

PROVINCETOWN CONSERVATION COMMISSION
JUDGE WELSH ROOM
March 6, 2018
6:30 P.M.

Members Present: Kiah Coble, Gregory Howe and Joseph Cooper.

Members Absent: Alfred Famiglietti (excused), Nathaniel Mayo (excused) and Robert Brock (excused).

Others Present: Tim Famulare, Conservation Agent and Ellen C. Battaglini, Permit Coordinator.

Gregory Howe moved to appoint Kiah Coble as Acting Chair for the meeting, Joseph Cooper seconded and it was so voted, 3-0.

Acting Chair Kiah Coble called the meeting to order at 6:01 P.M.

1) **Executive Session:**

Executive Session pursuant to G.L. c. 30A, s. 21(a)(3), to discussion litigation strategy in the following matters: Aqua King Fisher, LLC v. Conservation Commission, Barnstable Superior Court, C.A. No. 2015-00064; Conservation Commission v. Stellwagen Bank Fisheries Corp., Barnstable Superior Court, C.A. No. 2015-00387; Conservation Commission v. Patricio Palacios, Barnstable Superior Court, C.A. No. 2015-00386; and the Request for Superseding Determination of Applicability filed with the Massachusetts Dept. of Environmental Protection by David Kelley regarding commercial fishing operations for surf clams utilizing hydraulic fishing gear off Herring Cove; if discussing the matters in Open Session will have a detrimental effect on the Town's litigating position and the Chair so declares.

Ms. Coble announced that the Executive Session would be postponed to a later date, to be determined. The agenda will be posted on the Town website at least 2 business days before the meeting. Mr. Famulare explained that upon consultation with Town Counsel it was decided that the Executive Session would be postponed until more members of the Commission were present.

5) **Approval of Minutes of January 16, 2018, February 6, 2018 and February 20, 2018:**

Mr. Famulare reviewed the corrections to the minutes of January 16, 2018. *Gregory Howe moved to approve the minutes of the January 16, 2018 as amended, Kiah Coble seconded and it was so voted, 3-0.* The minutes of the February 6, 2018 meeting were tabled to the next meeting and the minutes of the February 20, 2018 minutes were not ready.

6) **Information:**

Administrative Review Applications by Agent:

- a) **CON-18-065 435 Commercial Street** – remove 2 ailanthus trees. Mr. Famulare briefly reviewed the project.

7) **Conservation Agent Update:** Mr. Famulare said that in response to the nor'easter of March 2nd, 3rd and 4th, the DEP issued a severe weather emergency declaration enabling property owners to proceed with debris clearing and repair work without going through the normal emergency certification or permitting processes. This includes such activity as clearing of roads and beaches of debris and making minor repairs to seawalls and beach access stairs. Any post-storm activities

need to be completed by April 2nd. Individuals need to contact both Mr. Famulare and DEP about any of this activity undertaken. He said that this was not an excuse to avoid complying with the local by-law. He then proposed a regulation change to allow suspension of the application of the local by-law when the DEP issues a severe weather emergency declaration because the two jurisdictions overlap.

Mr. Famulare welcomed Joseph Cooper to the Commission.

Acting Chair Kiah Coble called the Work Session to order at 6:15 P.M.

2) **Work Session:**

Review of Conservation Commission Application Review Guidelines. Mr. Famulare gave an overview of his thinking regarding several Guidelines, including bulkheads and the 'Driveways, walkways, parking and patio' category, for the Commission's consideration. Mr. Famulare will prepare a more comprehensive list for the next meeting and asked for suggestions from Commissioners. He informed the Commission that the upcoming meeting will include voting on recommendations regarding Town Meeting warrant articles dealing with the natural environment and formal votes on by-law amendments and charter revisions. He will be scheduling meetings on March 13th and 27th if enough Commissioners are available.

The Work Session was adjourned at 6:23 P.M.

Acting Chair Kiah Coble called the Public Hearing to order at 6:30 P.M.

1) **Public Comments:**

None.

2) **Public Hearings:**

a) **CON-18-063 1 Commercial Street**

Notice of Intent by Provincetown Inn pursuant to Massachusetts Wetlands Protection Act (M.G.L. c. 131, s. 40) and Provincetown General By-Laws, Chapter 12, Wetland Protection By-Law for proposed foundation and building repairs from recent storm damage. Work to take place within Land Subject to Coastal Storm Flowage and a Buffer Zone to a Coastal Bank.

Presentation: Brad Malo, of Coastal Engineering Co., on behalf of Robert Our Co., the contractor on the project, appeared to present the application. Mr. Malo said that the proposal includes foundation and support repairs to a portion of the existing motel units that were damaged and failed in a winter storm/flooding even on January 4, 2018. An Emergency Certification issued by the Commission permitted work in order to abate the emergency. The building and foundation of the building were shored up with cribbing in order to allow an immediate replacement of the impacted foundation wall and footing system and the replacement of displaced soils in the impacted area. He said that the work that is the subject of this application is to complete the permanent repairs, specifically, those including the replacement of a concrete foundation wall along the edge of the existing building wall, construction of a footing wall and supports for deck replacement, the replacement of back-fill sand/gravel within the footing walls and the

replacement of several privacy fence sections abutting the building face. The existing pavement will be replaced in localized areas disturbed by the demolition/repair work. All concrete work will take place at or below the existing ground level and no surface grade changes will be performed. The finished site conditions in the work area will match the pre-existing site conditions to the extent practicable. He added that as a result of the storm this past weekend, more damage had been observed, including a wash-out/sinkhole between the proposed work area and the existing revetment. This is an area that is very susceptible to future erosion and failure and he is requesting that it be included as part of the application. This area is included in the limit of work He proposed that a flowable, or low-density, fill to be used to fill the sinkhole. The fill is similar to concrete, is used to fill in irregular voids and it hardens in a matter of hours. He said that he would submit a revised plan to locate this work and propose it be filled with flowable fill or sand, to be determined after consultation with the contractor.

Public Comment: None.

Commission Discussion: The Commission questioned Mr. Malo. Mr. Malo reviewed the stormwater management checklist of standards for the project. Mr. Famulare reviewed the draft conditions and suggested revisions, specifically to Construction condition #8, #9 and #12. He noted the incorporation of long-term management and maintenance requirements in condition #17.

Gregory Howe moved to approve the Notice of Intent pursuant to Massachusetts Wetlands Protection Act (M.G.L. c. 131, s. 40) and Provincetown General By-Laws, Chapter 12, Wetland Protection By-Law for proposed foundation and building repairs from recent storm damage at the property located at 1 Commercial Street, CON-18-063, subject to the revised Construction special conditions as discussed and contingent upon the submission of a revised site plan that marks the location of the sinkhole, Kiah Coble seconded and it was so voted, 3-0.

8) **Any other business that shall properly come before the Commission:** None.

ADJOURNMENT: *Gregory Howe moved to adjourn the Public Hearing at 7:01 P.M. and it was so voted unanimously.*

Respectfully submitted,
Ellen C. Battaglini

Approved by _____ on _____, 2018
Alfred Famiglietti, Chair