

**Newburyport Conservation Commission
December 7, 2021
Online Meeting
Minutes**

1. Call to Order

Chair Joe Teixeira called an online meeting of the Newburyport Conservation Commission to order at 6:45 p.m.

2. Roll Call

In attendance were members Dan Warchol, Joe Teixeira, Carole Wagan, David Vine, Paul Healy and Steve Moore. Conservation Administrator Julia Godtfredsen was also in attendance.

3. Minutes

Paul Healy moved to approve the minutes of the November 16, 2021, meeting. Steve Moore seconded the motion. The motion was approved by a 5-0 vote (Joe Teixeira, yes; Dan Warchol, absent; Paul Healy, yes; Carole Wagan, yes; David Vine, yes; Steve Moore, yes).

4. Old and New Business

Plum Island Updates

Julia Godtfredsen said the work on Reservation Terrace is nearing completion and the area looks stable. David Vine said the MRBA is in the process of updating the beach management plan.

251 Low Street - Informal Discussion

Scott Cameron represented Minco Corporation, which is under contract for the abutting 22-acre Woodman property at 0 Low Street. The 251 Low Street parcel is made up of uplands and wetlands. It abuts City-owned open space. The front of the site is developed and mowed fields are located at its rear. Minco is considering a development proposal for the 33 acres of the combined properties. The front would be developed for multi-family use. The project would require relief from the Wetlands Ordinance. To fulfill the public benefit requirement, the applicant might offer a donation of 26 acres to the City for open space and the placement of a conservation easement on an additional four or five acres. This would result in 220 acres of contiguous open space between Storey Avenue and Hale Street. A small public parking area could be added off Low Street to provide public access to the open space. The drainage area along Low Street could be crossed to create the parking area for the development near the road or parking could be located in an upland finger behind the buildings. Both scenarios would require a variance. The Commission members expressed their preference for locating the parking near the street. Steve Moore said the area is at the headwaters of the Little River and the plan could possibly help to alleviate flooding in the industrial park. Joe Teixeira said he would like there to be a conservation restriction on the Woodman property.

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

Geordie Vining

22 Merrimac Street (Central Waterfront)
Request for Certificate of Compliance
DEP File #051-0891

Geordie Vining said the project to rehabilitate the bulkhead was broken up into phases due to financial constraints. The first phase was completed in 2014. A Certificate of Compliance was not requested at that time in case funding for additional phases became available. The Order of Conditions has expired. Russell Titmuss of GEI described the work that was completed. New sheet piles were placed near the fish pier and the old Harbormaster's building, as well as to the area to the west of the embayment, and concrete was poured behind them. The bulkhead in the embayment was in satisfactory condition and was only cleaned and recoated.

Paul Healy moved to issue a Certificate of Compliance with a notation that the part of the project involving the embayment and the bulkhead to its east was never initiated. Steve Moore seconded the motion. The motion was approved by a 6-0 vote (Joe Teixeira, yes; Dan Warchol, yes; Paul Healy, yes; Carole Wagan, yes; David Vine, yes; Steve Moore, yes).

Evergreen Commons, LLC
18 Boyd Drive
Request for Certificate of Compliance
DEP File #051-0973

Tom Hughes reviewed the baseline documentation report for the conservation restriction. Lisa Mead said the Planning Board and City Council have approved the conservation reservation. She requested that at least four Commission members sign the document at City Hall.

Steve Moore moved to approve the baseline documentation report and sign the conservation restriction. Paul Healy seconded the motion. The motion was approved by a 6-0 vote (Joe Teixeira, yes; Dan Warchol, yes; Paul Healy, yes; Carole Wagan, yes; David Vine, yes; Steve Moore, yes).

Paul Healy moved to issue a Certificate of Compliance. Steve Moore seconded the motion. The motion was approved by a 6-0 vote (Joe Teixeira, yes; Dan Warchol, yes; Paul Healy, yes; Carole Wagan, yes; David Vine, yes; Steve Moore, yes).

6. Public Hearings

Steve Moore moved to open the public hearings. Dan Warchol seconded the motion. The motion was approved by a 6-0 vote (Joe Teixeira, yes; Dan Warchol, yes; Paul Healy, yes; Carole Wagan, yes; David Vine, yes; Steve Moore, yes).

Lorraine and Michael Riley
2 Spofford Street
Amend Order of Conditions
DEP File #051-0972

The applicant requested a continuance. Steve Moore moved to continue the public hearing to the January 4, 2022, meeting. David Vine seconded the motion. The motion was approved by a 6-0 vote (Joe Teixeira, yes; Dan Warchol, yes; Paul Healy, yes; Carole Wagan, yes; David Vine, yes; Steve Moore, yes)

**Geordie Vining, Newburyport Office of Planning & Development
22 Merrimac Street (Central Waterfront)**

Notice of Intent

DEP File #051-0555

Geordie Vining and Russell Titmuss described the project to rehabilitate the bulkhead. In 2014, new sheet piles were added near the fish pier and the old Harbormaster's building, as well as to the west of the embayment. The end of the boardwalk near the restaurant was newer and did not need attention. The embayment was also in relatively good condition at that time. Now the embayment is an area of concern. The construction in the embayment is different from that along the remainder of the bulkhead. In the embayment, sheet piles were driven with tie rods under the boardwalk. The heads of nine bolts have sheared off, which means that five to ten percent of the structural rod connections have corroded. Paul Hogg is inspecting the remaining bolts every three months. Along the bulkhead to the east of the embayment, corrosion holes have been formed on the steel cells. Sufficient steel remains, but the corrosion must be stopped.

In the proposed project, new FRP sheets would be driven outside of the existing steel bulkhead in both the embayment and along the boardwalk to the east. The area between the old and new sheet piles would be filled with concrete. A concrete cap would be installed along the top of the new sheet piles to increase the elevation of the bulkhead several feet in anticipation of sea level rise. The cap would extend to the top of the timber benches that line the bulkhead. It is estimated that in approximately 20 years, it will be necessary to reconstruct the entire boardwalk and elevate it above the existing grade.

The piles would be driven from a barge. The concrete would be pumped from a truck in the parking lot. No vehicles would be driven on the boardwalk. Sections of the boardwalk would be closed when the concrete is being pumped. It would not be necessary to use a turbidity curtain due to the currents in the river. There would be no conflict with the work to expand the park, which would take place on the landside of the berm.

At this time funding is available only for the design and permitting of the project. The City is currently seeking additional funding. It is expected the work would take place next winter.

Steve Moore moved to close the public hearing. David Vine seconded the motion. The motion was approved by a 6-0 vote (Joe Teixeira, yes; Dan Warchol, yes; Paul Healy, yes; Carole Wagan, yes; David Vine, yes; Steve Moore, yes).

Ferdinand Venditti Jr. and Mary Ellen Ehlers

25 Basin Street

Notice of Intent

Tom Hughes, Lisa Mead and Andy Sidford represented the applicant, who is proposing to construct a 464 square-foot addition to an existing single-family home in the VE zone. The structure is on a solid foundation. The addition would be constructed on pilings two feet above the base flood elevation. The entry would be moved from the northeast side of the structure to the southeast side. The old entry area would be planted with native vegetation. A section of the existing deck would be removed. The addition would be constructed over a portion of the deck area and in an area that is currently lawn. The remainder of the lawn would be converted to a clamshell patio. A clamshell walkway would connect the patio to an existing shed and raised

bed. The remainder of the site would be planted with beach grass. The fence will be replaced with one of the rope-and-post style.

The applicant has submitted an appraisal indicating the increase in market value would not be greater than 50%. The existing value was appraised at \$463,000 and the post-renovation value would be approximately \$575,000. The footprint would increase 18.4%, which is under the 20% allowed. However, it does not appear the project would be below the threshold for a substantial improvement. It appears that the habitable living space would increase from 774 square feet to 1,236 square feet, which is a 59% increase and greater than the 25% allowed. Mr. Hughes said he will provide a revised table for the next meeting. The applicant is also waiting for comments from Natural Heritage.

The Commission members might wish to seek a peer review. Attorney Mead was not in favor of this and said the City Assessor should instead be asked to review the figures. The Commission members pointed out that she is not an appraiser.

A site visit will take place at 10:30 on Tuesday, December 14. The applicant was asked to stake the corners of the addition.

Steve Moore moved to continue the public hearing to the January 4, 2022, meeting. Paul Healy seconded the motion. The motion was approved by a 6-0 vote (Joe Teixeira, yes; Dan Warchol, yes; Paul Healy, yes; Carole Wagan, yes; David Vine, yes; Steve Moore, yes).

Steve Moore moved to close the public hearings. Paul Healy seconded the motion. The motion was approved by a 6-0 vote (Joe Teixeira, yes; Dan Warchol, yes; Paul Healy, yes; Carole Wagan, yes; David Vine, yes; Steve Moore, yes).

7. Order of Conditions

Geordie Vining, Newburyport Office of Planning & Development

22 Merrimac Street (Central Waterfront)

DEP File #051-0555

Paul Healy moved to issue an Order of Conditions with the special conditions that the applicant shall submit a construction management plan that includes the location of staging areas, details on the refueling areas and protective measures and details on preventative measures for construction-related debris in the water. Steve Moore seconded the motion. The motion was approved by a 6-0 vote (Joe Teixeira, yes; Dan Warchol, yes; Paul Healy, yes; Carole Wagan, yes; David Vine, yes; Steve Moore, yes).

8. Enforcement

3 Q Street

Tom Hughes said he has been working to establish the conditions of the site at the time the owner, Mark Drago brought the property. Work was done on the site without a permit. The proposed plans would include locating the garage outside of the X zone. The wood platform would be removed and a deck would be added. The concrete foundation and concrete under the peastone would be removed. A peastone recreation area would be added. Mr. Hughes said the peastone pathways would have been permitted and would be retained. The existing plantings, while not native, are not invasive and would also be retained.

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Julia Godtfredsen said the first step must be the documentation of the work that was done without a permit. The impacts of the violations must be understood. The necessary mitigation must be determined before a new proposal shall be considered. Joe Teixeira said at this time, the matter is one of enforcement. The bluestone must be removed, especially that which was placed on City property, as well as the large boulders.

Mr. Hughes said bluestone facing was placed on an existing concrete block wall. The wall has a sheer face and the bluestone roughens the surface, which helps with floodwaters. Dan Warchol said the bluestone veneer is a hard structure that is not permitted and the concrete under the bluestone has yet to be addressed.

Joe Teixeira said the size of the wall was substantially enlarged in relation to the size of the concrete blocks. The change was not permitted and the stone must be removed. The wall was likely anchored to the blocks and may have damaged them. The work extends onto City property. Any damage to the blocks must be repaired. He said an Enforcement Order should be issued to ensure this work is done in a reasonable amount of time.

Julia Godtfredsen said the proposal for new work should not be discussed until the pre-existing conditions have been determined and a plan of the work that was done without a permit must be provided. The peastone pathways might have been permitted if an application had been submitted, but the Commission must understand the way in which the addition of the pathways might have impacted the existing vegetation and determine the mitigation for these impacts. The Commission is not requesting that the site be returned to its previous condition, but a plan and calculations must be submitted that shows the work that was done without a permit. Mr. Hughes agreed to submit plans showing the pre-existing and existing conditions.

The bluestone veneer and the boulders must be removed. Joe Teixeira said the concrete was added to fill the gaps in the blocks and must be removed. The veneer must be removed wherever it was applied, whether or not it is on the owner's property.

Mr. Hughes said he would like to remove the at-grade concrete to the west of the house at the same time. The area would be brought to grade with clean sand. The Commission members were in agreement with this. The deciduous tree could be removed as well, provided that an arborist submits a letter stating the tree is hazardous before the work is done. The fence is not compliant and must be removed. This work could begin as well.

Lisa Mead said the concrete around the house existed when the owner purchased the property. She would want the removal to be considered as mitigation. Joe Teixeira said the Commission would ordinarily treat it as such.

David Vine moved to issue an Enforcement Order that requires the removal of the stone veneer on the entire length of the concrete wall, whether or not it is on the owner's property and the removal of the large boulders in the landscaped area and permits the removal of the existing concrete with fines of \$300 per day if a schedule for the completion of the work and a signed contract with the licensed contractor that will perform the work is not received by the January 4, 2022 meeting. Carole Wagan seconded the motion. The motion was approved by a 6-0 vote (Joe Teixeira, yes; Dan Warchol, yes; Paul Healy, yes; Carole Wagan, yes; David Vine, yes; Steve Moore, yes).

9. Adjournment

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Carole Wagan moved to adjourn the meeting at 10:09 p.m. Joe Teixeira seconded the motion. The motion was approved by a 6-0 vote (Joe Teixeira, yes; Dan Warchol, yes; Paul Healy, yes; Carole Wagan, yes; David Vine, yes; Steve Moore, yes).