

FINAL

**MARION CONSERVATION COMMISSION**

MINUTES OF THE REGULAR MEETING HELD ON NOVEMBER 3, 2004

Members Present: Jeffrey W. Oakes, Chairman  
Norman A. Hills, Vice Chairman  
Janice M. Mendes, Treasurer  
Robert J. Merlino, Member  
Horace S. Kenney, Jr., Associate Member

Members Absent: Sherman E. Briggs, Jr., Recording Secretary  
Joel D. Hartley, Associate Member

Secretary: Diane R. Drake

Others Present: William Madden, Jay Crowley, Martha Stark, Michael Thompson, Brian Kaplan, James & Kathy Tripp, Paul Shamon, George Moberg, Judy & Tony Cope, Tim Lynch, Katie & Michael Deliso, Gary L. Cox, Jack Egger, Andrew Ashley, Kenneth & Beverly Hanson, (?) Webb Jr., Laura DeCosta, Dianne Cosman.

Meeting convened at 7:00 PM Wednesday, November 3, 2004 in the main conference room of the Marion Town House, 2 Spring Street, Marion, Massachusetts. Site inspections were held on Saturday, October 30, 2004 by Norman Hills and Janice Mendes.

7:00 PM **MICHAEL & MARY CURRAN** - NOI (SE41-1017) to expand the lawn area at 38 Point Road (continued). The Applicants had requested another continuation. R. Merlino moved to continue the hearing, with the Applicants' consent, to 7:20 PM November 17, 2004; J. Mendes seconded; voted unanimously.

7:01 PM **COOLMAR LTD. PARTNERSHIP** – Appointment for discussion with William Madden of G.A.F. Engineering regarding the proposed nine-lot subdivision at 604 Point Road. W. Madden said he would like the Commission's feelings regarding the possibility of filling a portion of isolated wetlands on the site. He said there will be over 10,000 square feet of filling, which will require a water quality review, a filing with the Army Corps of Engineers, and a Notice of Intent filing with Conservation. He said the wetlands would be replicated by adding to an existing wetland system on site. J. Oakes said the plan shows the area as a bordering vegetated wetland, not an isolated wetland. W. Madden said he would pipe the ditch that runs through it. J. Oakes said D.E.P. would have to issue a variance for over 5,000 square feet of filling, and it would be hard to clear that project through all the agencies. W. Madden said he could possibly limit the fill to 5,000 square feet. J. Oakes and N. Hills asked W. Madden to what end the fill is being proposed, and would the lot be unbuildable without the filling?; W. Madden said his client is requesting this for aesthetic reasons and no, the lot will still be buildable is this is not

allowed. J. Oakes said in that case, the Commission would not encourage a Notice of Intent filing for that work; R. Merlino and N. Hills agreed.

W. Madden asked to discuss John Sweeney's proposed 40B project on Spring Street (Maggies Ice Cream). W. Madden said he asked ENSR to flag any possible resource areas on that site which might require design considerations, but he does not think the flagged area is a bordering vegetated wetland because it does not border any resources. W. Madden said he will submit a letter to the Conservation Commission stating there are no wetlands on that property.

7:15 PM **PAUL F. SHAMON** – RFD (41D-1205) to determine what resources are present at Lot 8 off Creek Road, and to verify the delineation(s) of resource areas shown on the plan. Mr. Shamon is considering purchasing this lot from Raymond Mott, the present owner. Mr. Shamon was present. N. Hills said the Commission only found three of the flags shown on the plan, and asked if Mr. Shamon had soil logs; Mr. Shamon said he does not know whether the person that flagged the line (Andrew Ashley) has them. J. Oakes said the Commission has a policy requiring soil logs for verifying wetland lines. J. Oakes said the plan is stamped by an engineer, but needs to be signed by that engineer as well. J. Oakes said the Commission believes the wetland line is further upland, approximately halfway through the length of the house. At this point Mr. Shamon's wetlands delineator, Andrew Ashley, arrived. J. Oakes asked Mr. Ashley to replace the missing flags and to submit soil logs with D.E.P.'s wetlands delineation form to the Commission. N. Hills moved to continue the hearing, with the Applicant's consent, to 8:00 PM November 17, 2004; J. Mendes seconded; voted unanimously.

7:20 PM **BARBARA DeCOSTA** – NOI (SE41-1019) to extend the driveway at 2 Washburn Park Road an additional 650 feet (approximately) (continued). This hearing had been continued due solely to the lack of Natural Heritage & Endangered Species Program's response, which still has not been received. J. Mendes moved to continue the hearing, with the Applicant's consent, to 7:05 PM November 17, 2004; R.. Merlino seconded; voted unanimously.

7:25 PM **DR. MARTHA STARK** – Third Amendment to Order of Conditions (SE41-900) for rebuilding the guesthouse and renovations at 4 West Avenue, Planting Island. The third Amendment is to expand the scope of work to include, mainly: (1) connecting the decks between the buildings entirely rather than with only a wooden bridge; (2) connecting the two buildings with a second-story sunroom over a breezeway on the deck; (3) constructing a total of three ground-level storage areas (one 12' x 12' and two 9' x 18') and an outdoor shower (7' x 9'), all with breakaway walls in conformance with F.E.M.A. Regulations, beneath the deck and main building; (4) reconfiguring the staircase and slightly extending the length of the deck on the southeast end of the main building; and (5) constructing two additional staircases to the guesthouse. Dr. Stark was present with her real estate attorney, Brian Kaplan, who explained the proposed changes/additions as shown on the transparent sheet overlaying the present Plan of Record. J. Oakes said the work is in the Velocity Zone and the Buffer Zone to a Coastal Bank. J. Oakes said the Conservation Commission usually likes to see construction details showing breakaway

walls and stairs, and he feels a new Notice of Intent is required. Associate Member Horace S. Kenney Jr., sitting at the conference room table, said the Commission's meeting minutes for the last amendment on October 17, 2001, stated no more amendments; Mr. Kaplan said Dr. Stark was unaware that her former builder made that statement, certainly not with her permission, and the Amendment did not state any restrictions for future amendments. Judy Cope of Planting Island said she will not be here for another hearing and would like to make her comments now. She said she was concerned with the size of the septic system, the lack of maintaining the haybales, the discarded furniture and tire, etc. at the site. Tim Lynch, Dr. Stark's immediate abutter, asked how long an Order of Conditions is good for, because there has been no work at the site for over two years; J. Oakes said an Order is valid as long as it is extended; there is no time limit. Mr. Kaplan said that if the Commission is concerned with the breakaway storage areas and new staircases, would the Commission approve the rest of the project if Dr. Stark withdraws her request for that portion of the work? J. Oakes said a new plan of record would be required first. Gary Cox, president of the Island Associates of Marion, Inc. (a.k.a. the Planting Island Association) said this project has continued for years. Mr. Kaplan explained that Dr. Stark wants to start building as soon as possible, but due to the abutter's lawsuit against Dr. Stark, she hasn't been able to finish the project. J. Oakes said he feels the additional work is substantial enough to require a Notice of Intent rather than an Amended Order, and asked for a motion to that effect; R. Merlino moved to require a Notice of Intent for the proposed work; J. Mendes seconded; voted unanimously. H. Kenney said he abstained from the vote.

A Certificate of Compliance for Jeffrey and Paula Tosca's new dwelling at 167 Cross Neck Road was discussed (SE41-861). N. Hills said there are two washed out areas that need to be fixed before a Certificate should be issued. A letter will be sent to the Toscas asking them to notify the Commission when they are ready for another site inspection.

The Commission discussed the expanded scope of work for the sewer extension project (SE41-999). The tie-ins from the streets to the houses is now included in the Town's contract. J. Oakes said some wetlands may be altered, a lot of work will take place in the buffer zones to wetlands, and a lot of the hookups will be in the flood plain. J. Oakes said he thought there might be an exemption for installing public utilities as long as the sites are returned to their former conditions. R. Merlino thought a generic filing by EarthTech would suffice. J. Oakes would like EarthTech to request an Amended Order of Conditions, using the present plan of record, for the individual hookups. A letter will be sent to Tom Parece of EarthTech requesting an Amendment to cover the tie ins from the streets to the houses, along with a methodology for any wetland crossings.

N. Hills said he spoke with Lawrence Dorman about Mr. Dorman's interest in joining the Conservation Commission as an Associate Member. Mr. Dorman said he has a lot of projects going on at this time, but may be interested in joining the Commission in the future. N. Hills said he invited Mr. Dorman to our meetings.

The Commission discussed Arthur and Cheryl Walker's chain link fence and septic system project at 587 Front Street. Denis Seguin is the engineer for the septic project and

has filed a Request for a Determination of Applicability for a hearing on November 17, 2004. A site inspection will be done on November 13, 2004.

Meeting adjourned at 8:40 PM.

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Diane R. Drake, Secretary

Approved December 1, 2004