

PROVINCETOWN CONSERVATION COMMISSION
JUDGE WELSH ROOM
April 26, 2016
6:00 P.M.

Members Present: Dennis Minsky, Lynne Martin, Mark Irving, Barbara Prato and Alfred Famiglietti.

Members Absent: None.

Others Present: Deb Albenburg (Conservation Agent), Gloria McPherson (Town Planner) and Ellen C. Battaglini (Recording Secretary).

WORK SESSION

Chair Dennis Minsky called the Work Session to order at 6:08 P.M. The Commission reviewed and discussed the Permit Review Threshold and Application Guidelines and the Appendix A fee schedule.

Dennis Minsky moved to approve the Permit Review Threshold and Application Guidelines and the attendant Appendix A fee schedule effective April 26, 2016, Mark Irving seconded and it was so voted, 5-0.

Eric Larsen, Deputy Director of the Department of Public Works appeared to inform the Commission about proposed bicycle lanes and improvements to the stormwater drainage along Conwell Street. He briefly reviewed the project and said that the DPW would be filing an application with the Commission before the work commenced

PUBLIC HEARING

PUBLIC STATEMENTS:

None.

OLD BUSINESS:

B Street Garden Stormwater Improvement Project – Eric Larsen reviewed the project and updated the Commission on its status. An ecological assessment was done in 2012 and funds were applied for through the Massachusetts Department of Environmental Protection 604B grant program. In 2014, monies were appropriated for a survey, delineation, design and construction of a drainage swale as an interceptor for the Browne Street outfall pipe. He said that a couple of engineering firms have looked at the project and submitted bids. The DPW is waiting for the best price and the best design firm. He said that the work could be done in-house, however the DPW may not have the time to do it. He is hoping to get an engineering firm out to the site in order to do a soil and vegetation analysis. The Commission questioned Mr. Larsen about the project and the funding. Money that was granted by the Community Preservation Act in 2014 for the project is still available. Mr. Larsen anticipated that ground might be broken next spring. He will keep the Commission updated on the project.

Aquaculture growing techniques and other issues – Steven Wisbauer, Shellfish Constable:

Steve Wisbauer appeared to discuss shellfish growing techniques. He reviewed techniques that he provides to citizens who have acquired aquaculture grants in the Harbor. The process is described via a flow chart published by the Commonwealth. He indicated that part of the process involves consultation with local Conservation Commissions. Recently there has been interest in intertidal aquaculture activity east of the west end breakwater in the Harbor. He said that there was quahog aquaculture in the area back in the 80s, however current growers are interested in oyster propagation. He noted that there were four growing techniques described in his handout to the Commission. All are practices accepted by the Division of Marine Fisheries, ACE and the Environmental Protection Agency. He reminded the Commission that it had the right to be stricter in regulating these practices on a local level. He encouraged the Commission to review and discuss the techniques and let him know if conditions would be placed on any of the techniques described. He reviewed several growing techniques utilized by aquaculture growers. He suggested that before growers start investing in growing product he would like to get an idea about potential concerns that the Commission might have or restrictions that might be imposed on the process. The Commission questioned Mr. Wisbauer. Further discussion of the issue will take place at a future Work Session.

10 Oak Drive – Approval of planting plan: Mr. Minsky said he had not visited the property. He thought the proposed planting plan looked satisfactory, however there were several non-native plantings on it. Other Commissioners had not seen the plan. Ms. McPherson said that she and the Ms. Albenburg would do a site visit.

NEW BUSINESS:

Notice of Intent

Application by **3 Cottages, LLC** represented by **David LaJoie of Felco, Inc.** for a **Notice of Intent** under the Provincetown Wetlands By-Law, Chapter 12. The scope of work to include the removal of three cottages and a shed and the construction of two two-family dwellings, enlargement of a parking area and the installation of a Title 5 septic system at the property located at **52 Creek Road** in Provincetown. Mr. Minsky disclosed that he was on the Board of Trustees of the Provincetown Conservation Trust that owns land abutting the property and thus had a conflict of interest. He recused himself. Mark Irving chaired the hearing of the matter.

Presentation: Attorney Lester J. Murphy, Mike Miller and Gordon Peabody, of Safe Harbor Environmental, appeared to present the application. Attorney Murphy gave a brief overview of the project. According to Attorney Murphy, all appropriate Boards had approved the plans to redevelop the site and install a new Title 5 sewage disposal system. The Massachusetts Division of Fisheries and Wildlife has determined that the project would not adversely affect the resource habitat area and met its performance standards. He briefly addressed a concern of several abutters concerning the installation of the septic system and the potential destabilization of a slope on site.

Mr. Peabody said that the site redevelopment would consist of recycling existing structures off the site as artist studios. All site activity would include low impact, smart growth, green technology and use of Safe Harbor natural system mitigations. The habitat and stability issues on the site are addressed in a Safe Harbor environmental management plan that he submitted to the

Commission. The plan will utilize low impact solutions for issues on the site. He reviewed some of the management systems and protocols that will be utilized, such as for erosion control, deconstruction and removal of existing structures, habitat restoration, concrete control, groundwater protection. He added that a three-year invasive management plan would also be implemented. A planting proposal was included in the management plan and will better the environment on site by creating more of a highly diverse habitat for wildlife with ground cover, understory and canopy vegetation. He requested that the Safe Harbor environmental management plan be included in the Commission's Order of Conditions for the project. The limit of work is the parcel's lot lines.

Commission Discussion: The Commission questioned Mr. Peabody about the planting inventory, including what vegetation would be removed from the site and what kind of trees would be planted. Upon a suggestion of the Commission, he agreed to add several red maples to the list. The Commission questioned Mr. Peabody about the specifics of the planting proposal and its suitability for the site and its concern about the lack of a visual representation for the plantings. Mr. Peabody suggested that the Conservation Agent make a site visit when the vegetation was placed, but not yet planted, and offer comments or suggestions about placement.

Public Comment: Susan Goranson, a direct abutter, spoke in opposition to the project. Alex Brown spoke of his concern regarding the erosion and destabilization of the slope in the area. Attorney Christopher Snow, representing Brian Dorsey, spoke of concerns about the project, including detrimental effects due to the intensification of use on the site and the lack of a more detailed planting and restoration plan. Patty Fitzmorris had concerns about the wildlife that traveled through the site and what considerations would be taken to protect their movement.

Lynne Martin moved to approve the Notice of Intent by 3 Cottages, LLC under the Provincetown Wetlands By-Law, Chapter 12 for a scope of work to include the removal of three cottages and a shed and the construction of two two-family dwellings, enlargement of a parking area and the installation of a Title 5 septic system as presented pursuant to a site plan dated February 17, 2016, at the property located at 52 Creek Road with the Standard Order of Conditions and with the Special Conditions that the Safe Harbor management plan be included, that there be a three-year survivability requirement for plantings, that a preview by the Conservation Agent of proposed vegetation take place before planting, that there be an environmental liaison appointed to monitor the project and that the Conservation Agent be notified if there is a change in representation, Barbara Prato seconded and it was so voted, 4-0.

Notice of Intent

Application by **350 Commercial Street** represented by **David Michniewicz, P.E.**, of **Coastal Engineering**, 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 to include demolition and removal of existing vacant structure and associated paved parking area walkways and sewage disposal system and other utilities and construction of seven housing buildings containing thirteen dwelling units, pervious pavement driveway and parking areas, shell walkways, and a Title 5 compliant sewage disposal system at the property located at **350 Bradford Street** in Provincetown.

Presentation: Attorney Lester J. Murphy, David Michniewicz, Phil Cheney, landscape designer, and Gordon Peabody, of Safe Harbor Environmental, appeared to present the application. Mr. Michniewicz reviewed the project and the site plan. The proposed project involves demolishing

an existing building and a pavement area in front of it and the construction of seven new buildings. The existing conditions include a retaining wall on a slope behind the building with a Title 5 septic leaching field behind that wall. There are numerous drainage issues on the site. It appears that the existing stormwater drainage system on the site is sitting in groundwater. In addition, it is grossly undersized for the volume of runoff it receives, causing the parking area to flood severely and often.

The buildings that will be located where the existing building now sits, and including the parking lot, is in an area that is subject to coastal zone flowage. Units constructed in this area will be built on pier foundations. The floor elevations will be raised to between elevation 13 and 13.75. The other buildings that will be built into the hillside will have full basements and parking garages located beneath them. The driveway and parking area located at the bottom of the hillside around the lower units will be constructed of pervious concrete on top of crushed stone. This will be a large reduction in the impervious area on the site and will cause no runoff issues. The roof downspouts will be channeled into crushed stone in the ground under the units. The hillside units will shed onto the pervious concrete area. The runoff from abutting properties to the north and to the east will be directed into swales and yard drains and routed to dry wells located between the units. The sewage flow for the project is being reduced from 7000 to 2640 gallons per day. The proposed drainage system and stormwater controls will prevent flooding that currently occurs on site

Mr. Peabody reviewed the re-vegetation and stabilization planting plan for the site and monitoring the erosion control standards daily. Safe Harbor will be providing project updates to the Commission. The project does not yet have a DEP file number.

Public Comment: Julia Perry, an abutter, expressed concern about the stability of the slope. Jim Turner, an abutter, expressed concerns about the proposed shoring process and the effects it may have on abutting properties. Joe Joyce, an abutter, asked about the proposed vegetation for the site. Chris Wise, the applicant, reiterated that a tree survey has been done and he has met with the excavator, Robert B. Our, about the shoring process and that the buildings to be constructed will create better retention for the slope than what currently exists. The stability of the slope will actually be improved. He has also communicated with abutters about the project and will continue to do so. There was a letter of concern from a direct abutter about the stability of the dune on the property during and after construction.

Commission Discussion: Mr. Minsky stated that the Commission's jurisdiction prevails because the site is land subject to coastal zone flooding. He explained that what people might consider a dune on the property does not function as a dune, but is a coastal landform/bank and its stability seems to be of concern to many abutters. The Commission questioned Mr. Peabody and Mr. Michniewicz. The latter explained that the applicant had hired a geo-technical engineering firm to perform soil testing and analyze whether the project could be accomplished as proposed and to examine the slope stability based on those soils. The conclusion was that the project could be built as proposed, as long as measures were taken to stabilize the slope. He explained that during the construction process, prior to any excavation of the slope, there would be vertical steel shoring constructed upslope of any excavation to stabilize the slope above and outside the excavation work. After construction of the building foundations, the slope will be re-vegetated to protect against erosion. He said that the final engineering calculations have not yet been completed.

The Commission questioned Mr. Michniewicz about how the buildings on the slope might be constructed. The Commission was concerned about retaining the trees along Bradford Street and asked if the sidewalk could be routed around the trees. Mr. Michniewicz said that it would be considered. He said that the planting plan includes street trees along Bradford Street. Mr. Cheney discussed some possibilities about the trees and the sidewalk. The Commission further discussed the geo-technical aspects of the project with Mr. Michniewicz. The Commission requested the submission of a detailed narrative of the landscape plan, a monitoring plan for slope stability and written assurances of slope stability. The material should be submitted on or before May 10th. The applicant requested a continuance to the May 17, 2016 Public Hearing at 6:30 P.M.

Barbara Prato moved to continue the matter to the May 17, 2016 Public Hearing at 6:30 P.M., Mark Irving seconded and it was so voted, 5-0.

ANY OTHER BUSINESS:

Dennis Minsky moved to accept Deb Albenburg as the Conservation Agent, Barbara Prato seconded and it was so voted, 5-0.

Mr. Minsky said that he had asked the Conservation Agent to research the management plan for the B Street Garden to find out whether a butterfly garden could be planted. He will look into it, as Ms. Albenburg is still getting up to speed regarding her position.

Mr. Minsky informed the Commission that according to Lauren McKean of the National Seashore, a new electrical line will be installed adjacent to the pavement on the west side of Provincelands/Moors Road and that she saw no resource concerns related to state or local wetland protection regulations. The work should be completed by the end of May. He suggested to her that a silt fence be installed and she agreed.

Mr. Minsky had gotten a report about a tree cut at the corner of Nelson Avenue and Race Point Road. Ms. McPherson said that it was a Town street tree in the right of way and that a tree will be re-planted to replace it and that the offender will be fined in some way as yet undetermined.

MINUTES: April 19, 2016 – Regular Session - *Dennis Minsky moved to approve the language as amended, Barbara Prato seconded and it was so voted, 4-0.*

April 19, 2016 – Executive Session - *Dennis Minsky moved to approve the language as written, Barbara Prato seconded and it was so voted, 4-0.*

ADJOURNMENT: *Barbara Prato moved to adjourn the Public Meeting at 9:15 P.M. and it was so voted unanimously.*

Respectfully submitted,

Ellen C. Battaglini

Approved by _____ on _____, 2016

Dennis Minsky, Chair