invasive species. The applicant is proposing to lower the elevation of the basin so that it might more readily interact with the groundwater. A 12" layer of hydric soil would be added to improve the treatment of the water in the basin. The expansion in depth and area would create 25% more flood storage than would be required. Mr. Hughes said with the stormwater wetlands and isolated wetlands combined the proposal would increase both the amount of wetlands on the site and the percentage of the

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wetlands that are jurisdictional. The site's habitat value would also be increased due to the creation of a pollinator meadow.

At the request of the Commission, the applicant agreed to line the constructed treatment wetland so that it does not interact with groundwater.

The applicant is requesting a variance to perform work in the wetland. Attorney Mead pointed out the work would not be necessary to complete the development but is instead being undertaken because it would result in an improvement to the functions and value of the wetlands. Tom Hughes said the project would improve the wetlands with regards to water quality and flood storage, the amount of jurisdictional wetlands on the site would be increased and the public would have access to the walking paths. These benefits would provide the overriding public interest necessary for the variance.

Joe Teixeira responded the quality of the water is fine under the existing usage. A portion of the site produces 20% of the city's water. He would like more data on the removal of pesticides and herbicides in the proposed system. Julia Godtfredsen said the interest of the Commission is the protection of the private and public water supply. She said while the proposed stormwater management system might represent an improvement over the existing conditions the current situation cannot be compared to the development situation. It also cannot be compared to other Zone 2 sites. This site is a bowl, which is not a typical situation, and the water will be going to an untreated well. Comments from the Water Department have not yet been received.

Joe Teixeira opened the hearing to comments from the public. Peter Hatcher, 15 Boyd Drive, said the area floods often and questioned if the peer review was thorough with regards to the inputs required for the ISLF calculations. He suggested the soil analysis be checked to be sure the correct hydrologic soil group was used. He said he lives across from the golf course and has clay soils that drain slowly but yet the applicant has claimed a single soil type exists across the entire property. He said the high water mark used for all of the calculations was taken from the spring of this year, when those months unusually dry.

Ann Marie Vega, 21 Boyd Drive, said the consultant who determined the golf course presented a risk to well head did not take into account the restrictions imposed on the use of chemicals at the site. The abutters hired their own hydrogeologist, who prepared a report that conflicts in some respects to the one the applicant's hydrogeologist issued. She said she is concerned that in the long term the homeowners would not be aware of or remember the restrictions placed on their properties and pointed out homeowners associations sometimes become defunct. She said the data used for the calculations should be questioned.

Michael Lee, 1 Boyd Drive, said at one point an injunction had been issued against water being pumped from on to the highway.

Robert Mazzotti, 8 Brown Avenue, said more focus should be placed on the water supply. He said he has negative experiences with the vortex system maintenance.

Mary Zinck, 6 Laurel Road, said she is concerned about additional parking moving on to the small streets in the area and water flooding into the neighborhood.

Brenda Mazzotti, 8 Brown Avenue, said she is concerned about parking and impacts from pedestrians. She said the habitat would be disrupted during the three years of construction.

Joe Teixeira closed the public comment portion of the hearing.

The Commission members have not yet received the third party review of the stormwater management system. They would like to review the special permit documents, the hydrological report and the testing results. They wish to conduct a peer review of the application with regards

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to the ILSF and the proposed increase in the amount of wetlands. Julia Godtfredsen will prepare a draft scope of work for the Commission members to review.

Steve Moore moved to continue the public hearing to the July 18. Dan Bourdeau seconded the motion. The motion was unanimously approved.

Hooks Johnston

15 and 16 Gloria Street
Notice of Intent

Tom Hughes represented the applicant, who is endeavoring to undertake a project entirely on a neighboring property that began eroding after storms occurred in 2013. The abutter has signed the application. A coir roll would be placed just above the mean high water mark and sand would be added to the dune above it to restore the steep beach to a gentle slope. The area of existing vegetation would be marked and any vegetation that has not grown up through the sand by next spring would be replanted. The areas in which there currently is no beach grass would not be vegetated. The Commission members questioned the reasoning behind not planting beach grass in these areas to stabilize the dune. They asked Mr. Hughes to provide cross sections of the proposal. The area is a Natural Heritage habitat and comments have not yet been received. Paul Healy moved to continue the public hearing to the July 18 meeting. Dan Bourdeau seconded the motion. The motion was unanimously approved.

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

7. Orders of Conditions

Thomas Lawrence

17 82nd Street
DEP File #051-0971

The applicant has provided draft findings for a variance. Steve Moore moved to issue an Order of Conditions with the conditions that a final, dated plan shall be submitted; the vegetation shall be monitored for two growing seasons; the standard Plum Island special conditions shall be applied, a Request for Certificate of Compliance must be submitted prior to the expiration of the Order of Conditions and an extension for the Order of Conditions would only be granted for the monitoring of the mitigation plantings. Dan Bourdeau seconded the motion. The motion was approved with David Vine abstaining.

8. Enforcement

Thomas Lawrence

17 82nd Street
DEP File #051-0971

Paul Healy moved to authorize the Conservation Administrator to lift the Enforcement Order and waive the fines after the Order of Conditions has been filed at the Registry of Deeds and the escrow account has been set up, which will be done at the end of the appeal period. Steve Moore seconded the motion. The motion was approved with David Vine abstaining.

9. Adjournment

Paul Healy moved to adjourn the meeting at 10:15 p.m. David Vine seconded the motion. The motion was unanimously approved.