

Town Clerk

Weymouth Conservation Commission
Council Chambers, Weymouth Town Hall
September 14, 2011 Meeting

Present: George Loring, Chairman
Steve DeGabriele, Vice-Chairman
Laura Harbottle, Commission Clerk

Not Present: Scott Dowd, Commissioner

Also Present: Mary Ellen Schloss, Administrator

Recording Secretary: Patricia Fitzgerald

Cmmr. Loring called the September 14, 2011 meeting to order at 7:00 PM in the Council Chambers at Weymouth Town Hall, Weymouth, MA.

Minutes

There were no minutes to review at this meeting.

Newell Park Improvements - Notice of Intent – Hearing
Town of Weymouth/CDBG
Map 9, Bl 136, Lot 10
DEP File # 81-1091

Cmmr. DeGabriele moved to open the public hearing, seconded by Cmmr. Harbottle. UNANIMOUSLY VOTED. The Commission was in receipt of the following documents: Notice of Intent dated September, 2011, and Notice of Intent Plan, William E. Newell Playground Improvements 2011, signed and stamped by James Donovan, P.E., September 6, 2011.

Appearing before the Commission were Jim Clarke, Planning Director, and Jay Donovan and Bob Leishman of the Engineering Division. Conservation was already in possession of the abutter cards.

This Idlewell neighborhood is eligible for the Community Development Block Grant Program; comments were solicited from the neighbors and their response has been positive. This project has vistas, provides summer and winter activities and there is handicapped access to the park.

Jay Donovan reported that:

- The asphalt court has a play structure with (2) existing swing sets (which will come out and their replacements will be brought up to grade).
- Access with a paved walkway via Idlewell Blvd.
- The mean high water is shown on the plan.
- The baseball field is a large grassed area with breaks in the tree line.
- Straw wattle erosion control barrier will be used.
- Grade will be brought up slightly.
- For easier maintenance around the basketball court, the chain linked fence will be taken down, temporarily, and they will clear the (4) ft. strip around the basketball court and install (5) in. deep x (4) ft. wide stone dust to prevent tree growth.
- Access is via a (12) ft. paved driveway with Cape Cod berms on both sides.
- There will be a 10'x10' covered pavilion that will have a bench and a picnic table.
- Drainage will be handled by runoff through a stilling basin to a grass swale and onto (2) existing ditches that will collect stagnant storm water.
- Some swale work will be done to improve slope between Idlewell Blvd. and a grass swale.
- To prevent field access, a timber guard rail will be installed around the roadway and the (2) handicapped parking spaces.
- There will be a trash can and 'doggie bags' as people enter the park.

Mr. Clarke added that the proposed work area is within 200 ft. of the river front and other work is planned outside the Commission's jurisdiction. He stated that the DPW cleared the slope adjacent to Idlewell Blvd. 4-5 years ago and has since cleared it again after regrowth. The plan is to clear the area 2 – 3 times per year.

Mr. Donovan said the contractor will begin clearing the slope area "this weekend".

With regard to the area to be cleared around the basketball court, Ms. Schloss stated there are no mature trees but she did identify some vegetation (e.g. crab apple trees) that should be saved, if feasible.

Mr. Donovan offered to have the contractor mark the trees.

Ms. Schloss said she is not sure that some trees can be saved, if a maximum of (10) ft. clearance is needed.

Mr. Clarke told the Commission that he would like flexibility in the Order, so the site can be visited before work is done.

Cmmr. DeGabriele moved to close the public hearing, seconded by Cmmr. Harbottle. UNANIMOUSLY VOTED

Ms. Schloss recommended a Standard Order of Conditions and suggested:

- Conservation will review the vegetation removal and make recommendations as to what should be saved.
- Vista pruning may be done with Con Comm approval.
- Cutting of mature trees will be avoided to the extent possible.
- Maintenance of pruned areas will be allowed.

Cmmr. DeGabriele also suggested the removal of silt from the drainage area.

Cmmr. Harbottle moved to issue a Standard Order of Conditions with conditions mentioned, seconded by Cmmr. DeGabriele. UNANIMOUSLY VOTED

Brad Hawes Park

Jim Clarke submitted language for inclusion in the Conservation Restriction for Brad Hawes Park. The language would prohibit active playing fields or associated structures with (100) ft. of a wetland. He added that:

- There is no plan to fill or level the area around the active playing field back to the wetland area.
- A walking trail can be looked at in the future.
- He would like to re-draft the April document.

Ms. Schloss stated that only those items listed as allowed uses will be allowed, and the entire document needs Con Comm approval.

Cmmr. DeGabriele suggested that the document include wording to recognize Conservation Commission approval on all alterations.

Mr. Clarke said that perhaps they could check with the Town solicitor to make sure it does not impact the jurisdiction of Con Comm.

Ms. Schloss expressed that she would hope to have the entire document presented at the next meeting; Mr. Clarke said he would try to have it ready.

Mr. Clarke stated that under the law, the Administration has the restrictions placed on the document.

209 Belmont St. – Continued Violation Hearing

Appearing before the Commission was owner Paul Campbell.

Ms. Schloss stated that the Commission has received the wetland scientist narrative prepared by Ivas Environmental, dated 9/11/11. The Commission has not received the existing conditions plan (relevant to the Aug.18th Enforcement Order issued to Paul Campbell and Sean Farrell Excavation regarding work at 209 Belmont St. and lot 10 Gagnon Park). The Ivas plan was also sent to the DPW and NSTAR. She asked Mr. Campbell what the status was of the existing Hoyt conditions plan.

Mr. Campbell responded by saying that Steve Ivas has developed a removal plan and Hoyt Surveying has done a topographical map. At the time, Mr. Ivas still needed the old and new elevations (these were just done on Sept. 14th). He added that Mr. Ivas put his flags out Sept. 11th and said he thinks he'll be out to the site to supervise.

Ms. Schloss gave the Commission comments on the narrative:

- She doesn't think previous method of pond management (for skating) should be allowed.
- She is comfortable with the conservation seed mix.
- Would like to see work done by Oct. 14th.
- She is comfortable with getting the existing conditions plan (with the topographical and wetland information) and getting it approved administratively.

Mr. Campbell asked if the topography report needs to be done now; he was told yes.

Ms. Schloss stated that administrative issues can be discussed at the next meeting but, otherwise, the project can go forward. She told Mr. Campbell that he needs a Con Comm approval letter (of the narrative and the plan) before work can begin.

Ms. Schloss reminded Mr. Campbell of some of the project conditions:

- Con Comm and wetland scientist oversight is required.
- Boundaries need to be staked.
- Con Comm and NSTAR require 48 hours' notice before excavating.

Mr. Campbell asked if he would need a Building Permit; Ms. Schloss said she would talk to the Building Department.

Mr. Campbell also asked if Mr. Farrell was notified of this meeting. Ms. Schloss told him yes and asked if he had tried to contact him. Mr. Campbell replied that he had not and that he was doing everything through Con Comm.

Ms. Schloss told Mr. Campbell he had until Oct. 14th for the work to be done, but there might be some 'wiggle room'.

Cmmr. DeGabriele told Mr. Campbell that he would get a letter from the Commission once they receive the surveyor plan.

**97 Audubon Road, Weymouth Commons – Notice of Intent – Hearing
Weymouth Commons East Two Associates, LLC
Map 37, Block 468, Lot 1
DEP File # 81-1090**

Cmmr. Harbottle moved to open the public hearing, seconded by Cmmr. DeGabriele. UNANIMOUSLY VOTED. The Commission was in receipt of the following documents: Notice of Intent Application prepared by LEC Environmental Consultants, Inc., dated August 26, 2011 and Existing Conditions Plan, Weymouth Commons, 97 Audubon Road, prepared by Grady Consulting, dated August 16, 2011.

Appearing before the Commission were Mark Manganello, Manager of LEC Environmental Consultants, Gary Saltmarsh and Mark Colburn representing the applicant and Engineer Todd Alving; abutter cards and local NOI form were submitted to Administrator.

Mr. Manganello said that in June, remediation was discussed and an NOI was agreed to, summarizing the activities that had been, and still needed to be, completed, along with wetland and buffer zone restoration.

He explained that in February, they discovered a fuel oil spill in the wetland (caused by leak in an underground pipe connected to a 3000 gallon underground storage tank). As soon as it was discovered, DEP was notified and the contingency plan began. An Emergency Certificate was issued in February 2011 to continue the activity that had begun.

Actions included:

- An interceptor trench was installed.
- Hay bales were installed.
- Monitoring wells were installed.
- Clean up required removal of some trees, vegetation and brush (some of which was stockpiled in the buffer zone).

Mr. Manganello added that there will be:

- Maintenance of the interceptor trench to keep it functioning properly.
- Testing of sediment and ground water.
- Restoration of wetland and buffer zone.
- In the (approximately) 4000 sq. ft. of cleaned area, planting will start with red maple saplings and other shrubs; some herbaceous growth has already begun to grow back.
- Interceptor trench will receive fresh top soil and will be replanted, when the time is right.
- Monitoring of new plantings will be typical – about (2) years or until 75% coverage has been established.

Mr. Manganello concluded by saying that there isn't much conflict between the MCP and the WPA; the intent is to reach the point where there is no significant risk to the environment.

Cmmr. DeGabriele said he understood that the MCP 'trumps' the Wetland Protection Act and he wants to make sure the NOI is clear that the level of clean up meets the requirements of the MCP.

Mr. Manganello responded that language could allow for flexibility, as long as Con Comm is kept notified and any work done is for the greater good.

Cmmr. DeGabriele then said that a second issue was issuing the Certificate of Compliance, adding he would not be comfortable issuing the COC until compliance with the MCP was demonstrated.

Mr. Alving said with MCP the standard is, usually, a human health risk issue but in this case the human and environmental impact is a 50/50 split. He said it is probably important to maintain some separation

between the MCP and the WPA because of the significant impact to the wetlands and it is important to get that resolved before the human health issue gets resolved.

He suggested that if it is important to Con Comm to get closure in respect to the WPA, a site assessment could be compiled, within that Phase II report, and they could declare an end point to the risk assessment portion of the release while still allowing the response actions to continue, if things (like the ground water) are still affected.

To update the Commission, he explained that:

- The tank has been removed and it was not leaking.
- The soil beneath the tank was contaminated.
- Monitoring wells have been installed except near the interceptor trench (because of a boulder, but they will try again).
- The vast majority of fuel that will come out of the slope has come out.
- Monitoring wells have been sampled; (2) have levels just above drinking levels (the same as in the spring).
- They expect to be at the site for 1-3 years.

Cmmr. Harbottle asked at what point all equipment will be removed.

Mr. Alving replied once no further restoration to property is needed and LSP considers all work completed.

Ms. Schloss asked when the trench planting will be done.

Mr. Manganello said not until the trench is done; Mr. Alving said he'd like to do it this fall.

Ms. Schloss stated that she would like to see the erosion controls refreshed.

Cmmr. DeGabriele moved to close the public hearing, seconded by Cmmr. Harbottle. UNANIMOUSLY VOTED

Ms. Schloss commented that specific conditions can be put on a draft and discussed at the next meeting.

**Pond Street Apartments – Certificate of Compliance
DEP File #s 81-937, 81-1057, 81-1067**

Tom Pozerski of Merrill Associates came before the Commission. He stated that he feels the Pond Street Apartments are in substantial Compliance with the OOC and the storm water areas and fore bay storage areas are actually larger than they were designed for.

Ms. Schloss reported that a few minor issues remained:

- More seed and water is needed in a couple of areas.
- Some tree planting areas need to be scooped out and saucers added.
- Erosion controls need to be removed by contractor after stabilization is complete.

Ms. Schloss said that things looked great and if the Commission feels comfortable that the other issues will be taken care of, she would recommend that the Certificate of Compliance be issued.

Ms. Schloss explained that there were (3) Certificates of Compliance; 81-1057 and 81-937 had superseding Orders of Condition and Con Comm would be issuing a COC on the local ordinance only; 81-1067 (under MWPA) was not appealed, so the DEP will need to make a site visit to issue a Certificate of Compliance under the WPA for the (2) orders that were appealed. The Town will hold onto the long-term Bond for storm water management and so she is comfortable issuing the COC.

Ms. Schloss commented that some oak trees on the far side of the wall didn't look too healthy and asked what guarantee the Commission would have if those trees did not come back.

Mr. Pozerski replied that the trees cost about \$400.00 each and said he would find out what guarantee can be made by the owner; he also agreed to:

- Correct how the (4) trees are planted.
- Remove extra hay bales that are no longer needed and place hay bales on top where they are needed to provide matting for moisture.
- Provide watering for (2) weeks; if nothing improves, the trees will need to be replaced.

Cmmr. Harbottle moved to issue a Certificate of Compliance in (2) weeks, if all I well, seconded by Cmmr. DeGabriele. UNANIMOUSLY VOTED

Mr. Pozerski asked when the construction bond would be released; Ms. Schloss told him when the Certificates of Compliance are released.

Other Business/ Conservation Report

1340 Washington St. DEP File # 81-1068:

Cmmr. DeGabriele stated that the plan for this project shows the foundation touching the “Do Not Disturb” zone and the work is extending (6) ft. beyond that.

Ms. Schloss visited the site and found the silt fence (in relation to the foundation) was (7) ft. instead of (3) ft. She stated she only found (2) of the (3) flags and it looks like they are at (25) ft.; she also saw the survey stake. She said she can call and talk to Mr. Ryder about:

- Silt fence repair.
- Getting flag 106A back up.
- Regrowth of restoration area.
- Loaming and seeding of road.

The Commission discussed their concerns about this project and options available to them for dealing with Mr. Ryder and the problems that have arisen.

Show Cause Hearings:

Cmmr. Harbottle asked whether the Commission would want to pursue use of “show cause” hearings, saying it is something other towns are using to rectify situations before elevating them to violation hearings, adding it could diffuse tensions between the Commission, property owners and contractors. Ms. Schloss said she would look into it.

Great Esker Park Salt Marsh Restoration Project:

Hopefully, the last neighborhood meeting will be held at 7pm on September 15th at the McCulloch Bldg.

Herring Alliance:

Discussion on letter will not be held until Cmmr. Dowd is available, as this doesn’t really fall under the Conservation Commission’s jurisdiction.

Whitman’s Pond Lake Management Action Plan:

Ms. Schloss will try to put something together for the next CPC meeting.

Cmmr. Harbottle moved for Con Comm to show support for the application to obtain funding for the proposal, seconded by Cmmr. DeGabriele. UNANIMOUSLY VOTED

Weymouth Club:

Ms. Schloss received a request for a Certificate of Compliance, but feels they are not ready for it as the work in the restoration area was supposed to be done in September.

Weathervane:

Ms. Schloss reported that the applicant will be giving a site history and tour for the Commission on Sept. 21st at 5:30pm.

Trees along coastal bank:

The Commission authorized administrator approval for removal of trees in danger of falling, located on the coastal bank on River Street (Kent property).

The Commission agreed that Ms. Schloss can make the decisions regarding trees greater than (25) ft. from resource area.

Whitman's Pond Sluice Gate:

The sluice gate needs management protocol established; the Commission should work on this with the DPW over the winter.

209 Belmont Street:

NSTAR needs 48 hours' notice. Sean Farrell and property owner both need copy of approval letter. Steve Ivas needs copy of approval letter also.

Ms. Schloss said she will call Farrell Excavating to remind them of their responsibilities.

Standard Order of Conditions:

Cmmr. Loring asked for a copy of Standard OOC for all Board members.

Adjournment

Cmmr. DeGabriele moved to adjourn the meeting at 9:45 PM and to meet again on Sept. 28, 2011 at 7 P.M., Council Chambers, Town Hall, seconded by Cmmr. Harbottle. UNANIMOUSLY VOTED

Respectfully submitted,

Patricia Fitzgerald

Approved:

Laura Harbottle, Conservation Clerk

Date