



Memo

TO: Conservation Commission Members
FROM: Peter Britz, Environmental Planner
DATE: May 7, 2021
SUBJ: May 12, 2021 Conservation Commission Meeting

500 Market Street

This project proposes replacement of existing decks on three buildings on Nobles Island. The decking is at the rear of each building overlooking but not over the water. The proposed deck replacement will maintain the existing footprint but includes new concrete footings to support the decks.

According to *Article 10 Section 10.1017.50* the applicant must satisfy the following conditions for approval of this project.

1. *The land is reasonably suited to the use activity or alteration.* Given that the current decks are in need of repair and the applicant is not proposing to expand the footprint the land is suited to the activity. The only change to the design is the addition of concrete piers under the replacement deck in an unvegetated area.
2. *There is no alternative location outside the wetland buffer that is feasible and reasonable for the proposed use, activity or alteration.* There is no location outside of the buffer that is reasonable given this is a replacement of the existing decks that are failing in place.
3. *There will be no adverse impact on the wetland functional values of the site or surrounding properties.* As long as erosion control measures are put in place to protect the tidal areas, as described in the submitted plans, the proposed project will not create any new impacts to the wetland or wetland buffer as described by the applicant.
4. *Alteration of the natural vegetative state or managed woodland will occur only to the extent necessary to achieve construction goals.* The proposed project may have a temporary impact on the small lawn area at the top of the bank. According to the applicants plans this area is specified to be replanted once the work is complete.
5. *The proposal is the alternative with the least adverse impact to areas and environments under the jurisdiction of this section.* The proposal is replacing an existing condition with a structurally improved condition. Given the work is proposed in a largely unvegetated portion of the buffer with no change in footprint this is the least adverse impact possible for the proposed work.
6. *Any area within the vegetated buffer strip will be returned to a natural state to the extent feasible.* The area of lawn at the top of the bank should be revegetated where impacted by construction. Given the narrow width there is not much opportunity to plant shrubs or larger vegetation and allow access behind the buildings.

Recommendation: Staff recommends approval of this application as presented.

Shearwater Drive

This project is an area that the Kane Company along Commerce way has been working to improve since June of 2019. The contractor hired to clear the invasive species cut a much larger area than was planned by the property owner and extensively cut vegetation in the wetland and wetland buffer. The cutting of vegetation in the wetland and wetland buffer is not allowed without a Wetland Conditional Use permit therefore this is an after the fact application.

According to *Article 10 Section 10.1017.50* the applicant must satisfy the following conditions for approval of this project.

1. The land is reasonably suited to the use activity or alteration. The applicant has stated their intention to clear trash and invasive species from this parcel. While that activity is permitted and would not normally need a wetland conditional use permit the extent of clearing exceeded what is allowed under our wetland regulations.

2. There is no alternative location outside the wetland buffer that is feasible and reasonable for the proposed use, activity or alteration. The proposed location is where the work was proposed but the applicant went beyond the area where they had stated they would be clearing and mowed down a large area of wetland vegetation removing habitat, and creating ruts and the potential for erosion.

3. There will be no adverse impact on the wetland functional values of the site or surrounding properties. This project did create a temporary impact as they mowed down wetland vegetation exposed slopes by drainage ways and created ruts. However, once the violation had been identified the applicant was responsive and took immediate action to protect the erosion areas and stabilize the site. Once the site was stabilized the vegetation was allowed to return and the site is returning to a vegetated emergent wetland.

4. Alteration of the natural vegetative state or managed woodland will occur only to the extent necessary to achieve construction goals. This is the main issue with this project. A large area of wetland vegetation and the vegetated buffer were mowed without a wetland conditional use permit. While there are certainly short term impacts from this work the applicant appears committed to allow the area to restore naturally.

5. The proposal is the alternative with the least adverse impact to areas and environments under the jurisdiction of this section. Not mowing the wetland would have been less impacting. The fact that there was no fill placed in the wetland area and no major changes to the site beyond the mowing will mean the site can restore itself to its former condition.

6. Any area within the vegetated buffer strip will be returned to a natural state to the extent feasible. The plan is to allow the vegetated wetland and vegetated buffer strip to restore naturally using the existing seed bank in the soil on the site.

Recommendation: Staff recommends approval of this application with the following stipulations:

1. The applicant install signage to clearly describe the 25' buffer outside of the wetland area as proposed by the applicant.
2. The applicant provide a letter report at the end of the summer of 2021 with photos and a description of the installed signs and the extent of the vegetated regrowth on the site.