

**PROVINCETOWN
CONSERVATION COMMISSION
CAUCUS HALL
January 5, 2016
6:30 P.M.**

Members Present: Dennis Minsky, David Hale, Lynne Martin, Barbara Prato and Mark Irving.

Members Absent: None.

Others Present: Anna Meade (Conservation Agent) and Ellen C. Battaglini (Recording Secretary).

Chair Dennis Minsky called the Public Hearing to order at 6:29 P.M.

PUBLIC STATEMENTS:

None.

OLD BUSINESS:

Winthrop Street Cemetery – Invasive Species Management Plan:

Anna informed the Commission that this agenda item will be heard at the February 2, 2016 Public Meeting.

9 Willow Drive – Project completion:

Anna reported that the information in the files regarding this property was scarce. Gordon Peabody asked to be heard on the matter. He said that the project was originally heard by the Commission as an Administrative Review and that MESA had determined it would not result in a 'take'. Safe Harbor Environmental had submitted a report to the Commission attesting to the fact that the project had been completed in substantial compliance with the protocols and mitigations. Mr. Peabody said the report had been submitted because of his uncertainty regarding the protocol for the closure of an Administrative Review.

NEW BUSINESS:

Notice of Intent

Application by **Jeff Larsen**, represented by **Gordon Peabody**, of **Safe Harbor Environmental**, for a **Notice of Intent** under the Provincetown Wetlands By-Law, Chapter 12. The scope of work will include the construction of a single-family home, a Title V septic system and native habitat restoration at the property located at **29 Point Street** in Provincetown. David Hale disclosed that his term on the Commission has expired and he hasn't yet been reappointed so he is recusing himself from voting on applications during this Public Meeting.

Presentation: Gordon Peabody appeared to present the application. He reviewed the Safe Harbor environmental management plan for the project, which included a vegetation survey, a project narrative, a protocol for the conservation of geomass, a slope stabilization plan, a habitat

restoration planting plan, a water quality conservation plan and information regarding inspections, liaison and communications related to the project.

Public Comment: None. There were 5 letters in support of the application.

Commission Discussion: The Commission discussed and questioned Mr. Peabody about the management plan. In response to questions, he said that plantings would be done with a combination of seeds, which would be dispersed in multiple seedings, and plants. He said that the planting was only going up to the 40' elevation line for the time being because of Planning Board issues and no planting would occur beyond the proposed limit of work. Mr. Peabody said that the plan also included planting mostly ground cover and native wildflowers (via seeds) on the upper slope, lowbush blueberry and seaside goldenrod on the lower slope and Eastern red cedar on the side slope. The upper slope would also include the planting of additional Virginiana roses.

He invited the Commissioners to view the property as the plantings grew in order to assess the density. The Commission questioned Mr. Peabody about the criteria to measure growing success. He recommended looking at stability and habitat to assess success. In response to a question regarding how drought conditions would be handled, Mr. Peabody suggested adding a condition #13 on page 8, to read that limited hand watering would be done only in the first year if drought conditions were to occur. He added that the septic area will be used as a staging area before the septic system is installed and that area will be planted last. In response to an inquiry as to whether the option of putting the structure on pilings had been considered, Mr. Peabody stated that the soil on the site was unconsolidated and that he thought there had been an alternatives analysis by the project engineer.

Dennis Minsky moved to approve the Notice of Intent by Jeff Larsen, represented by Gordon Peabody of Safe Harbor Environmental, under the Provincetown Wetlands By-Law, Chapter 12 for work to include the construction of a single-family home and a Title V septic system and native habitat restoration at the property located at 29 Point Street, with the Standard Order of Conditions and with the additional conditions that the project be executed as presented in this application with protocols referred to in the four Safe Harbor publications submitted, with the addition that hand-watering will be performed if necessary, that the Conservation Commission, through its Agent, be involved in pre-work and regular inspections during the project and that if there is a change in the professional management of the project that the applicant return to the Commission, Barbara Prato seconded and it was so voted, 4-0. Mr. Peabody said that he would send Anna the email he received from MESA approving the plan and will provide her with the alternatives analysis from the engineer in regard to pilings and the cubic footage of excavation at the site.

Notice of Intent

Application by **Rex McKinsey, Pier Manager**, and represented by **Russell Titmuss, of Bourne Consulting Engineering, P.C.**, 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 will include the complete reconstruction of MacMillan Pier, dredging of the marina basin, dredging of the fairway between MacMillan Pier and Fishermen's Wharf and the construction of a new marina at **MacMillan Pier** in Provincetown.

Presentation: Rex McKinsey and Russell Titmuss appeared to present the application. Mr. McKinsey said that the project involved the reconstruction of the floating docks and the

installation of a wave attenuator. The latter was a permitted mitigation component, in the form of a timber wave fence, of the original reconstruction of MacMillan Pier, but was never implemented. The floating dock reconstruction aspect of the project will include modifications to adjust for the changing nature of the commercial fishing industry. He is recommending that an updated version of the original Special Order of Conditions for the reconstruction of the Pier, which was written by Gordon Peabody and has been used on previous Pier projects, be used on this project as well. He submitted a draft of the document for review by the Commission.

Mr. Titmuss reviewed the Project Narrative for the project. The proposed marina layout will consist of concrete main floats with timber finger floats. The concrete main floats will be 10' wide with a 2' freeboard and a 2' draft. All utilities will be located on the concrete main floats. Timber finger floats will allow for seasonal removal of the fingers from portions of the Pier to reduce maintenance requirements during winter storms, however some portions will remain in use year-round. The revised floating dock layout will modify the current berthing arrangements for the commercial fishing fleet. More slips offering wider berths for larger beamed vessels and additional berthing for larger transient commercial vessels will be provided.

There are two wave attenuators proposed: one 600' long attenuator positioned to the northeast of the Pier and on almost the same line as the original timber wave fence, and one 200' long attenuator positioned on the east side and immediately adjacent to the Pier to protect from southwest wave action. Each attenuator will be comprised of heavy duty concrete floats approximately 14' wide connected lengthwise to form a continuous, flexible barrier. The attenuators will float throughout the tidal stages and have a draft of 4' and a freeboard of 2' and moored into position with steel pipe piles spaced at approximately 30' on center. The mooring pipes will be designed to survive 100-year storm conditions and will be 36" in diameter.

The marina dredging aspect of the project will involve deepening of the areas below the floating attenuators to ensure sufficient depth to prevent grounding. The dredging of the marina will be performed using a hydraulic dredge plant and it is proposed that the sand will be transported and deposited as part of a proposed beach nourishment plan at the Court Street Town Landing area. Mr. McKinsey explained that out of all the areas in Town examined for potential beach nourishment activity, the Court Street Town Landing was the easiest and least expensive area in which to deposit the first dredge material. He said that this would be part of an effort to monitor and calibrate sediment transfer models that have been created by the Center for Coastal Studies. Subsequent studies would indicate how valid the models are and indicate how to better protect the beaches by building up the resource areas and getting vegetation in place to ensure their survival.

The fairway dredging aspect of the project is for maintenance purposes. The area involved is 39,605 sq. ft. involving 3,760 cu. ft. of spoils. This dredging will use a mechanical dredge plant. Material will be excavated and placed in a contained area on a barge. Some initial de-watering will take place through geotextiles on the barge and then the material will be placed in an upland de-watering area prior to offsite disposal at an approved location. Mr. McKinsey explained that the dredge spoils from the fairway will be deposited in the Municipal Parking Lot, de-watered and tested for the presence of chemicals and, if appropriate, disposed of in the Town's compost pile.

Mr. McKinsey reviewed a letter from the Division of Marine Fisheries, which reviewed the project and made recommendations in regard to protecting the marine fisheries resources in the area and preventing potential impacts from the project on them.

Public Comment: None. There were no letters in the file.

Commission Discussion: The Commission questioned Mr. Titmuss and Mr. McKinsey. The Commission discussed its concern about the project's potential impact on the resource area and the importance of the conditions in the DMF letter. Mr. McKinsey stated that he was able to incorporate the DMF concerns and needs in the draft Special Order of Conditions. The Commission reviewed and discussed several of the Special Order of Conditions with Mr. McKinsey, including spill protocols, trash and debris removal, ocean bottom protections, as-built plan filings and managing dredge spoils.

The Commission then reviewed and discussed with Mr. McKinsey and Mr. Titmuss each of the DMF restrictions and conditions. The Commission requested the inclusion of a condition that the bathymetry of the eelgrass beds near the northeast wave attenuator undergo additional monitoring during the dredging of the marina basin. If it is determined that there are impacts on the vegetation from that activity, the applicant will be required to mitigate the area at a 3:1 ratio. One of the DMF conditions was a concern about the lack of an eelgrass survey at the Court Street deposition site in order to ensure an adequate buffer between the deposition site and any existing eelgrass offshore of the site. Mr. McKinsey agreed to authorize an additional eelgrass survey off the waters at the beach nourishment project site to be included in the project before any deposition of dredge spoils occurred. Mr. McKinsey requested that the Commission approve the project contingent upon his submission of the final revised Order of Special Conditions incorporating the changes as discussed.

Dennis Minsky moved to approve the Notice of Intent by Rex McKinsey, Pier Manager, under the Massachusetts Wetlands Protection Act, M.G.L. c. 131, §40, and the Provincetown Wetlands By-Law, Chapter 12, for work to include the complete reconstruction of MacMillan Pier, dredging of the marina basin, dredging of the fairway between MacMillan Pier and Fishermen's Wharf and the construction of a new marina at MacMillan Pier with the Standard Order of Conditions and with the finalized Special Order of Conditions that include the provision to monitor the bathymetry in the area near the northeast wave attenuator construction and if there are changes correlated with that construction that there be mitigation at a ratio of 3:1 and that there be an additional eelgrass survey off the beach nourishment site at Court Street prior to work and a monitoring plan after work has been done, Mark Irving seconded and it was so voted, 4-0. Mr. McKinsey will return to the Commission with the finalized Special Order of Conditions on February 16, 2016 at 6:30 P.M.

Mr. McKinsey briefly reviewed the Court proceedings related to the hydraulic dredging matter that took place earlier in the day.

CONSERVATION AGENT REPORT:

Discussion of Permit Review Threshold and Application Guidelines: This matter was not discussed.

MINUTES: December 15, 2015 – Dennis Minsky moved to approve the language as written, Barbara Prato seconded and it was so voted, 4-0.

Anna reported that an Enforcement Order in regard to the fence at 155 Commercial Street had been issued. She has spoken to a unit owner at the property who claimed that the fence had been there for the previous 17 years and was for the protection of the coastal bank. The unit owner had indicated that it was a new fence because the old fence was destroyed in a winter storm several years ago. The Commission discussed the issue and requested that the unit owner appear at an upcoming Public Hearing to discuss the fence. Per the request of the Commission, the condominium has until February 26th to remove the fence.

Anna has not yet researched the Malicoat easement in the east end or sent an Enforcement Order to the owner of 12 Somerset Road for a violation of the Order of Conditions for the property. She has sent out the 7 Telegraph Hill Violation Notice for vista pruning.

Lynne Martin mentioned that at the far end of the Foss Woods’ nature trail, beyond Mt. Gilboa, there is an area where various types of debris have been dumped. She suggested sending a letter to the neighbors about the issue. Barbara volunteered to do a site visit with Anna.

ADJOURNMENT: Barbara Prato moved to adjourn at 8:52 P.M. and it was so voted unanimously.

Respectfully submitted,

Ellen C. Battaglini

Approved by _____ on _____, 2016
Dennis Minsky, Chair