

**REGULAR MEETING
CONSERVATION COMMISSION**

**1 JUNKINS AVENUE
PORTSMOUTH, NEW HAMPSHIRE
CONFERENCE ROOM "A"**

3:30 P.M.

August 12, 2009

MEMBERS PRESENT: Chairman Steve Miller; Vice Chairman James Horrigan; Members, Allison Tanner, Barbara McMillan, Mary Ann Blanchard

MEMBERS ABSENT: Brian Wazlaw

ALSO PRESENT: Peter Britz, Environmental Planner

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I. OLD BUSINESS

A. Approval of minutes – June 10, 2009

It was moved, seconded, and passed unanimously (5-0) to approve the minutes as presented.

II. STATE WETLAND BUREAU PERMIT APPLICATIONS

1. Standard Dredge and Fill Application
Mechanic and Gates Street
City of Portsmouth, owner
Assessor Map 103, Lot 30

Mr. David Allen, Deputy Public Works Director for the City and Mr. Duncan Mellor of Waterfront Engineering, Inc. were present to speak to the application.

Mr. Allen stated that the city did a survey of all of its seawalls two years ago in order to work repairs into the Capital Improvement Plan. This one was the first of two seawall repairs that they were proposing to do. He said that the intent was to replace the seawall with an in-kind stone wall. Grant funding was applied for to assist in this project.

Mr. Mellor showed a plan view of the seawall. The seawall was 102 feet long and varied in height from 6-12 feet. It has started to collapse. Some stone blocks have been missing for a while now and there has been erosion from the soils behind the wall. Mr. Mellor said that they were proposing to reconstruct the wall in the same location. They plan to reconstruct the wall with stone and reinforce it with a concrete backing. Everything visible will be stone. He explained that a soil test was done and it was determined that there are some very deep, soft, clay soils underneath which may be part of the cause of the wall's failure. Because of this, Mr.

Mellor said they were proposing to put the new wall on a timber pile foundation which will not be seen above the water line.

Mr. Mellor stated that the existing wall would be disassembled and crushed stone and small rip rap would be put in place to stabilize the back slope. He explained that they can only work at low tides but that there will be some work that will have to take place underwater. It would be a gradual process as they work their way up the wall. He pointed out that they would probably only work one area at a time with the work being broken up into three distinct sections. Mr. Mellor said that there will be minimal disturbance since they will be working in the same location.

He explained that there would be raised capstones to provide a vehicle barrier. Also, a steel picket type fence would be put on top of the seawall, similar to the one on the New Castle Avenue seawall.

Ms. Blanchard asked when they anticipated doing the work. Mr. Mellor said it would depend on how quickly the permits are processed. He added that they have asked to expedite the review as it is a public safety concern.

Vice Chairman Horrigan commented that the plan was based on the 100 year flood level. He wondered how realistic that was. Mr. Mellor explained that the whole area was below the 100 year flood elevation. He said that they would not gain anything by bringing the wall up higher above the 100 year flood elevation. Vice Chairman Horrigan wondered, in the future, would it be possible to adjust it. Mr. Mellor felt it could be raised but it would take an integrated approach to the whole neighborhood area to raise it up.

Ms. McMillan asked how long the whole process would take once construction starts. Mr. Mellor felt it would take 2-3 months. He added that they will have to bring in pile driving equipment so he thought there was a good chance they would do all of the pile driving at once. He then said they would have to work with the tides so they may be jumping back and forth in their work.

Chairman Miller asked what the pavement surface would be. Mr. Mellor said that it would be bituminous pavement.

Chairman Miller asked if there were any more questions for the applicant. Hearing none, he asked for a motion.

Vice Chairman Horrigan made a motion to recommend approval to the State Wetland Permit Bureau. The motion was seconded by Ms. Tanner. There was no additional discussion.

The motion to recommend approval to the State Wetland Permit Bureau passed by a unanimous (5-0) vote.

2. Standard Dredge and Fill Application
South Mill Street
City of Portsmouth, owner
Assessor Map 102, Lot N/A

Mr. Mellor explained that this wall was 134 feet long running from the Marcy Street Investments wharf down to the corner of the street. The height varied from 3-7 feet high and it was stone construction.

Mr. Mellor stated that what they were proposing to do was an in-kind reconstruction on 105 linear feet of the wall in the same location. They would take out the existing wall; rebuild it again with stone with a concrete backing. In other areas, the soils were better so they would not need the pile foundations. At the east end of the project, they have a problem with an existing utility pole. He pointed out that it was visible in photo 4 of the submitted plans. He said that they had a meeting with PSNH but PSNH was not willing to move the pole since it had all of the utilities on it including fiber optic cable. Mr. Mellor explained that the solution they have come up with was to put a rock slope out in front of that section. The rock slope would help to stabilize the wall. He said that it would be consistent with the abutters' shoreline. He said that the rest of the wall would be a vertical wall.

Mr. Mellor stated in detail the plans that would be in place to minimize impacts to the salt marsh area. He also said that they would reuse, to the extent possible, the granite blocks that were salvaged from the New Castle Avenue seawall.

To finish off the wall, they were proposing a raised capstone with a 42" high steel picket fence.

Chairman Miller asked about the strip of porous pavement proposed on the street side of the wall cap. Mr. Mellor explained that they were trying to minimize the run off impacts on the street. They needed to put good free draining material behind the wall so he felt it was a good opportunity to put in a strip of porous pavement in that location to capture some of the run off from the street and infiltrate it behind the wall. Chairman Miller commented that it would be interesting to see how that worked in that location.

Vice Chairman Horrigan asked if there were no other alternatives for the utility pole. He felt it was causing a lot of additional work. Mr. Mellor commented that the pole was not in great shape and PSNH have talked about replacing it but in terms of an alternative location, they were not able to come up with one. Vice Chairman Horrigan suggested burying the lines.

Ms. Tanner asked for an estimate for the timing of this project. Mr. Mellor said that they would start as soon as they got the permits and it would probably take 2-3 months to finish construction.

Ms. McMillan asked if the rocks that would be used would be bigger than those at the adjacent marina. Mr. Mellor replied yes and said that Dori Wiggin of DES encouraged larger stones because they were more stable. Ms. McMillan asked if it would re-vegetate in that area. Mr. Mellor replied that it might, that it depended on the site conditions. There were no plans to plant it.

Chairman Miller asked if there were any more questions. Hearing none, he asked for a motion.

Ms. Tanner made a motion to recommend approval to the State Wetland Permit Bureau. The motion was seconded by Ms. Blanchard.

The motion to recommend approval to the State Wetland Permit Bureau passed by a unanimous (5-0) vote.

III. CONDITIONAL USE PERMITS

- A. 187 Wentworth Road
Witch Cove Marina Development, LLC
J.P. Nadeau, owner
Assessor Map 201, Lots 17 & 18

Mr. J. P. Nadeau, owner of the property, Mr. Marc Jacobs, wetland scientist for the project, Mr. Steve Oles of MSC, Inc. and Attorney Bernard Pelech, were present to speak to the application. Mr. Nadeau passed out a packet of information to each Commissioner. He apologized for the delay in getting the materials to them.

Mr. Nadeau explained that what was contained in the packet was the additional information that Mr. Britz, in his memorandum, said was missing from the original submission. Chairman Miller stated that he was not sure the Commission could digest all of this additional information during the meeting. He asked Mr. Nadeau to go ahead and present the project to the Commission.

Mr. Nadeau explained that he had provided two sheets containing the plans. The first sheet showed the existing conditions on both sides of the street. The second sheet showed the proposal for the property. He pointed out on the existing conditions sheet that there were four buildings on the right hand side of the sheet. If the project was approved, the right residential building and the two repair garages near the water would be removed. Also, if the project was approved, there would be a 27.13% reduction of impervious pavement. Further to the left on the plan, the residential building would be moved across the street in the location of the other building that was there now. Mr. Nadeau also pointed out another small building down by the water. He explained that they would like to rehab the building and put a second story on the structure. The large metal building that houses kayaks would stay as it was. Going further left on the plan, an existing one story residential building would be rehabbed with a second story added as well. A small garage would also be retained and rehabbed. The large boat storage building would not be rebuilt. He said that they would be asking the Board of Adjustment to allow two residential units in lieu of rebuilding the boat storage building.

On the second sheet of the plans, Mr. Nadeau stated that they would like to build a two story yacht club building for the marina. Going further to the left on the plans, he was also proposing three residential buildings. Mr. Nadeau stressed how it would take all of these proposals to make the whole package in order to create a considerable improvement to the site.

Vice Chairman Horrigan commented on a letter that was sent to the Commissioners from Witch Cove Marina a while back as well as remarks made in the packet and remarks made at this meeting. He said he did not recall the Commission ever suggesting bargaining on this site. Mr. Nadeau told Vice Chairman Horrigan that he was misinterpreting the letter. He stated that they have asked the Board of Adjustment to consider allowing the two residential units in lieu of the rebuilding the boat storage building. Vice Chairman Horrigan pointed out that the letter was addressed to Conservation Commission members. Mr. Nadeau said that a comment was made at a site walk either by an engineer or a Conservation Commission member concerning the rebuilding of the boat storage building and he wanted to clear up the fact that they were willing to not rebuild that building. That was the reason for the letter. Vice Chairman Horrigan stated that the Commission never suggested any such thing. Mr. Nadeau said that he never suggested that they did, it was a misinterpretation of the letter.

Vice Chairman Horrigan did not recall having a site walk on this site with engineers. He said he went to the site to review a State permit application and was received hostilely. Ms. Tanner stated she remembered a site walk but it was quite a while ago. Mr. Nadeau said that the site walk was in 2008 and he felt badly about the unfriendly reception that Vice Chairman Horrigan received. Ms. Tanner added that her recollection was that she did not ever remember anyone saying that they did not want the building rebuilt. She said that they have always wanted it to be a working marina. Chairman Miller stated that he did not recall a site visit either but he may have been out of town at the time. Mr. Nadeau explained that it was a site walk with State representatives but some Conservation Commission members were in attendance. He thought it was commented at the time that the preference was to not rebuild the building.

Chairman Miller asked Mr. Nadeau to walk the Commission through the plans as it stands currently as a whole.

Mr. Oles reviewed with the Commission the existing site conditions plan. He said that all of the buildings that were outlined with a bold line would be staying. Everything that was light colored was proposed to be removed. He pointed out a band of crushed gravel that was surrounding the parking lot. He also explained that the dark gray areas indicated existing paved areas.

Chairman Miller asked where the 50 foot and the 100 foot buffer areas were. Mr. Oles said that the heavy dashed line indicated the 50 foot line. The 100 foot line was shown on the proposed site plan.

Mr. Oles explained the existing condition for the space across the street. He said that there were several pockets of wetlands. He pointed out that there was another huge pocket of wetlands that was delineated by the edge of the ditch. Chairman Miller said that the wetland went to a box culvert but he asked where the box culvert went to. Mr. Oles was not exactly sure but pointed out a general area of where he thought it went.

Ms. Blanchard asked the number of spaces anticipated for the lot. Attorney Pelech said he believed it was approximately 90 spaces.

Ms. Tanner recommended tabling the application since they have not had a chance to study the materials submitted. She pointed out that an independent wetland scientist has not looked at the site and she thought a site walk would be helpful. Chairman Miller agreed but he felt that since the applicant and representatives were present it would be good to have them help the Commission understand the project.

Mr. Oles explained the proposed plan to the Commission. He said that the areas on the south side of the property that were shaded in gray were the wetland areas that they were proposing to impact for the parking lot. The whole impacted area was 6,730 square feet.

Mr. Oles continued by saying that the three residential buildings would be removed and one residential building would be moved across the street. In their place, they were proposing a two floor marina, restaurant, with a patio and deck. On the westerly side of the property, three residential units were proposed. Porous pavement would be put in which would reduce the amount of impervious surface by 27%.

Mr. Britz asked how they came to these calculations. Mr. Oles explained in detail how he calculated the reduction of the impervious surface. Mr. Nadeau pointed out that the last page of the packet included the calculations. There was considerable discussion concerning the calculations.

Ms. Tanner stated that she thought a stream ran through the site but she did not see it indicated on the plans. Mr. Oles said it was a ditch. Ms. Tanner felt it was a stream. Mr. Oles said that it flows from the south and flows into the property. Mr. Oles said the project was designed to not affect any of that area. It would all stay natural. He said that they would be taking out the wetlands that have very little or no functional value because of the dredging in 1975. Vice Chairman Horrigan asked if the stream was draining a pond from the nearby golf course.

Mr. Jacobs explained that the depiction of the ditch was not as accurate as it could be. He said you have a well defined stream with banks upon entering the property. The stream spreads out, defuses, and eventually reaches the culvert, passes underneath Wentworth Road and then out to Sagamore Creek. He said that the stream did not outlet a quarry but he felt it outlets a forested swamp.

Vice Chairman Horrigan pointed out that yesterday, the area was pretty wet. Mr. Jacobs responded yes, and said he would find that reflected in the delineation. He reminded him that the areas indicated in gray reflected the wetlands impacted by this project.

Vice Chairman Horrigan said that the site may be an old dumping site. Mr. Jacobs said that probably the entire site has been altered or disturbed in many various forms. Vice Chairman Horrigan asked if they had done any soil samples. He wondered what they would find underneath. Mr. Jacobs said he has done soil samples for the purposes of identifying and distinguishing wetlands from uplands. He has not done any deep soil testing for structural purposes. He said the reason for the pervious pavement was to try to mimic the current conditions to a significant degree.

Vice Chairman Horrigan stated that there was a wooded area but the plan did not show that. Mr. Jacobs said that at the far west of the property and the south, you do find forested areas. Those areas transition into a shrub thicket which then transition into the field area. He added that all of those areas have been disturbed in one form or another over the years.

Vice Chairman Horrigan indicated that at the rear of the property there seems to be a manmade bunker. Mr. Jacobs said that there is an isolated wetland pocket towards the south of the property. That was a manmade area that looks to be a combination of both excavation and fill. He thought that at one time, the property was used as an access or egress when either the golf course or quarry was under construction. He said this was purely speculation on his part however.

Ms. McMillan stated that it looked like the wetland was close to the road. Mr. Jacobs said that there was a pile of fill there. He said he tried to the degree possible to discern historically altered wetlands. Ms. McMillan pointed out that there was gravel that had been recently put down there. Mr. Jacobs said that they have been trying to maintain the existing driveway so that may be what she was referring to.

Ms. McMillan said that she felt water would go through the gravel area that was added into the calculations of impervious surface. Mr. Oles replied water would go through but at such a slow rate that it runs off faster than it goes in the ground.

Mr. Britz asked if the high water mark was delineated on the creek side of the property. Mr. Jacobs said no, that was taken from other plans. His focus was on the south side of Wentworth Road. Mr. Britz reminded Mr. Jacob that they would need his stamp on the plan, especially before it goes to the Planning Board.

Chairman Miller asked about the pervious parking and wondered if it would all be pervious on the site. Mr. Oles replied yes, it would be pervious asphalt. He pointed out the information included in the packet concerning the pervious pavement.

Ms. Blanchard asked how much of the site would be seasonal and how much would be year round use. Attorney Pelech explained that the residential units and the proposed marina yacht club would be year round. The kayak business and the dock would be seasonal. The parking across the street would not be as utilized in the winter months.

Ms. Blanchard noted that there was no proposed boat storage on the site. Attorney Pelech said that was correct. Presently, a lot of boats are stored on site but that will no longer continue.

Ms. Tanner asked about retail space. Mr. Nadeau said that the retail space would continue to sell marine items and sundries but would be expanded to sell souvenirs, ice, bait, etc.

Chairman Miller asked what would be in the place of the existing storage building. Mr. Nadeau said that it was gone and would be open space. Chairman Miller said it would be good to see how that area would be treated since it was so close to the shore.

Vice Chairman Horrigan asked what type of sewage system was being proposed for the residential units. Attorney Pelech said that currently there are three residential units on site that utilize the current septic system. The new units would be tied into that until the time that it fails, and then they would be tied into the public sewer system that they will have to bring down Wentworth Road to service the yacht club. The proposed building across the street would be tied into public sewer also. Mr. Oles showed where the current septic system was located.

Mr. Britz asked about the calculation of the buffer impact. Mr. Jacobs said that they would calculate that. Chairman Miller commented that that would be tough since this was not a pristine lot. The buffer impact will take some consideration from the Commission.

Chairman Miller thanked the applicant and the representatives for the presentation and said it was very helpful.

Ms. Blanchard asked if it was determined as to whether an independent wetland scientist would look at the site. Mr. Britz recommended it. He said that should be part of the motion if they so choose to do that.

Ms. Tanner made a motion to postpone the application to the September 9, 2009 meeting so the following issues can be addressed:

- 1) That a site walk of the property is held. Date is set for August 25, 2009 at 3:30 p.m.
- 2) That an independent wetland scientist is hired to assess all aspects of the site.

The motion was seconded by Vice Chairman Horrigan. The motion passed by a unanimous (5-0) vote.

Ms. Blanchard left at this point in the meeting.

The Commission scheduled the date of August 25, 2009 at 3:30 p.m. for the site walk at 187 Wentworth Road.

IV. OTHER BUSINESS

Vice Chairman Horrigan reported that he has been appointed to the Stakeholders Committee for the rehabbing of the two bridges that go between New Hampshire and Maine. One meeting has been held to date and Vice Chairman Horrigan told the Commission that he would keep them updated concerning conservation issues with these projects.

Vice Chairman Horrigan also discussed a proposal that went before the Planning Board recently regarding the possible acquisition of land from the Packard Corporation and the granting of easements of adjoining lots. Mr. Britz said that he was going to recommend to the Planning

Director to ask the Planning Board to favorably recommend acquiring the property to the City Council.

Vice Chairman Horrigan made a motion to recommend accepting the donation of this property from the Packard Corporation to the Planning Board. The motion was seconded by Ms. McMillan. The motion passed by a unanimous (4-0) vote.

Ms. McMillan stated that it was brought to her attention that purple loosestrife was in the gardens at Prescott Park. Chairman Miller suggested that a letter from the Commission be sent to the Prescott Park Trustees expressing concern for invasive species and suggesting its removal.

At this point in the meeting, the Commission reviewed the restoration plans of Granite State Minerals with regards to the salt pile collapse. There was considerable discussion. Mr. Britz said that he would write a letter to Granite State Minerals communicating the Commission's comments on the plans.

Mr. Britz updated the Commission on a wetland violation at the Fairfield Inn on Borthwick Avenue.

Also, Mr. Henry Brandt submitted a Permit By Notification application to the Commission for their review. Chairman Miller explained the Commission's process concerning these types of applications.

V. ADJOURNMENT

At 5:25 p.m., it was moved, seconded, and passed unanimously to adjourn the meeting.

Respectfully submitted,

Liz Good
Conservation Commission Recording Secretary

These minutes were approved at the Conservation Commission meeting on October 14, 2009.