

**MINUTES
REGULAR MEETING
CONSERVATION COMMISSION**

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

3:30 P.M.

March 10, 2010

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 – February 10, 2010

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

II. NEW BUSINESS

1. Property offered to the City for purchase

Mr. David Choate, real estate broker representing the John Cronin property was present to speak to the Commission. He stated that the property consisted of 3.83 acres with some significant wetlands on it.

Mr. Choate said that Mr. Cronin would like to keep his house on the lot but sell the rest of the property to the City for conservation land. He pointed out that the property abuts the Portsmouth Toyota property. He thought it might be in the best interest of the City to own land abutting the Toyota property. He explained that he has presented this to the City Council but asked them to hold off discussion with other boards until the Conservation Commission could discuss it. Mr. Choate asked the Commission if they thought the land was worth preserving.

Chairman Miller asked Mr. Choate if he had a percentage of wetlands and a percentage of uplands on the property. Mr. Choate stated that they have not done that analysis but it looked to be about a 50/50 split. He pointed out that a survey was done in July of 2006 by Jim Gove.

Vice Chairman Horrigan wondered if some of the property was built on fill. Mr. Choate did not know but he thought that some of the property was excavated when Interstate 95 was built and that some of the wetlands were created because of that.

Vice Chairman Horrigan asked what the City would pay for the property. Mr. Choate said that according to the City Manager, the City would not pay anything for it except for the cost of the transaction. He said that Mr. Cronin has indicated that he would like \$250,000 for the property. Mr. Choate said that the City Manager's and possibly the Planning Board's position was that they did not want to expend any City funds for this. He thought that perhaps there were organizations that might be interested in partnering with the City to acquire the land. Mr. Choate pointed out that Portsmouth Toyota, an abutter, has shown interest in some of the property. He said that Mr. Cronin was not interesting in selling just a strip of land.

Chairman Miller stated that given the isolated nature of the parcel, he wondered who could be approached from a conservation standpoint. Mr. Britz said that the parcel had some value but he was not thinking in terms of acquisition value but in protection value. He pointed out that it did not really have any development potential but that it would be nice to protect that side of the stream.

Ms. McMillan stated that it had to be a wildlife corridor because the deer are always crossing the road. She said that she sees them fairly often. Ms. Tanner commented that the stream that runs through the property runs through her property, under a culvert on Greenleaf Avenue and forms some of the headwaters of Sagamore Creek.

Chairman Miller suggested that the Conservation Commission talk to the Planning Board. Mr. Britz also suggested that the owner talk to other potential buyers.

Mr. Wazlaw thought it would be helpful to have some additional data such as percentage of uplands, percentage of wetlands, species of trees and wildlife before any organization is approached. Mr. Choate said that he could speak to Mr. Cronin about that. He also said that if he were the City, he would really want to own property next to Mr. Boyle's Toyota property.

Chairman Miller explained that the Commission was nearing the end of the Public Undeveloped Lands Assessment. He did not know if the Commission would be in a position to make movement on other lands, even if they had the money, until they get a sense of the study and make decisions on where they want to move with their conservation lands. He suggested that Mr. Choate talk with Southeast Land Trust and Great Bay Resource Protection Partnership. Ms. McMillan suggested he look into the aquatic resource mitigation funds.

Vice Chairman Horrigan commented that this piece of land, if acquired, would provide a permanent buffer for the neighborhood from the Toyota expansion projects. He felt it was an interesting proposition.

Mr. Choate stated that he would like to relay to the City Council that there was some interest from the Commission and that he would get more information for them. Chairman Miller thought that was reasonable and encouraged him to explore partnerships with some of the organizations that were suggested.

Mr. Choate explained that the City Manager agreed to keep the item off of the City Council agenda until the Conservation Commission had a chance to meet. He said that they had some homework to do. He added that he liked the idea of mitigation. He thanked the Commission for their input.

III. STATE WETLANDS BUREAU PERMIT APPLICATIONS

- A. Standard Dredge and Fill Application
800 Lafayette Road
Sureya M. Ennabe Revocable Living Trust, c/o C.N. Brown Company
Assessor Map 244, Lot 5

Mr. Peter Loughlin, attorney for the applicant, Mr. Tom Saucier, of SYT Design, and Mr. Kevin Moore of C.N. Brown were present to speak to the application.

Attorney Loughlin stated that he has been before the Commission several times recently and felt they had a good grasp of the project. He asked if they had any questions.

Ms. Tanner said that the last time Attorney Loughlin was before the Commission, he mentioned that there was a problem with the plan because the new zoning ordinance required parking behind the building. Attorney Loughlin explained that they have applied for a variance concerning that issue and said it would be on the next Board of Adjustment agenda for March 23. Ms. Tanner asked if the Commission was still to look at the original proposal with the parking in the front of the building. Attorney Loughlin replied yes.

Chairman Miller asked if the total reduction of pervious pavement has remained that same as the conditional use permit application. Attorney Loughlin replied yes.

Ms. McMillan asked if there was a maintenance plan for the site. Mr. Saucier explained that it would be incorporated into the Planning Board submission for site review. Attorney Loughlin pointed out that they have not gotten to that step yet but that the Planning Board made it very clear that they wanted to see details of best management practices on the plans.

Hearing no other questions, Mr. Wazlaw made a motion to recommend approval to the State Wetlands Bureau. The motion was seconded by Ms. Tanner. The motion passed by a unanimous (6-0) vote.

IV. CONDITIONAL USE PERMITS

1. 187 Wentworth House Road
J.P. Nadeau, owner
Witch Cove Marina Development, LLC, applicant
Assessor Map 201, Lot 12
(This item was postponed at the February 10, 2010 meeting to the March 10, 2010 meeting.)

Mr. J.P. Nadeau, representative of Witch Cove Marina Development, LLC was present to speak to the application. He gave the Commission additional information and explained that after the last meeting, he met with Mr. Britz and said that he was very helpful in explaining what information was needed on the plans. He told the Commission that the plans they had before them were updated and showed everything that was there. It was also noted that the 2 ½ story building was 568 square feet in the wetland buffer and 7 square feet in the tidal buffer. The 1 ½ story building was 555 square feet in the wetland buffer with nothing in the tidal buffer. Currently, both houses were entirely in the special flood hazard zone and flood zone X. If approval was given to move the buildings, both buildings would be out of the flood zones. Mr. Nadeau said that the 2 ½ story building would encroach in the wetland buffer by 297 square feet and the 1 ½ story building would encroach in the tidal buffer by 425 square feet. He said that he has provided for an area of seeding with conservation grass/wildflower mix. He also pointed out the areas where he was proposing fencing.

Mr. Nadeau stated that there would be a 2% reduction in impervious area. He also pointed out the memo from Steve Oles of MSC, Inc. explaining the drainage from the roofs.

Mr. Britz said that he talked with Mr. Nadeau about putting more detail in the plan. He pointed out that they talked about not putting any lawn in because it would be completely in the buffer. He felt the lawn was not necessary and suggested conservation mix instead. He also said that he thought the patios could be moved to the sides of the houses to remove them from the buffer. He added that the patios were not part of the variance granted by the Board of Adjustment. Mr. Britz also said he asked Mr. Nadeau to address how the soil would be treated. He did not see that in the plan. Mr. Nadeau stated that people like to sit out in front of their home. He thought they were proposing quite a large area of the conservation mix and were improving the site significantly, from an environmental standpoint. With regard to the soil, Mr. Nadeau explained that they planned to excavate and put in what was required. He said he did not understand what Mr. Britz was asking for. Mr. Britz reminded Mr. Nadeau that they talked about having a landscaping plan. Mr. Nadeau stated that he did not understand that he would need a full scale landscaping plan. He said that it was not that detailed; they were just putting in conservation mix. He added that he talked to a landscaper who thought the landscaping plan was not necessary. He did not understand that he needed a formal plan.

Ms. Tanner stated that she agreed with Mr. Britz regarding the lawn. She did not think that anything that took oil or gas was a good idea in the buffer. She also felt the patios could be moved to the sides of the houses.

Chairman Miller commented that he felt more comfortable that they were improving the buffer. He said that one thing that would really improve the buffer would be to plant a low shrub berm at the lower edge of the lawn that would enhance the capture of storm water. Mr. Nadeau stated that he had no problem with that and thought it would look nice.

Mr. Nadeau stated that the view from the patios was toward the water in order to make the buildings more desirable.

Vice Chairman Horrigan asked about the privacy fences. Mr. Nadeau explained that they would be about 4 feet high.

Vice Chairman Horrigan pointed out that the driveway was going to be impervious. He said that prior plans showed it as pervious. He wondered why it had changed. Mr. Nadeau explained that they were asking for a lot back then and at that time they decided to use impervious. Ms. McMillan said that she recalled Mr. Nadeau stating at the last meeting that they would use pervious pavement. She added that it could be checked in the minutes. Mr. Nadeau said that he did not have a problem with using pervious pavement.

Ms. McMillan asked Chairman Miller where he was suggesting the berm area. Chairman Miller said at the edge between the lawn area and the conservation grass/wildflower mix area. Ms. McMillan also suggested that the plantings be on the house side of the fence. Vice Chairman Horrigan added that he agreed with that suggestion and pointed out that if there was not some type of demarcation, there would be a tendency to expand the lawn all the way to the creek.

Vice Chairman Horrigan told Mr. Nadeau that the Commission had a copy of his Shoreland Impact permit. Mr. Nadeau stated that it was a dead issue. He pointed out that it was in regard to an old plan when he was proposing three houses. He stated that there was no way there would be three houses on the site. He reiterated that that plan was dead.

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

Mr. Wazlaw made a motion to recommend approval of a conditional use permit to the Planning Department with conditions. The motion was seconded by Vice Chairman Horrigan.

Chairman Miller stated that he would like to stipulate that a raised berm of low shrubs be planted demarking the lawn area from the conservation grass/wildflower mix area.

Mr. Britz suggested that the Commission should recommend that it be shown on a plan when it goes to the Planning Board. He had a concern that it would not show up on the plan. Mr. Nadeau stated that he would have it included on the plan.

Ms. McMillan stated that she would like to stipulate that the shared driveway to the houses was constructed with porous material and followed the recommendations of the UNH Storm Water Center.

Mr. Wazlaw confirmed that this stipulation would be included on the plan going to the Planning Board as well. Chairman Miller said that was correct.

Mr. Wazlaw asked where the Commission was with regard to the patios. He said he realized views were important but he stated that his concern at the last meeting was the amount of house in the tidal buffer. If the patios could be placed on the side or in another location, it would lessen the impact in the buffer. Ms. Tanner stated that she that she could not vote in favor of the application with the patios in the buffer. There was considerable discussion about where the patios could be relocated to. Chairman Miller felt the patios were reasonable given the other improvements of the buffer. Mr. Britz cautioned the Commission about designing the project for the applicant.

Ms. Tanner stated she would like to add the stipulation that the patios be removed from the tidal buffer.

Chairman Miller added that the fourth stipulation should be that the above conditions are to be shown on the plan submitted to the Planning Board for their review before approval is granted.

Mr. Britz wanted the Commission to be aware of an area of the buffer where the houses were being removed from which showed the use of crushed gravel.

Hearing no other discussion, Chairman Miller called for the vote. The motion to recommend approval of a conditional use permit to the Planning Department with stipulations passed by a unanimous (6-0) vote:

- 1) That a raised berm of low shrubs is planted demarking the lawn area from the conservation grass/wildflower mix area.
- 2) That the shared driveway to the houses is constructed with porous material and follows the recommendations of the UNH Storm Water Center.
- 3) That the patios on both houses are removed from the tidal buffer.
- 4) That the above conditions are shown on the plan submitted to the Planning Board for their review before approval is granted.

2. 56 Dennett Street
Robert A. and Eileen C. Mackin Living Trust, owner
Assessor Map 140, Lot 13

Mr. Bob Mackin and Mrs. Eileen Mackin, owners of the property were present to speak to the application. Mr. Mackin stated that he felt the application was straightforward. He said they would like to build a shed on their property but it happened to be in an area where it was affected by the wetlands. He added that they would have to go before the Historic District Commission as well.

Chairman Miller asked if there were any questions for the applicants. Mr. Wazlaw reiterated that it was straightforward. Vice Chairman Horrigan stated that he appreciated their protecting the perennial gardens.

Hearing no other discussion or questions, Chairman Miller called for a motion.

Mr. Wazlaw made a motion to recommend approval of a conditional use permit to the Planning Department. The motion was seconded by Ms. Tanner. There was no additional discussion.

Chairman Miller called for the vote. The motion to recommend approval of a conditional use permit to the Planning Department passed by a unanimous (6-0) vote.

V. OTHER BUSINESS

There was no other business to come before the Commission.

VI. ADJOURNMENT

At 4:50 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 April 14, 2010.