

## **Newburyport Conservation Commission**

November 12, 2013

Police Station Conference Room

Minutes

### **1. Call to Order**

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

### **2. Roll Call**

In attendance were members Joe Teixeira, Mary Casey, Steve Moore, Paul Healy, Jim O'Brien and Dan Warchol. Also in attendance was Julia Godtfredsen.

### **3. Minutes**

Paul Healy moved to approve of the minutes of the October 15 meeting as amended. Steve Moore seconded the motion. The motion was unanimously approved.

### **4. General Business**

#### **MVPC Citizen Planner Training Program**

Commission members were notified about the upcoming training program.

#### **Whittier Bridge**

Possible dates for a site visit include the mornings of Monday, November 18; Monday, November 25 or Tuesday, November 26.

#### **Conservation Easement for 249 High Street**

James Van Bokkelen said his late mother requested that the rear of the one-acre parcel be protected from development. The rear of the property is forested and provides a habitat for birds and small mammals. He intends to sell the property and would like to place a conservation easement on the back three-quarters of the property. He asked if the City would hold the easement. Mike Dissette said the Open Space Committee would help facilitate the process in any way possible. Joe Teixeira said he would contact MACC for advice on how to proceed. The Commission members will discuss the matter further at the November 19 meeting.

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

#### **Geordie Vining**

126 Merrimac Street

Request for Certificate of Compliance

DEP File #051-0790

Julia Godtfredsen said the work to connect the Rail Trail to the boardwalk was completed in 2009. Some small changes were made to the plans but none impacted the resource area.

Paul Healy moved to issue a Certificate of Compliance. Steve Moore seconded the motion. The motion was unanimously approved.

**Kim Sloan and Marc Emmons**

Newburyport Conservation Commission  
November 12, 2013

9 Doe Run Drive

Request for Certificate of Compliance

DEP File #051-0869

Joe Teixeira recused himself from the discussion. Julia Godtfredsen said the applicants had requested a Certificate of Compliance in 2012 but the plant materials were not yet established at that time. The plants are now healthy and thriving. Mary Casey moved to issue a Certificate of Compliance. Dan Warchol seconded the motion. The motion was unanimously approved.

**Josephine Altovino**

17 LaValley Lane

Request for Certificate of Compliance

DEP File #051-091

Julia Godtfredsen said Certificates of Compliance had not been issued for all of the lots in the Kelleher Pines subdivision, which was completed in the 1980s. She reviewed the files and reported that no wetlands are located on or adjacent to the property. Paul Healy moved to issue a Certificate of Compliance. Steve Moore seconded the motion. The motion was unanimously approved.

**Steven and Loree Hazard**

3 Lancaster Road

Request for Certificate of Compliance

DEP File #051-07276

Julia Godtfredsen said the approved plans included the addition of a three-season room with concrete foundation. The applicant instead constructed a deck on sonotubes, which reduced the impact to the site. Paul Healy moved to issue a Certificate of Compliance. Steve Moore seconded the motion. The motion was unanimously approved.

**Lisa Moulis**

6 77<sup>th</sup> Street

Request for Determination of Applicability

Brad Danoff appeared for the applicant, who wishes to install a deck between the house and the garage. He proposed moving approximately sand closer to the house in order to achieve the required two feet beneath the deck. The Commission has not previously allowed the removal of sand to accommodate the two-foot elevation requirement. It was suggested that the deck instead be raised and a step added. The site is heavily vegetated and mitigation must be made for the area to be covered by the deck. The Commission members discussed the appropriateness of allowing an RDA to be filed for a project. They would wish to issue conditions, receive an as-built plan, monitor the beach grass for one year and maintain control over the project to determine the conditions have been met. They also were concerned the action would set a precedent. It was decided the applicant must file a Notice of Intent. Paul Healy moved to issue a Positive Determination. Mary Casey seconded the motion. The motion was unanimously approved. The applicant must file a Notice of Intent.

Newburyport Conservation Commission  
November 12, 2013

**CDM Smith, Inc.**

Plum Island Turnpike and Various Streets on Plum Island

Request for Determination of Applicability

Julia Godtfredsen said the request was withdrawn without explanation.

**Palmisano and Associates, PC**

Boyd Drive (f/k/a 63 Ferry Road)

Request for Certificate of Compliance

DEP File #051-0085

Julia Godtfredsen said Certificates of Compliance had not been issued for all of the lots in the subdivision, which was completed for many years. She reviewed the files and found no special requirements for the lot. Paul Healy moved to issue a Certificate of Compliance. Steve Moore seconded the motion. The motion was unanimously approved.

**6. Public Hearings**

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

**Gary Mamigonian, Rochester Electronics**

9 Malcolm Hoyt Drive

ANRAD

Peter Ogren appeared for the applicant with Marc Jacobs. The applicant has recently acquired the property and wishes to expand its operations. Mr. Ogren said none of the activity would occur in the riverfront area. The site also includes a man-made channel and a bordering vegetated wetland associated with a pond. The delineation was based on soils because much of the vegetation has been disturbed. Julia Godtfredsen walked the site with Joe Teixeira. She said they found nothing to dispute the delineation although only a fine distinction existed between the upland soils and the wetland soils. Woody vegetation was removed within the 25-foot no-disturb zone and the area was mowed but the vegetation should grow back because the root system was not disturbed. Joe Teixeira suggested a green roof be considered for the project to slow water and reduce flooding. Steve Moore moved to issue an ORAD for 9 Malcolm Hoyt Drive. Mary Casey seconded the motion. The motion was unanimously approved.

**George Haseltine**

2 K Street

Notice of Intent

Tom Hughes appeared for the applicant, who wishes to construct a structure on a vacant lot without disturbing the shrub area in its center or removing the paved street that intrudes on the property. DEP has commented that the conversion from non-native to native species does not compensation for the loss of vegetation. Mr. Hughes said the height of the house would allow vegetation to exist under it. He intends to obtain more information about the size of the area under the structure that would receive sunlight, refine the design and submit it to DEP for comments. He requested a continuance. Dan Warchol moved to continue the public hearing to November 19. Steve Moore seconded the motion. The motion was unanimously approved.

Newburyport Conservation Commission  
November 12, 2013

Steve Moore moved to close public hearings. Mary Casey seconded the motion. The motion was unanimously approved.

**7. Orders of Conditions**

None

**8. Enforcement**

**Stephen Richard**

1 Shandel Drive

Jeff Andrews of Wetlands Preservation, Inc. appeared for the applicant and said the area is a brackish wetland. The phragmites were to be removed in perpetuity under the Enforcement Order but Mr. Andrews does not believe this would be possible due to the existence of the species on the neighboring properties. Julie Godtfredsen said it appears the hydrology of the site was originally misunderstood and the plant materials that were specified as a part of the restoration program were not able to survive. A Notice of Intent was to be filed under the Enforcement Order but no additional work is being proposed. Mr. Richard will submit a plan for vegetation monitoring. Once the plan has been approved vegetation will be monitored for a two-year period, at the end of which the Enforcement Order will be lifted if adequate survival of the plant materials has been achieved. The property has been sold and money to cover the monitoring period has been placed in an escrow account. Dan Warchol moved to modify the Enforcement Order so that the requirement for the filing of a Notice of Intent is removed. Steve Moore seconded the motion. The motion was unanimously approved.

**9. Adjournment**

Steve Moore moved to adjourn the meeting at 9:05 p.m. Paul Healy seconded the motion. The motion was unanimously approved. The next meeting of the Conservation Commission will be held on November 19.