

Newburyport Conservation Commission

December 2, 2014

Mayor's Conference Room, City Hall

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, Doug Muir, Dan Warchol, Jim O'Brien, Steve Moore and David Vine. Julia Godtfredsen was also in attendance.

3. General Business

First Republic Corporation of America

260 Merrimac Street

Release of Funds for Mitigation

DEP File #051-0737

Sarah Bellino represented the applicant. An Order of Conditions was issued in 2006 that included the creation of 1,000 square feet of replacement saltmarsh as mitigation. An Enforcement Order was subsequently issued and funds were placed in escrow. In 2008 the saltmarsh area was installed, and the Commission lifted the Enforcement Order and returned half of the funds held in escrow. The second half was to be released after a wetlands scientist confirmed the mitigation area had become established. Marc Jacobs said he inspected the area and found it is functioning as a saltmarsh. A good growth of saltmarsh vegetation exists and while a small stand of phragmites has migrated into the saltmarsh replication area, it is not moving rapidly. He said First Republic has undertaken invasive species control measures that have seem to have had a positive effect, especially on the Japanese knotweed. Sarah Bellino said First Republic would be willing to continue the invasive species removal program.

Steve Moore moved to release the remainder of the funds being held in escrow for mitigation. Dan Warchol seconded the motion. The motion was unanimously approved.

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

Valspar, Inc. □

100 Hale Street □

Request for Certificate of Compliance

DEP File #051-0910

Susan Benoit represented Valspar. An Order of Conditions had been issued for the removal of underground mineral spirits storage tanks within the buffer zone to BVW. Ms. Benoit said the work has been completed with the exception of the closing of some monitoring wells. The monitoring wells were for sampling purposes only, which is an exempt activity, and were not included in the Notice of Intent. A response action closure report is being submitted to DEP.

Steve Moore moved to issue a Certificate of Compliance. Jim O'Brien seconded the motion. The motion was unanimously approved.

Ed Hill & Sons Construction/223 Low St. Realty Trust

221 Low Street □

Request for Certificate of Compliance

DEP File #051-0839

Ed Hill reviewed the deviations between the approved plan to construct a single-family home in the buffer zone to the BVW and the as-built plan. He said changes in the configuration of the driveway resulted in the redesign of the rain garden. An additional rain garden was installed near Low Street. A stone swale replaced the bituminous curb that was to run along the driveway. Cedar posts were installed at the boundary of the buffer zone. Ongoing conditions related to the maintenance of the rain garden and the control of invasive species would be a part of the Certificate of Compliance.

Steve Moore pointed out that under the Order of Conditions, the rain garden and wetland restoration area were to be monitored for two growing seasons. The monitoring period would conclude in the fall of 2016. The remainder of the work has been completed.

Steve Moore moved to issue a partial Certificate of Compliance. Dan Warchol seconded the motion. The motion was unanimously approved.

WinnDevelopment

32 Low Street □

Request for Determination of Applicability

Tom Keough said the applicant is proposing to install solar arrays in a disturbed area of the site. The work would be within the 100-foot buffer zone and 25-foot no disturb zone, but there would be no increase in the amount of pavement. Some trees would be removed.

Joe Teixeira was concerned that the array would shade a portion of the wetland. Mr. Keough said the existing trees already provide a filtered shade to the wetland. The additional shading caused by the array would only occur in the late part of the day during the summer. Dan Warchol pointed out that a small degree of shading might be beneficial.

Steve Moore moved to issue a Negative 3 Determination with the condition the application shall add either a shrub planting zone or gravel strip along the eastern edge of array B for the infiltration of storm water and erosion control. Doug Muir seconded the motion. The motion was unanimously approved.

5. Public Hearings

Dan Warchol moved to open the public hearings. Doug Muir seconded the motion. The motion was unanimously approved.

Geordie Vining, Newburyport Planning Department

Parker Street to Custom House Way Rail Corridor

Notice of Intent

DEP File #051-0920

The applicant requested a continuance. Dan Warchol moved to continue the public hearing to December 16. Doug Muir seconded the motion. The motion was unanimously approved.

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Mark Wojcicki, Wojcicki Holdings, LLC

143A State Street

Notice of Intent

DEP File #051-0926

John Paulson of Atlantic Engineering represented the applicant. He described the difficulties of staking the boundaries of the no-disturb zone. The wetland line and buffer zone line have only been estimated and are not shown on the plan. The Ordinance does not allow a delineation to be done after December 1. The applicant would be willing to place a conservation restriction on the rear portion of the property. This would make it unnecessary to determine the exact location of the no-disturb zone boundary. While the property is in the buffer zone, most of it is upland. Mr. Paulson said the applicant would remove the invasive species from the proposed conservation area and replant it with native species. Permanent markers would be installed at the boundary of the conservation area and a restriction would be placed on the deed.

The applicant must provide an updated package that includes a planting plan with buffer-zone plantings and the boundary of the conservation area. An invasive species removal plan will be included as a part of the filing because this would benefit the property and the future owners.

The area at the front of the property that had been labeled as wetlands appears to be a drainage ditch and is not of concern. A transition to wetlands is made further back on the property. The plan should be relabeled to prevent confusion.

Steve Moore moved to continue the public hearing to January 6. Doug Muir seconded the motion. The motion was unanimously approved.

Elizabeth Baumann □

21 Shore Street □ Notice of Intent

DEP File #051-0917

The applicant requested a continuance. Steve Moore moved to continue the public hearing to December 16. Doug Muir seconded the motion. The motion was unanimously approved.

Steve Moore moved to close the public hearings. Joe Teixeira seconded the motion. The motion was unanimously approved.

6. Other Business

Joe Teixeira will comment on the inaccuracies in the TropicStar Environmental Notification Form. A Notice of Intent is not needed for the project to construct a drugstore and gas station on Storey Avenue.

7. Adjournment

Steve Moore moved to adjourn the meeting at 8:41 p.m. Doug Muir seconded the motion. The motion was unanimously approved. The next meeting of the Conservation Commission will be held on December 16, 2014.