

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

4:00 P.M.

August 13, 2025

MINUTES

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

MEMBERS ABSENT:

ALSO PRESENT: Kate Homet; Environmental Planner, Peter Britz; Planning & Sustainability Director

Vice Chair McMillan opened the meeting and announced that Chair Collins was running a few minutes late and would be there shortly.

I. APPROVAL OF MINUTES

1. June 11, 2025

Vice Chair McMillan announced the first order of business and received a motion from Ms. Blasko to approve the minutes as presented. This was seconded by Ms. Carey and approved unanimously (7-0). Vice Chair McMillan announced that Mr. Chag would be voting until Chair Collins arrived.

II. WETLAND CONDITIONAL USE PERMIT APPLICATIONS (OLD BUSINESS)

1. 0 Banfield Road
Walter D. Hett Trust
Assessor Map 255 Lot 2

[2:05] Jon Whitten from Haley Ward came to present this application. Mr. Whitten noted that they had previously come before the Commission with this application and had turned it into a work session. They had made updates to the application based on Commission and staff feedback and he briefly went over the proposed project and the specific changes that had been made since the July meeting.

[11:10] Commissioners asked questions about the stormwater flow, runoff into adjacent wetlands, rain garden functions, details and calculations, the need for a planting plan, trees to be removed, tree clearing limits, transfer of ownership, permanent wetland boundary markers, homeowner education, intentional buffer landscaping, silt fence placement, the proposed porous

pavement and the proposed grading. The Commission had a discussion about the proposed driveway and clearing of trees needed for construction.

[32:45] Ms. Blasko made a motion to recommend approval of this application to the Planning Board with the following stipulations discussed by the Commissioners:

1. Applicant shall provide an updated maintenance plan for care of the permeable driveway and the proposed rain gardens. This maintenance plan shall be provided to the new property owners upon the sale of the newly subdivided lots.
2. Prior to submission to the Planning Board, permanent wetland boundary markers shall be shown on the updated plan set. The permanent wetland boundary markers shall be placed on the 100 ft wetland buffers on each new lot (for wetlands on the property and across the street) every 50 feet prior to the start of construction.
3. Prior to submission to the Planning Board, applicant shall provide calculations proving that 95% of on-site impervious surface for Lots 3, 4 and 5, respectively, will be treated by the proposed rain garden for each lot.
4. Applicant shall provide information in the deed and to the new property owners upon sale of the newly subdivided lots. This educational information shall include the City of Portsmouth's pamphlet on caring for wetlands and wetland buffers and information explaining the regulations and permitted activities within a wetland and wetland buffer.
5. Prior to submission to the Planning Board, the wetland delineation shall be certified and stamped by a NH Certified Wetland Scientist (CWS). CWS Sam Hayden needs to provide a stamp for delineation of both the prime wetland to the north and the wetland to the south, a note on the plan set does not suffice.
6. Prior to submission to the Planning Board, the applicant shall include a separate planting plan in the plan set. This should also show exact vegetation to remain and to be removed, not just clearing lines as well as plantings behind the homes as appropriate to delineate vegetated barriers along the 100' prime wetland buffer.

Ms. Sperduto seconded the motion. The Commission discussed the stipulations at length and then voted unanimously (7-0).

2. 15 Marjorie Street
Reichl Family Revocable Trust
Assessor Map 232 Lot 41

[44:57] Tim Hron of Hron Brothers Construction and Matt Reichl, the property owner, came to present this project. Mr. Hron noted that this application had come before the Commission the previous month and they had updated the plan set with the suggestion that the Commissioners had made. Mr. Hron then proceeded to update the Commission on the changes that had been made.

[48:15] Chair Collins opened the floor to questions from Commissioners. The Commissioners asked for clarification on the new retaining wall location, the proposed patio, the driveway permeability, changes to the driveway alignment and size, the sewer line, needs from the Department of Public Works, the proposed vegetation and seed mix to be used, the proposed mowing practices and the proposed drywell schematics, materials and location.

[54:17] Ms. Carey made a motion to recommend approval of this application to the Planning Board with stipulations. Mr. Gibb seconded the motion. The Commission discussed the stipulations and agreed upon the following:

1. Prior to submission to the Planning Board, applicant shall provide information on the plan set of drywell location and outlet. This drywell shall be concrete and the maintenance needs for it shall be provided within the existing maintenance notes for the property owner.
2. Prior to submission to the Planning Board, permanent wetland boundary markers shall be shown on the updated plan set. At least two permanent wetland boundary markers shall be placed on the 25 ft wetland buffer, evenly spaced.
3. Prior to submission to the Planning Board, the landscape plan needs to be updated to include:
 - a. Exact area of proposed seed mix
 - b. The proposed seed mix to be used (must be native wetland buffer mix)
 - c. A note to be added to the plan stating that no mowing is to occur at or beyond the 25' vegetated buffer (including wetland and 0-25' buffer).

[1:05:10] The motion passed unanimously (7-0).

III. WETLAND CONDITIONAL USE PERMIT APPLICATIONS (NEW BUSINESS)

1. 60 Pleasant Point Drive
120-0 Wild Rose Lane LLC
Assessor Map 207 Lot 13

Ms. Homet gave Commissioners an update on why this application was before them. She cited that this was an after-the-fact application and noted that the applicants had been asked to halt all work on this property until the violation noted had come into compliance through receipt of a wetland conditional use permit. Vice Chair McMillan recused herself from this application and went to sit in the audience.

[1:06:32] Tim Phoenix of Hoefle, Phoenix, Gormley & Roberts came to present this application along with the property owners, Jay Aube and Chris Rice from TF Moran, Roy Tilsley of Bernstein Shur and Ben Auger and Drew Wilson from Auger Building Company, and finally Kirsten Fordham of Riverside Pickering Marine. Mr. Phoenix handed out hard copies of materials to the Commissioners and addressed the most recent staff memo in the meeting packet. After addressing the staff memo and the project team's response, Mr. Phoenix noted that his team disagreed with the contents of the memo and disagreed with staff on the need for a third-party engineer. Mr. Phoenix went through a timeline of the previous permitting process and how

it led to the applicant's not submitting for a new City wetland permit after changing the design during the State permitting phase.

[1:24:20] Ms. Blasko asked for clarification on the handout that Mr. Phoenix provided, which was the response to the staff memo. Mr. Phoenix noted that himself and Mr. Aube were the authors of the response memo. Ms. Blasko proceeded to ask questions about this memo and express disagreement with statements of the applicant and team. The Commission asked Mr. Phoenix what they were hoping to get from the Commission and Mr. Phoenix responded that his team would like to see them support the approval for the shoreline stabilization as it has been built. Ms. Sperduto then asked Mr. Phoenix about the correspondence with the City on the change of scope and discussed the chain of correspondence as shown in the packet.

[1:26:50] Mr. Phoenix then handed off the presentation to Mr. Aube to review the shoreline that was built and the associated site plans, as well as the proposed shoreline to be built and associated data and site plans. Mr. Aube first went over the approach used and why he thought it was the best alternative and the reasoning behind that. Mr. Aube expressed his frustration with the process of the after-the-fact permit and the information that was shared with the Commission from City staff. Specifically, Mr. Aube disagreed with the staff memo and proceeded to explain to the Commission why he felt that way. Finally, Mr. Aube went through a presentation on the methodologies and reasoning for installing the shoreline the way it was and cited numerous reports and data specific to the project area.

[1:48:55] The Commission then opened the floor to questions and cited City regulations found within Article 10 of the Zoning Ordinance, including the definition of a wetland which the applicant disagreed with. Commissioners asked questions about the impacts to the shoreline and buffer area, direct impacts to the wetland and the possibility of removing some of the boulders to help with planting. Mr. Sheppard excused himself from the meeting.

[1:58:36] Chair Collins noted that the Commission would have to make a motion to extend the meeting past 6:00 p.m. if they would like to continue hearing this application and asked for a headcount of which commissioners could stick around. Mr. Gibb made a motion to extend the meeting beyond 6:00 p.m. Ms. Sperduto seconded the motion. The motion passed unanimously (6-0).

The Commission continued asking questions of the applicant about removing some of the newly-installed rocks, the applicant's statement that 'no wetlands were delineated within the vicinity', the disagreement between the applicants and the staff memo and what would constitute fill in the wetland. A question was asked of the applicant if they were looking for a permit for the project as it was illegally built or as it is presented in the application with pockets of vegetation and a "dirty riprap" approach. Mr. Aube responded that they were not looking to get a permit for the as-built work but rather what was submitted as a hybrid-shoreline plan.

[2:08:38] Ms. Blasko made a motion to recommend approval of this project to the Planning Board with stipulations including that the hybrid living shoreline plan will be fully implemented and delineated including the removal of the material within the highest observable tideline as well as the additional plantings and the planting pockets proposed. This would include the

removal of the material from the site that is currently where the planting pockets would go. Ms. Vaccaro seconded the motion. Chair Collins announced that both alternate commission members would be voting.

[2:09:43] The Commission began a discussion of the project and the motion on the table. It was noted that the Planning & Sustainability Director has requested a third-party review of the engineering analysis and alternative methods sought by the applicant for this project but if the Commission voted to recommend approval, they would not see the results of the third-party report, only the Planning Board would contemplate it as part of the final review. The Commission contemplated the different alternative solutions, how a third-party report could change the outcome of the review, where the project starts to create more harm than good in terms of functions and values for the wetland and the timeline of a third-party review and final report was discussed.

[2:15:17] Peter Britz, the Planning & Sustainability Director, came to the podium to speak to the third-party contract and the current status of it. Deputy City Attorney McCourt came to the podium to note that City staff are actively working on the negotiations for the third-party contract and his recommendation for the Commission was to consider the criteria set forth by Article 10 of the Zoning Ordinance when reviewing the application and the motion currently on the table. He also reiterated the definition of a wetland as defined in the zoning ordinance. The Commission discussed their preferences and the option to change the motion on the table.

[2:18:15] Ms. Blasko withdrew her motion to recommend approval of the application. The Commission then discussed whether or not to wait for the third-party report and the pros and cons of doing so.

[2:22:30] Mr. Phoenix asked to respond to the discussion amongst commissioners and reiterated that his team felt very strongly that the third-party review would not be necessary due to the three experts retained by their team already. He also noted that he did not yet know what the scope of services would be and who would pay, but he noted that they would like a say in the third-party contract. Mr. Aube reiterated Mr. Phoenix's notes and noted how important it is to protect your property with increasing sea level rise and the fear of setting a precedent.

[2:26:45] Ms. Vaccaro made a motion to postpone this application until a third-party review is completed. Mr. Gibb seconded the motion. The motion passed (5-1). Mr. Phoenix asked for clarification from the Commission if they would hear their application at the next meeting and if the third-party review could be guaranteed complete before then. Ms. Homet noted that it was not on the Commission to clarify that but that it depended on the third-party contractor and when the review could be completed. She noted that planning staff were working hard to get the contract negotiated quickly so that a contractor could begin work soon.

[2:29:08] Chair Collins asked if Commissioners could stay until 7:00 p.m. and noted that a motion to proceed past 6:30 p.m. would have to occur. Ms. Blasko made a motion to extend the meeting until 7:00 p.m. Mr. Chag seconded the motion. The motion passed unanimously (7-0).

IV. WORK SESSIONS

1. 150 Portsmouth Boulevard

[2:30:17] Neil Hansen from Tighe & Bond came to present this project. In addition, Patrick Crimmons and Ben Curcio from Tighe & Bond as well as Joe Geoghegan and Kimery Poldrack who represent the applicant and ownership group. Mr. Hansen gave an overview of the existing site and then dove into the proposal for development, landscaping, stormwater and buffer impacts on site. He noted that they hoped to get comments and feedback from the Commission so that they can submit a formal wetland application by the end of September for the Commission meeting in October.

[2:34:35] The Commission then asked questions about the net impervious proposed, how the project might offset the introduction of new impervious surfaces, how the stormwater would be treated and directed onsite, where green space could be implemented, if parking was possible underneath buildings, the anticipated acreage of tree clearing and the history of use on the site. Commissioners expressed concerns for the proposed buildings and parking areas taking away from opportunities for green space and the proximity of Building A to the wetland. Commissioners asked the team to consider a reduction of parking and rental units, a re-orientation of Building A to reduce buffer impacts, the use of green roofs on the proposed buildings, creating opportunities for more infiltration of stormwater onsite, utilizing renewable energy sources in the design process, use wildlife-friendly lighting, especially for Building A and retaining as much of the existing vegetation in the rear part of the lot as possible.

V. STATE WETLAND BUREAU APPLICATIONS (NEW BUSINESS)

1. **REQUEST TO POSTPONE**

Dredge and Fill – Major Impact
Peverly Hill Road and Greenleaf Avenue, City ROW
City of Portsmouth

[2:56:22] Vice Chair McMillan made a motion to postpone this application to NHDES until the next meeting. Ms. Blasko seconded the motion. The motion passed unanimously (8-0).

VI. OTHER BUSINESS

1. Board Empowerment Series – survey opportunity

Ms. Vaccaro discussed a project she has been working on to bring greater education and connectivity to seacoast conservation commissions and requested feedback from commissioners through a survey opportunity and thanked those who had already responded.

VII. ADJOURNMENT

The meeting adjourned at 6:59 p.m.