

**CONSERVATION COMMISSION
MINUTES OF SEPTEMBER 14, 2006**

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, Betsy Rickards, Craig Smith and Fred Sullivan (representing a quorum – see below Note). Also present were Doug Saal, 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 only 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 08/24/06 were approved by three members. One member arrived just after this vote.

Marblehead Conservancy – Forest River: Don Morgan of the Marblehead Conservancy appeared to ask for written support from the commission in the application of the Conservancy for a grant to perform trail work in the Forest River Conservation Land. All members approved this request. A letter from the commission dated September 14, 2006 was given Morgan.

Bylaw Regulation changes: Two changes (the entire text of each change) had been advertised twice in the Marblehead Reporter as well as posted at Abbot Hall. One change dealt with minor activities (new section 5.4.4) and the other change dealt with section 5.4.1 item 4 of the regulations. See the minutes of 07/26/06. There were no comments or questions from the audience. All members voted to enact these changes which become effective September 15, 2006.

Redmond – Crowninshield and Eustis Road: Katherine Bradford of Bradford Design Associates, representing Redmond, appeared to request permission to plant a row of shrubs in the immediate vicinity of a coastal bank (partially within the 25 ft. No Disturb Zone). See the sketch, "Schematic Design, Redmond Residence, dated 09/06/06, prepared by Bradford. The sketch entails a larger project but the request at this time was only for the row of shrubs. An NOI will be filed on October 12, 2006 for the larger project. Bradford will revise the sketch to identify the top of coastal bank (elevation 17) and the five trees proposed to be removed under the larger project. She will deliver a letter describing the planting of the shrubs to the commission. The commission agreed this work can be approved as a minor activity. Saal will issue a Minor Activity Permit

once the letter and the revised sketch are received. Bradford was reminded that the commission maintains its reservations about removing trees within the buffer zones.

40-897 26 NONANTUM ROAD MACARO

Resource Area: Coastal Bank

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

Appeared: Bonita Macaro and Thomas Amsler, architect

Controlling drawings: Exhibits E1, E2, E3, E4 and E5.

This coastal bank does appear to supply some sediment to the beach but it is very minimal. There is a lot ledge in this area. Therefore, the commission concluded the proposed work will not impact the ability of the bank to provide storm damage prevention and flood control. Each wall will be three feet or less in height. The top of the most landward wall will be slightly above the surface of the proposed parking area to act as a berm to prevent storm water from this area flowing down the bank. The parking area surface will be constructed with a pervious surface. Plantings will be located in area "1" (between the most seaward wall and the ocean) as well as behind each wall. Area "1" is generally not subject to tidal action (which would impair plant growth). A list of proposed plantings from Derek Brown was reviewed. From this list the following plants were suggested: Atlantic white cedar, Bayberry, Beach Plum, Rugosa Rose. Day Lily was also suggested. A Mrs. Chalifour spoke in favor of this project. All members voted to close this hearing. All members voted to issue an OOC with the following special conditions.

Pre-construction:

1. All special conditions are to be included in the construction contracts between the applicant and his/her contractor.
2. 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.
3. A revised E5 drawing will be submitted before any work is started. The revision will show (a) plantings in area "1", (b) the berm of the most landward wall (projecting above the surface of the parking area), (c) the wording "pervious proposed parking", (d) erosion control and (e) the suggested plants.

During construction:

4. 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.

5. The area “Natural Grading, Loam and Seed” will be properly stabilized.

Post-construction/in perpetuity:

6. 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 Lawncare 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.

7. 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. 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.

8. 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.

40-000 89 FRONT STREET MARBLEHEAD BOAT YARD

Resource Area: Coastal Bank

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

Appeared: Ralph Anderson

Controlling drawings: General Site Plan, Marblehead Trading Company, 89 Front Street (no date)

The applicant was informed that the DEP file number had not been received. The application would be discussed but could not be closed. Per Anderson this marina continues to operate under the EPA permit, MAR 05B863 issued 02/14/2001. No annual inspections have been made. The marina does have a pollution prevention plan (PPP) for this site. No Best Management Practices (BMP’s) have been installed. Waste liquids are

contained in barrels. Washed liquids flush over the seawall into the ocean. Anderson said they have investigated pollution control systems but EPA has not approved any. He said the oversight and control by EPA is very mixed and confusing. The commission decided to levy a fine for failing to obtain a permit. The time period involved is 15 days (August 10 the work was observed by commission members; August 25 the NOI was filed). One member suggested a fine of \$200 per day; three members suggested \$100 per day. A fine of \$1,500 was levied. No COC will be issued until the fine is paid. All members voted to continue this hearing to October 12, 2006.

Old/New Business:

Approve Minutes: See above.

Sign Documents: All documents per the agenda were signed.

Enforcement Order form: The following sentence will henceforth be included in all enforcement orders: "A fine of up to \$300 per day per violation may be levied until receipt of the Notice of Intent."

September 28, 2006: There will be no conservation meeting on September 28.

The meeting was adjourned at 8:35 PM