

PROVINCETOWN CONSERVATION COMMISSION

March 3, 2009

6:00 P.M.

Members Present: Dennis Minsky, Lynne Martin, David Hale and Jack McMahon.

Members Absent: Richard Silver (excused).

Others Present: Brian Carlson (Conservation Agent), Ellen C. Battaglini (Recording Secretary).

PUBLIC HEARING

Chair Dennis Minsky called the Public Meeting to order at 6:02 P.M.

PUBLIC STATEMENTS:

None.

MINUTES: February 10, 2009 – *David Hale moved to approve the language as amended, Jack McMahon seconded and it was so voted, 3-0.*

NEW BUSINESS:

Request for Determination of Applicability

Application by the **Provincetown Conservation Commission** for a **Request for Determination of Applicability** under the Massachusetts Wetlands Protection Act, M.G.L. c. 131, § 40 and the Provincetown Wetlands By-Law Chapter 12. The applicant proposes site work to include the establishment of a community garden and buffer zone protection at the property located at **6R, 10R, and 14R Browne Street** in Provincetown.

Presentation: Brian Carlson, Conservation Agent, appeared to present the application. The project involves three parcels of land totaling 2.29 acres. The Commission intends to purchase all three parcels and establish a community garden with approximately 80 raised beds. Two parcels, which are located outside the recharge zone of the Pond, will be utilized for the garden. The third will be left alone. Brian presented a report from the Cape Cod Commission in regard to the issue of hydrology and whether the activity of gardening will affect Shank Painter Pond. The Commission proposes that a well for irrigation be dug on site. There will also be a location for composting organic material for use in the garden beds, benches for sitting, some form of fencing for protection from wildlife and between two and five parking spaces are being proposed for the site. Signage will include interpretive and educational signs to inform the participants and the public about green agricultural and the resource area. It is anticipated that the work will take two years to complete, with help from several groups, including Americorps Cape Cod, the Barnstable County Land Management Grant Program, the Conservation Commission, the Open Space Committee and the Provincetown Citizen Stewardship Program. Brian is proposing a 30' buffer zone from property lines.

Public Comment: Carissa Silva, an abutter, asked Brian several questions about the road that leads into the property. There were 15 letters in support of the application in the file.

Commission Discussion: The Commission discussed the project and agreed that much work remains to be done, including the need to develop a management plan and, amongst other issues, to restrict the use of fertilizers and pesticides.

Jack McMahon moved to grant a Negative #3 Determination for the proposed project located at 6R, 10R and 16R Browne Street, Dennis Minsky seconded and it was so voted 3-0-1 (David Hale abstained from voting because he is an abutter to the project).

Notice of Intent

Application by the **Cape Cod National Seashore**, 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 applicant proposes site improvements and the extension of bike trails in sections 4 and 5 for public safety at the property located **within the Cape Cod National Seashore** in Provincetown.

Presentation: Karst Hoogeboom appeared to present the application. The Bike Trail was constructed over 30 years ago and does not meet contemporary bike trail standards with the result that many biking accidents have occurred in recent years. The renovation will help the Park protect sensitive sand dunes and vegetation and will also enhance visitor experience and public safety. This request is a continuation and completion of a project undertaken by the Seashore to rehabilitate the Province Lands Bike Trails, including re-paving and widening of the paths. Sections 1, 2, and 3 were approved by the Commission in June of 2008 and have been completed.

Public Comment: None.

Commission Discussion: The Commission questioned Mr. Hoogeboom.

Lynne Martin moved to approve the Notice of Intent for the rehabilitation of Sections 4 and 5 of the Province Lands Bike Trails with the Standard Order of Conditions, Dennis Hale seconded and it was so voted, 4-0.

DISCUSSION:

2 Commercial Street Memorandum of Understanding:

Presentation: Attorney Lester J. Murphy appeared to discuss the MOU with the Commission and answer questions. The document makes recommendations related to the development and preservation of the property.

Commission Discussion: The Commission discussed the document and questioned Attorney Murphy. *David Hale moved to authorize Chairman Dennis Minsky to sign the Memorandum of Understanding for 2 Commercial Street, Jack McMahan seconded and it was so voted, 3-0-1 (Lynne Martin abstaining).*

OTHER BUSINESS:

Harbour Drive:

Yesterday the Commission received the final grading plan for this subdivision from William N. Rogers, II. Dennis and Brian noticed a discrepancy between the existing and the proposed plans, including the location of Flood Zones. Brian obtained an extension on the issuance of the Order of Conditions formulated by the Commission on February 10, 2009. The Commission discussed the issue and their options. The Commission decided that there should be no additional fill on the property and the existing contours should remain as they are.

David Hale moved to add a condition to the Special Order of Conditions voted on at the February 10, 2009 Conservation Commission hearing, to wit, that no additional fill will be brought onto the property and that the existing grades and topography based on a plan stamped dated January 2009 as submitted by William N. Rogers, II, which shows the existing topography as of May 29, 2008, be maintained, Dennis Minsky seconded and it was so voted, 4-0.

Dog Restraint Regulation:

The Board of Health will decide on March 12th whether or not to lift of the dog restraint regulation, which means that there will be Town-owned off-leash areas again for dogs, including the Locke property, Foss Woods and the Shank Painter Pond uplands. Candace Nagle is asking that the Conservation Commission support the removal of the regulation. The discussion was tabled.

Commercial Street Re-Paving:

Dennis Minsky has signed a letter in support of the DPW applying for a grant to re-pave and re-pair Commercial Street. Some kind of pervious asphalt paving will be used with infiltration trenches built under the road.

78 West Vine Street:

Attorney Karen DePalma, on behalf of Susan Bestgen, is requesting another signature page from the Commission in order to record the Order of Conditions in Land Court.

333R Commercial Street:

Brian had a question about the Special Order of Conditions issued for this property. He had included prohibiting work on the premises between June and September. The Commission had not included that provision, so Brian will remove it from the Special Order of Conditions.

Chair Dennis Minsky adjourned the hearing at 8:33 P.M.

WORK SESSION

Chair Dennis Minsky called the Work Session to order at 8:33 P.M.

The Commission decided to discuss the issue of beach cleaning since Jerry Irmer will be appearing at the next Work Session on March 10, 2009, to discuss beach cleaing

Wetlands Protection Regulation Changes:

Article 7: Beach Cleaning

The Commission discussed the Article and its language in an effort to clarify the regulation about beach cleaning. Dennis volunteered to rewrite the preamble. They discussed each section of the Article. The Commission saw no reason to revise section 7.1. Section 7.2 states that, "Beach cleaning shall not be permitted unless the applicant provides a clear showing that it is for the benefit of the health and safety of the general public." The Commission also thought the word 'showing' was unclear in this section. They also briefly discussed the health versus the aesthetic issues in cleaning the beach. Aesthetics is not a consideration in any other Conservation regulation. The Commissioners will think about this section and whether to change the language. The phrase "natural organic content of the beach" in Section 7.3 was briefly discussed. Section 7.4 was clear and concise. Dennis thought that "drift line zone" mentioned in Section 7.5 was not defined clearly. Dennis will work on the language of 7.5 to clarify its intent. Sections 7.6 and 7.7 were agreeable to the Commission. The Commission then discussed whether to allow mechanical cleaning and where they would allow it and the removal of the wrack line.

ADJOURNMENT: *Lynne Martin moved to adjourn at 9:10 P.M. and it was so voted unanimously.*

These minutes were approved by a vote of the Conservation Commission at their meeting on _____, 2009.

Respectfully submitted,
Ellen C. Battaglini

Approved by _____ on _____, 2009

Dennis Minsky, Chair