

PROVINCETOWN CONSERVATION COMMISSION

April 15, 2008

6:30 P.M.

Members Present: Dennis Minsky, David Hale and Jack McMahon.

Members Absent: Dieter Groll (unexcused), Elaine Anderson (excused) and Lynne Martin (excused).

Others Present: Brian Carlson (Conservation Agent) and Ellen C. Battaglini (Recording Secretary).

PUBLIC MEETING

Co-Chair Dennis Minsky called the Public Meeting to order at 6:35 P.M.

PUBLIC STATEMENTS: Barbara Rushmore voiced her concerns about safety issues related to the re-configuration of the intersection of Route 6 and Province Lands Road. Co-Chair Dennis Minsky informed Ms. Rushmore that when that application is discussed, there will be an opportunity for the public to comment on the project.

MINUTES: The approval of minutes will be postponed until the hearing on April 22, 2008.

OLD BUSINESS:

Notice of Intent

Application by **Federal Highway Administration, Eastern Federal Lands Highway Division (EFLHD)**, in cooperation with the **National Park Service (NPS)**, for a Notice of Intent under the Massachusetts Wetlands Protection Act M.G.L. c. 131, § 40 and the Provincetown Wetlands By-Law Chapter 12. Scope of work to include reconfiguring the intersections of U.S. Route 6, Moors Road and Province Lands Road to provide a new exit for the Herring Cove Beach Parking Area, pavement preservation work on Race Point Road and pavement preservation work on Marconi Beach Road at the **Cape Cod National Seashore** in Provincetown.

Presentation: David Dajc, of EFLHD, and Ben Pierson, the facility manager for the National Seashore, appeared to discuss the application. Mr. Dajc had submitted the requested plans to the Commission and informed the Commission that the site where work will be undertaken had been flagged.

Public Comment: Barbara Rushmore spoke against the project, fearing that the proposed re-configuration will create a serious danger to the community, increasing the likelihood of automobile accidents in that area.

Commission Discussion: The Commission questioned Mr. Dajc and Mr. Pierson. Mr. Pierson offered to do a site visit with the Commission. DEP has issued a file number for the project.

David Hale moved to approve the application for a Notice of Intent for the re-configuration of the intersections of U.S. Route 6, Moors Road and Province Lands Road, a new exit for the Herring Cove Beach Parking Area and pavement preservation work on Race Point Road with an Order of Conditions to be issued by the Commission at a later date, Jack McMahon seconded and it was so voted, 3-0. The Commission seeks to schedule a site visit with Mr. Pierson.

NEW BUSINESS:

Notice of Intent

Application by **Robert Cummins and Dennis Condon** for a Notice of Intent under the Massachusetts Wetlands Protection Act M.G.L. c. 131, § 40 and the Provincetown Wetlands By-Law Chapter 12. The

scope of work to include the proposed installation of a palletized patio, rainwater harvesting system, emergency generator and an outdoor shower at **599 Commercial Street** in Provincetown.

Presentation: Reggie Donoghue, of Coastal Engineering, Dennis Condon appeared to present the application. The proposed palletized patio will serve to protect the area between the bulkhead and the house. In addition, a 2' strip of double-washed stone, for drainage purposes, will be placed adjacent to the house. This area will also be re-graded in order to help shed seawater that splashes up and over the bulkhead away from the house. An outdoor shower is proposed between an existing deck and the corner of the house. The gutters will be re-routed to empty into a collection tank, to be located on the west side of the house. This collected rainwater will then be utilized for irrigation purposes. The proposed location for an enclosed generator will be adjacent to the parking area. DEP has not yet issued a file number for this project.

Public Comment: John Lisbon, an abutter, spoke in support of the application. Kevin Shea, an abutter, would like to see a solution to the flooding problem in the area where more of the seawater is shed back into the ocean. Currently the lip of the seawall prevents water that has splashed over it from returning to the bay. As the property is graded towards Commercial Street, the chances for flooding are increased.

Commission Discussion: The Commission questioned Mr. Donoghue and Mr. Condon. The applicant requested a continuance of the matter until April 22, 2008, when a file number from DEP will have been issued. Mr. Donoghue will also submit revised plans related to the re-grading of the property.

Request for Determination of Applicability

Application by the **Provincetown Conservation Commission** for a Request for Determination of Applicability under the Massachusetts Wetlands Protection Act, M.G.L. c. 131, § 40 and the Provincetown Wetlands By-Law Chapter 12. The applicant proposes site work to include trail maintenance and expansion as well as passive recreation enhancements at the property located at **74 Harry Kemp Way (Nicky's Park – Ray and Nicky Wells Town Conservation Area)** in Provincetown. Jack McMahon disclosed that he is an abutter to this project, but felt that he would be able to render a fair decision and he has no financial stake in the outcome of the application.

Presentation: Brian Carlson appeared to present the application. The proposed enhancements are pursuant to the conservation restriction that has been placed on the property. The required notification about the proposed work has been made to the Provincetown Conservation Trust. A trail will be created in the area along which will be placed several benches. Included in the intent of the project is to give the general public access to one of Provincetown's conservation areas and, in the process, to make the trail accessible to less-abled visitors.

Public Comment: Jay Critchley, who was representing Ray Wells, asked about the benches to be placed along the trail, including their proposed locations, and inquired about the management plan for the area. He questioned the intent and necessity of having a 'parking area' as shown on the map of the proposed project. Cheryl Andrews, an abutter, voiced several issues about the project. She asked the Commission if they had the correct name of the applicant on the application, wondering if the Town of Provincetown should be the applicant instead. She questioned whether a Notice of Intent should've been filed and not a Determination of Applicability, as the work was being done near a wetland. She also questioned the public hearing notice for the project, pointing out that it did not include numbers for all the parcels being discussed. She informed the Commission that, according to many of her neighbors, they would like to see one of the signs at the property removed, as it was starting to fall apart. She also questioned the location of Jimmy's Pond on the map presented. Finally, she recommended that the Commission research the grant for this project, to clarify which properties it included, to make sure the money was being applied correctly.

Commission Discussion: The Commission discussed the application and Ms. Andrews' concerns. *David Hale moved to continue the application until the April 22, 2008 hearing, Jack McMahon seconded and it was so voted, 3-0.*

Request for Certificate of Compliance

Request by **Coastal Engineering Company, Inc.**, on behalf of **Joseph Smith** for a Certificate of Compliance for DEP Permit Number SE 058-0390 for the property located at **151A Commercial Street** in Provincetown.

Presentation: Reggie Donoghue appeared to request the Certificate. He informed the Commission that he was certifying that all of the requirements of the Order of Conditions had been met.

Commission Discussion: The Commission questioned Mr. Donoghue.

Dennis Minsky moved to grant a Certificate of Compliance for the property located at 151A Commercial Street, David Hale seconded and it was so voted, 3-0.

OLD BUSINESS:

Request for Determination of Applicability

Application by **Joel Shaw (West Beach Club Condo Trust)**, represented by **Cape Associates, Inc.**, for a Request for Determination of Applicability under the Massachusetts Wetlands Protection Act, M.G.L. c. 131, § 40 and the Provincetown Wetlands By-Law Chapter 12. The applicant proposes site work for the construction of a 15' by 15' pressure-treated deck on the beach at the property located at **101 ½ Commercial Street**, in Provincetown. The application is continued until the April 22, 2008 hearing.

Request for Determination of Applicability

Application by **Shoreline Construction** for a Request for Determination of Applicability under the Massachusetts Wetlands Protection Act, M.G.L. c. 131, § 40 and the Provincetown Wetlands By-Law Chapter 12. The applicant seeks determination of floodplains and wetland areas at the property located at **29 Bradford Street Extension** in Provincetown. The application is continued until the April 22, 2008 hearing.

DISCUSSION:

Rogue Wave Proposal - Steve Aubrey, of Rogue Wave Field Services, appeared to discuss his proposal for the resource survey off Herring Cove Beach, the Shank Painter Bar between the 12 and 40 foot contour, as outlined in his letter to the Commission. Mr. Aubrey's proposal was to perform a biological resource survey of the area to determine whether or not there is eelgrass or any other resources that might be impacted by dredging for shellfish in this area. He would use a Remotely Operated Vehicle equipped with a video camera to record images along the bottom. He informed the Commission that he had already walked along Herring Cove Beach and made what he called a forensic survey. His claim is that he can determine what lies offshore, in the immediate near-shore region, based on what he finds on the beach. In the area he walked, he found evidence of surf clams, but no evidence of eelgrass on the beach. He told the Commission that he has also had discussions with people who have done work in the area who agree with this opinion. His opinion is also that the location in question is too dynamic an environment to support eelgrass. However, he reiterated that he would map the area for the Commission if they chose to hire him. If they chose to do so, he requested that the Commission put him in touch with divers who have found eelgrass in the area, so they could show him where to dive. The Commission decided to discuss the issue again when more Commissioners were present.

ADJOURNMENT: *David Hale moved to adjourn at 9:00 P.M. and it was so voted unanimously.*

These minutes were approved by a vote of the Conservation Commission at their meeting on _____, 2008.

Respectfully submitted,
Ellen C. Battaglini

Approved by _____ on _____, 2008

Dennis Minsky and Elaine Anderson, Co-Chairs