

## PROVINCETOWN CONSERVATION COMMISSION

October 17, 2023

6:00 P.M

**Members Present:** Alfred Famiglietti, Nathaniel Mayo, Oriana Conklin (online), Emma Fillion, and Mark Adams.

**Members Absent:** Joseph Cooper (excused)

**Others Present:** Melyssa Millett (Conservation Agent).

Chair Alfred Famiglietti called the meeting to order at 6:00 P.M.

Melyssa Millett explained how that remote participation in the meeting is via the Microsoft Teams app or by calling into the meeting by phone. The information is listed on the agenda. To mute a phone, press \*6. She said that those who are in attendance in the room should speak clearly if rendering an opinion on any application on the agenda or if making a public comment.

### 1) Public Comments:

2) **Board and Committee Training with Town Clerk:** Elizabeth Paine, Provincetown Town Clerk, introduced herself to the Commission and said that in support of one the Town's Fiscal Year 2024 Goals, which is to create an orientation and onboarding process for Board/Committee members and provide training as necessary to regulatory Boards, she is giving a PowerPoint presentation to all Town Boards and Committees. She reviewed the presentation, which covered topics including how to become a Board or Committee member and identifying the entity that is the appointing authority, the ethics/conflict of interest requirements for Board and Committee members, the e-mail assignment policy, the regulatory Boards that exist in Town, the Board/Committee officers and their responsibilities, member responsibilities and meeting rules, which are governed by Roberts Rules of Order. In addition, she reviewed meeting agendas, how to conduct a meeting, a list of basic motions, how to consider motions that are made, voting on motions, special meeting requirements, public hearings, executive sessions, roles and responsibilities of members, powers and duties of the Select Board and the Town Manager, the kind of staff support that is available, and the duties of staff liaisons. The Commission questioned Ms. Paine.

### 3) Public Hearings:

#### a) CON-23-126 387 Commercial Street

**Notice of Intent** filed by **Provincetown Parks and Recreation Department** 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 convert a former parking lot into a waterfront, accessible, passive park. Work to take place within a Coastal Dune and Land Subject to Coastal Storm Flowage.

**Presentation:** Brandon Motta, the Provincetown Recreation Director, and Tim Famulare, the Department of Community Development Director, were in the room, and Megan Kearns and Cheri Ruane, of the design firm Weston & Sampson, were online to present the application. A

long and extensive design process was undertaken since the property was purchased by the Town in 2018. The site is a former parking lot comprised of crushed shell paving on fill and retained at the seaward end of the lot by a steel sheet pile bulkhead. The park is currently owned and operated by the Town of Provincetown and has several picnic tables, which are located on a crushed shell paving. There is currently no ADA access to the beach. A stairway over the bulkhead is currently the only beach access route. The proposed project will convert the parking lot into a waterfront accessible, passive park. It proposes to reshape the site to provide barrier-free movement from Commercial Street to the Harbor. The design has undergone some changes in the last 8 months, and extensive meetings with Massachusetts Environmental Protection Agency have taken place. The proposed design lowers the existing bulkhead wall at the beach edge with the site terracing up from the lowered bulkhead to the main lawn in order to reduce vertical surfaces that could create wave reflection. Native plantings will provide shade and a vegetative buffer between the park and neighbors. Seating and gathering areas will accommodate small groups and there are larger open spaces, including a central lawn area. Paving will be pervious, and stormwater will be captured and infiltrated. Interpretive signage will communicate the site's history and highlight the local flora and fauna specific to the beach ecosystem.

Ms. Kearns commented that the project proposes the following goals: resiliency, specifically flood protection and storm damage mitigation, through lowering the existing bulkhead to reduce wave reflection and terracing the site up from the lowered bulkhead to dissipate wave energy coming into the site; improving permeability and stormwater management on site; enhancing biodiversity with native plantings; providing visual and accessible connections from Commercial Street to the Harbor; and creating a new open space and recreational area in downtown Provincetown.

Ms. Ruane reviewed the design changes that were made through the permitting process by the Commonwealth, including lowering the bulkhead wall, and adding terraced seating/steps and a retaining wall. She said that the design team took the bulkhead wall, which was between 3' and 4' high, and terraced it back into the site, so no vertical protection was lost. In addition, more planting was introduced. Ms. Kearns pointed out the location of the additional plantings on the site plan. There will be vegetation across the entire front of the site, which will help with wave mitigation. The mission and the focus of the park remains the same after the changes were made. Ms. Kearns identified the resource areas on the site.

**Public Comment:** Ronnie Szeszler, an abutter, and representing the September Morn Condominium Trust, had several issues about which she wanted clarity, including the new concrete wall, whether any Commissioners would like to visit her property, and a concern about planting trees near the sewer equipment on her property. She said that proposed shade trees would block light reaching all of the patios and terraces at the condominium. She said during an intense wind storm, those trees could fall over causing property damage. She added that the condominium was smoke-free, and she was concerned about tobacco and other substances being smoked by park users polluting the air, as, she alleged, has been the case since the park was purchased. She requested that a smoke-free area on the west side of the site be set up. She and the other condominium unit owners like to sit on their patios and terraces in the summer. She was also concerned about the irrigation system and the prohibition on water use during the summer.

Michael Gaucher, an abutter, spoke about shade trees that are proposed for the east side of the park and the detrimental effect they would have on the view from Commercial Street of the Harbor. He suggested a tree that was lower in height. He was also concerned about potential drug use in the park and the cleanliness of the public toilets. Dennis Minsky, a member of the advisory group for the park, congratulated all of those involved in the project for their exceptional work and said he supported the application.

**Commission Discussion:** The Commission questioned Ms. Kearns, Ms. Ruane, and Mr. Motta. There will be no parking on the site. Ms. Ruane said that there will be trash receptacles on the site. There will be two taller light fixtures installed at Commercial Street and low-level bollard light fixtures installed along the left side of the pedestrian pathway and at the back side of the seating area that overlooks the beach. The lawn shown at the center of the site was suggested and supported by the public throughout the long months of public engagement. People wanted a soft, green surface to occupy. Various mixes of grass seed, including micro-clover, have been researched for use. These will endure foot traffic and are tolerant of salt spray. The lawn will be irrigated and the plants around the perimeter will be waterfront and dune species, which once established, will not need irrigation. No fertilizers, herbicides, or pesticides will be used on the site. Ms. Millett said that she already had a condition in the Order regarding that issue. The bulkhead height is only being reduced in the middle of the site and not on the east or west ends. The existing sheet metal bulkhead wall will be left in place. In an effort to only work within the footprint of the existing site, an area behind that will be excavated and a new concrete bulkhead will be poured behind the metal sheet pile. This will act as a form for the concrete wall. Any work outside the footprint would entail more permitting. Mr. Motta said that there is no smoking allowed in public parks or recreational fields in Town. Ms. Ruane said that a well will be dug to support the irrigation of the plants. The water needs for the site will be low and no Town water will be used. Ms. Millett said that smoking is not within the Commission's jurisdiction, so no condition could be issued regarding it. Ms. Ruane said that shade trees chosen are columnar, which are upright, have tight branching structures, and are not aggressive. The existing chain link fencing with the wisteria growing on it will be left on the west side of the property. She added that a curb will be poured on the inside of the park because there is a grade difference between the park and the abutting property. This will act as a root barrier, at least for the top 18" – 24" of the soil. She said that the thinking behind the planting of shade trees is that providing shade in a park is important. Ms. Millett said that scenic vistas were not in the purview of the Commission. The Commission requested a condition about the pruning of the trees. Ms. Millett added that a seasonal mobi-mat will be rolled out and a sacrificial sand berm, to be replenished after storms as needed, will be installed at the entrance to help prevent stormwater flowage through the park. ***Nathaniel Mayo moved to close the public portion of the hearing, Emma Fillion seconded, and it was so voted, 5-0 by roll call.***

Ms. Millett reviewed several conditions, including requiring concrete overpour to be directed to tarps and removed from the site, the continued maintenance of the bulkhead and the site closest to the water, that any damage to it has to be repaired in a timely manner, and that approval must be granted for any vista pruning throughout the project. There is also an on-going condition that the removal and installation of the mobi-mat and the sand berm be performed on a seasonal basis and not end with the issuance of a Certificate of Compliance, that native plantings be installed after construction with a requirement that they survive for 3 years, or be replaced, and properly watered upon planting, that all walkways remain pervious, that there be no use of herbicides, pesticides, or

fertilizers, that the sand for the sand berm be compatible in grain size, color, etc. as what exists, and that proof of Chapter 91 authorization be presented before a Certificate of Compliance is issued. She said that the project has already applied to the Department of Environmental Protection for the latter approval. She added that there will be no construction access from the beach and said that a public bathroom will be located outside the mapped FEMA flood zone. ***Nathaniel Mayo moved to approve the Order for CON-23-126, 387 Commercial Street, subject to the conditions as discussed and amended, Mark Adams seconded, and it was so voted, 5-0 by roll call.***

b) CON-23-118 253A Commercial Street

**Notice of Intent** filed by **Julie Heller** 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 remove invasive species and replant. Work to take place within a Coastal Beach, a Buffer Zone to a Coastal Beach, and Land Subject to Coastal Storm Flowage.

**Presentation:** Peter Carlino appeared to present the application. The project involves the removal of Japanese knotweed and other invasive species from the property. It should be completed during the autumn of 2023. During the growing season of 2024, the proposed work area of removal will be re-vegetated with a combination of Cape American beach grass and bayberry. The beach grass will stabilize the area and aid in the eventual eradication of the knotweed. The bayberry will be planted closer to the existing structure nearest the facades facing the water and Gosnold Street. The beach grass will be used throughout the site, particularly in the portion of the site closest to the water. The Town's Ryder Street dune project, which was approved in 2019 and abuts the property, will involve some removal of invasive species and replanting, and once construction of that happens, any re-growth from this project will be taken care of by the Town.

**Public Comment:** None.

***Nathaniel Mayo moved to close the public portion of the hearing, Mark Adams seconded, and it was so voted, 5-0 by roll call.***

**Commission Discussion:** The Commission questioned Mr. Carlino. Ms. Millett said that if another species of vegetation were to be planted, the applicant would have to come back to the Commission for approval. Mr. Carlino did not know if the contractor intended on using a backhoe. Ms. Millett said that she has a condition that no excavation can take place on the dune, no herbicides or fertilizers can be used on the site, and the applicant will need to return to the Commission if herbicides need to be used in the future, but only if the knotweed cannot be managed in any other way. In addition, the invasive plant material either shall be removed from the worksite daily or stored within covered dumpsters placed on existing pavement or other disturbed areas, all equipment and materials shall be removed upon project completion, the applicant shall ensure that the knotweed removed is properly disposed of, and the native plantings shall survive, or be replaced, within the first 3 years after the beach grass and other native vegetation is installed and the vegetation shall be properly watered upon installation.

***Nathaniel Mayo moved to approve the Order for CON-23-118, 253A Commercial Street, as presented and discussed, Mark Adams seconded, and it was so voted, 5-0 by roll call.***

c) CON-23-113 7 Commercial Street

**Notice of Intent** filed by **Donald Munroe** 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 relocate a coastal dune, replace a patio fence, and install seasonal snow fencing. Work to take place within a Coastal Beach, a Coastal Dune, and Land Subject to Coastal Storm Flowage. **Applicant has requested a continuance to the November 7, 2023 Meeting.**

***Nathaniel Mayo moved to approve the request to continue CON-23-113, 7 Commercial Street, to the Public Hearing of November 7, 2023 at 6:00 P.M., Emma Fillion seconded, and it was so voted, 5-0 by roll call.***

4) **Request for Certificate of Compliance:**

a) CON-23-125 **57A Pleasant Street** Request for a complete Certificate of Compliance for SE 058-0589. Ms. Millett said that the only part of the project that has not received a Certificate of Compliance is the planting of the native vegetation. As the three-year survivability requirement has been met, a full Certificate can now be issued. She had done a site visit and the only plants that didn't look like they were doing well were the Oakleaf hydrangeas. She thinks that they will make a recovery and said it is common for this condition to happen at this time of year, so she recommends the issuance of a full Certificate.

***Nathaniel Mayo moved to issue a full Certificate of Compliance for CON 23-125, 57A Pleasant Street, Emma Fillion seconded, and it was so voted, 5-0 by roll call.***

5) **Approval of Meeting Minutes:**

a) October 3, 2023: ***Emma Fillion moved to approve the minutes of October 3, 2023 as written, Alfred Famiglietti seconded, and it was so voted, 4-0-1 (Nathaniel Mayo abstaining) by roll call.***

5) **Conservation Agent Update:** None.

6) **Any other business that shall properly come before the Commission:** Ms. Millett said that on Thursday, November 30, 2023, at 4:00 P.M. in the Judge Welsh Room, a presentation on DEP's Chapter 91 will be given by Jim Vincent, the Director of the Dept. of Public Works. Remote participation is available for those who cannot attend in person. She will be putting an item on the November 7<sup>th</sup> agenda for any Commissioner that has questions but cannot attend the meeting and compile a list of questions that the Commission has.

The garden bed reconstruction for the second half of the B Street Garden will be taking place this fall/winter. Once she has more details, she will be bringing an application to the Commission.

She reminded Commissioners that Special Town Meeting will be held on Monday, October 23<sup>rd</sup> at 6:00 P.M.

The Town now has an Instagram account.

She asked Commissioners if they will be traveling for Thanksgiving week. The Commissioners present recommended that the November 21<sup>st</sup> Public Hearing be cancelled.

***Nathaniel Mayo moved to adjourn the meeting at 7:44 P.M., Alfred Famiglietti seconded, and it was so voted, 5-0 by roll call.***

Respectfully submitted,  
Ellen C. Battaglini

Approved on November 7, 2023  
Alfred Famiglietti, Chair