

Marblehead Conservation Commission
Minutes March 10, 2011

Meeting was held in the lower conference room at the Mary A. Alley Building, 7 Widger Road

Meeting was called to order at 7:00 PM

Present were: Commission Members Walt Haug, Fred Sullivan, Brian LeClair, Don Tritschler and Ken Fisher. Also present was Willy Lanphear, Conservation Administrator and Jan Smith, associate member.

The hearings were conducted under the Massachusetts Wetlands Protection Act and the Marblehead Wetlands Protection Bylaw.

Note: The commission currently has seven members. Per the MACC Handbook, section 4.1.2, most lawyers agree that a quorum is "...a majority of commissioners currently serving". The quorum for this meeting is therefore four members.

Approve Minutes: A motion was made and seconded "to approve the minutes of 02/10/2011 as amended". All voted in the affirmative.

Discussion Items:

Town Wetlands Regulation: The changes proposed by L. Mead in her memo of January 17, 2011 will be advertised so they can be discussed in April.

40-948 Stramski Pier M'hd Harbors & Waters Board: The initial project was approved under an SOC from the DEP and therefore any changes to the project must be referred to the DEP. The ConCom will await the DEP decision before voting on the proposed change under the local bylaw.

40-957 75 Front Street M'hd Harbormaster: All members voted to include this very minor work under the still open 40-957 with the note that all work will be done by hand and incorporate proper erosion control.

40-993 Mound Road Montrose School Park: see end of these minutes

40-1029 15 Spray Avenue Groom: Paul Lynch, attorney for this application, personally appeared and asked for a continuance. All members voted to continue this hearing to April 14, 2011.

40-1025 15 Spray Avenue Groom: Re: Revised Special Condition No. 29: "Prior to any work on this project that might affect the stability of the existing seawalls, the applicant shall retain the services of a licensed Professional Engineer (Structural) to examine the condition of those seawalls. The engineer shall then issue a report on the structural integrity of the existing

seawalls, and their ability to handle the increased loads and stresses anticipated in connection with the proposed work. The Conservation Commission shall receive a copy of this report."

P. Lynch (as above) asked that the new condition #29 as promulgated by the commission for this OOC regarding structural integrity of the seawall be changed by deleting the words "for review" at the end of the last sentence. All members agreed to this change and voted to include the revised condition #29 as part of the original OOC. The commission reminded Lynch of the memo describing the site visit of Lanphear, Sullivan and Haug to view the seawall on 1 March 2011. A copy had earlier been supplied to him by Lanphear. This memo is herewith made a part of the documentation for 40-1025.

40-1019 99 PITMAN ROAD THOMPSON

Resource Area: Coastal Bank

Interests of the WPA and Bylaw: Storm Damage Prevention, Flood Control and Prevention of Pollution

Appeared: S. Patrowicz of Patrowicz Land Development Engineering, C. Thompson and E. Moll of Structures North

Control Drawings: Plot plan of land 99 Pitman Road, dated February 10, 2011, prepared by North Shore Survey Corporation. Drawings SKS-1, 2, 3, 4 and 5, prepared by Structures North, dated 12/29/2010, latest revision 02/10/2011.

Reference: Letter from Patrowicz dated February 10, 2011 and Project Manual, dated 12/29/2010, prepared by Structures North Consulting Engineers, Inc.

This was a continuance from 11/18/2010, 12/09/2010, 01/13/2011 and 02/10/2011. After a review of the new structure design, all members voted to close this hearing. All members voted to issue an OOC with the following special conditions.

Special Conditions:

20. In accordance with General Condition No. 9 contained in this Order of Conditions, the applicant shall record this original Order of Conditions and any subsequent amendments thereto at the Registry of Deeds in Salem and shall submit the recording information to the Conservation Commission on the form for said information found at the end of the Order of Conditions prior to the commencement of any work authorized by this Order of Conditions or any amendments thereto. Failure to submit said recording information prior to the commencement of work may result in a fine issued against the applicant in accordance with Marblehead Bylaws Chapter 194, Section 11E. See Attachment "C" for "Schedule of Fines".

21. Prior to any work authorized by this Order, a sign (1' x 2') shall be displayed in a conspicuous place at the site with the words "DEP File 40-1019"

22. Prior to any demolition, construction or earth moving activities on the site, the applicant shall make an appointment for a site inspection by the Conservation Administrator to review the proposed work and the conditions contained in this Order.

23. A copy of the Order of Conditions as well as the final approved plan/s shall be available for inspection on site while activities regulated by the Order are underway.

24. This Order of Conditions is issued under the Wetlands Protection Act and its Regulations (MGL Chapter 131, Section 40 and 310 CMR 10.00 et. seq.), and under the Town of Marblehead Wetlands Protection Bylaw (Marblehead Bylaws Chapter 194) and its Regulations (Wetlands Protection Bylaw Regulations for Administering Marblehead Bylaws Chapter 194, Sections 194-1 through 194-14). As such this Order constitutes a wetlands permit both under the Act and under the Bylaw.

25. The project shall be performed in accordance with the final approved plans and other documents referenced in Attachment A to this Order of Conditions, except as the project may be altered or amended by these Special Conditions. Any deviation from this Order of Conditions and the approved construction plan/s and documents requires authorization from the Conservation Commission prior to implementation. Any deviation from the approved construction plans and documents commenced prior to authorization is subject to a fine of up to \$300 per day, issued against the applicant in accordance with Marblehead Bylaws Chapter 194, Section 11E. See Attachment "C" for "Schedule of Fines".

26. The project shall be performed in accordance with the representations made by the applicant and his/her representative(s) and in accordance with the requirements of the Marblehead Conservation Commission, all as reflected in the public hearing record as documented in the minutes of the Marblehead Conservation Commission referenced in Attachment A to this Order of Conditions, except as the project may be specifically altered or amended by these Special Conditions.

27. These Special Conditions relate equally to both the Wetlands Protection Act and the Marblehead Wetlands Protection Bylaw unless herein indicated otherwise.

Pre-construction:

28. Any land disturbance of an area less than 40,000 square feet requires that Section II.C of the regulations pertaining to the Stormwater Management and Erosion Control Bylaw, Chapter 195 of the Marblehead Code must be followed and implemented.

29. All special conditions are to be included in the construction contracts between the applicant and his/her contractor.

30. A drawing of the erosion control techniques to be used on site shall be included in the construction contracts between the applicant and his/her contractor.

31. Prior to commencement of construction activities, the Applicant shall obtain all federal, state and local permits (in addition to this OOC) that may be required for the proposed project.

During construction:

32. This project shall not cause an increase in run-off onto adjacent properties or streets, either during construction or after completion. Appropriate measures shall be taken to prevent the movement of silt or debris onto adjacent properties or streets.

33. There shall be no cleaning or rinsing of cement concrete ready-mix trucks, or cement concrete mixing equipment, such that the byproduct of the cleaning or rinsing operation finds its way to any resource area by any means, especially, but not limited to, by means of a storm drainage system (catch basins, pipes, drainage ditches, etc.).

34. All demolition debris will be removed from the site as soon as possible and not stored within a resource area or a buffer zone. If a dumpster is used to contain debris, the dumpster shall be covered after each work day. The debris shall be properly disposed of in accordance with applicable federal, state and local regulations.

35. All construction material will be stored outside the resource area and its buffer zone or as far back from the resource areas as possible.

Post-construction/in perpetuity:

36. By voluntary agreement with the applicant, only organic fertilizers are to be used on the property landward of the resource areas. Fertilizers should not contain pesticides or herbicides; should contain slow release nitrogen and should not contain more than 3% phosphorous. To mitigate chemical runoff, do not fertilize directly before a rainstorm and do not over fertilize. Apply fertilizer in late April and in September (refer to: A Homeowner's Guide to Environmentally Sound Lawn care published by the Massachusetts Department of Food and Agriculture and the booklet, Don't Trash Grass, published by the Massachusetts Department of Environmental Protection). This condition shall survive this order.

37. Maintenance pointing of existing stone masonry walls including the replacement of occasional, missing stones in the wall is allowed as a surviving condition to the Order of Conditions. All dislodged and removed mortar/cement will be immediately contained and removed from the work site to prevent any such material from entering the resource waters. The future razing, any rebuilding of entire wall sections or enlarging of the subject wall(s) will require the filing of a new Notice of Intent. This condition shall survive this order.

38. Invasive plants shall not be used nor maintained in the landscape of the project site. This applies to the existing landscape as well as to any proposed landscape. A list of invasive plants in Massachusetts can be found in the latest update of The Evaluation of Non-Native Plant Species for Invasiveness in Massachusetts (with annotated list) produced by the Massachusetts Invasive Plant Advisory Group. For most recent update, visit www.mnla.com or www.newfs.org.

39. If the control drawings for this project were prepared and stamped by a licensed Professional Engineer, licensed Professional Land Surveyor, licensed Professional Architect or licensed Professional Landscape Architect, the construction of this project shall be regularly inspected by said licensed professional to insure that the project complies with the control drawings. Upon completion of the work authorized by this OOC, said licensed professional shall submit a written statement to the Conservation Commission certifying that the completed work is in substantial compliance with the control drawings and setting forth any deviations that may exist between the completed work and the plans approved the Conservation Commission.

40. Upon completion of the work allowed under this Order of Conditions the applicant shall apply for a Certificate of Compliance (COC) (a) within 30 days after completion of the work or (b) thirty (30) days prior to the expiration date of the original or extended OOC, whichever time comes sooner. If no work was started under the OOC or if some of the work will not be performed, the applicant must still apply for a Certificate of Compliance at least 30 days prior to the expiration of the OOC. The Conservation Commission may require the submission of an "as built" drawing (signed and stamped by a licensed Professional Engineer or licensed Professional Land Surveyor) with the application for the COC. Failure to submit an application for a COC shall result in a fine issued against the applicant in accordance with Marblehead Bylaws Chapter 194, Section 11E. See Attachment "C" for "Schedule of Fines".

40-1021 10 MARINER'S LANE DARING

Resource Area: Coastal Bank

Interests of the WPA and Bylaw: Storm Damage Prevention, Flood Control and Prevention of Pollution

Appeared: S. Patrowicz of Patrowicz Land Development Engineering

Control Drawing: Seawall Repair, 10 Mariners Lane, dated 02/10/11, prepared by Childs Engineering Corporation (SK-01 and SK-02)

Reference: Letter from Patrowicz dated February 10, 2011 and letter from Childs Engineering Corporation dated January 6, 2011.

This was a continuance from 11/18/2011, 01/13/2011 and 02/10/2011. Patrowicz requested a continuance of this hearing. All members voted to continue this hearing to April 14, 2011.

40-1027 396 and 400 OCEAN AVENUE TERMEER

Resource Area: Coastal Bank

Interests of the WPA and Bylaw: Storm Damage Prevention, Flood Control and Prevention of Pollution

Appeared: S. Patrowicz of Patrowicz Land Development Engineering and J. Khuen, landscape designer

Control Drawing: Repair of an Existing Pier, Gangway/Float, dated January 22, 2011, prepared by Patrowicz Land Development Engineering; hand sketch of seawall fence and gate, dated 03/10/2011, prepared by Groom Construction

The proposed fence will be an open space design (to offer minimum resistance to wave flow) with a maximum spacing of four inches between ballusters (to meet building code), galvanized steel, maximum height of four feet (not six feet). The existing picket gate (see hand sketch) will not be altered and is removed from this NOI. The control drawing will be revised to remove any

reference to perpetual maintenance. The hand sketch will be revised to add detail to the fence/gate construction.

The proposed work on the pier was discussed. In the event a lifting mechanism is to be built, the plan will be submitted to the commission for approval before any work is started. D. Bennett, a neighbor, and others questioned the possible view obstruction of this mechanism. They were informed that the commission does not have jurisdiction over views. They suggested the neighbors discuss this with the Termeers. A chapter 91 license exists for this pier.

All members voted to close this hearing. All members voted to issue an OOC with the following special conditions.

Special Conditions:

20. In accordance with General Condition No. 9 contained in this Order of Conditions, the applicant shall record this original Order of Conditions and any subsequent amendments thereto at the Registry of Deeds in Salem and shall submit the recording information to the Conservation Commission on the form for said information found at the end of the Order of Conditions prior to the commencement of any work authorized by this Order of Conditions or any amendments thereto. Failure to submit said recording information prior to the commencement of work may result in a fine issued against the applicant in accordance with Marblehead Bylaws Chapter 194, Section 11E. See Attachment "C" for "Schedule of Fines".

21. Prior to any work authorized by this Order, a sign (1'x 2') shall be displayed in a conspicuous place at the site with the words "DEP File 40-1027"

22. Prior to any demolition, construction or earth moving activities on the site, the applicant shall make an appointment for a site inspection by the Conservation Administrator to review the proposed work and the conditions contained in this Order.

23. A copy of the Order of Conditions as well as the final approved plan/s shall be available for inspection on site while activities regulated by the Order are underway.

24. This Order of Conditions is issued under the Wetlands Protection Act and its Regulations (MGL Chapter 131, Section 40 and 310 CMR 10.00 et. seq.), and under the Town of Marblehead Wetlands Protection Bylaw (Marblehead Bylaws Chapter 194) and its Regulations (Wetlands Protection Bylaw Regulations for Administering Marblehead Bylaws Chapter 194, Sections 194-1 through 194-14). As such this Order constitutes a wetlands permit both under the Act and under the Bylaw.

25. The project shall be performed in accordance with the final approved plans and other documents referenced in Attachment A to this Order of Conditions, except as the project may be altered or amended by these Special Conditions. Any deviation from this Order of Conditions and the approved construction plan/s and documents requires authorization from the Conservation Commission prior to implementation. Any deviation from the approved construction plans and documents commenced prior to authorization is subject to a fine of up to \$300 per day, issued against the applicant in accordance with Marblehead Bylaws Chapter 194, Section 11E. See Attachment "C" for "Schedule of Fines".

26. The project shall be performed in accordance with the representations made by the applicant and his/her representative(s) and in accordance with the requirements of the Marblehead Conservation Commission, all as reflected in the public hearing record as documented in the minutes of the Marblehead Conservation Commission referenced in Attachment A to this Order of Conditions, except as the project may be specifically altered or amended by these Special Conditions.

27. These Special Conditions relate equally to both the Wetlands Protection Act and the Marblehead Wetlands Protection Bylaw unless herein indicated otherwise.

Pre-construction:

28. Prior to any work, a revised control drawing and sketch will be submitted to the commission for approval.

29. Any land disturbance of an area less than 40,000 square feet requires that Section II.C of the regulations pertaining to the Stormwater Management and Erosion Control Bylaw, Chapter 195 of the Marblehead Code must be followed and implemented.

30. All special conditions are to be included in the construction contracts between the applicant and his/her contractor.

31. A drawing of the erosion control techniques to be used on site shall be included in the construction contracts between the applicant and his/her contractor.

32. Prior to commencement of construction activities, the Applicant shall obtain all federal, state and local permits (in addition to this OOC) that may be required for the proposed project.

During construction:

33. This project shall not cause an increase in run-off onto adjacent properties or streets, either during construction or after completion. Appropriate measures shall be taken to prevent the movement of silt or debris onto adjacent properties or streets.

34. All demolition debris will be removed from the site as soon as possible and not stored within a resource area or a buffer zone. If a dumpster is used to contain debris, the dumpster shall be covered after each work day. The debris shall be properly disposed of in accordance with applicable federal, state and local regulations.

35. All construction material will be stored outside the resource area and its buffer zone or as far back from the resource areas as possible.

36. The construction of the pier/dock and any structure over the water permanently secured to the earth shall withstand a 100-year storm without damage to the integrity of the structure. All piers/docks will conform to the requirements of Chapter 91.

37. Any pressure-treated wood proposed to be used in the construction of a structure for land - based use shall be arsenic-free. Any pressure-treated wood proposed to be used in the construction of a structure for salt water contact shall be treated with Chromated Copper Arsenate (CCA) or other preservative approved by the EPA and/or the MADEP which is less polluting and harmful to the salt water and its environment.

38. All piers, docks and floats must follow the guidelines established in the document, “Small Docks and Piers – A Guide to Permitting Small Pile-Supported Docks and Piers” dated November 2003. Float stops are permitted provided they meet the aforementioned guidelines.

Post-construction/in perpetuity:

39. By voluntary agreement with the applicant, only organic fertilizers are to be used on the property landward of the resource areas. Fertilizers should not contain pesticides or herbicides; should contain slow release nitrogen and should not contain more than 3% phosphorous. To mitigate chemical runoff, do not fertilize directly before a rainstorm and do not over fertilize. Apply fertilizer in late April and in September (refer to: A Homeowner’s Guide to Environmentally Sound Lawn care published by the Massachusetts Department of Food and Agriculture and the booklet, Don’t Trash Grass, published by the Massachusetts Department of Environmental Protection). This condition shall survive this order.

40. All gangways, docks or other items not permanently secured to the earth shall be stored during the “off season” (late fall, winter, early spring) so as to prevent them from causing any damage to other structures or resource area. This condition shall survive this order.

41. All gangways, docks or other items not permanently secured to the earth shall be properly secured and/or removed in the event of a major storm so as to prevent them from causing any damage to other structures or to the resource area. This condition shall survive this order.

42. All floats/docks will be so constructed so as not to bottom out (rest) on the ocean floor at low tides. This condition shall survive this order.

43. Invasive plants shall not be used nor maintained in the landscape of the project site. This applies to the existing landscape as well as to any proposed landscape. A list of invasive plants in Massachusetts can be found in the latest update of The Evaluation of Non-Native Plant Species for Invasiveness in Massachusetts (with annotated list) produced by the Massachusetts Invasive Plant Advisory Group. For most recent update, visit www.mnla.com or www.newfs.org.

44. Minor maintenance repairs to the superstructure only of the pier are allowed as a surviving condition of this order. Minor maintenance repairs are, typically, replacement of occasional deck boards, sections of hand rails, etc. Complete new decking, complete new hand rails or other such large repairs require an NOI. Minor maintenance repairs do not apply to the main support structure (stringers, bents, etc.) and do require an NOI. This condition shall survive this order.

45. If the control drawings for this project were prepared and stamped by a licensed Professional Engineer, licensed Professional Land Surveyor, licensed Professional Architect or licensed Professional Landscape Architect, the construction of this project shall be regularly inspected by said licensed professional to insure that the project complies with the control drawings. Upon completion of the work authorized by this OOC, said licensed professional shall submit a written statement to the Conservation Commission certifying that the completed work is in substantial compliance with the control drawings and setting forth any deviations that may exist between the completed work and the plans approved the Conservation Commission.

46. Upon completion of the work allowed under this Order of Conditions the applicant shall apply for a Certificate of Compliance (COC) (a) within 30 days after completion of the work or (b) thirty (30) days prior to the expiration date of the original or extended OOC, whichever time

comes sooner. If no work was started under the OOC or if some of the work will not be performed, the applicant must still apply for a Certificate of Compliance at least 30 days prior to the expiration of the OOC. The Conservation Commission may require the submission of an “as built” drawing (signed and stamped by a licensed Professional Engineer or licensed Professional Land Surveyor) with the application for the COC. Failure to submit an application for a COC shall result in a fine issued against the applicant in accordance with Marblehead Bylaws Chapter 194, Section 11E. See Attachment “C” for “Schedule of Fines”.

40-1028 24 FOSTER STREET McKERNAN

Resource Area: Coastal Bank

Interests of the WPA and Bylaw: Storm Damage Prevention, Flood Control and Prevention of Pollution

Appeared: S. Patrowicz of Patrowicz Land Development Engineering

Control Drawing: Site plan to accompany Notice of Intent Application, Decking/Railing Repair, dated February 15, 2011, revised March 15, 2011, prepared by Patrowicz Land Development Engineering.

A chapter 91 license exists for this pier. After discussion, all members voted to close this hearing. All members voted to issue an OOC with the following special conditions.

Special Conditions:

20. In accordance with General Condition No. 9 contained in this Order of Conditions, the applicant shall record this original Order of Conditions and any subsequent amendments thereto at the Registry of Deeds in Salem and shall submit the recording information to the Conservation Commission on the form for said information found at the end of the Order of Conditions prior to the commencement of any work authorized by this Order of Conditions or any amendments thereto. Failure to submit said recording information prior to the commencement of work may result in a fine issued against the applicant in accordance with Marblehead Bylaws Chapter 194, Section 11E. See Attachment “C” for “Schedule of Fines”.

21. Prior to any work authorized by this Order, a sign (1’x 2’) shall be displayed in a conspicuous place at the site with the words “DEP File 40-1028”

22. Prior to any demolition, construction or earth moving activities on the site, the applicant shall make an appointment for a site inspection by the Conservation Administrator to review the proposed work and the conditions contained in this Order.

23. A copy of the Order of Conditions as well as the final approved plan/s shall be available for inspection on site while activities regulated by the Order are underway.

24. This Order of Conditions is issued under the Wetlands Protection Act and its Regulations (MGL Chapter 131, Section 40 and 310 CMR 10.00 et. seq.), and under the Town of Marblehead Wetlands Protection Bylaw (Marblehead Bylaws Chapter 194) and its Regulations (Wetlands Protection Bylaw Regulations for Administering Marblehead Bylaws Chapter 194, Sections 194-

1 through 194-14). As such this Order constitutes a wetlands permit both under the Act and under the Bylaw.

25. The project shall be performed in accordance with the final approved plans and other documents referenced in Attachment A to this Order of Conditions, except as the project may be altered or amended by these Special Conditions. Any deviation from this Order of Conditions and the approved construction plan/s and documents requires authorization from the Conservation Commission prior to implementation. Any deviation from the approved construction plans and documents commenced prior to authorization is subject to a fine of up to \$300 per day, issued against the applicant in accordance with Marblehead Bylaws Chapter 194, Section 11E. See Attachment "C" for "Schedule of Fines".

26. The project shall be performed in accordance with the representations made by the applicant and his/her representative(s) and in accordance with the requirements of the Marblehead Conservation Commission, all as reflected in the public hearing record as documented in the minutes of the Marblehead Conservation Commission referenced in Attachment A to this Order of Conditions, except as the project may be specifically altered or amended by these Special Conditions.

27. These Special Conditions relate equally to both the Wetlands Protection Act and the Marblehead Wetlands Protection Bylaw unless herein indicated otherwise.

Pre-construction:

28. Any land disturbance of an area less than 40,000 square feet requires that Section II.C of the regulations pertaining to the Stormwater Management and Erosion Control Bylaw, Chapter 195 of the Marblehead Code must be followed and implemented.

29. All special conditions are to be included in the construction contracts between the applicant and his/her contractor.

30. A drawing of the erosion control techniques to be used on site shall be included in the construction contracts between the applicant and his/her contractor.

31. Prior to commencement of construction activities, the Applicant shall obtain all federal, state and local permits (in addition to this OOC) that may be required for the proposed project.

During construction:

32. All demolition debris will be removed from the site as soon as possible and not stored within a resource area or a buffer zone. If a dumpster is used to contain debris, the dumpster shall be covered after each work day. The debris shall be properly disposed of in accordance with applicable federal, state and local regulations.

33. All construction material will be stored outside the resource area and its buffer zone or as far back from the resource areas as possible.

34. The construction of the pier/dock and any structure over the water permanently secured to the earth shall withstand a 100-year storm without damage to the integrity of the structure. All piers/docks will conform to the requirements of Chapter 91.

35. Any pressure-treated wood proposed to be used in the construction of a structure for land-based use shall be arsenic-free. Any pressure-treated wood proposed to be used in the construction of a structure for salt water contact shall be treated with Chromated Copper Arsenate (CCA) or other preservative approved by the EPA and/or the MADEP which is less polluting and harmful to the salt water and its environment.

36. All piers, docks and floats must follow the guidelines established in the document, "Small Docks and Piers – A Guide to Permitting Small Pile-Supported Docks and Piers" dated November 2003. Float stops are permitted provided they meet the aforementioned guidelines.

Post-construction/in perpetuity:

37. By voluntary agreement with the applicant, only organic fertilizers are to be used on the property landward of the resource areas. Fertilizers should not contain pesticides or herbicides; should contain slow release nitrogen and should not contain more than 3% phosphorous. To mitigate chemical runoff, do not fertilize directly before a rainstorm and do not over fertilize. Apply fertilizer in late April and in September (refer to: A Homeowner's Guide to Environmentally Sound Lawn care published by the Massachusetts Department of Food and Agriculture and the booklet, Don't Trash Grass, published by the Massachusetts Department of Environmental Protection). This condition shall survive this order.

38. All gangways, docks or other items not permanently secured to the earth shall be stored during the "off season" (late fall, winter, early spring) so as to prevent them from causing any damage to other structures or resource area. This condition shall survive this order.

39. All gangways, docks or other items not permanently secured to the earth shall be properly secured and/or removed in the event of a major storm so as to prevent them from causing any damage to other structures or to the resource area. This condition shall survive this order.

40. All floats/docks will be so constructed so as not to bottom out (rest) on the ocean floor at low tides. This condition shall survive this order.

41. Minor maintenance repairs to the superstructure only of the pier are allowed as a surviving condition of this order. Minor maintenance repairs are, typically, replacement of occasional deck boards, sections of hand rails, etc. Complete new decking, complete new hand rails or other such large repairs require an NOI. Minor maintenance repairs do not apply to the main support structure (stringers, bents, etc.) and do require an NOI. This condition shall survive this order.

42. If the control drawings for this project were prepared and stamped by a licensed Professional Engineer, licensed Professional Land Surveyor, licensed Professional Architect or licensed Professional Landscape Architect, the construction of this project shall be regularly inspected by said licensed professional to insure that the project complies with the control drawings. Upon completion of the work authorized by this OOC, said licensed professional shall submit a written statement to the Conservation Commission certifying that the completed work is in substantial compliance with the control drawings and setting forth any deviations that may exist between the completed work and the plans approved the Conservation Commission.

43. Upon completion of the work allowed under this Order of Conditions the applicant shall apply for a Certificate of Compliance (COC) (a) within 30 days after completion of the work or (b) thirty (30) days prior to the expiration date of the original or extended OOC, whichever time

comes sooner. If no work was started under the OOC or if some of the work will not be performed, the applicant must still apply for a Certificate of Compliance at least 30 days prior to the expiration of the OOC. The Conservation Commission may require the submission of an "as built" drawing (signed and stamped by a licensed Professional Engineer or licensed Professional Land Surveyor) with the application for the COC. Failure to submit an application for a COC shall result in a fine issued against the applicant in accordance with Marblehead Bylaws Chapter 194, Section 11E. See Attachment "C" for "Schedule of Fines".

40-1029 15 SPRAY AVENUE GROOM

Resource Area: Coastal Bank

Interests of the WPA and Bylaw: Flood Control, Storm Damage Prevention and Prevention of Pollution

Appeared: see above under "Discussion Items".

RDA 1 NAHANT STREET CORINTHIAN YACHT CLUB

Resource Area: Coastal Bank

Interests of the WPA and Bylaw: Flood Control, Storm Damage Prevention and Prevention of Pollution

Appeared: R. Hastings, Mgr. CYC

Per Hastings, staging will be attached to the seaward side of the dock house to allow the roofers access from the water side. All roofing debris will be immediately deposited into trash bins located on the staging. This debris and all other debris resulting from the re-roofing will be contained to prevent it from entering the resource waters and removed from the site daily. Lanpear will be notified by the Mr. Hastings before the work is to commence so Lanpear can be on site the day of work commencement to insure proper handling of the debris.

Regarding the painting of the pier, all scrapping will be done by hand/wire brush, no sand blasting will be done. The barnacles on the pilings may be removed by water jet pressure. The paint (oil base) will be applied by brush, not sprayed. All members voted to close this hearing. All members voted to issue a negative determination with the following conditions.

1. All roofing debris will be immediately deposited into trash bins and will be contained to prevent it from entering the resource waters and will be removed from the site daily.
2. All scraping and paint removal from the pier will be done by hand using a wire brush. No sand blasting will be done. The marine growth on the pier supports may be removed by a pressure washer using water only.
3. The painting of the pier and supports will be done using an oil based paint that will be applied with a brush, and not by spraying.

40-1030 20 NONANTUM ROAD G. TROTTI / D. NEWMAN

Resource Area: Coastal Bank

Interests of the WPA and Bylaw: Flood Control, Storm Damage Prevention and Prevention of Pollution

Appeared: G. Trotti and S. Patrowicz of Patrowicz Land Development Engineering

Control Drawing: House Restoration/Re-construction at #20 Nonantum Road, dated 02/22/2011, prepared by Patrowicz Land Development Engineering

Reference: Bessom Associates, Inc. letter dated January 24, 2011

Patrowicz explained the various stages of re-construction and repairs. The commission questioned the method/sequence for repairing the seaward foundation wall. The proposed method is to work from inside the foundation, leaving the existing voids at the base of the foundation wall but filling the areas behind the voids with concrete. The voids will subsequently be filled after all other work is completed. This last repair (the filling of the voids themselves) is not included in this NOI. All members voted to close this hearing. All members voted to issue an OOC with the following special conditions.

Special Conditions:

20. In accordance with General Condition No. 9 contained in this Order of Conditions, the applicant shall record this original Order of Conditions and any subsequent amendments thereto at the Registry of Deeds in Salem and shall submit the recording information to the Conservation Commission on the form for said information found at the end of the Order of Conditions prior to the commencement of any work authorized by this Order of Conditions or any amendments thereto. Failure to submit said recording information prior to the commencement of work may result in a fine issued against the applicant in accordance with Marblehead Bylaws Chapter 194, Section 11E. See Attachment "C" for "Schedule of Fines".

21. Prior to any work authorized by this Order, a sign (1'x 2') shall be displayed in a conspicuous place at the site with the words "DEP File 40-1030"

22. Prior to any demolition, construction or earth moving activities on the site, the applicant shall make an appointment for a site inspection by the Conservation Administrator to review the proposed work and the conditions contained in this Order.

23. A copy of the Order of Conditions as well as the final approved plan/s shall be available for inspection on site while activities regulated by the Order are underway.

24. This Order of Conditions is issued under the Wetlands Protection Act and its Regulations (MGL Chapter 131, Section 40 and 310 CMR 10.00 et. seq.), and under the Town of Marblehead Wetlands Protection Bylaw (Marblehead Bylaws Chapter 194) and its Regulations (Wetlands Protection Bylaw Regulations for Administering Marblehead Bylaws Chapter 194, Sections 194-1 through 194-14). As such this Order constitutes a wetlands permit both under the Act and under the Bylaw.

25. The project shall be performed in accordance with the final approved plans and other documents referenced in Attachment A to this Order of Conditions, except as the project may be altered or amended by these Special Conditions. Any deviation from this Order of Conditions and the approved construction plan/s and documents requires authorization from the

Conservation Commission prior to implementation. Any deviation from the approved construction plans and documents commenced prior to authorization is subject to a fine of up to \$300 per day, issued against the applicant in accordance with Marblehead Bylaws Chapter 194, Section 11E. See Attachment "C" for "Schedule of Fines".

26. The project shall be performed in accordance with the representations made by the applicant and his/her representative(s) and in accordance with the requirements of the Marblehead Conservation Commission, all as reflected in the public hearing record as documented in the minutes of the Marblehead Conservation Commission referenced in Attachment A to this Order of Conditions, except as the project may be specifically altered or amended by these Special Conditions.

27. These Special Conditions relate equally to both the Wetlands Protection Act and the Marblehead Wetlands Protection Bylaw unless herein indicated otherwise.

Pre-construction:

28. Any land disturbance of an area less than 40,000 square feet requires that Section II.C of the regulations pertaining to the Stormwater Management and Erosion Control Bylaw, Chapter 195 of the Marblehead Code must be followed and implemented.

29. All special conditions are to be included in the construction contracts between the applicant and his/her contractor.

30. A drawing of the erosion control techniques to be used on site shall be included in the construction contracts between the applicant and his/her contractor.

31. Prior to commencement of construction activities, the Applicant shall obtain all federal, state and local permits (in addition to this OOC) that may be required for the proposed project.

32. Before any landscaping is started, a landscape plan will be submitted to the commission for approval.

During construction:

33. This project shall not cause an increase in run-off onto adjacent properties or streets, either during construction or after completion. Appropriate measures shall be taken to prevent the movement of silt or debris onto adjacent properties or streets.

34. There shall be no cleaning or rinsing of cement concrete ready-mix trucks, or cement concrete mixing equipment, such that the byproduct of the cleaning or rinsing operation finds its way to any resource area by any means, especially, but not limited to, by means of a storm drainage system (catch basins, pipes, drainage ditches, etc.).

35. To the maximum extent possible, all driveways, terraces, patios or similar ground-level surfaces will be constructed as permeable surfaces to allow water to infiltrate through their surfaces into the ground on site.

36. All demolition debris will be removed from the site as soon as possible and not stored within a resource area or a buffer zone. If a dumpster is used to contain debris, the dumpster shall be

covered after each work day. The debris shall be properly disposed of in accordance with applicable federal, state and local regulations.

37. All construction material will be stored outside the resource area and its buffer zone or as far back from the resource areas as possible.

Post-construction/in perpetuity:

38. By voluntary agreement with the applicant, only organic fertilizers are to be used on the property landward of the resource areas. Fertilizers should not contain pesticides or herbicides; should contain slow release nitrogen and should not contain more than 3% phosphorous. To mitigate chemical runoff, do not fertilize directly before a rainstorm and do not over fertilize. Apply fertilizer in late April and in September (refer to: A Homeowner's Guide to Environmentally Sound Lawn care published by the Massachusetts Department of Food and Agriculture and the booklet, Don't Trash Grass, published by the Massachusetts Department of Environmental Protection). This condition shall survive this order.

39. Invasive plants shall not be used nor maintained in the landscape of the project site. This applies to the existing landscape as well as to any proposed landscape. A list of invasive plants in Massachusetts can be found in the latest update of The Evaluation of Non-Native Plant Species for Invasiveness in Massachusetts (with annotated list) produced by the Massachusetts Invasive Plant Advisory Group. For most recent update, visit www.mnla.com or www.newfs.org.

40. If the control drawings for this project were prepared and stamped by a licensed Professional Engineer, licensed Professional Land Surveyor, licensed Professional Architect or licensed Professional Landscape Architect, the construction of this project shall be regularly inspected by said licensed professional to insure that the project complies with the control drawings. Upon completion of the work authorized by this OOC, said licensed professional shall submit a written statement to the Conservation Commission certifying that the completed work is in substantial compliance with the control drawings and setting forth any deviations that may exist between the completed work and the plans approved the Conservation Commission.

41. Upon completion of the work allowed under this Order of Conditions the applicant shall apply for a Certificate of Compliance (COC) (a) within 30 days after completion of the work or (b) thirty (30) days prior to the expiration date of the original or extended OOC, whichever time comes sooner. If no work was started under the OOC or if some of the work will not be performed, the applicant must still apply for a Certificate of Compliance at least 30 days prior to the expiration of the OOC. The Conservation Commission may require the submission of an "as built" drawing (signed and stamped by a licensed Professional Engineer or licensed Professional Land Surveyor) with the application for the COC. Failure to submit an application for a COC shall result in a fine issued against the applicant in accordance with Marblehead Bylaws Chapter 194, Section 11E. See Attachment "C" for "Schedule of Fines".

RDA 81 FRONT STREET LANDING RESTAURANT

Interests of the WPA and Bylaw: Flood Control, Storm Damage Prevention and Prevention of Pollution

Appeared: R. Simonelli, Mgr. Landing Restaurant

Control Drawing: Sketch by D. Lynch, undated

This application is to move an entrance door within the building and will have no impact on the resource area. All members voted to close this hearing. All members voted to issue a negative determination with no conditions.

Old/New Business:

Proposed Amendments: 40-969 396&400 Ocean Avenue: Appeared S. Patrowicz and J. Khuen to describe the proposed changes per control drawing, Grading & Drainage Stormwater Mitigation, 396&400 Ocean Avenue, dated January 21, 2011, prepared by Patrowicz Land Development Engineering. This hearing had been advertised and abutters notified. The commission voted to review the changes as amendments, not requiring the filing of a new NOI. The commission voted to close this hearing and accept the changes with the following additional special conditions. (1) The applicant will submit a maintenance plan/schedule for cleaning the catch basins on the property. (2) A new landscape plan will be submitted for approval by the commission before any landscaping work is started.

Requests for COC:

40-764 53 Phillips Street Smith: All members voted to issue a COC.

40-895 83 Naugus Avenue Herring: Tabled to the April meeting.

40-973 7 Fort Beach Way McGuire: Tabled to the April meeting.

Sign Documents: All documents per the agenda were signed.

Recording Documents for Applicants: The following change to the regulations was proposed: "If the commission records an OOC or COC on behalf of the applicant, the following charges will apply. Note that this service is offered as a convenience to the applicant. Recordings may be done directly by the applicant. Failure to record an OOC is subject to a fine per the Fine Guidelines." After discussion, a majority of the members decided not to implement this change because (1) a service fee would have to be charged over and above the filing fee, (2) if the commission inadvertently did not do a recording it would be responsible for this oversight and (3) with only one person on staff, it was felt this would be an unwise use of his time.

40-993 Mound Road Montrose School Park: The commission needs clarification on the submitted drawing (Topo Plan of Land in M'hd, MA - Showing Revised Turnaround, dated November 17, 2010, prepared by Hayes Engineering). What does the cross-hatch line mean? What landscaping is planned for the area without asphalt? Any change in drainage?

The meeting was adjourned at 10:10 PM.