

**MINUTES OF
REGULAR MEETING
CONSERVATION COMMISSION**

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

3:30 P.M.

October 10, 2007

MEMBERS PRESENT: Chairman Steve Miller; Vice Chairman James Horrigan; Members, Allison Tanner, Skye Maher, Brian Wazlaw, Barbara McMillan, Eva Powers; and Alternate Richard Adams

MEMBERS ABSENT: Mary Ann Blanchard

ALSO PRESENT: Peter Britz, Environmental Planner

I. STATE WETLANDS PERMIT APPLICATIONS

- A. US Route 1 Bypass
Meadowbrook Inn Redevelopment (revised application)
Assessor Map 234, Lot 51
Key Auto Group, owner

Mr. Britz reported that revised plans had been submitted by the applicant that reflected the approved changes from the joint Planning Board / Conservation Commission meeting on September 6, 2007. He told the Commission that the plans were available for review in the Planning Department. He reminded them that the applicant still has to go through the Site Review process.

- B. 48 Ball Street (update)
Assessor Map 207, Lot 53
Rebecca McBeath Harvey, owner

Mr. Britz stated that the State wanted more information concerning the dock that Ms. Harvey was proposing to tear down. He said that Ms. Harvey has provided that information and it is available in the Planning Department for the Commission's review.

II. CONDITIONAL USE PERMIT APPLICATIONS

- A. 333 Borthwick Avenue
NiSource Easement
Assessor Map 240, Lot 2-1
NiSource, Inc., owner

SPEAKING TO THE APPLICATION

Mr. Mike Ball, a wetland scientist with Ensr and Mr. Bart Mederios of Northern Utilities was present to speak to the application. He explained that the application involves the installation of a pressure reducing regulator station on an existing easement at Portsmouth Regional Hospital. He pointed out a rectangular area on the submitted site plan where the work would occur. He said that there was a wetland boundary to the east of the easement and that no work would be occurring in the resource area. All work would be occurring in the buffer zone. Mr. Ball explained that the existing facility consisted of an above ground facility in a small fenced enclosure with an underground pipe. He added that the work would entail putting in the reducing station adjacent to the existing above ground facility. This project would allow Northern Utilities to meet the minimum State safety standards. The work is scheduled to be completed by December 8, 2007.

Mr. Ball stated that one of Mr. Britz's primary concerns with the application was the large amount of graveled areas being proposed. He said that after talking with Northern Utilities, they indicated that they only needed to add gravel inside the new fenced enclosure. Initially, the proposal was to put gravel over the entire easement area. Mr. Ball explained that they were willing to amend the plan and the application to reflect that change. He said that they would be adding gravel to an existing access way which is currently graveled.

Mr. Wazlaw asked the square footage of the new structure. Mr. Ball said the new fenced enclosure would be 50' X 25'. He pointed out that page three of the plans had an elevation view of the new structure with some dimensions.

Mr. Adams asked about the cutting of trees. Mr. Ball referred Mr. Adams to Attachment C of the plans. He said that it was a typical wooded upland. Mr. Mederios added that they were proposing to cut down about six trees.

Chairman Miller asked if it would be possible to shift the new construction towards the hospital and not cut down trees. Mr. Ball replied that he had not discussed that with Northern Utilities but it was his guess that because they will be tying into the existing above ground structure, the proposed location was best. Chairman Miller said that he understood that but he wondered if the length of the pipe could be doubled or tripled and put it at an angle and shift the new construction away from the trees. Mr. Mederios said that the main reason was to keep it off of the existing pipeline that is already there. Chairman Miller thought there still might be room to do something. Mr. Mederios replied that they could take a look at it. Chairman Miller replied that if it does not create a safety or maintenance issue with the gas line it would be greatly appreciated. He added that any tree that could be spared would be a bonus.

Mr. Britz suggested that the Commission could make it a condition to the Planning Board. He asked that if the applicant could not appropriately move the location, would the Commission still want to recommend approval. Chairman Miller replied yes.

Mr. Ball clarified that they would limit the amount of gravel proposed and would indicate that on the site plan. Mr. Mederios stated that the gravel would not exceed the fenced area. Mr. Ball said that they would also explore the possibility of moving the fenced enclosure to the southwest to minimize the impact to the wood upland.

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

DECISION OF THE COMMISSION

Ms. Tanner made a motion to recommend approval of the application with the following stipulations:

- 1) That the new gravel area be reduced to not exceed the fenced enclosure.
- 2) That the fenced enclosure be moved to the southwest if possible to avoid the removal of existing trees.

The motion was seconded by Mr. Wazlaw. Chairman Miller asked for discussion.

Ms. McMillan asked the Commission that if the applicant is not able to move the fenced enclosure, does the Commission still want to recommend approval. The Commission responded yes. They said that they would trust the Planning Board to thoroughly review the application.

Mr. Ball stated that when they revise the plan, they will include a cover letter explaining the changes as well as a letter from Northern Utilities explaining why they can or cannot move the fenced enclosure.

The motion to recommend approval of the application with the following stipulations passed by a unanimous (7-0) vote:

- 1) That the new gravel area be reduced to not exceed the fenced enclosure.
- 2) That the fenced enclosure be moved to the southwest if possible to avoid the removal of existing trees.

- B. 333 Borthwick Avenue
Portsmouth Regional Hospital
Assessor Map 240, Lot 2-1
Portsmouth Regional Hospital, owner

SPEAKING TO THE APPLICATION

Mr. Bill Duffy, representing Portsmouth Regional Hospital and Greg Mickolaities of Appledore Engineering were present to speak to the application.

Mr. Duffy explained that the project was for new landscaping around the Borthwick Avenue entrances. He stated that Appledore Engineering has marked the wetlands to get the correct delineations. He stated that there was 668 square feet of impervious surface being proposed. He explained that the two stone walls would be constructed within the 100 foot buffer. They will be a dry laid stone. He continued to say that underneath the corners, which will be granite stone, will be 5' x 5' footings. Mr. Duffy said that they would like to line Borthwick Avenue with a row of ash trees and behind that, a row of pear and crabapple trees to provide a contrast in color. He said that they are trying to do away with high maintenance landscaping.

Ms. Tanner asked what the ground cover would be underneath the proposed trees. Mr. Duffy said that it would be grass, as it is today.

Ms. Powers asked if they had thought about drip irrigation that uses far less water. Mr. Duffy said that they have not selected the type of head to put on the irrigation system yet but that drip irrigation would be considered.

Ms. Maher stated that the whole issue of irrigation is of a concern to the Commission. She said that she would like to see them incorporate a way to recapture some of the rain water. She added that it would be nice if the hospital could be a leader in it for future developments. Mr. Duffy replied that he would see what he could do. He agreed with Ms. Maher and indicated that they are interested in LEEDS.

Chairman Miller said that storm water connectors or ways to infiltrate the water from parking are important. Mr. Bipolarities responded by saying that they would be back before the Commission within the next three or four months with some of those additions.

Ms. Tanner pointed out that with grass you always have a problem keeping it irrigated and mowed. She said that the gas and oil from mowing could contaminate things. She said that she would like to see ground cover or a low growing flower in place of grass. Several members of the Commission recommended alternatives like day lilies, sweet woodruff, myrtle, and ajuga. Mr. Duffy explained that any plantings would have to be able to withstand salt that will be used in the winter months. Ms. Tanner said that salt is also a concern of the Commission and any reduction in the use of it would be helpful. Ms. Maher pointed out that this was a facility that was built in the middle of the wetlands. She suggested that wetland species would be acceptable to her. Mr. Duffy said that they would be planting some marsh grasses for that same reason.

Vice Chairman Horrigan asked if the number of trees drawn on the landscape plan would be the actual number of trees that would actually be planted. Mr. Duffy replied yes.

Mr. Adams asked what kind of ash trees was being proposed. Mr. Duffy replied that they would be white ash trees. He added that they would be contracting with Salmon Fall Nursery for the plantings. Mr. Adams explained that white ash trees are not good with salt and are currently vulnerable to a particular type of disease and are dying by the dozens in Portsmouth. Mr. Adams pointed out that rather than having a monoculture, have a variety so that if you have a disease, you will lose all of the trees. He suggested a green ash in place of the white ash tree. Mr. Duffy said that he would ask Salmon Falls Nursery about the conditions associated with white ash trees.

Ms. McMillan asked about the small wetland to the west side of the entrance. Mr. Duffy said that there would be no change to that wetland.

Ms. Powers stated if the trees would be a problem with power lines, maybe shrubs should be considered. Mr. Duffy explained that there was a desire to move the power lines toward the street some time in the future. Chairman Miller pointed out that the power lines are so high, 70 feet, that the trees chosen should not be a problem.

Mr. Mikolaities stated that all of the comments from the Commission have been great. He said they would go back to Salmon Falls Nursery with their information. He pointed out that the approval at this point would be for the retaining walls and sidewalks.

Chairman Miller asked if the Trees and Greenery Committee deals with species selection. Mr. Britz replied only for City property. He added that landscaping is reviewed in Site Review by the Planning Board.

DECISION OF THE COMMISSION

Ms. Maher made a motion to recommend approval of the installation of the retaining walls and sidewalks at the hospital entrance as proposed and to ask for a new landscape plan that incorporates multiple species, mulch or ground cover in place of grass, and drip irrigation. The motion was seconded by Vice Chairman Horrigan. Chairman Miller asked for discussion.

Ms. Powers stated that since the applicant was putting impervious surface in the buffer area, the mitigation served as a good tradeoff.

Mr. Britz pointed out that the Planning Board would be seeing the revised landscape plan. He asked the Commission if they felt they needed to see it as well. Ms. Maher said no as long as Mr. Britz reviews it and relays the Commission's recommendations to the Planning Board.

Vice Chairman Horrigan thanked the applicant for their proposal and that he liked the plan.

Ms. McMillan asked if there would be plantings in the small wetland by the entrance. Mr. Duffy said that there was one pine tree but it was outside of the wetland. Mr. Mikolaities explained that the area Ms. McMillan was referring to was already under a permit that was issued three years ago and would expire in December of 2008.

Chairman Miller asked if there were any more questions. Hearing none, he called for the vote.

The motion to recommend approval of the installation of the retaining walls and sidewalks at the hospital entrance with the following stipulations passed by a unanimous (7-0) vote:

- 1) That a new landscape plan be submitted that incorporates multiple species, mulch or ground cover in place of grass, and drip irrigation.

Ms. Maher asked if it would be a good idea to have an evening meeting with local landscapers to talk about what the Conservation Commission is looking for with regard to projects. Chairman Miller thought that was a good idea and that it would help applicants.

Ms. Tanner stated that they should also be encouraging rainwater reutilization with new developments.

Mr. Horrigan said that the recent controversy on the proposed zoning ordinance change on Lafayette resulted in proposed landscaping requirements that he thought was interesting.

Mr. Wazlaw said that he is concerned about the expansion of the hospital. He said that the Commission would have to look at some alternatives if they hospital wants additional parking. Ms. Tanner said that she hoped that they could incorporate parking regulations in the new zoning ordinance.

III. OTHER BUSINESS

Mr. Britz invited the Commission to attend a Planning Board public hearing on October 18, 2007 concerning an RDI-PUD. He explained that the RDI-PUD was an incentive for low income housing. He said that he would send the Commission more information

Chairman Miller asked the Commission to share their suggestions concerning the proposed changes to the Zoning Ordinance. He explained that some of the more specific details could be worked out at a later date. The Commissioners had handouts that they gave to each other for review.

Mr. Horrigan began the discussion by sharing his ideas for proposed changes concerning buffer zones. He said that he tried to work within the current zoning ordinance and Mr. Rick Taintor's recent version rather than create something new. He explained in detail his recommended changes to the following sections of Mr. Taintor's draft: Purpose, Delineation of Inland Wetlands, Inland Wetland Buffers, Conditional Uses, and Exemption for Residential Structures, Impoundments and Maintenance Dredging. He also added a Best Management Practices statement and definition for the Definition section. Mr. Horrigan suggested deleting the following sections as they presented loop holes for various projects: section 10:813.64.3, section 10.813.65, and section 10.813.74. He explained his reasoning for recommending the deletions.

Ms. Tanner added that under Article XV, Definitions, a definition of sustainable practices would be helpful also.

Chairman Miller pointed out that Portsmouth defines the word "buffer" as a setback. At the Storm Water Center at UNH, their definition of "buffer" is a forested or vegetative buffer that functions ecologically. In Portsmouth, the buffer can be grass from the waters edge to 100 feet away.

Ms. Maher said that one of the problems the Commission faces is that they are working with developed land and so there are not many existing buffers left. She pointed out that they should be thinking about what they can ask people to do to improve what is already there. She stated her discontent with what happened with the Home Depot site. Mr. Horrigan asked if something could be added to the landscaping screening section to keep those problems from happening again. Chairman Miller thought that was a good idea. Ms. Maher said that when they write their proposed recommendations and changes for the new ordinance, they should focus on the fact that they are not dealing with pristine land.

Ms. Tanner explained her recommendations pertaining to wildlife habitat. She stated that she tried to incorporate her suggestions into the ordinance. She took the permitted uses and enhanced them for wildlife and open space.

She explained that an initial resource assessment, including identification and location of the types of vegetation, should be done to determine what types of habitats are in Portsmouth. She pointed out that

there are many areas that need to be preserved. Ms. Tanner also shared a document called the NH Wildlife Action Plan that she found on the NH Fish and Game website. Ms. Tanner said that this document shows that there have been some calculations done as to wildlife habitat in the Seacoast area. Mr. Britz stated that they could try to get a grant to document wildlife habitats in the area. He added that some of the City's Conservation Fund might be used to help fund the project.

Ms. Tanner stated that perhaps high school students in need of community service points might be willing to help with such a project. Mr. Britz pointed out that additional guidance would be needed with students and there would be safety concerns as well. He added that just having students go out and take pictures would be a big help.

Mr. Wazlaw discussed his recommendations concerning vernal pools. He stated that he tried to find an appropriate definition of vernal pools. He gathered information from the Natural Heritage and Endangered Species Program and pointed out that a lot of emphasis was placed on the vernal pool boundary. A lot of activity of vernal pools occurs at the boundary of the soil and water line. He added that other activity takes place in the middle and bottom of the vernal pool where there is less oxygen and the water is warmer.

Mr. Wazlaw said that the Massachusetts Division of Fisheries and Wildlife has unique classification criteria for vernal pools, one based on salamanders and the other based on frogs. He told the Commission that he found a definition of vernal pools that he thought was appropriate – under B.1 Definitions. He explained that the definition mentions that it be free of adult fish population which seems to be the determining factor of whether it is a vernal pool or not. Mr. Wazlaw also pointed out that other towns treat vernal pools in the same way they treat a wetland. He said that if there was a vernal pool in an upland area, there is no protection for it right now under the current ordinance.

Mr. Horrigan stated that the State lays claim to identified vernal pools. Ms. Powers added that Jim Powers has submitted a bill to protect vernal pools and was looking for individuals to testify about them.

Chairman Miller asked how vernal pools get identified. Mr. Wazlaw replied by a certification process but he did not think that New Hampshire had one. Ms. Maher explained that a vernal pool can be identified by a wildlife scientist and submitted to the Natural Heritage Foundation. Mr. Wazlaw wondered if they could recommend their own certification process. The Commissioners thought that was a good idea.

Mr. Britz pointed out that wetlands can be identified at any time of year whereas vernal pools have just a window of opportunity. Mr. Wazlaw said that if you have an area that has dried up, there are some species that will survive in the moist soil. Ms. Tanner added that reeds will also be present when there is no water.

Ms. Maher stated that Professor Jim Taylor of the University of New Hampshire has been running the RAP program, which is a reporting system for amphibians and reptiles. She said that they have reported spots in Portsmouth. She added it would be difficult to get on private land. Ms. Tanner pointed out that the upcoming walk of Sagamore Creek would be a great way to bring awareness to identifying vernal pools.

Mr. Adams stated that his assignment was to begin to craft a tree ordinance. He felt it was an easy assignment. He incorporated his own ideas as he did not have any documents to work from.

Mr. Britz said that he recommended moving the setbacks on Sagamore Creek and the North Mill Pond out of the Board of Adjustment's hands and into the Conservation Commission's and Planning Board's hands. He pointed out to the Commission that his handout gave them an overview of the Shoreland Protection Act.

Chairman Miller suggested that the Commission meet for a work session to coordinate all of the information shared at this meeting and prepare it for submittal to Rick Taintor. He encouraged the Commission to take everything home and read it prior to meeting again. The date of November 7, 2007 at 3:30 p.m. was selected as the date for the work session.

Ms. Maher said that she would work on some recommendations concerning sustainability and would bring it to the next meeting.

IV. APPROVAL OF MINUTES

September 12, 2007

It was moved, seconded, and passed unanimously to approve the minutes as presented.

V. ADJOURNMENT

At 5:35 p.m., it was moved, seconded, and passed unanimously to adjourn the meeting.

Respectfully submitted,

Liz Good
Conservation Commission Secretary

These minutes were approved at the November 14, 2007 Conservation Commission meeting.