

PROVINCETOWN CONSERVATION COMMISSION

December 5, 2006

6:30 P.M.

Members Present: Dieter Groll, Elaine Anderson, Dennis Minsky and Lynne Martin.

Members Absent: Paul Tasha and Robin Evans.

Others Present: Brian Carlson (Health Inspector) and Ellen C. Battaglini (Recording Secretary).

Co-Chair Elaine Anderson called the hearing to order at 6:40 P.M.

PUBLIC STATEMENTS:

None.

MINUTES: October 17, 2006 – *Dieter Groll moved to approve the language as written, Lynne Martin seconded and it was so voted, 4-0.*

November 21, 2006 – Regular and Executive Sessions – *Dieter Groll moved to approve the language as written, Lynne Martin seconded and it was so voted, 3-0-1 (Dennis Minsky abstaining).*

DISCUSSION: *(continued from November 21, 2006)*

Ray Wells: Nicky's Peace Park for 74 Harry Kemp Way

Celine Gandolfo, representing Ray Wells, appeared to discuss the project. 74 Harry Kemp Way is a parcel of land on Harry Kemp Way owned by Ms. Wells and one that she would like to leave in a natural and undisturbed state in memory of Nicky Wells. She would like to see paths throughout the property and benches at the entrance. She also has ideas about the type of signage to be placed at the site. Currently Mark Robinson is working on the management plan for the area.

DISCUSSION:

Rex McKinsey, Pier Manager; Massachusetts Estuaries Project Grant Proposal

Mr. McKinsey is appearing before the Commission looking for support in the form of a letter and volunteers should the grant be approved. The request includes Provincetown Harbor, East Harbor Lagoon (Pilgrim Lake), Hatches Harbor and the Pamet River system. The grant will pay for tests that will provide data on nutrient loading and bacterial counts in the previously mentioned waters. The tests should result in a clearer understanding of fecal chloroform that often leads to summer beach closures. If the grant application is successful, Mr. McKinsey will need the assistance of the Commission to carry out sample collecting.

Dennis Minsky moved to direct Brian Carlson to write a letter in support of the Town's application for a Massachusetts Estuaries Project Grant, Elaine Anderson seconded and it was so voted, 4-0.

OLD BUSINESS:

Notice of Intent *(continued from November 21, 2006)*

Application by Demetrios Daphnis 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 approval for construction of six new dwelling, retaining walls and appurtenances at **67 Harry Kemp Way**, in Provincetown.

Presentation: Paul Shea, William N. Rogers and Demetrios Daphnis appeared to discuss the application. The applicant submitted what the Commission had requested when this case was heard previously, *to wit*, the information that was submitted to Natural Heritage, including the MESA (Massachusetts Endangered Species Act) filing, about the project, a profile of Buildings 1, 2 and 3 and

language from Attorney Christopher J. Snow for the covenants to be attached to each deed out of the property. Dennis Minsky stated that even though he had not been present at the previous meeting when this application had been heard, he felt he could render an informed decision.

Public Comment: Celine Gandolfo, representing the Provincetown Conservation Trust who is an abutter to the property, was concerned about the covenants attached to the site being lost or otherwise unenforceable.

Commission Discussion: The Commission questioned Mr. Shea, Mr. Rogers and Mr. Daphnis. The Commission discussed their need for more than the 21 days in order to draft Orders of Conditions for the project. The applicant agreed to grant an extension to the Commission of 45 days in order to allow the Commission to consult with Town Counsel, and possibly with Don Schall, Senior Biologist at ENSR and the Commission's environmental consultant on the project, about what conditions should be applied to the project. The applicant also gave the Commission permission to use the remainder of the monies escrowed by the applicant to pay for the environmental consultant to undertake these consultations. Some of the conditions discussed by the Commission included permanent restrictive covenants to be attached to the property, phragmites removal from the site, getting a positive final report from Natural Heritage and a time schedule for the project.

Elaine Anderson moved to grant the Notice of Intent, with the Order of Conditions to be formulated by the Commission within 45 days (by February 6, 2007), Dennis Minsky seconded and it was so voted 3-0-1 (Dieter Groll abstaining).

Notice of Intent (continued from November 21, 2006)

Application by the Independent Environmental Consultants, Inc., representing Snow Realty Trust I, II, Scott Andonian, Trustee, 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 approval for construction of one single family dwelling on each lot with appurtenances, and the upgrade of sanitary subsurface disposal systems on each lot with appurtenances at the property located at **34 and 36 Snow's Lane**, in Provincetown. Co-Chair Dieter Groll recused himself because of a conflict of interest. Co-Chair Elaine Anderson chaired the hearing.

Presentation: Paul Shea, William N. Rogers and Scott Andonian appeared to discuss the application. Mr. Shea stated that Don Schall, the Commission's consultant on the project, re-set the original flagging of the wetland at the site. He stated that he had met with Dennis Minsky and Erica Larner at the site to inspect the flagging. Mr. Schall thought the project plans had good mitigation elements. His only suggestion related to the addition of more plantings, a mixture of shrubs and grasses, in the 50' buffer zone. He gave a list of his ideas to the applicant.

Public Comment: Celine Gandolfo brought up several concerns, including whether a large tree on the site could be saved or not, what kind of fill would be brought in and oil that was released into the ground. Mary Lambrou, an abutter, spoke against the project. Gary Joseph, speaking for Mimi Gross, an abutter, was concerned about the environmental sensitivity of the area and the location of the access road. There were 5 letters in opposition to the project in the file.

Commission Discussion: The Commission questioned Mr. Shea, Mr. Rogers and Mr. Andonian. Some of the issues that concerned the Commission were the large tree on the site, the permeable access road, the Cape Cod Commission report on the area, the Title V setbacks and Attorney Christopher J. Snow's interpretation of 'road access'. The applicant requested a continuance

Dennis Minsky moved to continue the case until the December 19, 2006 hearing, Lynne Martin seconded and it was so voted, 4-0.

NEW BUSINESS:

Request for Determination of Applicability

Application by **Off Cemetery Road Realty Trust c/o Kenneth C. Weiss, Trustee** for a Determination of Applicability under the Provincetown Wetlands By-Law, Chapter 12 of the Provincetown General By-Laws. The applicant seeks to construct a dwelling, stone retaining wall and perform minor grading at

the property located a **5 Heather's Way**, in Provincetown.

Presentation: William N. Rogers appeared to present the application.

Public Comment: None.

Commission Discussion: The Commission questioned Mr. Rogers. The Commission decided that they would like to conduct a site visit on December 18, 2006 at 12:00 P.M. Mr. Rogers will have the house and retaining wall location flagged at the site. The case is continued until December 19, 2006.

Dennis Minsky moved to continue the case until the December 19, 2006 hearing, Lynne Martin seconded and it was so voted, 4-0.

ANY OTHER BUSINESS:

3 Duncan Lane – Josiah Mayo and Jeremy Lignori, both abutters, appeared to discuss the property. There is just a hole in the ground presently at the site and Mr. Mayo and Mr. Lignori asked the Commission to investigate whether there is a resource area or species habitats in the vicinity. Brian Carlson will be in contact with Natural Heritage about the property.

The Commission briefly discussed the issue of exploring the possibility of Brian Carlson becoming the permanent Conservation Agent.

ADJOURNMENT:

Elaine Anderson moved to adjourn at 11:30 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