

Newburyport Conservation Commission

June 4, 2013

City Council Chambers

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, Paul Healy, Steve Moore, Dan Warchol and Jim O'Brien. Also in attendance was Julia Godtfredsen.

3. Minutes

Steve Moore moved to approve the minutes of the May 21, 2013 meeting as amended. Doug Muir seconded the motion. The motion was unanimously approved.

4. General Business

Plum Island Updates

Julia Godtfredsen said she was not able to contact a member of the Charos family about the sand that was reportedly removed and transported to Newbury. She sent them a Notice of Violation. Paul Healy moved to ratify the Notice of Violation. Steve Moore seconded the motion. The motion was unanimously approved. The Army Corp. also sent a Notice of Violation.

Julia Godtfredsen said the signs that will be installed on Plum Island have been received, as has the fencing that will be used to delineate the path at 61st Street. A sand ramp was constructed at 53rd Street but the mobi mats remain to be installed. Sand was also added at 55th Street and the ramp was lowered. The Beach Management Committee had decided to keep the access at 57th Street closed to prevent further erosion. Sand has accreted in this area and the drop is now not as steep. The residents would like the access to be opened. Additional sand would be required if it were to be opened. A decision has not yet been made.

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

DPS, City of Newburyport

North Reservation Terrace

Request to Withdraw Notice of Intent

DEP File 051-08401.

Continued from May 21, 2013

The DPS requested a continuance because the plan to return the site to the original condition has not yet been completed. Doug Muir moved to grant a continuance to June 18. Paul Healy seconded the motion. The motion was unanimously approved.

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Phillip Hogge

14 55th Street

Request for Determination of Applicability

The applicant is proposing to add a 507 square foot gravel driveway. He obtained a signed agreement from an abutter to allow the driveway to cross the property lines by 1.5 feet without any transfer of property rights. He intends to replicate the beach grass that will be displaced on a bare area on a neighboring property at a one to one ratio. Steve Moore moved to issue a Negative 3 Determination with the condition that at least 507 square feet of beach grass is installed during the appropriate planting season. Paul Healy seconded the motion. The motion was unanimously approved.

Parke Sickler

7 Louise Street

Request for Determination of Applicability

The applicant is proposing to add an 8' x 12' shed on cinderblocks. The ordinance allows sheds smaller than 100 square feet to be placed on cinder blocks one foot above grade. The applicant said he would like to plant the replication beach grass after the shed has been installed and he understands if it does not take he must replant it during the appropriate season. He indicated the intended location of the beach grass on the plan, which he signed and dated. Doug Muir moved to issue a Negative 3 Determination. Steve Moore seconded the motion. The motion was unanimously approved.

Lake Realty Trust

6 Opportunity Way

Request for Certificate of Compliance

DEP File #051-0692

Scott Cameron appeared for the applicant and said the transformer was built closer to the parking lot than was shown on the approved plan. The wetland line has changed since the time of the delineation. The as-built plan shows the newly delineated wetland line. An Order of Conditions is outstanding for another project on the same property. Paul Healy moved to issue a Certificate of Compliance for DEP File #051-0692. Steve Moore seconded the motion. The motion was unanimously approved.

Helen and Brian Buia

92R Merrimac Street

Request for Determination of Applicability

The applicant is proposing to connect an existing structure to the City sewer system and to repave an existing parking lot. Paul Healy moved to issue a Negative 3 Determination with the condition that silt socks are used for controlling erosion. Steve Moore seconded the motion. The motion was unanimously approved.

Paul Healy moved to open the public hearings. Doug Muir seconded the motion. The motion was unanimously approved.

6. Public Hearings

Geordie Vining, Office of Planning and Development

22 Merrimac Street/27R Water Street

Notice of Intent

Continued from May 21, 2013

Geordie Vining said the NRA and Waterfront Trust signed the Notice of Intent as applicants. Both groups signed agreements conveying the two-foot strip between the new and existing bulkheads from the NRA to the Waterfront Trust at the completion of the project. A letter was received from Natural Heritage stating a review of the priority habitat would be completed within 30 days of the receipt of the filing fee, but no aspect of the WPA would bar the Commission from issuing an Order of Conditions. A MEPA permit has been received and the project has not yet been filed with the Army Corp.

Steve Moore moved to close the public hearing. Jim O'Brien seconded the motion. The motion was unanimously approved.

Paul Healy moved to issue an Order of Conditions with the standard special conditions. Steve Moore seconded the motion. The motion was unanimously approved.

John and Irene Kucinski

12 75th Street

Notice of Intent

Tom Hughes appeared for the applicant. He distributed a sketch showing the impacts to the existing vegetation and the areas where new plantings are being proposed. The first floor open deck and second floor deck will be located over areas that are currently vegetated. The sketch showed that the amount of vegetation on the site would be increased. The areas under the decks will be vegetated but are not being included in the figures of the total amount of new plant materials.

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

Steve Moore moved to issue an Order of Conditions with the special conditions that the sand to be added to create a level parking area under the structure is not from the adjacent dune, snow fencing is to be installed on the adjacent dunes to prevent the loss of sand and the removal of any sand from the driveway after storms must be done by hand and the spread on the adjacent dunes. Joe Teixeira seconded the motion. The motion was unanimously approved.

Steve Bond, Bayring Communications

244 Merrimac Street – Cashman Park

Notice of Intent

David Smith, Mike Sequino and Jim Wuellebber appeared for the applicant, who is proposing to install a conduit with a fiberoptic cable underneath the riverbed. Horizontal directional drilling will be used to install the conduit at least ten feet below the mud line. The entry area will be at the Cove Marina in Salisbury and the exit location is planned for Cashman Park. The soil that is being excavated will be placed back in the hole. The applicant said it would be unusual for any material to be unused. The soil must be tested and if it is found to be contaminated it must be disposed of properly and may not be placed back in the hole. The work, which is planned for October, is expected to take three weeks. Cashman Park should be impacted for three to four

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days. All of the work is within the riverfront area and a portion of it is within 100 feet of the coastal bank. The applicant will apply for a Chapter 91 license. The Army Corp. has reviewed the project and has not made any recommendations.

Steve Moore moved to close public hearing. Jim O'Brien seconded the motion. The motion was unanimously approved.

Paul Healy moved to issue an Order of Conditions with the additional special condition that the soil is tested and handled accordingly. Steve Moore seconded the motion. The motion was unanimously approved.

MassDOT, Jessica Kenny

I-95/Whittier Bridge

Amend Order of Conditions

DEP File #051-0875

Kevin Slattery described the changes to the plans and the reduction in temporary impacts that will result. One temporary tower was deleted and a second was relocated out of the riverfront area. A change is being made from a cofferdam to a silt curtain containment method. Temporary pile beds are to be used in place of the barges and cranes that were previously proposed and would have created a continuing disturbance. In addition two of the piers have been reduced in width, resulting in a decreased permanent impact.

Scott Benjamin described the temporary construction trestle that will be located off of Spring Lane. The lawn in the lay-down area will be protected with geofabric and the runoff will be collected in a closed drainage system. He said the piers of the trestle straddle the saltmarsh and encroach on it only slightly. The deck surface of the trestle also encroaches on the salt marsh but is located twelve feet above it. The drawings do not correctly show the location of the piles. Joe Teixeira asked to receive a corrected version of the plans and to receive an electronic copy as well. He also asked to receive photographs of the existing saltmarsh.

Two trees along Spring Lane must be removed and others must be pruned to provide access. Vehicular access to the lay-down area will be from the interstate after August. Until that time neighbors should be informed about truck traffic.

The Commission requested that openings be left in the landscaping to allow for fishing. The granite in the piers of the existing bridge would be utilized in some manner on the site.

Steve Moore moved to close the public hearing. Paul Healy seconded the motion. The motion was unanimously approved.

Steve Moore moved to issue an Order of Conditions with the following special conditions: 1) Jersey barriers shall be placed alongside the road in the lay-down area to protect the mature trees from construction activity; 2) any unforeseen adverse impacts to the salt marsh as a result of construction-related activities shall be immediately reported to the Commission and the applicant shall incorporate appropriate saltmarsh restoration plans into the landscape mitigation plan; 3) detailed post-construction landscaping plans shall be submitted for review and approval by the Commission around November 1, 2013; 4) the Commission may require the applicant to amend the landscape plan to incorporate additional plantings or mitigation required for any additional impacts to jurisdictional resource areas during construction and 5) the landscaping plan shall include the restoration of the eroded bank to the west side of the trestle. Jim O'Brien seconded the motion. The motion was unanimously approved.

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7. Adjournment

Steve Moore moved to adjourn the meeting at 9:22 p.m. Paul Healy seconded the motion. The motion was unanimously approved.