

APPROVED



Department of Planning and Community Development

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Mayor Joseph C. Sullivan

**CONSERVATION COMMISSION
MEETING MINUTES
THURSDAY, JANUARY 22, 2009 7PM**

FLETCHER HALL – TOWN HALL

PUBLIC HEARING

DEP FILE # 8-590

APPLICANT: Tian Ann Temple

LOCATION: 49-59 Hayward Street

Members Present: Patrick Flynn, Chair
Kate Waldron
Matthew Hobin
Dan McMorrow

Staff: Kelly Phelan

Paul Mirabito from Ross Engineering Company was present on behalf of the Temple. He noted that he had received a copy of the draft Order of Conditions issued by staff earlier in the week. He noted that the only question on the conditions was the one regarding the tree policy.

Staff noted that the tree policy had been in place for several years and that it's intent was to discourage developers from clear-cutting. In the case of an institutional use, strict adherence to the policy may not be realistic.

Mr. McMorrow stated that in his opinion a nominal tree policy fee would be appropriate because of the use of the property. Ms. Waldron agreed.

Motion by Mr. McMorrow, second by Ms. Waldron, that based on the institutional use of the property, to require a nominal fee of \$500 to be contributed to the tree planting fund and to issue the draft Order of Conditions with that amendment and close the public hearing. Vote: 4-0.

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PUBLIC HEARING

DEP FILE # 8-585

APPLICANT: Tri Town Board of Water Commissioners

LOCATION: Richardi Reservoir

Members Present: Patrick Flynn, Chair
Kate Waldron
Matthew Hobin
Dan McMorrow

Staff: Kelly Phelan

Staff noted that Lou Dutton, on behalf of the Tri Town Board, had requested the hearing be continued to March 26, 2009 in order to give the Board time to address outstanding issues.

Motion by Ms. Waldron, second by Mr. Hobin to continue to March 26, 2009. Vote: 4-0.

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OTHER BUSINESS

Members Present: Patrick Flynn, Chair
Kate Waldron
Matthew Hobin
Dan McMorrow

Staff: Kelly Phelan

Approval of Minutes

Motion by Mr. McMorrow, second by Mr. Hobin to approve the minutes of December 18, 2008. Vote: 4-0.

Process re: Staff Review of Applications

Staff asked the Commission for clarification on how they would like the application review process handled. In some situations, staff's front-end review of the details of a project can give the impression to an applicant that the scope or extent of a project is not subject to discussion or revision. After discussion, it was decided that on projects in which staff feels the scope is at question, that aspect will be brought to the Commission before getting into the detailed review.

Violation – 2 Garden Park/McGourty

Mr. McGourty was present, as requested at the December 18 meeting, to follow up on the instruction he was to restore the site to as-built conditions and provide the conservation easement as conditioned in the original permit for building construction (File # 8-532).

Mr. McGourty stated that he had been talking to an engineer about what it would take to use the area in question (to the east of the building) for equipment storage. His engineer is working on plans for floodplain replication (technically, compensatory flood storage) and he hopes to present those plans to the Commission and obtain approval for that.

Mr. Flynn noted that it would require an application and public hearing. Mr. Flynn also noted that Mr. McGourty's proposal sounded complex and that the Commission could not make any representations about approving it without knowing what it will involve. Mr. McGourty said he understood that there was no guarantee that the Commission would approve the plans but he felt it was worth trying as it would be more economical than leasing another site for storage.

Staff noted that the site had not been restored to the as-built condition; the dumpsters had been removed but equipment was still being stored and the livestock fence was still in place in the wetland. Mr. Flynn told Mr. McGourty to work with staff to restore the site. Mr. McGourty said he would arrange a meeting with staff within the next few days.

Staff also noted that the conservation easement issue was still outstanding. Mr. McGourty said his lawyer had worked with previous staff to determine the terms of the easement but he did not see the purpose of the easement. Staff explained the Commission's past practice in getting easements over wetlands; in case the wetland regulations are revoked the easement provides another layer of protection. However, staff also noted that she did not see this as a particularly useful practice. The previous Commission had voted (and signed) the Certificate of Compliance for this project, contingent upon receipt of the easement. Staff suggested the Commission considering eliminating this condition and release the Certificate of Compliance.

The Commission agreed that the likelihood of the wetland protection act and regulations being revoked was remote. Mr. McGourty stated he would prefer to make a contribution to the tree planting fund rather than pay his lawyer to draft the easement.

Motion by Ms. Walron, second by Mr. Hobin, to eliminate condition #78 of the permit contingent upon receipt a \$500 contribution to the Commission's tree planting fund.