

**MINUTES  
CONSERVATION COMMISSION**

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

**3:30 P.M.**

**OCTOBER 12, 2011**

**MEMBERS PRESENT:** Chairman Steve Miller; Members, Allison Tanner, Barbara McMillan, Mary Ann Blanchard, and Elissa Hill Stone

**MEMBERS ABSENT:** Catherine Ennis

**ALSO PRESENT:** Peter Britz, Environmental Planner

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**I. NEW BUSINESS**

1. Welcome new members – Peter Vandermark and Jennifer Wilhelm

Chairman Miller stated that new members were approved by the City Council and would begin their service on the Commission at the November meeting.

**II. OLD BUSINESS**

- A. Approval of minutes – September 14, 2011

Chairman Miller asked that a grammatical change be made on Page 3. Ms. Blanchard made a motion to approve the minutes as amended. The motion was seconded by Ms. Tanner. The motion passed by a unanimous (5-0) vote.

**III. CONDITIONAL USE PERMIT APPLICATIONS**

- A. 4 Moebus Terrace  
Dexter R. and Ellen M. Legg, owners  
Assessor Map 207, Lot 24

Mr. Terrence Parker of Terra Firma Landscape Architecture, Mr. Dexter Legg, owner of the property, and Mr. Brendan McNamara, architect for the project were present to speak to the application. Mr. Parker stated that the project was designed to reduce the amount of coverage on the lot. The overall coverage was reduced by over 700 square feet. Demolition was being proposed. The existing house would be razed and rebuilt on the same footprint and the existing garage would also be razed but would be pushed back putting most of it out of the 100 foot buffer. A significant amount of existing driveway would also be removed from the buffer as well. Mr. Parker explained that they would remove any invasive species and non-native plants

and would replace them with native plantings. He passed out a landscape plan for the Commission to review.

Mr. Parker informed the Commission that the project had received both a shoreland impact permit and a standard dredge and fill permit from the State.

Ms. Stone asked what time of year they were planning to do the work and how were they planning to control erosion. Mr. Parker said showed the Commission on the displayed map where they were planning to install a silt fence. Mr. McNamara added that they would be starting the work in November.

Chairman Miller asked about the drainage patterns of the site. Mr. Parker showed the chairman on the displayed map how water flowed from the property.

Mr. Parker reiterated that 100% of the plantings would be native plants and more specifically there would be 178 plants. Ms. McMillan asked if they would be bringing in any fill. Mr. Parker replied no and explained that a small amount would be removed but other than that, the grade would be staying the same.

Mr. Britz asked for clarification on the 700 square feet reduction of coverage. He wondered if that was within the 250 foot shoreline buffer or the 100 foot wetland buffer. Mr. Parker said that was over the course of the whole site. Mr. McNamara said the reduction within the 100 foot was substantial. Mr. Britz said it would be helpful to have the calculation for the 100 foot buffer for the Planning Board.

Hearing no other questions, Chairman Miller called for a motion. Ms. Tanner made a motion to recommend approval of the application as presented to the Planning Board. The motion was seconded by Ms. Stone. Chairman Miller asked for discussion.

Ms. Stone commented that the planting list was really nice.

Mr. Britz reiterated that it would be helpful to the Planning Board to have the square footage of impervious surface being removed from the 100 foot buffer.

Ms. McMillan added those two items as stipulations:

- 1) That a landscaping plan is submitted to the Planning Board for their review.
- 2) That the pre and post redevelopment square footage calculations of impervious surface within the 100 foot buffer is submitted to the Planning Board for their review.

Hearing no other discussion, Chairman Miller called for the vote. The motion to recommend approval of the application as presented to the Planning Board with the following stipulations passed by a vote of 5-0:

- 1) That a landscaping plan is submitted to the Planning Board for their review.

- 2) That the pre and post redevelopment square footage calculations of impervious surface within the 100 foot buffer is submitted to the Planning Board for their review.

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- B. 444 Pleasant Street  
Portsmouth Housing Authority, owner  
Assessor Map 102, Lot 54

Mr. Geoffrey Aleva of Civil Consultants, contractor for the project was present to speak to the application. He stated that the scope of the work included the rehabbing of the elderly housing buildings on Pleasant Street. He explained that when the decks were originally constructed, the roof was not extended over the stairs and as a result, ice and snow builds up on the stairs and the tenants are unable to use them. The project involved extending the roof over the stairs which would result in an increase of 72 square feet of new impervious surface within the 100 foot buffer. After speaking with the City, the applicant also agreed to install dry wells to collect the roof water.

Chairman Miller asked for clarification that two buildings were involved with 32 square feet of new impervious surface each. Mr. Aleva replied yes.

Hearing no questions, Chairman Miller called for the vote. Ms. Tanner made a motion to recommend approval of the application as presented to the Planning Board. The motion was seconded by Ms. McMillan. The motion passed by a unanimous (5-0) vote.

**IV. OTHER BUSINESS**

- 1. Sanderson Land subdivision - analysis report

Mr. Mark West of West Environmental, Inc. was present to speak to his report. Chairman Miller explained that the Commission was just now seeing the report so he asked Mr. West to guide them through the findings. Mr. West stated that he was asked to evaluate the conservation value of the following two scenarios: the 13 acre parcel in an undeveloped state, and the conservation value of remaining 8 acres that would be left if the proposed subdivision was put into place. He said that he based his assessment on a nine lot subdivision that included three lots on the northwest portion of the site and a 450 foot cul-de-sac in the southern portion of the site with lots off of that.

Mr. West explained that the two main portions of the site were a medium sized wetland which encompassed about 40% of the property in the eastern portion of the site and a field that was being maintained as a lawn. The wetland was basically a basin wetland that was receiving runoff from the surrounding residential development and from the mowed field area in the western portion of the site. There was also a small area of woodland in the southern portion of the site where the end of the cul-de-sac was proposed. Mr. West stated that the habitat of the mowed lawn was not that great but the value of the wetland was significant. He said that it was somewhat of an urban refuge. He added that it was a relatively diverse wetland in that it had a

wet meadow area near the lawn area and had forested and scrub shrub areas as well as some shallow marsh areas. The wetland was drained by a ditched intermittent stream which drained to the north into the residential area. Mr. West pointed out that there was a fair amount of invasive species on the property but they did not dominate the site. The site was not connected to any other natural habitats. He was sure that wildlife used the site but it was more localized. Mr. West said that on the whole the site did have some conservation values in its wetlands. He added that the subdivision was proposed to be mostly in the lawn area and would not have a significant impact on the function of the wetlands although Lots 4 and 5 were shown to be proposed in the 100 foot buffer. He also pointed out that there was a tree nursery as well as a small garden on the site. There was evidence of the dumping of lawn debris which has caused disturbance to the edge of the wetland. He said that the most important value of the site was that it was a small open space area in an urban setting with a functioning wetland which would remain whether it remained the undeveloped 13 acres or the developed 8 acres.

Ms. Tanner asked Mr. West if he saw any small mammals or nesting sites. Mr. West said that he was sure there were songbirds nesting in the wetland but he did not think the field was large enough to attract a variety of small mammals. He pointed out that Route One served as a barrier.

Ms. McMillan asked if there was a trail where the dumping was occurring. Mr. West replied yes, but added that it was not a huge dumping site but it was something that should be cleaned up.

Mr. Donald Green of 277 Middle Road, an abutter, stated that his lot was contiguous with the wetland lot. He said that the land was a very significant area for animals and that he has seen deer, woodchucks, and cottontail rabbits. At one time, there was a fox in the area that produced a litter. He has also seen solitary sandpipers and red winged blackbirds. He also once photographed a fisher in the area. Mr. West commented that there was no doubt that a property like this could provide a refuge. He said he thought there were things that could be done on the site to enhance its habitat value.

Mr. Britz indicated that the purpose of this report was to determine whether the City wanted to explore one of three scenarios: 1) protect all of the property, 2) protect the area listed as open space as conservation land that the City would mow, or 3) the lots currently listed as Lots 3, 4, 5, & 6 and the cul-de-sac would not be developed and would be added to the open space. Mr. Britz added that the four lots would go away but the value of two lots would still remain. A fifty foot access road would take the place of the cul-de-sac.

Mr. Paul Sanderson, owner of the property stated that when he first made his presentation to the neighborhood, the neighborhood requested that he come and work with the City to see if there was any interest in protecting the land for conservation so that was what he was doing. He said that what he was trying to do now was to determine today was if the Conservation had any interest and if so, to pass that information onto the Planning Board. That would allow the negotiation process to begin.

Chairman Miller asked Mr. Sanderson where things stood with abutters who were interested in purchasing slivers of property along the edges of the site. Mr. Sanderson said that they had

about ten interested property owners and they would be moving forward with that. He added that this would not create a significant encroachment on the area that they are talking about. Chairman Miller had concern about the properties that abutted the wetland, specifically that property owners would want to extend their lawns and mow in the wetland. Mr. Sanderson said that concern has been made very clear to the property owners. He added that the intent of the property owners was to gain land that would buffer them from public access.

Mr. West commented that with the third option, not only were you eliminating the house lots but the road area as well which was very significant and you were protecting the only upland on the property. From a conservation standpoint, they would do a much better job of protecting the conservation values of the site.

Ms. Blanchard stated that she thought the piece of the property with the most interest to the Conservation Commission was the wetland that was not developable. Given the other scenarios, she said that she did not see the public value in it because of the nature of the site. She remembered that the neighbors were not keen on having a lot of public access and activity on the site. She said that she was most interested in the wetland. She reminded the Commission that Mr. Sanderson once said that if they moved ahead with the subdivision and the City decided that they did not want to acquire any of the property, they would probably deed some of the undevelopable land to the City anyway. Ms. Blanchard said that she could not give this a ringing endorsement to spend all kinds of money because they did not have it to spend.

Chairman Miller said that he understood where Ms. Blanchard was coming from but he was intrigued by the new option. Ms. Blanchard added that she was concerned that she was talking in the dark because she had no idea of what the dollar amount would be. Chairman Miller indicated that he would like to say that they are interested so that they could keep the door open. Ms. Blanchard stated that she would support that.

Ms. Stone asked with regards to option 3, would the grassy part that is currently being mowed continue to be mowed. Mr. Sanderson said that would be a question for the future but he thought probably not.

Ms. McMillan asked if this would add more land to the City-owned land. Mr. Britz said there were a few options; the land could be put into a conservation easement that a private entity could hold, it could be partial park/partial conservation land, or it could be all transition area. He said that there were a lot of options. Mr. Britz said that rather than get into those options, the question before them was to determine whether the development scenarios offered room for negotiations at this point.

Ms. McMillan said that her problem with it was the scenario of the four lots for the price of two lots. She felt that would increase the value of the other lots for the people buying them. She added that all of the property would go off of the tax base for the City. Mr. Sanderson said that all of the land was in current use so if there was any development done at all there would be a land use change tax. He continued to say that if there was any development all of that would become taxable whereas right now it was subject to current use and you pay only minimum tax. Ms. McMillan said that the City would be losing what would be taxable once it comes off of the

current use. Ms. Tanner thought it would be balanced by the fact that the lots would be developed. Ms. McMillan said this was a question that the City Council was going to ask.

Chairman Miller stated that the question was do they want to keep the door open to get more information. Ms. McMillan felt they were talking about a lot of money and she did not feel that they had their priorities figured out enough and that made her nervous.

Ms. Blanchard said that she shared Ms. McMillan's concerns. She stated that she had been a supporter of what a wonderful area this was. She asked Mr. Britz if anyone can spend the Conservation Fund money without the vote of the Commission. Mr. Britz said not the way he understood it. He said that the Commission could be clear that they were not making a recommendation, that they were instead recommending negotiation. Ms. Blanchard said that she was not even comfortable doing that. She explained that the wetland piece was the most valuable piece and the rest of the piece; even with the five lots was so restricted because of its access and its limited use.

Ms. Stone asked if Lots 4 and 5 were a challenge to develop and that was why there were up for consideration. Mr. Britz explained that they would require a conditional use permit.

Ms. Tanner stated that she would like to keep the door open but did not want to commit to anything yet. Ms. Stone agreed. Ms. Blanchard said that she would support that for now but she wanted some realistic numbers when it came back before them. She also wanted some input from the Planning Board as to what use they saw for the land.

Chairman Miller said that he would like to forward to the Planning Board the Commission's interest in more information on the three options with the reservations that have just discussed. He said that he would include some concern about the neighborhood if the City were to acquire the land because he was not sure if the neighbors shared any interest in developing the land for public use. He added that he thought it would be hard to purchase the land for conservation use if it could not be used.

Mr. Sanderson told the Commission that he was trying to complete his promise to the neighborhood that he would run this issue to completion. Mr. Sanderson pointed out that he has not filed a formal application; that he was in the pre-preliminary discussion phase.

After lengthy discussion, Ms. Blanchard made a motion to forward the Mark West report, prepared on the Sanderson land on Spinney Road, along with the minutes of the October 12 Conservation Commission meeting relative to the concerns expressed by the Commission relative to the wetland area, the use of the field in the upland area, regarding for potential acquisition in particular with regard to use of the area should it become Portsmouth public land. The motion was seconded by Ms. Tanner.

Ms. Blanchard stated that the motion was too convoluted because they were trying to accomplish too many things. She just wanted to be sure that what they sent to the Planning Board was not a ringing endorsement of the proposal and to charge forward with it.

Mr. Britz said that what he thought he heard today was that the Commission was interested in the valuable conservation aspects of the property and was interested in finding out what it would take from the Conservation Funds to eliminate the road and as many lots as possible. Chairman Miller added that it was not very realistic to consider acquiring the whole site but he felt they were interested in the lots with frontage on Spinney and Middle Roads and the elimination of the cul-de-sac and additional lots on it.

Ms. Blanchard offered to withdraw her motion so that she could reword it.

Ms. Blanchard made a new motion to forward the West Environmental, Inc. report and the minutes of the October 12, 2011 meeting to the Planning Board, expressing their concerns and incorporating the comments of Mr. Paul Sanderson relative to the five lot proposed development scenario.

Ms. Blanchard asked if this would get to the Planning Board in time for their next meeting. Mr. Britz said that a draft excerpt of the minutes could be completed in time for the next meeting.

The motion was seconded by Ms. Tanner.

The motion to forward the West Environmental, Inc. report and the minutes of the October 12, 2011 meeting to the Planning Board, expressing their concerns and incorporating the comments of Mr. Paul Sanderson relative to the five lot proposed development scenario passed by a vote of 4-1 with Ms. McMillan voting in opposition.

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Additional business concerning land acquisitions - Sagamore Island

Mr. Britz informed the Commission that the owner of the Sagamore island property has offered the sale of the property to the City Council for \$25,000. However, at the same time the owner filed for abatement and received it which lower the property value from \$153,000 to \$21,900. Mr. Britz said that the staff recommendation was to split the difference of \$25,000 and \$21,900 and offer the owner \$23,500. Ms. Tanner asked why they should go above the new property value at all. She thought they should offer \$20,000.

Ms. Tanner made a motion to recommend to the City Council the purchase of the Sagamore Island property for the price of \$20,000 with the money to come from the Conservation Fund. The motion was seconded by Ms. Stone. Chairman Miller asked for discussion.

Chairman Miller stated that his concern with the amount was that he did not want to get into a negotiation war. He did not care whether the amount was \$20,000 or \$23,000. He just wanted to make it happen.

Ms. Tanner said that she did not want to spend any more of their money than they had to.

Ms. Blanchard felt they should offer at the least the assessed value.

Chairman Miller called for the vote. The motion to recommend to the City Council the purchase of the Sagamore Island property for the price of \$20,000 with the money to come from the Conservation Fund failed by a vote of 0-5.

Ms. Blanchard made a motion to recommend to the City Council the purchase of the Sagamore Island property for the price of \$21,900 with the money to come from the Conservation Fund. The motion was seconded by Ms. Tanner. There was no additional discussion.

The motion to recommend to the City Council the purchase of the Sagamore Island property for the price of \$21,900 with the money to come from the Conservation Fund passed by a unanimous (5-0) vote.

2. Discussion on NHACC proposed changes to bylaws

There was no discussion regarding the bylaws.

3. Conservation Commission recognitions

The Commission is considering naming the Loop Trail in honor of Alan Sturgis and the Sagamore Island property in memory of Vice Chairman Jim Horrigan to recognize their many years of service to the Conservation Commission.

4. Loop Trail Work Day

It was announced that a work day would be held on October 29, 2011.

**V. ADJOURNMENT**

At 5:10 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 November 9, 2011.