

PROVINCETOWN CONSERVATION COMMISSION

January 3, 2023

6:00 P.M

Members Present: Alfred Famiglietti (online), Nathaniel Mayo (online), and Joseph Cooper.

Members Absent: Oriana Conklin (excused) and Cody Sullivan (excused).

Others Present: Tim Famulare (Conservation Agent).

Chair Alfred Famiglietti called the meeting to order at 6:01 P.M. and called the roll. Mr. Famulare reviewed how members of the public could make comments if they were participating remotely if using the Microsoft Teams app or by phone.

1) **Public Comments:** Keith Rose, a fisherman, asked if the agenda would include the topic of hydraulic dredging for surf clams off Herring Cove beach. Mr. Famulare said that an application for that activity will be heard by the Commission on January 17, 2023.

2) **Public Hearings:**

a) CON-22-60 199 Commercial Street (continued from the meeting of December 20, 2022)

Notice of Intent filed by the **Pied Piper Condominium Trust**, pursuant to the Massachusetts Wetlands Protection Act (M.G.L. c. 131, s. 40) and the Provincetown General By-Laws Chapter 12, Wetlands Protection By-Law to replace exterior decks and access stairways. Work to take place within Land Subject to Coastal Storm Flowage and a Coastal Beach.

Presentation: Gordon Peabody, of Safe Harbor Environmental, and James DeRosier, a property owner at the premises and a Trustee of the Condominium Trust, appeared to present the application. The contractor and engineer for the project were online. Mr. Peabody said that it was an integrated project and work will be done on several levels of the structure. He said his job was to make sure that the performance standards for the resource area are met. An environmental management plan has been created to maintain those standards and to address any issues that arise. His company will manage, monitor, and issue reports about the project.

Mr. DeRosier said that the draft order of conditions was acceptable to the Trustees of the Condominium Trust. Mr. Peabody said that there was a safety imperative to try and get the work done in a manner that was consistent with the use of the property. Mr. DeRosier described the scope of the project, which involves building 3, the mostly residential structure in the complex, and involves several decks on different levels. A main egress on the beach has two levels of stairs and three levels of decks between the ground unit and the third floor, and services multiple residential units as a means of egress. He said the decks were most likely built during the 1980s and are beyond their useful life in terms of condition and need to be replaced. The project involves replacing the decks on the structure. There will be no changes to the format, layout, and location of the decks. A few pilings will be removed and replaced under the decks. Mr. Famulare showed the decks, from a bird's-eye view. Mr. DeRosier said that the decks were common areas, and their replacement did not include exclusive use decks attached to various units. He reviewed photographs of the property and the decks in question. Mr. Famulare pointed out where the pilings that will be replaced were located.

Mr. Peabody referenced the plantings in the environmental management plan related to habitat restoration. He said they would like to propose an addition section, Section B, under revegetation. This would address an area of existing vegetation and some invasive vegetation on the east side of the property. The invasive vegetation would be replaced with American beachgrass. The area of the latter is just under 200 sq. ft. Mr. Peabody said that a restaurant and a Chapter 91 access on the property needed to be maintained. Mr. DeRosier said that Paul Bannon, of Bannon Construction, would be doing the construction work. Graham Carr, from Vital Structural Engineering, is the engineer on the project.

Public Comment: There was no public comment.

Commission Discussion: The Commission questioned Mr. DeRosier and Mr. Peabody. There is no seawall proposed and there will be no changes in the footprint of the deck structure. Mr. Famiglietti suggested that the applicant increase the square footage of beachgrass as there is no revetment on the property. Mr. DeRosier said that the square footage would be increased when the invasives, which covers about 250 sq. ft., are removed. He said they will maximize the amount of beachgrass as much as possible. Mr. Peabody said that all of the work will be done by hand, and he would be willing to explore planting beachgrass below mean high water. In case the project requires equipment, a protocol was written into the management plan. Mr. Peabody said that he did add the removal of the invasives in Section B. Mr. Famulare said he would revise Condition #7 in the draft Order of Conditions and insert the date of December 5, 2022, revised on January 3, 2023. He reviewed the other Special Conditions, including a revision to incorporate the environmental management plan, to require spacing between the decking or dry-laid stone on hardscape in order to promote infiltration in place by allowing stormwater to flow between joints of constructed materials, and that the applicant shall adhere to the approved planting plan, ensuring that all plantings survive or are replaced within the first three years and that plants shall be watered upon installation. In addition, the applicant would be required to obtain authorization for any changes required by Chapter 91. The latter would have to be obtained before a Certificate of Compliance were to be issued. The Commission discussed the idea of bringing in more sand to the area to cover loss due to storms and wave action. Mr. Peabody estimated 10 cu. yds. of sand would be needed. Mr. Famulare added a condition that the applicant may nourish the coastal beach with clean, compatible sand up to 10 cu. yds. upon approval by the Conservation Agent. Mr. Peabody will submit a revised Environmental Management Plan to Mr. Famulare.

Nathaniel Mayo moved to approve the issuance of an Order of Conditions for CON-22-60, with the Special Conditions as amended, Joseph Cooper seconded, and it was so voted, 3-0, by roll call.

3) **New Business:**

a) Appointment of Alternate Member to Conservation Commission: Emma Fillion: Ms. Fillion was present and introduced herself, speaking about why she wanted to be on the Commission. Mr. Famulare explained the difference between a regular and an alternate Commissioner in terms of duties and responsibilities.

Nathaniel Mayo moved to appoint Emma Fillion as an alternate member of the Conservation Commission, Joseph Cooper seconded, and it was so voted, 3-0 by roll call.

b) Review and discussion of 2022 Annual Report: Mr. Famulare briefly reviewed the substance of the report and asked if any Commissioner had revisions. The Commission briefly discussed the Report. Mr. Famulare will add the conservation restrictions that the Commission is a party to and an update on the status of the renovation of the B-Street Garden. The final draft will be voted on at the next meeting.

4) **Approval of Minutes of December 6, 2022**: *Nathaniel Mayo moved to approve the minutes of December 6, 2022, Alfred Famiglietti seconded, and it was so voted, 3-0 by roll call.*

5) **Conservation Agent Update**: Mr. Famulare said that there was a lot of damage in the east end as a result of the recent storm. A lot of the damage was done to decks, which will require building permits to rebuild. There was some very significant damage, such as Fanizzi's restaurant and a dune at 509 Commercial Street. In addition, a lot of the wave breaks for new bulkheads at 151 and 153 Commercial Street were destroyed. 485 and 487 Commercial Street lost their wave breaks as well. Mr. Famulare said that at a later date the Commission should discuss whether these wave breaks are effective or not and the engineers who designed them should be included in that discussion. He also said that vinyl sheeting had been destroyed by storm debris and the Commission should also discuss whether it should be allowed at all in the future. Composite and steel are much stronger.

6) **Any other business that shall properly come before the Commission**: Mr. Famulare said that he had an Emergency Certification to discuss with the Commission. During the recent winter storm there was a collapse of a seawall at 491 Commercial Street. He did a site visit and received an Administrative Review application, but he believes the better route for a temporary repair would be an Emergency Certification. The Commission cannot vote on the matter as it wasn't properly noticed on the agenda. However, he will issue it as the Conservation Agent and the Commission can ratify it at its next meeting on January 17, 2023. He wanted the chance to review what has been proposed with the Commission. Mark Kinnane, of Cape Associates, the property manager, and Ethan Poulin, who would be doing the repair work, were on the line to discuss the issue. Mr. Famulare reviewed the photographs of the site where the concrete seawall was located. He showed a rough sketch of a temporary repair to be implemented by Mr. Poulin. The latter explained the proposed repair. He said the plan is to break up and remove the concrete wall that collapsed. No machinery on the beach will be needed. He said he would then dig a small trench, install and vibrate down vinyl sheeting, after which a small amount of backfilling would occur and two helicals installed. He said concrete would be poured behind it to prevent the vinyl sheeting from getting broken. All work would be done from the landward side of the property. Mr. Kinnane said that the process would be similar to the seawall that was replaced at 481 Commercial Street and explained the procedure as to how that was installed, first as a temporary and then as a permanent seawall. The temporary repair will be landward of the original footprint of the now-destroyed seawall. The Commission questioned Mr. Poulin and Mr. Kinnane.

Alfred Famiglietti moved to adjourn the meeting at 7:15 P.M. and it was so voted, 3-0 by roll call.

Respectfully submitted,

Ellen C. Battaglini

Approved by _____ on _____, 2023

Alfred Famiglietti, Chair