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HARWICH CONSERVATION COMMISSION - MEETING AGENDA

TOWN HALL – GRIFFIN ROOM

Wednesday, April 2, 2025 – 6:00 PM

Commissioners and Staff Present

Chairman John Ketchum, Sophia Pilling, Viv Mulhall-Maguire, Wayne Coulson, Mark Coleman, Assistant Conservation Agent Lily Gooding, and Conservation Administrator Amy Usowski

Commissioners Absent:

None

Call to Order

Chairman Ketchum called the meeting to order at 6:00 PM and the Pledge of Allegiance was recited.

The following applicants have filed a Notice of Intent

Jason Trepanier, Main Street/Route 28, Map 11, Parcel B4-0. Watermain replacement.

Bob Drake and Eric Woodbury of GSD presented the project in person. Mr. Drake began by recapping the previous hearing and drawing the Commission's attention to a letter of approval provided by the Massachusetts Division of Marine Fisheries. The letter includes the DMF's identification of the Herring River as diadromous fish passage, for the migration and spawning of alewife, blueback herring, and white perch, as well as nursing and foraging habitat for American Eel. The DMF also details that the project site includes salt marsh vegetation, which should go undisturbed if the sediments are controlled properly during the project.

Ms. Usowski recommended approval of the NOI with the DMF's comments referenced in the Order of Conditions. Namely, Ms. Usowski suggested conditioning the applicant to develop an HDD Contingency Plan in the event of a "frac-out." Additionally, the applicant should avoid refueling equipment on-site to reduce the risk of spills and employ appropriate containment measures to prevent siltation in the marine environment.

Chairman Ketchum asked for clarification on the term "frac-out." Mr. Drake explained that this is when the bentonite would leak up through the surface.

No further discussion from the Commission. No public comment.

Ms. Pilling moved to approve the Notice of Intent. Ms. Mulhall-Maguire seconded.

Vote: 5:0

Motion carried; Notice of Intent approved.

Lincoln Hooper, Town of Harwich, Route 28, Map N/A, Parcel N/A. Roadway improvements.

Tom Currier of MassDOT began presenting the project in person. Steve Rhoades and Bridget Hilgendorff, both of VHB, were also present to discuss the design of the project.

Ms. Hilgendorff outlined the proposed improvements to the Route 28 highway corridor, from the Dennis-Harwich line to the Herring River bridge, including the betterment of pedestrian and bicycle byways. To accommodate 5ft road shoulders and 11ft lanes, the project will include pavement reclamation and box widening. The curbs will feature ramps to ensure ADA compliance. As a result of the project, there will also be significant upgrades to stormwater infrastructure. There will be slight grading to change the slope of the roadway. The applicants are also requesting a variance from the local 50' no disturb zone bylaw.

To accommodate the new sidewalks and bike lanes, more hardscape is proposed within the riverfront area and buffer zone. New, permanent alteration within the 0-100' riverfront to the Herring River is proposed to be 82sf. In the 100-200' riverfront area, there is proposed to be 1,142sf of permanent impacts. No tree removal is proposed in the 200' riverfront area. There is to be 4,231sf of mostly temporary work within the 50' No Disturb Zone under the Bylaw. Some permanent alterations include pavement, sidewalk construction, and guardrail installation.

Ms. Usowski noted that Coastal Bank should be included in the affected Wetland Resource Areas. Ms. Usowski agreed that road improvements were necessary to this section of Route 28, but she requested the applicants stake the project area so the Commission can better visualize the limit of work.

For mitigation, erosion and stormwater management is proposed. Ms. Usowski explained that she does not view erosion control as sufficient mitigation because it is necessary to prevent sedimentation within the resource areas. The applicant proposed adding compost filter tubes along the bottom of the slope on both sides of the road.

In terms of stormwater management, Ms. Usowski explained that since the drainage on this section of Route 28 currently meets the DEP standards to the maximum extent possible, there were no further improvements needed. She asked for more information on the proposed improvements.

For plantings, Ms. Usowski would like to see more diversity showcased in the plan for the proposed disturbed area just northwest of the Herring River. Specifically, the applicants proposed two blocks of

planting: one block for red chokeberry and one block for fragrant sumac. Ms. Usowski recommended opting for a different native species instead of red chokeberry.

Ms. Usowski asked if it was necessary for so much temporary disturbance on the northwest side of Route 28 bridge over the Herring River within the 100' riverfront and 50' No Disturb Zone. The applicant explained that the construction of consistent sidewalk width and new guardrail installation require pushing the rollover point of the slope out further. This brings the tie-in slope work toward the bottom of the existing slope.

Ms. Usowski confirmed that MassDOT would bid out the work, secure the contractor, and oversee the construction.

Ms. Usowski asked if there had been coordination at all with the water department regarding the new water line installation in this area around the same time. The applicant explained that the waterline work is also a part of the MassDOT construction contract. It will be non-participating work, meaning the Town will fund it outside of the roadwork construction funding, and DOT's contractor will install it. The applicant has informed the Town's designer that they should pursue their own permit for that.

Ms. Mulhall-Maguire said she would like to see the area staked out, as Ms. Usowski requested. Ms. Mulhall-Maguire also asked if the applicant could provide a more detailed mitigation plan.

Mr. Coulson expressed concern about the drainage into the Herring River. Mr. Currier explained that because sea levels are higher, it is difficult to find enough elevation to have the outfall of the pipe above water.

Chairman Ketchum asked for clarification regarding the change in slope. Mr. Currier explained that the hinge of the slope would be pushed out to accommodate the 5 ft width.

Chairman Ketchum said he would like to see the trees removed replaced accordingly. Ms. Usowski said it might be possible to save the trees altogether.

Lincoln Hooper, the Harwich DPW Director, said he wanted the Harwich side of Route 28 to better match the upgrades the neighboring town (Dennis) had undertaken. This project, Mr. Hooper explained, would accomplish this.

Patrick Otton, Harwich resident, asked the applicant to prioritize the safety of the bike lanes.

Ms. Usowski recommended continuing the meeting until April 16 so the applicant can incorporate language concerning Coastal Bank into the narrative, stake out the project area, and explore options for saving the trees.

No further discussion from the Commission. No additional public comment.

Mr. Coulson moved to continue the meeting until April 16. Mr. Coleman seconded.

Vote: 5:0

Motion carried; hearing continued.

Jeffrey Lang and Sandra Wycoff, 397 Route 28, Map 13, Parcel D1-0. Parking lot improvements and mitigation plantings.

Applicants Jeff Handler and Jeff Lang presented the project in person. Mr. Handler began by sharing the history of the property, notably that it used to be an auto salvage junkyard. In 2020, Mr. Handler and Mr. Lang began to clean the property, implementing a remediation plan.

Dave Crispin of BSC Group attended the meeting online, explaining the resource areas on site.

Ms. Usowski referenced a recent letter provided by the Department of Environmental Protection, which included multiple pertinent comments. Mr. Handler confirmed that plantings required in a previous Order of Conditions would be completed this spring, including a rain garden.

Ms. Usowski explained that most of the parking lot and property is not within the jurisdiction of the Commission.

Ms. Usowski expressed concern about the proposed 6ft stone dust walking path within the 50ft no-disturb zone, which Mr. Handler confirmed not to be mandatory. Mr. Crispin explained that the stone dust material is intended to meet ADA compliance requirements. Ms. Pilling said she liked the path to encourage visitors not to disturb the vegetation.

Ms. Usowski explained the applicants would need to apply for a variance to the 50ft no-disturb bylaw to implement the accessible walking path.

Jan Raffaele, Harwich resident, said she never has seen anyone use the site. Ms. Raffaele also said she felt concerned about people using the site as a driving range for golf, given the site's ecological sensitivity.

No further discussion from the Commission. No additional public comment.

Mr. Coulson moved to continue the meeting to April 16. Ms. Pilling seconded.

Vote: 5:0

Motion carried; hearing continued.

The following applicants have filed a Request for Determination of Applicability

Gerald Cushing, 13 Walther Road, Map 16, Parcel S6-5. Pond de-regulation.

Stephanie Sequin of Ryder and Wilcox presented the project in person. She was accompanied by the applicant, property owner Gerald Cushing of 17 Neel Road. Mr. Cushing obtained permission to delineate the wetland from the owners of 13 Walther Road, who had filed a similar application to de-regulate the wetland. The Commission at the time agreed with the wetland delineation done and determined the pond not to be a regulatable wetland. The Harwich Wetlands Bylaw requires regulatable wetlands to be at least 3,000sf in size. The calculated size of the wetland, based on the presence of water, hydric soils, and wetland plants, was determined to be 2,877sf. The 2017 determination has since expired.

Ms. Usowski explained that if the wetland is non-jurisdictional, then Mr. Cushing would not have to seek approval from the Conservation Commission in the future. Ms. Usowski recommended the Commission confirm the wetland delineation.

Chairman Ketchum moved to approve a Negative determination and confirm the delineation. Mr. Coulson seconded.

Vote: 5:0

Motion carried; Request for Determination of Applicability approved.

Amended Order of Conditions

Kevin and Linda Simard, 25 Davis Lane, Map 8, Parcel N5-1, SE 032-2539. Structure demolition and rebuild.

Bob Perry of Cape Cod Engineering and property owner Kevin Simard presented in person the proposal to amend the Order of Conditions in person. They are requesting a set of stairs going down to the coastal bank and into the dune field. There have not been stairs at this location any time recently. The proposed stairs cross an easement and the property of 18 Snow Inn Rd.

Though the applicant provided Ms. Usowski with text records indicating the abutter's permission for the Simards to construct the staircase, she said she would like to see a more formal document such as a signed approval letter from the owners of 18 Snow Inn. Otherwise, Ms. Usowski said she did not have an issue with the stairs so long as the Simards did not create a new walking path through the dunes down to the beach but used an existing foot path. Mr. Perry and Mr. Simard agreed.

The other part of the application is to cut 9 oak and cherry trees on the bank, some of which were improperly pruned by the previous owners. Ms. Usowski said she could only recommend the removal of the trees in the immediate vicinity of the stairs, should they be permitted. This will ensure that there are roots to stabilize the bank.

For mitigation, Ms. Usowski recommended the applicant explore other options than just bayberry. Ms. Pilling recommended a suckering shrub go on the steepest part of the bank to hold it in place. No further discussion from the Commission. No public comment.

Chairman Ketchum moved to continue the hearing to April 16, to review any further changes to the plan and receive the abutter's permission. Mr. Coulson seconded.

Vote: 5:0

Motion carried; hearing continued.

Order of Conditions

Warren Nichols, 13 Strandway, Map 1, Parcel J1-3. Landscape maintenance.

No discussion from the Commission. No public comment.

Mr. Coleman moved to approve the Order of Conditions. Ms. Pilling seconded.

Vote: 5:0:1

Motion carried; Order of Conditions approved.

Discussion and Possible Vote

1. Revisions and edits to the Community Gardens regulations

Ms. Usowski explained that the proposed revisions to the regulations came after the Conservation Department made the Community Gardens perennial, meaning that tenants could occupy their plots year-round and leave their fences up instead of having to clear them each winter. Over the past year, feedback from gardeners and the community has prompted further consideration of the rules. Ms. Usowski explained that the Conservation Department Staff had researched the community gardens regulations for other towns to inform the management of Harwich's. Ms. Usowski explained that the biggest problem the Conservation Department has faced regarding the Community Gardens is people not keeping their plots in good order. In some cases, this has meant lots of tattered fencing, landscape fabric, and trash like plastic planning containers.

Lily Gooding, Assistant Conservation Agent, explained that the Community Gardens are technically not only Conservation land, but also within the regulatory jurisdiction of the Conservation Commission. As the Commission considers fertilizer and other topics, Ms. Gooding recommended they also revisit the Community Gardens. Ms. Gooding stressed that the proposed changes were not intended to change the gardening experience for anyone, but to add better structure and support.

Ms. Pilling asked if gardeners were required to sign the regulations. Ms. Usowski explained that gardeners currently only got a copy and were not required to sign anything. Moving forward, it could be an idea to consider incorporating into the sign-up process. Ms. Mulhall-Maguire agreed with this suggestion.

Mr. Coulson brought up the issue of organic gardening practices. Chairman Ketchum said the proposed prohibition of "synthetic fertilizer" was too vague. If the gardens were to become

only organic, Ms. Usowski said they would need to do further outreach given that there is no language in the current rules regulating organic vs. chemical gardening practices. The Commission recommended removing the word "synthetic" from the language. Mr. Coleman offered that the regulations could also present a good opportunity for the Commission to encourage soil testing for the gardeners. Ms. Usowski said she could pursue funding to buy soil testing kits for the gardeners.

Ernest Crabtree, Harwich resident and tenant at the Community Gardens, clarified the proposed guidelines for end of season cleanup. Mr. Crabtree, a former Conservation Commissioner, also asked if regulating fertilizer in agriculture was the direction the Commission wanted to take.

Ms. Pilling said there is an argument that fertilizer regulations should be more permissible at the Community Gardens because it is primarily an agricultural site. Mr. Coleman brought up that there are also different types of applications that the Commission should consider, including broadcasting vs. targeted treatment.

Liz Crabtree, Harwich resident and tenant at the Community Gardens, said she's observed pesticide applications in the gardens to be more so contained and targeted. But, Ms. Crabtree said she has witnessed a couple tenants use backpack sprayers to treat their plots. Overall, Ms. Crabtree believes that most gardeners use organic methods and try to avoid chemicals altogether.

Chairman Ketchum recommended the regulations include links to resources on best gardening practices to help guide applications of pesticides.

Mr. Crabtree asked if the garden plots were limited to Harwich residents only. Ms. Usowski said the gardens are open to anyone, regardless of residency. Ms. Gooding said she was aware of some tenants that were not full-time residents in Harwich or the Cape, making it potentially more difficult for them to manage their plots. Mr. Coulson asked how much money the water cost. Ms. Usowski said it costs around \$4000-\$4500 per year, which is slightly more than the town brings in for dues.

Barbara Wilke, a tenant of the Community Gardens, proposed the Commission charge part-time gardeners more money to hold a plot at the gardens instead of excluding them altogether, like how shellfish permits and dump stickers are administered to non-residents.

The Commission agreed to revisit the topic at the regular meeting on Wednesday, May 7th. They will review the version of the regulations with their suggestions worked in and hear feedback from other members of the community.

Mr. Coulson moved to approve the minutes. Ms. Mulhall-Maguire seconded.

Vote: 5:0

Motion carried; minutes approved.

Meeting Attendance

Patrick Otton	Jan Raffaele
Lincoln Hooper	Herb Raffaele
Kevin Simard	Bob Drake
Jeffrey Lang	Gerry Cushing
Sandy Wycoff	Martha Shadan
Lisa Shaw	Tom Currier
Jeffrey Lang	Eric Woodbury
Peter Ho	Stephanie Sequin
Bob Perry	Steve Rhoades
Liz Crabtree	Barbara Wilke
Ernie Crabtree	

Adjournment

Mr. Coulson moved to adjourn the meeting. Ms. Mulhall-Maguire seconded.

Vote: 5:0

Motion carried; meeting adjourned.

Minutes taken and transcribed by Lily Gooding, Assistant Conservation Agent