

Newburyport Conservation Commission
January 9, 2018
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 December 19, 2017 meeting as submitted. Dan Bourdeau seconded the motion. The motion was unanimously approved.

4. Old and New Business

Plum Island Updates

Julia Godtfredsen said the recent storm resulted in a large amount of flooding and dune loss. Greg Moore from UNH will measure the dune to assess the amount of sand that has been lost and DEP will be approached about developing another plan to fight erosion. She is hopeful funding has been secured for permitting the placement of sand from the dredging of the Piscataqua River. The permitting phase must be completed by April. Other communities with permits already in place are also interested in obtaining the sand.

High Street Subdivision Conservation Restriction

The applicant submitted a revised conservation restriction and homeowners' agreement based on the comments received from Commission members. It is expected a vote will take place at the next meeting after the members have had time to review the revised documents. The process was discussed. While the Planning Board must approve the documents before a building permit would be issued, the Commonwealth would not sign the restriction until the baseline documentation has been submitted. The solution would be to approve the restriction as to form but it would not be recorded until Commonwealth approval has been received.

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

None

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

Lisa Mead, Tom Hughes, Sarah Bellino, Jay Billings and Steve Sawyer represented the applicant. The first item discussed was the phasing of the project. The Planning Board requires the conservation restriction to be in place before the start of construction, but the applicant intends to sell some of the houses prior to the recording of the baseline information. To resolve this, the conservation restriction could be held in escrow or a notice of declaration of restriction could be recorded. The applicant prefers the latter option, which has been included on the phasing plan with a note stating it is subject to change at the discretion of the Planning Board. While this is an issue for the Planning Board to resolve, the Commission is agreeable to the declaration of restriction.

The applicant has submitted the revised documents requested in the Horsley Witten comment letter dated December 11, 2017, and discussed at the December 19 meeting. Horsley Witten issued a letter dated January 9, 2018, that lists the remaining outstanding items. Ellie Baker said these are minor in nature and could be easier addressed.

Tom Hughes reviewed the signage and monument plan. Granite markers with conservation area plaques would be placed at the rear of each property. Signs with a list of rules would be installed at each of the entrances to the conservation area. Additional signage would be installed at the edge of the 25-foot no-disturb zone. The applicant also plans to provide educational signage for the open space area. The language of these signs, as well as that for the signs the applicant has agreed to install in the garages of each unit, has not yet been developed. A condition will be made that the Commission must review and approve the content of these signs at a public meeting prior to the construction of any houses.

Steve Sawyer reviewed the five major phases of the project. The stormwater wetland and IVW will be completed during the first phase. The applicant will be responsible for monitoring the IVW for two full growing seasons regardless of the timing of the conveyance of the common areas to the homeowners association. The Commission requested a provision be added to the phasing plan that would prohibit the over-compaction of the bioretention cells.

A discussion took place on the need for clarity about the responsibility for the long-term maintenance of the stormwater system. The homeowners association will be responsible for all stormwater features until the City has accepted the roadway, at which time the City will become responsible for the stormwater features in the right-of-way and the homeowners association will be responsible for those features outside of the right-of-way. Two separate Operation and Maintenance Plans should be prepared. The applicant has developed a figure explaining the maintenance of the stormwater system for the O&M plan that will be a part of the homeowners association document. The Commission members remained concerned the O&M plan lacks sufficient detail to ensure the landscape contractor would adequately be able to perform the work. It was suggested that cut-sheets from the stormwater manual be added.

Julia Godtfredsen requested the plan indicate which stormwater systems are associated with each phase of the project.

The applicant did not agree with the language in the homeowners association document related to the backwash of pool water. Ellie Baker said as written, the document is overly

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protective. The volume of backwash water would be small and would not pose a risk to the water supply. She said the drainage of pool water was the original concern. The condition will be amended to eliminate the reference to backwash water and require that all pool water to be discharged must be de-chlorinated, have a pH in the neutral range and may not cause erosion.

A pool is considered to be an impervious surface. The per-lot increase of impervious surfaces has been limited at 5%. It should be clarified that this 5% is cumulative.

In summary, the items to be provided or amended are: 1) the language for signage to be installed in garages; 2) the condition on swimming pools; 3) the clarification on the amount of impervious surfaces; 3) the addition of a specification to the phasing plan that compaction shall be avoided in any areas of infiltration; 4) the requirement that no order of conditions shall be issued until the conservation restriction has been recorded; 5) the preparation of separate O&M plans for the homeowners association and public infrastructure (to be provided before the order of conditions is issued); 6) an indication of which stormwater basins are associated with each home construction phase; 7) the requirement that the Commission approve of any changes to the homeowners association document or conservation restriction; 8) the addition of details to the homeowners association O&M plan, including cut sheets from the Mass DEP manual; and 9) a condition that all homebuyers at a closing shall be provided with a copy of the declaration of restriction or conservation restriction.

Joe Teixeira opened the hearing to comments from the public. Bob Mazzotti, 8 Brown Avenue, said he does not agree with the project. He is concerned residents could drink contaminated water and asked if a mitigation plan would be in place in the event the well were to become contaminated. This has not been addressed but is outside of the Commission's jurisdiction. He also is concerned about an increased mosquito population. Based on his comments, the condition on the discharge of pools will include the removal of bromine from the water in addition to chlorine.

Because of the concern that a quorum of members eligible to vote on this project would not be present at an upcoming meeting, the Commission decided to close the public hearing. The Conservation Administrator shall not release the Order of Conditions before all outstanding items have submitted to her satisfaction. Steve Moore moved to close the public hearing. Dan Bourdeau seconded the motion. The motion was approved.

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 January 16 meeting. Dan Bourdeau seconded the motion. The motion was approved.

Jeff Caswell

3 Jefferson Court

Notice of Intent

Tom Hughes represented the applicant, who is proposing to construct a single-family home within the 200-foot riverfront area and a wetland buffer zone. Other features included on the plan are a gravel driveway, deck, patio, pool and lawn. Three sizeable trees would be removed, along with some smaller ones. The Commission members requested that a minimum of four

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shrubs or saplings be planted in the area to the right of the driveway and that erosion control be added along the eastern edge of the work area. They said they would prefer that a retaining wall not be installed but rather the slope be graded and vegetated. The applicant will revise the plans for the January 16 meeting. Dan Bourdeau moved to continue the public hearing to the January 16 meeting. Dan Warchol seconded the motion. The motion was approved.

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

7. Enforcement

None

8. Order of Conditions

Paul Healy moved to issue an Order of Conditions that includes all of the conditions listed in the Horsley Whitten letter dated January 9, 2018, and the additional conditions that 1) prior to the construction of any home the applicant shall submit for review and approval at a public meeting the language and design of the permanent plaques that are to be mounted in the garage of each unit, 2) no Certificate of Compliance shall be issued for any portion of the property until the Conservation Restriction has been recorded and 3) the buyers of homes shall be provided a copy of, and must formally acknowledge reading, a Declaration of Restriction if required by the Planning Board and such a restriction shall be noticed in the property deeds. Dan Warchol seconded the motion. The motion was approved.

9. Adjournment

Paul Healy moved to adjourn the meeting at 9:48 p.m. Dan Bourdeau seconded the motion. The motion was unanimously approved. The next meeting of the Conservation Commission will take place on Tuesday, January 16, 2018.