

## PROVINCETOWN CONSERVATION COMMISSION

May 2, 2006

6:30 P.M.

**Members Present:** Dieter Groll, Dennis Minsky, John Santos, Elaine Anderson, Robin Evans and Paul Tasha (departed at 7:40 P.M.)

**Members Absent:** George Bryant and (excused).

**Others Present:** Erica Lerner (Conservation Agent), Brian Carlson (Health Inspector) and Ellen C. Battaglini (Recording Secretary).

Co-Chair Dieter Groll called the meeting to order at 6:00 P.M.

### WORK SESSION

The Commission discussed new regulations and a draft management plan.

*Dieter Groll moved to include the definitions discussed, Paul Tasha seconded and it was so voted, 4-0-1 (John Santos abstaining).*

The Commission will schedule a public hearing on these issues.

Co-Chair Dieter Groll called the Public Hearing to order at 6:30 P.M.

### PUBLIC STATEMENTS:

Peter Souza spoke about the Clapp's Pond management plan and reiterated his observations concerning the increase in dirt bike and foot traffic in the area. He believes that the damage caused by this activity should be of concern to the Commission and hopes that a management plan will be forthcoming.

#### Determination of Applicability (continued from 04/18/06)

Application by Leonard Enos, Jr., for a Request for a Determination of Applicability under the Provincetown Wetlands By-Law, Chapter 12 of the Provincetown General By-Laws, and under the Massachusetts Wetlands Protection Act, M.G.L. c. 131, § 40. The applicant seeks to construct two stairways to access a proposed second floor deck at **315A – 319 Commercial Street**, in Provincetown.

**Presentation:** Robert Valois and Leonard Enos, Jr. appeared to present the application. There will be minimal impact on the resource area as most of the construction will be on the Lopes Square side of the premises.

**Public Comment:** None.

**Commission Discussion:** The Commission questioned Mr. Valois and Mr. Enos.

*Paul Tasha moved to grant a Negative #3 Determination, Dennis Minsky seconded and it was so voted, 5-0.*

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**Notice of Intent** (continued from 04/18/06)

Application by the Union Wharf Condominium under the Provincetown Wetlands By-Law, Chapter 12 of the Provincetown General By-Laws, and under the Massachusetts Wetlands Protection Act, M.G.L. c. 131, § 40. The applicant seeks to repair three pilings under an existing building at the property located at **97 Commercial Street**, in Provincetown.

**Presentation:** Tim Brady appeared to discuss the application. The applicant had submitted revised information to the Commission in the form of a letter dated 04/24/06 and a revised engineer-stamped site plan and that includes information concerning the location of the specific pilings to be replaced and the manner in which they will be replaced. The pilings will be made of steel and coated with an epoxy. No CCA-treated lumber will be used. The proposed project will take 2 days to complete.

**Public Comment:** Jack Papetsas, an abutter, had concerns about the close proximity of his pier and hoped that his property would sustain no damage during construction.

**Commission Discussion:** The Commission questioned Mr. Brady.

**Paul Tasha moved to grant a Notice of Intent, referencing the construction protocol as outlined in a letter dated 04/24/06 and notes on a site plan as submitted to the Conservation Commission, Dennis Minsky seconded and it was so voted, 5-0.**

**Notice of Intent** (continued from April 18, 2006)

Application by the Douglas Taylor under the Provincetown Wetlands By-Law, Chapter 12 of the Provincetown General By-Laws, and under the Massachusetts Wetlands Protection Act, M.G.L. c. 131, § 40. The applicant seeks to relocate an existing dwelling at the property located at **11A Mermaid Avenue**, in Provincetown.

**Presentation:** Doug Taylor appeared to discuss the application. The applicant submitted a revised site plan to the Commission, showing the proposed location of the silt fencing, the limit of work and other information requested. The applicant also submitted the Conservation Commission's Special Conditions that pertain to the project and a letter from the Fire Chief stating that the access to the property was adequate for emergency vehicles.

**Public Comment:** Shari Kadison, an abutter, spoke in opposition to the project, stating her concern about the disruption of wildlife in the area. Eric Irving, another abutter, spoke against the project

**Commission Discussion:** The Commission questioned Mr. Taylor.

**FINDINGS OF INTEREST:**

- Storm damage prevention;
- Flood control; and
- Protection of wildlife habitat.

**John Santos moved to grant a Notice of Intent for the property located at 11A Mermaid Avenue, with the Special Conditions referenced in the applicant's letter to the Commission and the additional condition that the work will be performed off season and that the site plan will be updated to include flagging done at the premises but not included on the submitted site plan, Paul Tasha seconded and it was so voted, 5-0.**

### ***Notice of Intent***

Application by the China Trust under the Provincetown Wetlands By-Law, Chapter 12 of the Provincetown General By-Laws, and under the Massachusetts Wetlands Protection Act, M.G.L. c. 131, § 40. The applicant seeks to raze and rebuild two residential structures at the property located at **361C Commercial Street**, in Provincetown. Robin Evans recused herself because of a conflict of interest. Dieter Groll, Dennis Minsky and John Santos sat on the case.

**Presentation:** Reggie Donoghue, of Coastal Engineering, Inc., and Fred Ambrose appeared to discuss the application. The applicant intends to build on the same footprint and with a slight reduction in the size of the buildings to be replaced. The building closest to the beach will not be touched. All access for construction will be via the Johnson Street parking lot.

**Public Comment:** None.

**Commission Discussion:** The Commission questioned Mr. Donoghue and Mr. Ambrose. The Commission requested that the hay bales be replaced with straw bales.

### **FINDINGS OF INTEREST:**

- Storm damage prevention;
- Prevention of pollution;
- Protection of wildlife habitat;
- Flood control.

***Dennis Minsky moved to grant a Notice of Intent for the property located at 361C Commercial Street with the following conditions:***

- 1. Within one month of receipt of this Order of Conditions, no work shall be undertaken until the Order has become final and then has been recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land upon which the proposed work is to be done. In the case of the registered land, the Final Order shall also be noted on the Land Court Certificate of Title of the owner of the land upon which the proposed work is done. The recording information shall be submitted to this Conservation Commission on the form at the end of this Order, which form must be stamped by the Registry of Deeds, prior to the commencement of work.***
- 2. It is the responsibility of the applicant, the owner and/or successor(s) and the project contractors to ensure that all conditions of this Order are complied with. The applicant shall provide copies of the Order of Conditions and approved plans (and any approved revisions thereof) to project contractors prior to the start of work.***
- 3. This document shall be included in any construction contracts and specifications dealing with the work proposed and shall supersede any conflicting contract requirements. Thereafter, the contractor will be held jointly liable for any violation of this Order resulting from failure to comply with its conditions.***
- 4. A sign shall be displayed showing the DEP file number, preferably not placed on a living tree.***
- 5. The Conservation Commission shall receive notice 72 hours in advance of the start of work. If requested, a meeting will be held on the site to ensure compliance before work begins.***
- 6. Staked straw bales backed by trenched-in siltation fencing or approved alternative shall be set along the approved work limit line. Effective sediment controls shall remain until the site is stabilized with vegetation.***
- 7. A sequence of color photographs showing the undisturbed buffer zone shall be submitted to the Conservation Commission. Note: the straw bales and siltation fence must show in the foreground (or bottom of) the photographs.***
- 8. It is the responsibility of the applicant to procure all other applicable federal, state and local permits and approvals associated with this project.***
- 9. Any change to the plans and special conditions referenced in this order shall require the applicant to inquire of the Conservation Commission in writing whether the change is***

*significant enough to require the filing of a new Notice of Intent.*

10. *All sedimentation barriers shall be maintained in good repair until all disturbed areas have been fully stabilized with vegetation or other means. At no time shall sediments be deposited in a wetland or water body. During construction, the applicant or his/her designee shall inspect the erosion controls on a daily basis and shall remove accumulated sediments as needed. The applicant shall immediately control any erosion problems that occur at the site and shall also immediately notify the Conservation Commission, which reserves the right to require additional erosion and/or damage prevention controls it may deem necessary. Sedimentation barriers shall serve as the limit of work unless another limit of work line has been approved by this Order.*
11. *All debris, fill, and excavated material shall be stockpiled far enough away from wetland resource areas, and at a location to prevent sediment from entering wetland resource areas.*
12. *The Conservation Commission, its employees, and its agents shall have a right of entry to inspect for compliance with the provisions of this Order of Conditions.*
13. *This permit is valid for 3 years from the date of issuance, unless extended by the Commission at the request of the applicant. Caution: a future Amended Order does not change the expiration date.*
14. *Upon completion of the foundation, the project surveyor or engineer shall verify in writing or by plan to the Commission the correct location of the foundation and work limit line and note any discrepancies from the approved plan. If verification is in the form of an as-built plan, the plan provided shall be drawn at the same scale as the approved plan.*
15. *Any fill used for this project shall be clean fill. Fill shall contain no trash, refuse, rubbish, or debris.*
16. *No CCA-treated or creosote-treated materials shall be used.*
17. *Construction shall conform to the requirements of the State Building Code for construction within the coastal floodplain.*
18. *The driveway shall be constructed of pervious material (gravel or shell) or alternate as approved by the Conservation Commission.*
19. *At the completion of work, or by the expiration of this Order, the applicant shall request in writing a Certificate of Compliance for the work herein permitted. Where a project has been completed in accordance with plans stamped by a registered professional engineer, architect, landscape architect or land surveyor, a written statement by such a professional person certifying substantial compliance with the plans and setting forth what deviation, if any, exists with the record plans approved in the Order shall accompany the request for a Certificate of Compliance. At the time of the request for a Certificate of Compliance, an updated sequence of color photographs of the undisturbed buffer zone shall be also submitted.*

*John Santos seconded and it was so voted, 3-0.*

#### *Emergency Certification*

**471 Commercial Street** – There is a breach in the seawall and fill is being dragged into the bay. Joe Notaro and the Department of Public Works will be doing repairs, including patching the seawall and placing the fill under the decking at the premises.

*Dennis Minsky moved to approve the Emergency Certification, John Santos seconded and it was so voted, 3-0-1(Robin Evans abstaining).*

#### **Any other business that shall properly come before the Commission**

The Commission discussed the topic of beach nourishment and would like to put it on the agenda and possibly get Graham Geiss to come talk about the issue.

#### *Emergency Certification*

**Provincelands Road** – The road is falling into the salt marsh abutting it. There is a need to stabilize the slope and repair the pavement. The Commission decided to do a site visit on May 3, 2006, at 1:00 P.M.

*Dennis Minsky moved to approve the Emergency Certification, contingent upon a majority approval of the Commissioners who attend the site visit, Robin Evans seconded and it was so voted, 4-0.*

**CORRESPONDENCE:**

361A Commercial Street – Amnesty from the requirements of Chapter 91 was sought in regard to this property. The site is in compliance with Chapter 91 and any work commenced will not require anything further from the Commission. A letter will be issued to that effect.

*Dennis Minsky moved to approve the issuance of a letter stating that work can be commenced without any further action by the Conservation Commission, John Santos seconded and it was so voted, 4-0.*

Flagship property – Erica will research the history of the site.

Shank Painter Pond Resource Area – The DPW is too busy to complete the work requested by the Commission in compliance with a request from the Provincetown Conservation Trust. The Commission needs to request an extension. Erica will write a letter to request an extension.

*Dennis Minsky moved to approve the request for an extension, Robin Evans seconded and it was so voted, 4-0.*

The Commission discussed fees and will bring an administrative review form for the Commission to approve.

**ADJOURNMENT:**

*Elaine Anderson moved to adjourn the meeting 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 \_\_\_\_\_, 2006.

Respectfully submitted,

Ellen C. Battaglini

Approved by \_\_\_\_\_ on \_\_\_\_\_, 2006  
Dieter Groll and Elaine Anderson, Co-Chairs