

**MINUTES
REGULAR MEETING
CONSERVATION COMMISSION**

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

3:30 P.M.

DECEMBER 9, 2009

MEMBERS PRESENT: Chairman Steve Miller; Vice Chairman James Horrigan; Members, Allison Tanner, Barbara McMillan, Brian Wazlaw, Catherine Ennis

MEMBERS ABSENT: Mary Ann Blanchard

ALSO PRESENT: Peter Britz, Environmental Planner

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I. OLD BUSINESS

- A. Approval of minutes – November 18, 2009

Vice Chairman Horrigan asked that a correction be made to his comments in the second to the last paragraph on page 7.

Ms. McMillan made a motion to approve the minutes are amended. The motion was seconded by Ms. Tanner. The motion passed by a unanimous (5-0) vote.

II. STATE WETLAND BUREAU PERMIT APPLICATIONS

- 1. Standard Dredge and Fill Application
Off Borthwick Avenue
Portsmouth Regional Hospital, owner
Assessor Map 234, Lot 7-4A
(Withdrawn)

Chairman Miller informed the Commission that the applicant had withdrawn the application from consideration at this time.

III. CONDITIONAL USE PERMIT APPLICATIONS

- A. Off Borthwick Avenue
Portsmouth Regional Hospital, owner
Assessor Map 234, Lot 7-4A
(Withdrawn)

Chairman Miller informed the Commission that the applicant had withdrawn the application from consideration at this time.

- B. 800 Lafayette Road
Sureya M. Ennabe Revocable Trust, owner
Assessor Map 244, Lot 5

Attorney Peter Loughlin was present to speak to the application. He said Mr. Tom Saucier of SYT Design and Kevin Moore from CN Brown were not able to make it due to the inclement weather.

Attorney Loughlin stated he was seeking a conditional use permit with this being the first application considered under the new proposed ordinance. He said that he disagreed with the Planning Department about his need to come before this Commission since the applicant already received a variance for the work. He felt that the decision trumped the proposed zoning ordinance. In any case, he said he was here to get the Conservation Commission's input.

Attorney Loughlin explained that the work would take place at 800 Lafayette Road and he submitted some pictures for the Commission to review. He said that currently it was a car wash, convenience store and gas station. Attorney Loughlin provided the Commission with a detailed history of the property. He pointed out that there was a 50 foot right-of-way easement that ran between the gas station and Dunkin Donuts, an abutting property owner. He mentioned this was important because in 1969, the NH Supreme Court reversed a decision by the Port Authority and granted an abutting owner, Pic N Pay, the right to fill some of the tidal wetlands. He then read a portion of that court decision.

Attorney Loughlin pointed out an aerial photo of the lot taken in 1978 which showed the extent of development of the lot, right to the rear property line. He explained that CN Brown has a long term lease on the property and wants to make improvements to the site. He showed the Commission a conceptual site plan that was presented to Ms. Tillman, the prior planner and Mr. Britz, the environmental planner, back in May of 2008. He said that Mr. Britz was less than enthusiastic about it and so they are now before the Commission today with a new plan. Attorney Loughlin explained that they have removed the car wash and the vacuums; they have removed the pavement from the 50 foot primary building area and from the 50 foot boundary of the Comprehensive Shoreland Protection Act. He estimated that about 5,000 square feet of pavement would be removed. He also pointed out that the convenience store was located 50 feet from the property line.

Attorney Loughlin summarized by saying that he felt they met all of the conditions for a conditional use permit.

Mr. Wazlaw asked if all of the pavement behind the building would be removed. Attorney Loughlin replied yes. Mr. Wazlaw asked if there was pavement underneath the grass further back on the property. Attorney Loughlin thought there was and added that he thought there was more pavement than what was shown on the plan.

Vice Chairman Horrigan noted that the rear of the property has been used for trash. He said that if the area was to be redone, the dump should be removed. Attorney Loughlin thought that most of the dump was located on the other side of the boundary which was now owned by the State of New Hampshire. Vice Chairman Horrigan said that removing the trash should be a condition of the approval. Attorney Loughlin replied that with the new plan, there would not be access to the back of the lot which would help eliminate the dumping.

Vice Chairman Horrigan asked how the drainage would be dealt with once the impervious surface was removed. He said he would like to see a vegetative swale built at the rear of the property. He thought it would be useful. Attorney Loughlin thought that there was a catch basin somewhere near that area. He added that they would want to treat the water that will run back toward the marsh. Vice Chairman Horrigan pointed out that normally, the Commission has that type of information in front of them to review.

Chairman Miller also had questions about that area and how it would be dealt with. He wondered if it would be restored back to marsh grade with the reestablishment of the salt marsh there or whether the grade would stay as it was and receive plantings. Attorney Loughlin thought the grade would stay as it is. Chairman Miller said that one of the options was to take the pavement up and loam and seed it with an upland grass. Mr. Britz said that a landscaping plan would be helpful.

Chairman Miller said asked about the pavement along the street and the 50 foot easement on the south boundary. Attorney Loughlin said that the applicant has a right of way to use the entire 50 foot strip.

Ms. McMillan asked Attorney Loughlin if he needed a wetlands permit and if so, he would be back in front of the Commission. Attorney Loughlin said he may have to. Ms. McMillan said that was important to know because if they planned to restore the area in the back, it would require a permit. She also added that if Attorney Loughlin comes back before them, she would like to see plans for the treatment of water in the back area.

Mr. Wazlaw stated that the Commission would want to know how the drainage on the front of the building would be handled also. Chairman Miller added that they would like to see the drainage flow of the entire lot. Attorney Loughlin pointed out that it would be addressed during the site review process.

Ms. Tanner stated that the Commission normally sees a landscape plan and a drainage plan. She questioned whether they should just let site review worry about it. Mr. Britz said that it was up to the Commission as to how they wanted to deal with that. Both plans would be required by site review.

Mr. Wazlaw said that he went out to look at the site and noted that the removal of the pavement in the back would be a huge job. He agreed with Vice Chairman Horrigan that adding some plantings and a vegetative swale would be the best thing to do. He added that he sees the plan as a definite improvement to the site.

Vice Chairman Horrigan pointed out that a lot of the area where the pavement was going to be removed would be built upon. He said there would be different effects of stormwater. He was still concerned about the stormwater management. He also thought they should recommend that they require best management practices. Chairman Miller thought that would get picked up in site review. Mr. Britz stated that stormwater would be discussed in site review. He also pointed out that to pave it, a conditional use permit would be needed. He told the Commission that they needed to determine whether they had enough information to recommend the application to the Planning Board.

Chairman Miller explained that the two options that they had was to move ahead and vote on the proposal with the information that they have or ask for a more detailed site plan and postpone. Attorney Loughlin said that he was not planning to go before the Planning Board in January.

Mr. Wazlaw said the plan would be clearer if they had a landscape plan, a drainage plan, a plan that showed the removal of the pavement and a plan for the swale. He was in favor of something being done with the area, but he would like to see those items as part of the package. It would make it easier to make a recommendation to the Planning Board. Ms. Tanner agreed. Chairman Miller added that the overall concept was very positive and he felt the Commission was in favor of it but he said they would really like to see a plan. Vice Chairman Horrigan said that he liked the removal of the car wash.

Ms. Tanner made a motion to postpone the application to the January meeting. The motion was seconded by Ms. McMillan. The motion passed by a unanimous (6-0) vote.

III. OTHER BUSINESS

1. Update on Tidewatch Condominium Association drainage maintenance plan

There was discussion concerning a recently submitted drainage maintenance plan.

In other business, the Commission discussed miscellaneous correspondence received from the Department of Environmental Services received during the past month.

Chairman Miller updated the Commission on the process of the meetings concerning the draft zoning ordinance. He felt that overall, the reaction has been positive from the City Council.

IV. ADJOURNMENT

At 4:35 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 January 13, 2010.