

## **Newburyport Conservation Commission**

June 16, 2015

City Council Chambers

Minutes

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

Vice Chair Steve Moore called a meeting of the Newburyport Conservation Commission to order at 6:50 p.m.

### **2. Roll Call**

In attendance were members Dan Warchol, Steve Moore, David Vine, Paul Healy and Doug Muir. Julia Godtfredsen was also in attendance.

### **3. Minutes**

Paul Healy moved to approve the minutes of the June 2, 2015 meeting as submitted. Dan Warchol seconded the motion. The motion was approved with Doug Muir abstaining.

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

#### **23 Hale Street**

Informal Discussion

Tom Hughes represented the applicant and was accompanied by Craig Pessina and Steve Sawyer. He said the site is comprised of wetlands at its core with an upland edge. It would be possible to develop the site without intruding into the 25-foot no-disturb zone with the exception of the crossing of a drainage swale. The disturbance to the site as a whole would be approximately 49%. A variance from the ordinance would be required because a disturbance to the buffer zone of greater than 20% is not permitted. A variance would also be required for the crossing of the drainage swale. Mr. Hughes said a smaller development for the site would not be feasible. He said the Commission could require mitigation for the amount of disturbance that is over the 20% allowed. He also said the applicant would propose a mitigation package that would include flood storage and the management of invasive species. The issuance of a variance would also require the applicant to prove a public benefit. Julia Godtfredsen pointed out a variance with its accompanying mitigation measures and public benefit would be required even if the 20% threshold were not exceeded. She said allowing the proposal would require that an entire section of the regulations be disregarded.

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

#### **Gary Mamigonian, Rochester Electronics**

9 Malcolm Hoyt Drive

Request for Determination of Applicability

The applicant is proposing to remove an 11' x 17' concrete pad from the site and loam and seed the area. Doug Muir moved to issue a Negative 2 Determination. Paul Healy seconded the motion. The motion was unanimously approved.

### **6. Public Hearings**

Dan Warchol moved to open the public hearings. David Vine seconded the motion. The motion was unanimously approved.

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**Peter Chetsas**

7 Moulton Street  
Notice of Intent

Matt Schweisberg represented the applicant. The plan was revised and the narrative was changed to indicate the fence would terminate at the buffer zone and not extend into the BVW. A DEP file number has not yet been received. Doug Muir moved to continue the public hearing to the July 7 meeting. David Vine seconded the motion. The motion was unanimously approved.

**Anthony Barbaris**

6 Perkins Way □  
Notice of Intent  
DEP File #051-0933

The peer view has not yet been completed. David Vine moved to continue the public hearing to the July 7 meeting. Paul Healy seconded the motion. The motion was unanimously approved.

**William Watts, 33 Low Street Condominium Association**

33 Low Street  
Notice of Intent

William Watts said the small pond on the property has not been well maintained. Water from within the pond has eroded its edges and has expanded it towards the parking lot. The applicant wishes to reinforce the edges of the pond with boulders and fieldstone to maintain the integrity of the bank. The plant materials that had originally been installed along the bank have died and would be replaced with iris, rush and sage. A natural filtering bog would be installed at one end of the pond and a waterfall at the opposite end to circulate the water and improve its quality. Aquatic plants would be added to the pond to minimize the growth of algae.

The applicant provided a narrative about the project but no plan. The Commission members wish to receive additional information on the work, such as the type of equipment to be used, and a plan showing the location and the dimensions of the elements of the project. Paul Healy moved to continue the public hearing to the July 7 meeting. David Vine seconded the motion. The motion was unanimously approved.

**Niki Lagasse**

177 Storey Avenue  
Notice of Intent  
DEP #051-0937

The property currently consists of two single-family homes with a common driveway and a building that houses a veterinary clinic. The applicant is proposing to expand the clinic with three additions and create additional parking. Three wetland resource areas exist on the property: a large red-maple swamp, an intermittent stream, and a small, isolated vegetated wetland that is not jurisdictional and would be filled. Of the 1,500 square feet of additional structure, 600 square feet would be within the 100-foot buffer zone. No work is proposed for the 25-foot no disturb zone.

Abutters said they already have issues with flooding and are concerned the project will increased the runoff from the site. Julie Godtfredsen said the City Engineer would review the

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plans to ensure they are in compliance with the City's storm water ordinance and the State's stormwater standards, which are designed to project abutters from an increased amount of runoff from a development. She said it appears that the development would improve the existing conditions by reducing the rate of runoff.

A site visit will take place on Monday, June 29 at 5:00 p.m. The applicant shall submit a plan to the Commission showing the trees to be removed and the stormwater management report and operation and maintenance plan to the DPS for approval. Dan Warchol moved to continue the public hearing to the July 7 meeting. Paul Healy seconded the motion. The motion was unanimously approved.

**Daniel Eyink and Jacqueline Carroll, Dr. Dan's Natural Healing Center**

3 New Pasture Road

Notice of Intent

DEP File #051-0938

Tom Hughes represented the applicant, who is proposing to construct an office building on a vacant lot in the industrial park. He said the property is located entirely in the buffer zone or BVW and the majority of it had been previously disturbed. As a part of the project the woody invasive species near the wetland would be removed and native trees and shrubs would be planted. A four-foot strip of herbaceous material would be added along the parking area. Mr. Hughes provided a list of plant materials in place of a planting plan. Steve Sawyer reviewed the stormwater plans. Christiansen and Sergi is currently conducting a peer review of the storm water calculations.

Mr. Hughes said the applicant seriously considered a green roof but has chosen to a structure with a pitched roof. Design changes were explored that would allow for 100 square feet of green roof, but it was decided the change did not provide enough benefit to compensate for the impact to the layout.

A portion of the work is within the 25-foot no-disturb zone. The regulations allow the Commission to permit this intrusion for sites that are located entirely within the buffer zone when the project has been designed to minimize the impacts this area. Mr. Hughes said the front portion of the site is fill and as such is not a healthy buffer. He said the project would be beneficial in that it would provide flood storage and remove the invasive species. Julia Godtfredsen said the ordinance does not provide a specific exception for the disturbance of more than 20% for sites that are entirely within the buffer zone. Permitting this project could set a precedent for other sites. The Order of Conditions will include a finding that the project shall be permitted because the majority of the site had previously been disturbed and the work would improve the habitat value of the buffer zone.

Doug Muir moved to close the public hearing. Dan Warchol seconded the motion. The motion was unanimously approved.

**First Republic Corp. of America**

260 Merrimac Street

Amendment to the Order of Conditions

DEP File #051-0737

Sarah Bellino and Marc Jacob represented the applicant and described the changes to the original plans. An Order of Conditions for the project to construct 15 residential condominium units and

the associated parking was issued in 2007 and extended for one year in December 2014. Three resource areas are under the jurisdiction of the Commission: riverfront, land subject to coastal storm flowage and salt marsh with its buffer zone. One of the buildings would be moved 40 to 50 feet further from the river. Some trees that were originally proposed shall not be planted because they would interfere with the view corridor from Tyng Street. The applicant wishes to remove the Rosa rugosa hedge and replace it with native grasses that would be mowed one or two times per year. The majority of the changes are for areas outside of the jurisdiction of the Commission.

The Planning Board must also approve of the changes to the plans. The applicant does not anticipate any further changes to the jurisdictional areas. A plan of record would be submitted at the completion of the Planning Board process. Any further change involving a resource area would require an additional amendment. Dan Warchol moved to accept the amended Order of Conditions. David Vine seconded the motion. The motion was unanimously approved.

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

## **7. Orders of Conditions**

### **John Van Loan**

4 F Street

The Order of Conditions was not issued at the June 2 meeting because a DEP number had not yet been assigned. DEP commented that the lowest horizontal member of the storage area under the structure must two feet above the base flood elevation. The change was made and a revised set of plans was submitted. Paul Healy moved to issue an Order of Conditions with the standard special conditions for Plum Island. David Vine seconded the motion. The motion was approved with Doug Muir abstaining.

### **Daniel Eyink and Jacqueline Carroll, Dr. Dan's Natural Healing Center**

3 New Pasture Road

Doug Muir moved to issue an Order of Conditions with the special condition that the applicant shall submit a detailed landscape plan for review and approval by the Conservation Administrator prior to the start of work. Dan Warchol seconded the motion. The motion was unanimously approved.

## **8. Enforcement**

None

## **9. Adjournment**

Paul Healy moved to adjourn the meeting at 10:15 p.m. Dan Warchol seconded the motion. The motion was unanimously approved. The next meeting of the Conservation Commission will be held on July 7, 2015.