

**REGULAR MEETING
CONSERVATION COMMISSION
PORTSMOUTH, NEW HAMPSHIRE
1 JUNKINS AVENUE
Conference Room A**

3:30 p.m.

April 10, 2002

MEMBERS PRESENT: Chairman Alanson Sturgis; Members Donald Green, Carlton McNeil, Allison Tanner, J. Lyn Walters

ALSO PRESENT: Peter Britz, Environmental Planner

ABSENCE EXCUSED: Charles Cormier, Steven Miller, Brian Wazlaw

Chairman Sturgis called the meeting to order at 3:30 p.m.

I. APPROVAL OF MINUTES

Mr. McNeil made a motion to accept the minutes of the February 13, 2002, Conservation Committee meeting. Ms. Tanner seconded the motion, and all voted in favor.

II. WETLANDS BUREAU PERMIT APPLICATION

A. Cedars of Portsmouth for White Cedar Boulevard

Chairman Sturgis suggested the Commission discuss the Wetlands Bureau Permit Application and Conditional Use Permit Application for Cedars of Portsmouth at the same time.

SPEAKING IN FAVOR OF THE APPLICATION

Eric Weinrieb, professional engineer for Altus Engineering, spoke on behalf of the Cedars of Portsmouth Condominium Association, which is located off Route 1 across from the Wal-Mart intersection. It is approximately 65 acres and was designed in the mid-1980s. There are two hundred and fifty-two condominium units and eighty-four are on basement grade units.

Altus Engineering is proposing drainage improvements and has identified the wetland areas. Atlantic Cedar Swamp is upgradient and upslope of where the proposed site improvements will be. Mr. Weinrieb stated there is a beaver dam and with development, this could cause problems to the White Cedar swamp.

Of the eighty-four basement condominium units 20-25 units flood on a regular basis with mild storms. Mr. Weinrieb is proposing to direct some of the water away from the units and to improve the drainage and treatment of the stormwater as it leaves the site.

At this time Mr. Weinrieb pointed out to the Commission the various wetland buffer disturbances which will require the Conditional Use Permit. There is a 36" culvert where the drainage comes into the site. This culvert is not stable and the applicant is proposing to put in 100-sq.ft. of riprap to eliminate erosion of the slope. This concluded Mr. Weinrieb's presentation for drainage improvements.

Chairman Sturgis advised the applicant to remove the piles of salt, sand and debris out of the buffer zone, as they are in violation.

At this time Joseph Noel, New Hampshire soil scientist spoke to the Commission about the delineation of the wetland boundaries. He has reviewed what Altus Engineering, Inc. has proposed as enhancements to the cedar community. Mr. Noel feels these improvements will not have any measurable negative impact to the community.

DECISION OF THE BOARD

Ms. Tanner asked Mr. Noel if any trees would be cut or if there would be any increase in impervious materials. Mr. Noel replied no.

Chairman Sturgis asked Mr. Noel if the paved area would be increased. Mr. Noel said the initial proposal had been to pave the area, but now it would be maintained with gravel.

Ms. Tanner made a motion for favorable recommendation to the Wetlands Bureau. Mr. Walters seconded the motion. All voted in favor.

Chairman Sturgis stated that the proposal for a Conditional Use Permit improves a rather poor existing situation and was pleased the salt, sand and debris will be removed. Mr. McNeil made a motion for favorable recommendation to the Planning Board for a Conditional Use Permit. Ms. Tanner seconded the motion. All voted in favor.

III. CONDITIONAL USE PERMIT APPLICATIONS

A. Sharon and Paul Gross for 226 Cate Street

SPEAKING IN FAVOR OF THE APPLICATION

Dave Gross, husband of the property owner, spoke on behalf of the application. In 1995 Mr. and Mrs. Gross purchased 235 Cate Street, which is the residence next to 226 Cate Street. Mr. Gross began renovating the property on 235 Cate Street and hauled off approximately five tons of debris from that residence. He renovated the barn on that property into a three-bedroom residence. In 1998 George Frisbee, the owner of 226 Cate Street, passed away and Mr. Gross purchased the property which was a garbage business. Since 1958 this property has been a repair shop and the lot is completely paved. The applicants are proposing to construct a two-story structure with a beauty parlor on the first floor and two apartments on the second floor.

Mr. McNeil asked the applicant the location of the storm drainage. Mr. Gross replied that the stormwater pitches down from Cottage Street and flows into Hodgson Brook. Chairman Sturgis asked if the entire lot needs to be paved, and Mr. Gross replied that when he reconfigures the building ten feet of pavement would be turned into grassy area in the back of the building. Chairman Sturgis suggested to the applicant to consider eliminating as much pavement as possible.

Mr. Britz, Environmental Planner for the City of Portsmouth, explained that the applicant would have to get zoning board review for change of use for this site. Currently the property is zoned General Residence A.

DECISION OF THE BOARD

Mr. McNeil made a motion for favorable recommendation to the Planning Board for a Conditional Use Permit. Ms. Tanner seconded the motion. All voted in favor. Chairman Sturgis will send a report to the Planning Board approving the project as far as the wetlands, but not as approval for change of use. He also suggested to Mr. Gross to obtain an environmental engineer to look into placing a treatment swale for the drainage into Hodgson Brook.

C. Kearsage Way for Ramsey - Approval requested for amended plan

SPEAKING IN FAVOR OF THE APPLICATION

John Chagnon, professional engineer for Ambit Engineering, Inc., and Charles Griffin, attorney, spoke on behalf of the applicant. Mr. Chagnon stated the application is to amend the Conditional Use Permit in compliance with the requirements for the wetlands restoration. Mr. Chagnon referred the Commission to a vegetation plan that had been requested by the Wetlands Bureau. Since the Wetland Bureau has requested planting of the grassy area, the applicant would like to create an accessway, a 12-ft. wide gravel road, for future maintenance above the weir. This gravel road would not disturb any of the newly created vegetation. Mr. Chagnon spoke about a proposed Conservation Easement Deed from the State to ensure that the tree buffer zone remains undisturbed. The only caveat to the easement is that it will only be granted after City approvals have been obtained.

Chairman Sturgis stated the Commission's stipulation to the Planning Board was that the buffer zone remains untouched. The buffer zone outlined originally has been diminished by the width of the gravel road. He feels the weir will not need much maintenance and the gravel road will not be used very much.

Mr. Green inquired of the applicant as to what type of activities are required for this road. Mr. Chagnon replied that the weir is a concrete structure that may require future repairs where concrete and construction equipment may be brought in. Mr. Green stated his concern that once the road is in place it would provide access for parties or riding bikes. Mr. Chagnon replied that one of the recommendations from the Technical Advisory Committee was to move the gate back to a point that woods would surround it.

DECISION OF THE BOARD

Mr. McNeil made a motion to recommend the amended plan for approval. Chairman Sturgis seconded the motion for discussion purposes.

Ms. Tanner stated she would not be voting in the positive for this application as she felt the project was too large for the lot.

Mr. Green felt that having an easement and building driveways through this area was not a good idea as it promotes further use.

Mr. McNeil stated that if there were not a gravel road, cutting would have to be done for any maintenance done in that area.

Mr. Green replied that any maintenance needed to be done to the concrete dam would only be needed once in every 20-25 years.

Mr. Chagnon restated to the Commission that because of the Conservation Easement Deed Mr. Ramsey couldn't cut anything in this area unless it was a danger to the health, safety and welfare of human beings. This gravel path would be in the most disturbed upland buffer area.

At this time, Attorney Griffin stated that it is better to define this area now so that access will be in place for future maintenance. He referred to the comment that the project is too large by saying that the court has said that use for this property is permitted. Attorney Griffin felt Commission members did not have individual discretion to say that they did not like the project. Ms. Tanner and Mr. Green responded by saying that they do have the right to say they do not like the project.

Chairman Sturgis explained to the Commission that this project had already been recommended to the Planning Board for a Conditional Use Permit and what the Commission is voting on today is for the amendment to the Conditional Use Permit.

Thomas Keane, a local attorney, spoke on behalf of some of the abutters to the property. Mr. Keane is concerned with Attorney Griffin using the Supreme Court decision with Board members stating approval of this hotel no matter that it does not comply with the zoning ordinances. Mr. Keane wanted the Commission to know that they have the right and authority to make decisions based on criteria used for other applications.

Chairman Sturgis took a roll call vote with the following Conservation Commission members voting: Allison Tanner - no; Carlton McNeil - yes; Mr. Walters - yes; Mr. Green - no; Chairman Sturgis - yes. The motion to the amendment for the Conditional Use Permit passed with a 3 - 2 vote.

IV. OTHER BUSINESS

1. The Conservation Commission has been financially responsible for the planting of the flowerbeds for Market Square, Memorial Bridge, and South Street. Everett Kern of Public Works informed Chairman Sturgis of the ongoing sewer construction in the South Street area scheduled for this summer. The Commission unanimously voted approval to plant flowers at the John Paul Jones house instead of the flowerbed located on South Street.

2. The Conservation Commission has chosen to plant a tree honoring Arborist Clotilde Straus, who recently retired as the City Arborist. Present plans call for planting the tree early to mid-May.

V. NEXT SCHEDULED MEETING

The next scheduled meeting is May 8, 2002.

IV. ADJOURNMENT

The meeting adjourned at 4:35 p.m. with the next meeting scheduled for May 8, 2002, at 3:30 p.m.

Respectfully submitted,

Terry L. Provencher
Planning Department Secretary