

## **Newburyport Conservation Commission**

October 6, 2015

City Hall Auditorium

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 and Steve Moore. Conservation Administrator Julia Godtfredsen was also in attendance.

### **3. Minutes**

Paul Healy moved to approve the minutes of the September 15, 2015 meeting as submitted. Steve Moore seconded the motion. The motion was unanimously approved.

### **4. Old and New Business**

#### **Drone Photography for Plum Island**

Julia Godtfredsen distributed a revised scope of work for drone photographs of Plum Island. The scope would be revised to require that the first project be ready for the October 20 meeting and for each photograph to be taken at approximately 400 feet and at low tide.

Doug Muir moved to approve the scope of work as revised. Paul Healy seconded the motion. The motion was unanimously approved.

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

#### **Dwight C. Brown and Donamarie Casey**

216 Northern Boulevard

Request for Determination of Applicability

Carol Robertson represented the applicant, who is proposing to remove an existing lawn and replace it with gravel and native plant materials, and to remove Japanese knotweed from the site. She submitted revised plans that show the size and location of the planting areas and said when a plant is installed the existing beach grass would be moved into an area that is currently unvegetated. The Commission members were concerned about a planting plan replacing an area of well-established, naturally occurring beach grass. A fence along the rear boundaries of the property was installed without a permit and is not in compliance with the regulations. The fence must be addressed before approval would be given for the proposed work. A site visit will take place on Wednesday, October 14 at 9:00 a.m.

Doug Muir moved to continue the request to the October 20, 2015 meeting. Steve Moore seconded the motion. The motion was unanimously approved.

Newburyport Conservation Commission  
October 6, 2015

**Newburyport Waterfront Trust**

22 Merrimac Street

Request for Determination of Applicability

Steve Sawyer represented the applicant, who is proposing to make improvements to a parking lot on the waterfront. The existing traffic island would be reconfigured and curbing would be installed for an additional island. The amount of pavement would be slightly decreased.

The applicant has not hired an LSP for this project and has no plans to test the soil. City Engineer Jon-Eric White will be asked to forward to the Commission the results of previous tests that indicate the soil is not contaminated. The applicant will provide information on the lowest grade of the soil to be removed. The applicant will also examine the drainage patterns to determine if openings could be added to the curbing to allow water to enter the planting beds.

Doug Muir moved to continue the request to the October 20, 2015 meeting. Steve Moore seconded the motion. The motion was unanimously approved.

**Christopher Horan, Balmoral Development, LLC**

17 J Street

Request for Certificate of Compliance

DEP File #051-0951

Tom Hughes represented the applicant, who is requesting a partial Certificate of Compliance in order that the property might be sold. The approved trees and shrubs were only recently planted and the beach grass has not yet been entirely installed. It has not been confirmed that gravel has been removed from an area previously used for parking. The applicant wishes to reserve the right to construct the carport but does not intend to install the patio. The patio will be removed from the Order of Conditions and the new owner would be required to file an RDA if a patio were to be installed at a later date.

The cost to install the remaining plant materials was estimated at \$1,500. The applicant is to provide a written estimate of the cost of the plant materials that have been installed. An escrow account must be set up that covers the entire planting plan.

Paul Healy moved that a Partial Certificate of Compliance be issued upon confirmation that the gravel has been removed from the site and after an escrow account has been set up that includes \$1,500 for the installation of the remaining plant materials in addition to the cost of those that have already been planted. Steve Moore seconded the motion. The motion was unanimously approved.

**Paul Piriano**

17 J Street

Request for Minor Modification

DEP File #051-0951

Tom Hughes represented the applicant, who intends to purchase the property and wishes to remove a willow tree. He will request that the Order of Conditions be amended after the ownership of the property has been transferred. The request will be continued to the October 20, 2015 meeting.

## **6. Public Hearings**

Steve Moore moved to open the public hearings. Doug Muir seconded the motion. The motion was unanimously approved.

## **7 Harbor St. Development**

LLC 7 Harbor Street

Notice of Intent

DEP has not yet issued a file number. Paul Healy moved to continue the public hearing to the October 20, 2015 meeting. Steve Moore seconded the motion. The motion was unanimously approved.

## **Rodney L'Italien, Circle Finishing, Inc.**

19 Henry Graf Jr. Road

Notice of Intent

Michael Seekamp represented the applicant. He said the plans were amended to remove the three northernmost stands in the array and add a row of trees to shield the view of the array from the abutting lot. Doug Muir moved to close the public hearing. Steve Moore seconded the motion. The motion was unanimously approved.

## **Jeffrey and Donna Sprague**

15-17 63rd Street

Notice of Intent

Tom Hughes represented the applicant, who is proposing to demolish an existing structure and replace it with a new one on pilings. The new structure would be located further from the dune. An existing retaining wall that prevents the dune from slumping into the street would be replaced in kind. Mr. Hughes requested the public hearing be continued until Zoning Board has reviewed the project. He will provide more information on the material to be used for the retaining wall at that time.

Paul Healy moved to continue the public hearing to the first meeting in November. Steve Moore seconded the motion. The motion was unanimously approved.

## **Proposed Amendments to Newburyport Wetland Protection Regulations**

Comments submitted on the newest version of the draft amendments were reviewed and some small changes were made. Other aspects of the regulations the members might wish to consider in the future, such as the interpretation of the meaning of public benefit or allowing some flexibility within the no disturb zone for sites that are completely developed.

Doug Muir moved to approve the amendments to the Newburyport Wetland Protection Regulations as revised. Steve Moore seconded the motion. The motion was unanimously approved.

Newburyport Conservation Commission  
October 6, 2015

**Anthony Barbaris**

6 Perkins Way  
Notice of Intent  
DEP 051-0933

The Commission raised the point that the applicant was to have provided alternatives. The applicant was informed at the pre-construction meeting that the project as proposed did not meet the regulations and yet submitted a Notice of Intent that did not include alternatives and did not meet the regulations. The Notice of Intent has not yet been filed in Newbury.

Doug Muir moved to close the public hearing. Steve Moore seconded the motion. The motion was unanimously approved.

**7. Orders of Conditions**

**Rodney L'Italien, Circle Finishing, Inc.**

19 Henry Graf Jr. Road

Paul Healy moved to issue an Order of Conditions with the special conditions that 1) the trees to be planted along the property line adjacent to the solar panels shall be either spruce or arbor vitae, the trees shall be monitored for at least two growing seasons and any trees not surviving shall be replaced by the applicant, 2) access to the solar panels shall take place across the existing easement shown on the approved plan, no wetland crossing shall take place for the purpose of access or any other access shall require additional approval from the Commission. Steve Moore seconded the motion. The motion was unanimously approved.

**Anthony Barbaris**

6 Perkins Way  
Notice of Intent  
DEP 051-0933

Paul Healy moved to issue an Order of Compliance with the special conditions that prior to the start of work the Commission shall receive a copy of the Order of Conditions issued by the Newbury Conservation Commission. The Conservation Administrator may accept any minor changes to the mitigation area. The Commission must approve any substantial changes to the mitigation area. No Certificate of Compliance or Partial Certificate of Compliance shall be issued until the approved mitigation measures have been constructed. Doug Muir seconded the motion. The motion was unanimously approved.

**8. Enforcement**

**Mike and Patty Deflumere**

11 Harbor Street

The cages have been removed as requested by the Commission.

**9. Other Business**

**Jane Fantry**

194 Northern Boulevard

The Commission issued a Negative 2 Determination at the September 15 meeting for a small addition on the rear of a single-family home to meet the needs of an injured family member. The applicant is not able to proceed with the alterations to the home and is proposing to instead

Newburyport Conservation Commission  
October 6, 2015

install a covered walkway between two structures. The area is currently paved. The Commission would allow the work provided the structure would be removed if it were no longer needed or the applicant were to move. An RDA will be filed.

**10. Adjournment**

Paul Healy moved to adjourn the meeting at 10:05 p.m. Steve Moore seconded the motion. The motion was unanimously approved. The next meeting of the Conservation Commission is scheduled for October 20, 2015.