

# PROVINCETOWN CONSERVATION COMMISSION

September 26, 2002  
6:30 P.M.

**Members Present:** Susan Avellar, Peter Souza, Robin Evans

**Members Absent:** Sheila Benzer (excused).

**Others Present:** Roger Dias (Conservation Agent), Ellen C. Battaglini (Recording Secretary)

## PUBLIC MEETING

Acting Chair Susan Avellar called Public Meeting to order at 6:40 P.M.

### I. PUBLIC STATEMENTS:

None.

### II. PUBLIC MEETING:

#### *Determination of Applicability (Continued from 7-25-02 and 8-22-02)*

Application by Tom Thompson, representing John and Donna Farrelly, for Determination of Applicability under the Provincetown Wetlands By-Law, Chapter 12 of the Provincetown General By-Laws and under the Massachusetts Wetlands Protection Act, M.G.L. c. 131, § 40 for the property located at **575 Commercial Street**, Provincetown.

**Presentation:** Tom Thompson and Tom DiFrancesca appeared to present the application. FEMA plans were submitted to the Commission. The applicant intends to use small equipment that doesn't need beach access.

**Public Comment:** None.

**Commission Discussion:** The Commissioners questioned Mr. Thompson and Mr. DiFrancesca and determined that the situation called for a Notice of Intent. Mr. Thompson asked for another continuance in order to file for a Notice of Intent.

#### *Determination of Applicability*

Application by Robert Valois, representing Laura Rood, for Determination of Applicability under the Provincetown Wetlands By-Law, Chapter 12 of the Provincetown General By-Laws and under the Massachusetts Wetlands Protection Act, M.G.L. c. 131, § 40 for the property located at **149A Commercial Street**, Provincetown.

**Presentation:** Robert Valois and Mark Kinnane, Builder, appeared to present the application. The applicant indicated that beach access would be needed in order to complete the project, but if that were not possible, they could proceed strictly from the Commercial Street side of the project.

**Public Comment:** Robin B. Reid, Esq., representing a condominium unit owner at 149A Commercial Street, stated that none of the abutters were noticed about this hearing. She further stated that no plans had been submitted delineating the resource areas that may be affected by the project. She concluded that the application was incomplete and that the Commission shouldn't even be considering it. Mary Beth Caschetta, an abutter, presented the Commission with a petition against the project signed by 41 people.

**Commission Discussion:** The Commission questioned Mr. Valois about the application and determined that the project warranted a Notice of Intent and suggested that the applicant ask for a continuance.

### ***Determination of Applicability***

Application by David B. Lajoie of Felco, Inc. representing the White Sands Beach Club, Inc., for Determination of Applicability under the Provincetown Wetlands By-Law, Chapter 12 of the Provincetown General By-Laws and under the Massachusetts Wetlands Protection Act, M.G.L. c. 131, § 40 for the property located at **6 Sandy Hill Lane**, Provincetown.

**Presentation:** Maria Kuliopulos appeared to present the application. Mr. Lajoie could not attend the meeting that evening. The Board of Health has signed off on the project. The demolition portion of the project can be done in one day and access for this process is needed through the buffer zone.

**Public Comment:** None.

**Commission Discussion:** The Commissioners questioned Ms. Kuliopulos about the project and determined that a portion of the project would impact the 100' buffer zone. They asked if any deconstruction protocol was in place and what kind of equipment would be needed to complete the project. The Commissioners suggested that Ms. Kuliopulos request another continuance and return with the engineer who can provide them with the necessary details of the project. The information requested includes: establishing and flagging a work limit on the project, specifying the types of equipment that will be used in the demolition and/or reconstruction, the establishment of demolition and reconstruction protocol including storm water run-off management, delineation of the storage of building materials during the demolition and reconstruction process, information concerning whether the building will be built on a slab or there will be excavation for a foundation and a dated copy of the Board of Health approved septic plans.

## **III. PUBLIC HEARING:**

### ***Notice of Intent***

Application by Bourne Consulting Engineering representing the Town of Provincetown (David Guertin, DPW Director) for Notice of Intent under the Provincetown Wetlands By-Law, Chapter 12 of the Provincetown General By-Laws, and under the Massachusetts Wetlands Protection Act M.G.L. c. 131, § 40 for the property located at **41° 54.4', 70° 13.3' W, in Cape Cod Bay, known as the Cape Cod Disposal Area**, Provincetown.

This application was withdrawn.

### ***Notice of Intent***

Application by Coastal Engineering representing Taylor-Zemo Realty Trust (Stephen Zemo, Trustee) for Notice of Intent under the Provincetown Wetlands By-Law, Chapter 12 of the Provincetown General By-Laws, and under the Massachusetts Wetlands Protection Act M.G.L. c. 131, § 40 for the property located at **165 Commercial Street**, Provincetown.

**Presentation:** Martin Donoghue, of Coastal Engineering, Joy A. Cuming, Architect, and Mark Kinnane, Builder, appeared to present the application. Mr. Donoghue presented a copy of the construction protocol to the Commission and stated that no work would need to be done on the beach or from the beach side of the property.

**Public Comment:** None.

**Commission Discussion:** There was a brief discussion amongst the Commissioners.

***Peter Souza moved to approve the Notice of Intent under the Provincetown Wetlands By-Law, Chapter 12 of the Provincetown General By-Laws, and under the Massachusetts Wetlands Protection Act M.G.L. c. 131, § 40 as written for the property located at 165 Commercial Street, Provincetown, Robin Evans seconded and it was so voted, 3-0.***

## **IV. APPROVAL OF MINUTES:**

***Susan Avellar moved to approve the minutes of September 26, 2002, Peter Souza seconded and it was so voted, 2-1-1 (absent).***

**V. OTHER BUSINESS:**

The Board of Selectmen has appointed Roger Chauvet as a new member of the Conservation Commission.

139 Commercial Street – Superseding Order of Conditions

Attorney E. James Veara obtained a superseding order of conditions, but no change of Orders has come before the Commission.

Letter – a letter was written to the Police and Parking Departments from the Commission expressing concern and urging more aggressive action to enforce the parking ban along Route 6A in front of the Cape Inn Motel, formerly the Holiday Inn.

Letter – There has been no response from the Town Manager concerning the availability of funds to hire a consultant to guide and advise the Commission regarding new Wetlands By-Laws.

There has been no response from the Town concerning the arsenic-laden wood being used on the new Pier project.

Former Chair John Bennett was supposed to find out how much money was left in the Land Bank funds for management of open space.

There was a request of Assistant Town Manager, Mark Latour, for an accounting of the money for storm water management and there has been no response.

Bourne Consulting Engineering and AGM Marine – There is a letter on file from the Massachusetts Department of Environmental Protection regarding the request for a proposed change to DOA heard at the Commission’s last hearing. The DEP stated that the issue was not within the jurisdiction of the Town of Provincetown. Susan Avellar will write a letter to DEP regarding this issue to request the retesting of the dredge spoils by an independent tester. If the results come back indicating a low percentage of heavy metals (Level 3, the lowest level that would pose a danger to contaminating the environment), the Commission would not have a problem with the disposal at the Cape Cod Disposal Area.

Robin Evans will write another letter requesting information concerning the amount of money that is available to the Open Space Committee

**VI. ANY OTHER BUSINESS THAT SHALL PROPERLY COME BEFORE THE BOARD:**

None.

**ADJOURNMENT:**

*Robin Evans moved to adjourn the meeting at 9:00 P.M., it was so voted unanimously.*

Respectfully submitted,

Ellen C. Battaglini

Approved by \_\_\_\_\_ on \_\_\_\_\_, 2002  
Susan Avellar, Acting Chair

