

**REGULAR MEETING
CONSERVATION COMMISSION
1 JUNKINS AVENUE
PORTSMOUTH, NEW HAMPSHIRE
EILEEN DONDERO FOLEY COUNCIL CHAMBERS**

4:00 P.M.

April 10, 2024

MINUTES

MEMBERS PRESENT: Chair Samantha Collins; Vice Chair Barbara McMillan; Members; Lynn Vaccaro, Jessica Blasko, Stewart Sheppard, Adam Fitzpatrick; Alternates; Talia Sperduto, Brian Gibb

MEMBERS ABSENT: Alice Carey

ALSO PRESENT: Kate Homet; Associate Environmental Planner, Peter Britz, Director of Planning and Sustainability

[6:29] Chair Collins opened the meeting.

I. APPROVAL OF MINUTES

1. March 13, 2024

[6:55] J. Blasko made a motion to approve the minutes as presented. Vice Chair McMillan seconded the motion. The motion passed unanimously (6-0).

II. WETLAND CONDITIONAL USE PERMIT APPLICATIONS (OLD BUSINESS)

1. 224 Broad Street, Unit 3
Perkins Kwoka Joint Revocable Trust, Katelyn E. & Rebecca P. Kwoka Trustees,
Owners
Assessor Map 131, Lot 13

[7:29] Rebecca Perkins Kwoka came to present this application and noted that they left off the last time with feedback requested from the Commission. This included a planting plan, the location of the perforated drainage pipe and its outlet, along with proposed grading elevations. The most recent plans have since been revised to include these pieces of information.

[9:12] Commission Members Vaccaro and Sheppard arrived.

[9:35] J. Blasko made a motion to recommend approval of the application as presented. Vice Chair McMillan seconded the vote. Vice Chair McMillan thanked the applicant for the details included and the native species included within the planting plan. The motion passed

unanimously (7-0) with S. Sheppard abstaining from the vote.

[10:45] Chair Collins announced that B. Gibb would be voting in place of A. Carey in her absence.

III. WETLAND CONDITIONAL USE PERMIT APPLICATIONS (NEW BUSINESS)

0 Maplewood Avenue
City of Portsmouth, Owner
Assessors Map 124, Lots 2 – 3

[11:01] Chair Collins announced this application and noted that the applicant should present both their WCUP and NHDES application at this time.

[13:15] Dan Rochette of Underwood Engineers, came to present this application with David Desfosses (City of Portsmouth), Jake Stoddard (Underwood Engineers) and Tom Ballestero (UNH Salt Marsh Consultant). Mr. Rochette proceeded to explain the City sewer separation project and the resulting salt marsh restoration project via a PowerPoint presentation. The existing drainage system that currently outfalls into the North Mill Pond is undersized and needs greater capacity to be able to handle increased stormwater. This work is part of an EPA consent decree to separate storm water and sewer services. An additional pipe is proposed to be placed adjacent to the existing, this will include a reconstructed headwall to accommodate a second pipe, increased flow capacity, relocated headwall that will now be closer to shore, treatment to reduce nutrient loading and restoration of a previously degraded salt marsh area adjacent to the headwall. It was noted that all the pipe installation within the buffer will be noted as temporary impacts on their final NHDES plans. The applicant is also awaiting a response from the NH Fish and Game department regarding the NHB review which noted the presence of American Eel in the area.

[30:03] Chair Collins asked who would be performing the post-construction monitoring of the marsh restoration. Mr. Rochette noted that it would be a third-party wetland scientist. Chair Collins asked for clarification on what would be in the operations and maintenance manual and when it would be created if it hasn't already. Mr. Rochette noted that it had not been finished and would include maintenance such as debris removal, cleaning the rack line, and ensuring plant survival.

[32:20] Mr. Ballestero noted that the Cutts Cove marsh restoration was a good example for maintenance as they have had to replant three times due to geese. For the operations and maintenance plan the wetland scientist will often oversee assessing the plantings, the species and the status of their density. He went on to describe the maintenance of other similar sites in the area as well as impacts from sea level rise that could occur.

[34:16] L. Vaccaro asked how the salt marsh plants would be planted – whether they would be plugs or sod planting. Mr. Ballestero responded that they had not yet decided what to use but it would likely be the plugs. He went on to describe the difference between the two and their abilities to survive in different conditions.

[35:59] S. Sheppard asked if there had been any coordination between this project and the Maplewood Avenue Bridge project. Mr. Desfosses responded that while the projects will be close to one another, they do not believe there will be any interaction between the two of them. The alcove of the proposed site was chosen due to its low velocities which could prove to help with the success of the marsh establishment.

[37:16] Vice Chair McMillan asked what the timing of the project would look like. Mr. Rochette responded that they had not yet decided on the best time for planting but had identified the summer of 2025 as an option unless other seasons are better suited for marsh planting.

[38:22] Vice Chair McMillan asked about the existing access for people to get to the site and wondered if fencing is going to be installed for geese, if there could also be signage for people. Mr. Rochette noted that they could do educational signage to note how sensitive the area is.

[39:37] L. Vaccaro asked how thick the fill would be at its thickest point. Mr. Rochette responded that he believed it would be around 2.5 feet. L. Vaccaro followed up with a question about their conversations with NHDES and how fill impacts the discussions. Mr. Rochette responded that fill hadn't come up as a topic of concern, mostly they focused on the overall layout of the marsh and how to build it, especially with the sill face. NHDES had noted to the applicants that because they were trying to re-establish a marsh in this area, they would be amenable to using stone stabilization for keeping the marsh up.

[43:28] Vice Chair McMillan asked what it entailed to eliminate the existing drainage swale. Mr. Rochette explained that they plan to regrade the existing swale so that the berm becomes a constant height all the way across the edge of the site so water cannot go up and over it. All the water flowing through the lot will now be directed into a catch basin for treatment. The existing area that is eroding will be part of the new marsh. Vice Chair McMillan asked what the plan was for planting in the buffer areas that are above the new pipe if there would need to be maintenance down the line. Mr. Rochette noted that he hadn't considered what plantings would go there but usually they would try to establish turf in areas such as this. Vice Chair McMillan noted that it should probably be replaced with something that is not just turf but more of a conservation or wildflower mix which the applicant is amenable to.

[47:24] L. Vaccaro mentioned that there is going to be stormwater treatment more upstream will be designed for treating something along the lines of the first ½" or 1" of a rainstorm, whereas we get above and beyond that with our current storms. She wanted to know what the rationale is for not choosing a larger sized stormwater pipe. Mr. Rochette noted that this was a standard decision for stormwater guidelines in what is called a 'first flush' style treatment. The proposed treatment units will also help to slow down the flow and what is proposed is consistent with what has been installed around the City recently. Mr. Ballestero also answered the question about rainfall depths and which stormwater designs work best in this area.

[53:57] S. Sheppard asked what the risk was of having to come back and redesign the stormwater system in ten years if we continue to get increased moisture in the air and heavier storms. Mr. Ballestero responded by discussing how the climate extremes are changing, not necessarily the medians for rainfall depth or storms. He went on to explain that most of the pollutants come in

with the first ½” to 1” of stormwater which is what they will continue to size their treatment systems for.

[55:57] Vice Chair McMillan made a motion to recommend approval of the wetland conditional use permit with the following stipulations:

1. *In accordance with Section 10.1018.40 of the Zoning Ordinance, applicant shall install permanent wetland boundary markers. These markers shall be placed along the 25’ vegetative buffer at intervals of every 50’ along the City-owned property. These must be installed prior to the start of any construction. These can be purchased through the City of Portsmouth Planning and Sustainability Department. In addition to the wetland boundary markers, an educational sign describing the project shall be installed near the restoration area and fencing should be utilized to keep disturbances such as dogs and geese from the area.*
2. *A long-term maintenance schedule and plan be included in the permit application and submitted to the Planning & Sustainability Department that commits to long-term maintenance of the marsh restoration area and a commitment to ensuring a marsh migration pathway for marsh adaptation impacts from climate change on City-owned land.*
3. *A note will be added to the plans stating that all soil and plant material excavated on site shall be removed and disposed of off-site, as recommended by the TES Environmental Consultants LLC report.*
4. *All necessary approvals from involved property owners will be acquired prior to the issuance of a City building permit and prior to any associated approvals from the New Hampshire Department of Environmental Services.*
5. *A conservation seed mix or other appropriate native species seed mix and/or plantings shall be used for surface areas disturbed by the pipe installation within the wetland buffer.*

[58:40] J. Blasko asked if the cemetery committee had any involvement with this project. K. Homet responded that they have their own project that involves replacing a section of the retaining wall along the graveyard adjacent to the restoration site. Mr. Desfosses noted that the applicant team has been working in tandem with the cemetery committee to restore that area.

[1:00:10] Chair Collins expressed her excitement for the project and noted that it could be a great example of success for other marsh projects in the area. A vote was called. The motion was approved unanimously (7-0).

[1:00:51] Vice Chair McMillan made a motion to move the NHDES application for 0 Maplewood out of order and hear it next. J. Blasko seconded the motion. The motion passed unanimously (7-0).

IV. STATE WETLAND BUREAU APPLICATIONS (NEW BUSINESS)

1. Dredge and Fill – Major Impact
0 Maplewood Avenue
City of Portsmouth, Owner
Assessors Map 124, Lots 2 – 3

[1:01:18] S. Sheppard made a motion to recommend approval of the NHDES application with the same stipulations as the wetland conditional use permit. B. Gibb seconded the motion. The motion passed unanimously (7-0).

2. Dredge and Fill – Major Impact
Public Service Company of NH, d.b.a Eversource Energy, Owner
Map 121 Lot 1, Map 165 Lot 14, Map 213 Lot 11, Map 214 Lots 1, 2, and 3, Map 216
Lots 1-10 and 1-11, Map 240 Lot 2-1, Map 259 Lots 1 and 15, Map 278 Lot 1, Map 280
Lot 3, and Map 281 Lot 1

[1:01:53] Chair Collins introduced this application.

[1:02:14] Conor Madison of GZA Environmental came to present this application as a consultant for Eversource. Also present was Jeff Jackson from Eversource's Community Relations division. He noted that they presented back in February to present their conditional use permit for the same exact project and have since started working with the Planning Board to complete that. He gave a brief recap of the project and the proposed impacts.

[1:06:44] Vice Chair McMillan mentioned that she had trouble accessing Appendix D and could not find it in the submitted packet. It referenced an NHB report and the presence of blanding turtles. Mr. Madison noted that the appendix was the NHB Data Check which had just recently been updated to look for yellow tufted loosestrife and hairy-fruited sedge. Nothing was found in the right-of-way. Another update was performed where they are now required to go out and survey for American reed and great bay reed in addition to the rest. They now have Fish and Game recommendations for reptiles and training for blanding turtle interactions and surveying.

[1:09:23] S. Sheppard made a motion to approve the Eversource Standard Dredge and Fill permit as presented. A discussion ensued about previous stipulations put onto the conditional use permit. L. Vaccaro seconded the motion. The motion passed unanimously (7-0).

3. Dredge and Fill- Minor Impact
333 New Castle Avenue
Kimberly and Thomas Lyng, Owners
Assessor Map 207, Lot 2

[1:10:57] Chair Collins introduced this application.

[1:11:08] Steve Riker from Haley Ward came to present this application on behalf of the property owners. He noted that the application was improperly labeled as a Minor Impact and was, in fact, a Major Impact permit. He then went into detail about the proposed project which includes the removal of the existing tidal dock and the replacement with a larger dock. This proposed new dock will have a 4 x 12' accessway, a 4 x 20' pile supported fixed pier, a 3 x 20' aluminum gangway and a 10 x 20' float secured by helical moorings. He went on to describe the proposed elevations, impacts from sea level rise and tidal cycles, and how the dock will be constructed.

[1:17:40] Chair Collins asked that no lighting be used on the dock. Mr. Riker responded that he could place a note on the plans indicating this.

[1:17:59] T. Sperduto asked the applicant if he could explain more about why the proposed dock required an extension out into the water. Mr. Riker noted that extending it would provide the owners with a little bit more use of the dock during the tidal cycles. T. Sperduto asked what the reasoning was for the angle of the dock. Mr. Riker mentioned that there was some existing ledge located out in the water, so they were trying to accommodate space between the float and the ledge to avoid running aground in a boat.

[1:19:36] Chair Collins asked if there was a calculation for the percent of tidal cycle that's usable now with the current dock vs. with the proposed dock. Mr. Riker responded that when he did the math it works out to be about an extra 1.5' for every hour in the tidal cycle. Chair Collins noted that the proposal was a substantial increase in length and noted that you should be getting an increase with that extra length. Mr. Riker noted that if they proposed a shorter length such as 10' shorter, they would lose 1' of depth.

[1:21:31] S. Sheppard asked what the use of the dock would be. Mr. Riker mentioned it would be residential use as a seasonal structure and would likely be able to only fit about two boats.

[1:22:29] Vice Chair McMillan asked the applicant if they could tell the homeowner that it would be great if they could put some wetland plantings along the bank and that they appeared to have a sump pump pipe coming from the basement and outletting to the river, which is not okay because a large storm even could make that into a contaminant issue.

[1:23:47] A. Fitzpatrick asked if there was a structure that they could put on either side of the dock for boats tied up but stuck in the mud. Mr. Riker said no, there was not.

[1:25:25] S. Sheppard made a motion to recommend approval of the NHDES permit with the following stipulations:

1. *Applicant consider adding native plantings to the shoreline area for bank stabilization purposes.*
2. *The proposed dock shall not be lit.*

[1:26:01] J. Blasko seconded the motion. The motion passed unanimously (7-0).

V. WORK SESSIONS

1. Proposed Redevelopment
100 Durgin Lane
Assessor Map 239, Lot 18

[1:26:23] Chair Collins introduced the work session.

[1:27:10] Brett Benson (architect), Patrick Crimmins (Tighe and Bond), Nick Aceto (landscape architect), Brenden Quigley (wetland scientist) and Andrew Hayes (owner representative) came to present this work session. Mr. Benson proceeded to go through a presentation which framed the project and the proposed changes to the site. He highlighted the site surroundings, development objectives, the existing access, utility and infrastructure easements, and the wetlands and their corresponding buffers. They are proposing 360 market-rate apartments on this lot through a mixture of three-story and four-story buildings, a community building and community space with an associated 567 parking spaces. Mr. Crimmins proceeded to give details about the zoning regulations and how they were planning to comply with the City's zoning, along with stormwater management, wetland, and impervious plans for the site. Mr. Aceto gave a description of their proposed site layout and how they are being driven by community space and green space. They are proposing a slight exceedance of their required community space. He went on to describe in detail the landscaping and proposed planting zones.

[1:42:00] J. Blasko asked if the applicants were considering solar panels, solar canopies, or EV chargers on the development. Mr. Benson responded that they were studying all those components as a possibility for the site. J. Blasko asked if there had been any consideration for workforce housing or other types of housing compared to just market rate. Mr. Hayes responded that they had looked at different housing types and decided to settle on two different building heights which he stated could accommodate a wider variety of the population. He noted that within this zone they are allowed by right to have up to 56 more units but are choosing not to balance other components of the project.

[1:44:10] Chair Collins asked what the community building would be used for. Mr. Hayes responded that the residential community building will be for residents and will have mailboxes, package pick up, the leasing office, a likely fitness center, a gathering space. He corrected that the exterior space is the community space. There is no interior public building.

[1:45:04] Chair Collins asked what the applicants meant by no fuel combustion will be on-site. Mr. Hayes confirmed that everything will be electric.

[1:45:20] Vice Chair McMillan asked about the roadway proposed for the backside of the site for additional access. Mr. Hayes responded that their initial need for that revolved around thinking about life safety for the rear buildings, they also are proposing it for traffic and reducing points of congestion on the property. Vice Chair McMillan asked if they could move that road out of the buffer, the property already has excessive pavement within the buffer and in the wetland. She wanted to know if they had thought about a less impactful method for placing the road where it

would not impede into the buffer like it is proposed. Mr. Hayes responded that they had studied that but had decided to limit the net impact overall of impervious within the buffer. They will follow up with a diagram showing the change to impacts.

[1:49:02] Chair Collins asked if the applicants had considered changing any of the surface parking to alternative forms of parking such as underground structures. Mr. Hayes said they did investigate underground parking but determined it was not feasible due to the economics of buildings at the proposed scale. They also were trying to create the feeling of a residential neighborhood which underground parking may interfere with.

[1:49:58] Chair Collins stated that she would like to see the net impervious within the buffer be either non or a negative number. She noted that their purview was to really reduce or eliminate impacts to the buffer and that it was up to the applicants to change their proposal to meet that reduction, whether that means changing parking, moving the roadway, or reducing building sizes etc. She also noted that the community space being in and amongst the buildings creates the potential for a space that feels unwelcoming to the public and more private. She wondered if they could consider moving or adding space to the perimeter of the buildings which could help to protect the buffer and create a more inclusive-feeling space. Mr. Hayes responded that they were well-received comments and went on to respond to their options.

[1:52:30] Vice Chair McMillan noted that the intensity of use of the site as it is proposed will be much more intense compared to what it is now. She explained that the intensity will impact the wetland, especially with more lighting, car traffic, foot traffic, etc. She stated that there was more than just the impervious area to consider. My. Hayes responded by noting that the level of traffic impacts will be a meaningful decrease across the weekdays compared to the current retail use. Mr. Crimmins noted that a trip generation report was included in the packet which shows the reduction of traffic with the proposal.

[1:54:58] T. Spurduto asked how the applicants had come up with the potential community space type options and noted that some of the options could be more beneficial for this proposed area compared to others. Mr. Hayes noted that those community space types are subject to change and that they are really looking for feedback from the boards on that.

[1:55:59] S. Sheppard asked if they had considered walkways or bile paths when thinking about these spaces. Mr. Hayes answered that yes, they had considered it and are working it into their planning of how people interact with this site. S. Sheppard followed up with a concern for the manicured nature of the space with lawn and the potential lack of diversity and water absorption. He asked if the applicants would be open to considering more gardens without lawns/grass which could provide an opportunity to reduce pesticide use. Mr. Aceto responded that they have not yet differentiated between lawn and native meadow plants because they would like to pull that native vegetation in throughout the site. The larger communal spaces will be reserved for lawn.

[1:58:31] Vice Chair McMillan asked for clarification on the greenspace proposed for wetland and on the slope of the buffer, Mr. Aceto clarified that there would be more meadow plantings than lawn in that corner near the wetland. Vice Chair McMillan asked for clarification on where the dog park would be that someone had mentioned at the site walk. She noted that it would not

be ideal to locate it close to the wetlands. Mr. Aceto noted some alternate areas where it could be placed.

[2:00:46] Vice Chair McMillan made a recommendation that the Commission or the City requires a third-party delineation of the wetlands. Mr. Crimmins noted that they were already in the process of setting up third party reviews for other aspects of the project and they would be happy to get that done before they come back for another meeting so that they do not waste anyone's time. Peter Britz introduced himself and stated that typically, if applicants do not agree to do it in advance, then we could require it usually at the Planning Board process. It will probably help the applicants with their timeline to do it now.

[2:02:59] Vice Chair McMillan stated that she felt very strongly about the proposed roadway going to the back along with the existing rain gardens and she felt as though any new impacts to the buffer would not be acceptable as the existing site today would never be permitted with all its impacts. She also noted that the applicants should investigate or address the roadway leading to Motel 6 that currently goes through the wetland and the rough shape it is in. If it is not addressed with this project, then it could have an impact later after everything is built with new permits.

[2:04:40] L. Vaccaro noted her appreciation for the graphics and labeling and noted that it was exactly what they needed at this stage as a work session. She also commented on the fact that the proposal calls for the removal of the current pavement on site and the applicants should honor the 100' buffer because in essence, they are really starting from scratch in terms of impervious surface because it is being removed first. Additionally, she wondered if there could be another access road on the other side of the lot, by the Hampton Inn. Mr. Hayes responded that they would take into consideration all their comments and there exists a significant grade change on that other side of the lot which would make it difficult to provide an accessway there.

VI. OTHER BUSINESS

1. Lonza Volunteer Day

[2:06:51] K. Homet spoke to this other business item and noted that a group of volunteers from Lonza reached out and wanted to help with some trail clearing and maintenance activities. The group will be cleaning up a trail at the Great Bog on May 9th from 9 a.m. to noon and Peter Britz and Kate Homet will be heading to the site soon to assess how much work is needed. If any commissioners would like to join for the cleanup or trail marking, they were more than welcome to.

2. Sustainability Fair April 14th

[2:08:08] J. Blasko did a final announcement for the upcoming Sustainability Fair and announced all the activities, food and vendors that would be there. L. Vaccaro noted that she would be helping with the Conservation Commission table and if anybody wanted to come and table with her for a bit, they were welcome.

2:09:13] S. Sheppard asked for clarification on the Commission member renewal process and how he goes about getting approved for another term. K. Homet noted that he will need to send a letter of renewal to the City Clerk. On another note, S. Sheppard also mentioned that there was a City housing committee meeting tomorrow night if anyone was interested.

VII. ADJOURNMENT

The meeting adjourned at 6:04 p.m.

DRAFT