

**Marblehead Conservation Commission
Minutes November 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 Brian LeClair, Walt Haug, Fred Sullivan, Ken Fisher and Don Tritschler. Also present were Willy Lanphear, Conservation Administrator and Jan Smith.

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

Note: The commission currently has five 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 three members.

Approve Minutes: The minutes of October 13, 2011, as corrected, were approved by all members.

40-1053 151 GREEN STREET MULDOON

Resource Area: BVW and Stream

Interests of the WPA and Bylaw: Flood Control, Protection of Wildlife Habitat and Prevention of Pollution

Control Drawing: Green Street Condominiums, dated May 3, 2011, latest revision October 3, 2011 prepared by RIM Engineering

Reference: Stormwater Management for Green Street Condominiums, prepared by RIM Engineering, dated August 16, 2011, latest revision October 11, 2011.

Wetland Replication Methodology Report, dated October 10, 2011, prepared by ECR
Application for a Land Disturbance Permit for Green Street Realty Trust, dated October 11, 2011,

Appeared: No one

This was a continuance from 09/08/2011 and 10/13/2011. An email from P. Lynch dated November 9, 2011 requested a continuance to December 8, 2011. All members voted to continue this hearing to December 8, 2011.

40-1024 1 NAHANT STREET CORINTHIAM YACHT CLUB

Resource Area: Coastal Bank

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

Control Drawing: Corinthian Yacht Club New Pool, 1 Nahant Street, dated 03/15/2010, latest revision 07/27/2011, prepared by Hayes Engineering, Inc. Also, drawing, "Section at Existing Seawall – F/S-200", no date or preparer is listed.

Reference: Letter from Hayes Engineering dated November 1, 2011

Appeared: R. McCann, atty., T. Knox, architect, R. Hastings, Mgr. CYC and P. Ogren of Hayes Engineering

B. LeClair, member of the M'hd Con Com recused himself. This is a request for an amendment and encompasses multiple changes/additions to the original plan as listed in the referenced letter. However, the main concern of the commission is the change to the seawall. The above undated drawing of the seawall details the changes to the seawall. Note that change no. 7 ("...continuing the maintenance of the existing seawall.") of the referenced letter is eliminated from this hearing and does not form a part of the requested changes. This seawall is a re-enforced concrete wall, not a stone masonry wall. Therefore, the special condition allowing for on-going maintenance does not apply. Note also that the original NOI did not include any work in a resource area. This amendment now includes same and therefore an additional filing fee is required. All members voted to close this hearing. All members voted to issue an amended OOC with the following additional special conditions, (all special conditions in the original OOC remain applicable).

Before any work is started on the seawall, an appropriate containment system will be designed to be approved by the commission and installed, said system to prevent any construction debris and/or construction materials from entering the resource waters.

Before any work is started on the seawall, the correct filing fee will be paid to the commission and the DEP.

This amended OOC does not include any maintenance of the existing seawall.

40-1057 2 COOLIDGE ROAD BEAVER ENTERPRISES, INC.

Resource Area: Coastal Bank

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

Control Drawing: Site Plan, 2 Coolidge Road/Beaver Enterprises, Inc., dated October 23, 2011, latest revision 11/09/211, prepared by North Shore Survey Corporation. Also, sketch "Kleiman Residence, dated 10/31/2011, latest revision 11/10/2011, prepared by Allan W. Dennis, PE

Appeared: S. Patrowicz of Patrowicz Land Development Engineering

Reference: Letter from Patrowicz Land Development Engineering, dated October 23, 2011

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

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.).

35. 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. Care must be taken, using appropriate containment methods, to prevent any foreign materials from entering the resource waters. A daily inspection will be conducted to insure this requirement is met.

36. 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:

40. 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.

41. 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.

47. 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.

50. 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.

51. 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".

40-1058 20 CROWNINSHIELD ROAD MURPHY/SOLOMON

Resource Area: Coastal Bank

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

Control Drawing: Site Plan, Land Grading Design, #20 Crowninshield Road., dated October 28, 2011, prepared by North Shore Survey Corporation.

Appeared: S. Patrowicz of Patrowicz Land Development Engineering, Dr. P. Rosen and Ms. Murphy

Reference: Letter from Patrowicz Land Development Engineering, dated October 28, 2011

There was a lengthy discussion about the scope of the project and the amount of new lawn to be created. A major rationale used by the applicant was to re-direct surface water flow away from the neighbor at 22 Crowninshield Road although the overriding intent is to create an impressive

outdoor venue for an upcoming wedding. The commission expressed great concern about the amount of new lawn, its slopes and the greatly increased possibility of nutrients being introduced into the resource waters. Patrowicz explained the methods he intends to employ to direct and filtrate surface water flow via plantings and rain gardens. In this regard, the commission required details concerning the proposed rock walls with their plantings and the rain gardens. These will be supplied for the next meeting. All members voted to continue this hearing to December 8, 2011

Old/New Business:

Enforcement Order:

40-1015 25 Pinecliff Drive: Appeared David McKiernan and Lauren Lautner. The commission reviewed the history of this violation (starting 25 April 2011 to 13 October 2011). Copies of the pertinent documents comprising the history are included for this file. It was agreed with Mr. McKiernan that he would submit a planting plan for the coastal bank by the end of April, 2012 and complete the planting by the end of June 2012. In the meantime, he will do no further clear cutting on the bank. If he determines he cannot meet these dates, he will apply to the commission for an extension. In the meantime, he can continue with the construction of the planting/retaining wall. Mr. McKiernan agreed to pay a fine of \$2,700.00, as allowed by the fine schedule due to the extensive length of time over which the violations existed and the multiple warnings issued by the commission which he ignored. The commission voted 4 yes, 1 no to the fine (Fred Sullivan voted in opposition).

Request for Changes:

40-1050 19 Neptune Road: See sketch by Scott Patrowicz, dated 11/10/2011 showing a set of stairs to replace a proposed ramp. The amount of impervious surface is reduced from 80 sq. ft. to 25 sq. ft. All members voted to view this as a change, not requiring an amendment.

Request for COC:

40-930 Chadwick Lead Mills: See Woodard & Curran (W&C) Annual Report dated October 31, 2011. See also the W&C response, dated November 10, 2011 to the Haug memo, dated 31 October 2011. The COC will refer to the partial COC issued 27 June 2011 and will contain the following special conditions from the amended OOC: 46, 47, 48, 49, 50 and 51. Add to condition 51 the following: *The responsible parties will be the then current owner of the former Chadwick Lead Mills site and the Town of Marblehead.* One further addition: *Note that a report from Vine Associates, Inc., June 9, 2011 confirmed that the coastal bank and beach had been restored per the Wetlands Mitigation and Monitoring Plan of June 2007, in essence satisfying that section of Special Condition #52 which required an independent review of the written report referred to in #52 and thereby making redundant a review of the W&C report referred to as their Annual Report of 31 October 2011.* All members voted to issue the COC.

40-389 12 Davis Road: This OOC expired 09/28/1995. The owner responsible for this NOI has died. All members voted to issue this COC without a fine levied.

40-684 10 Davis Road: This OOC expired 12/21/2003. All members voted to issue this COC. A fine of \$300.00 was levied for failure to apply for the COC upon completion of the work as required in the OOC.

40-928 15 Brown Street: No work was done under the OOC. All members voted to issue a COC.

40-772 21 Harbor Avenue: This OOC expired 05/01/2006. All members voted to issue this COC. A fine of \$300.00 was levied for failure to apply for the COC upon completion of the work as required in the OOC.

40-921 17 Nonantum Road: All members voted to issue this COC under the Marblehead Bylaw. This involved an SOC.

Sign Documents: All documents per the agenda were signed.

Fines: The commission will again review its fine guidelines with regard to per diem fines for violations in the buffer zones and resource areas.

The meeting adjourned at 10:00 PM.