

## PROVINCETOWN CONSERVATION COMMISSION

November 6, 2006

6:30 P.M.

**Members Present:** Dieter Groll, Elaine Anderson, Lynne Martin and Paul Tasha.

**Members Absent:** Dennis Minsky, and Robin Evans.

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

Co-Chair Dieter Groll called the meeting to order at 6:50 P.M.

### **PUBLIC STATEMENTS:**

None.

### **MINUTES:**

**September 5, 2006 – Regular Session - Elaine Anderson moved to approve the language as amended, Lynne Martin seconded and it was so voted, 3-0.**

**September 5, 2006 – Executive Session - Elaine Anderson moved to approve the language as written, Lynne Martin seconded and it was so voted, 3-0.**

**October 17, 2006 – Regular Session – Lynne Martin moved to approve the language as written, Elaine Anderson seconded and it was so voted, 4-0.**

**October 17, 2006 – Executive Session – Lynne Martin moved to approve the language as written, Elaine Anderson seconded and it was so voted, 4-0.**

### **REVISED PLAN**

China Trust – 361A Commercial Street

**Presentation:** Reggie Donoghue appeared to discuss the proposed revision to the plan dated November 2, 2006. The applicant seeks to raise an existing walkway on the west side of the premises.

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

**Elaine Anderson moved to approve the revised plan for the property located at 361A Commercial Street, Lynne Martin seconded and it was so voted, 4-0.**

### **Enforcement Order**

John Baldwin, Town Beach at Ryder Street Ext., Provincetown: A large aquaculture vessel was dragged onto the beach by at least 2 front-loaders.

Erica reported to the Commission that there were signs of disturbance of sand over a large area of the beach. Erica contacted Mr. Baldwin and gave him a certain period of time in which to remove the vessel from the beach. Heavy machinery can only be used to put the boat back into the water.

**Elaine Anderson moved to ratify the Enforcement Order, Lynne Martin seconded and it was so voted, 4-0.** Erica will send out a violation letter.

### **Request for Determination of Applicability**

Application by **Town of Provincetown** 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, Section 40. The applicant seeks to harden the existing walking trail over the old railroad bed on land owned by the Town of Provincetown, Board of Selectmen at **61 Howland Street**, in Provincetown.

This case is being re-heard because abutters were not noticed when the Requests was first heard. Abutters have been notified and invited to voice their opinions about the application.

**Presentation:** Erica Larner, representing the Town of Provincetown, appeared to discuss the application.

**Public Comment:** Josephine Del Deo, an abutter, spoke of the history of the railroad bed and her efforts to preserve it. She feels the project is inappropriate and thinks that the area should remain 'open space'. Her husband, Sal, spoke against the project as well, concurring with Josephine's opinions.

Harry Palmer questioned the legality of the previous hearing, when the original Request was heard, due to the failure to notify abutters.

John Eder spoke against the project.

John Reis questioned the necessity of having to obtain a building permit for the project.

Terry Lambrou asked the Commission if it would help if the Conservation Trust, of which she is a member, wrote a letter to the Board of Selectmen about this project.

**Commission Discussion:** The Commission questioned Ms. Larner.

*Elaine Anderson moved to approved the project if it went no further than where it currently ends, Paul Tasha seconded.* Erica informed the Commission that since the work has already been permitted, the project is not impacting any wetland and Natural Heritage has already given its approval, that the Commission does not have the authority to condition their motion. The motion is ruled out of order.

*Lynne Martin moved to issue a Negative #3 Determination (the work described in the Request is within the Buffer Zone, as defined in the regulations, but will not alter an Area subject to protection under the Act. Therefore, said work does not require the filing of a Notice of Intent), subject to the General Order of Conditions under the Massachusetts Wetlands Protection Act, Elaine Anderson seconded and it was so voted, 3-1 (Paul Tasha opposed).*

#### **Request for Determination of Applicability**

Application by **Sheridan Carr** 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, Section 40. The applicant seeks to replace a deck and associated stairs at **663 Commercial Street**, in Provincetown.

**Presentation:** Harry Palmer appeared to discuss the application. The applicant seeks to replace a deck and stairs to mimic the existing. Pressure-treated lumber will be used, but all cutting will occur on the street side of the premises and any excess lumber will be disposed of legally.

**Public Comment:** None.

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

*Paul Tasha moved to grant a Negative #3 Determination, subject to the General Order of Conditions under the Massachusetts Wetlands Protection Act, and with the additional conditions that all debris will be removed from the construction site daily and disposed of legally and a silt barrier will be placed around the work area to contain debris, Lynne Martin seconded and it was so voted, 4-0.*

#### **Request for Determination of Applicability**

Application by **Daniel Mullin** 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, Section 40. The applicant seeks to construct a gazebo at **11 Commercial Street**, in Provincetown.

**Presentation:** John Reis appeared to present the application. The gazebo will be constructed on an existing patio with a 3' brick wall encompassing it. Erica reported that there would be no impact on a resource area.

**Public Comment:** None.

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

*Paul Tasha moved to grant a Negative #3 Determination, subject to the General Conditions under the Massachusetts Wetlands Protection Act, with the following additional condition that the debris onsite*

*be containerized and removed from the site, Elaine Anderson seconded and it was so voted, 4-0.*

***Notice of Intent***

Application by the **Department of Public Works** for a Notice on Intent 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 extend an existing sewer system to the **Shank Painter Basin, DPW garage and Pleasant Street Extension/Snow's Lane/Icehouse Road areas**, in Provincetown.

**Presentation:** Thomas Touchet and Rob Adams, both of Metcalf & Eddy, appeared to present the application. DPW seeks to institute Phase II of the Town's sewer system, which has been in operation for 4 years. There is an existing and projected need for the system in these areas. The pump station for this phase will be submerged.

**Public Comment:** Terry Lambrou inquired about the pump station location and stated a concern for potential noise generated by the pumps.

**Commission Discussion:** The Commission questioned Mr. Touchet and Mr. Adams. There has been no DEP file number assigned to the project nor any comment from Natural Heritage.

*Elaine Anderson moved to grant a Notice of Intent for Phase II of the sewer system for an extension to Shank Painter Basin, DPW garage and Pleasant Street Extension/Snow's Lane/Icehouse Road areas, with the following conditions:*

- *Any fill used at the site is cleaned and sanitized;*
- *As a result of this decision, the Provincetown Conservation Commission is not confirming the wetland delineation for those areas; and*
- *The disturbed areas will be re-seeded with drought-tolerant fescue.*

*Paul Tasha seconded and it was so voted, 4-0.*

**SPECIAL TOWN MEETING WARRANT REVIEW:**

**Article 1. Wastewater Optimization and Expansion – Borrowing Authorization**

The Commission voted 4-0 in support of this Article.

**Article 3. Endorsement of the U.S. Mayors' Climate Protection Agreement**

The Commission voted 4-0 in support of this Article.

**Article 4. Cape Cod Renewable Fuels Partnership Declaration of Support**

The Commission voted 4-0 in support of this Article.

**Article 10. Accept M.G.L. c. 39, §23D Town Board Quorums at Adjudicatory Hearings**

The Commission voted 4-0 in support of this Article.

**CORRESPONDENCE:**

Erica received a letter from the abutters to the Tides Motel subdivision at Beach Point. The letter is regarding the excavation at the site located at 811 and 837 Commercial Street. The letter claims that the property has been filled above the 2' shown on the original plans approved by the Commission. The letter alleges that the site has been filled to at least 10' above the original grade, bringing it to 3' above street level. They are requesting that the DEP and the Conservation Commission investigate this discrepancy in the site elevations and its impact on the barrier beach located on the property.

**ADJOURNMENT:**

*Elaine Anderson moved to adjourn at 10:15 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