



CITY OF GLOUCESTER  
**CONSERVATION COMMISSION**  
**MINUTES**

ROBERT GULLA, CHAIRMAN  
Sawyer Free Library, Friend Room  
Lower Level, 2 Dale Ave

**Tuesday February 26, 2013 - 7:00 PM**

**Members Present:** Robert Gulla, Chair, Steve Phillips, John Feener, Barry Gradwohl, Robert Sherman,

Ann Jo Jackson- **Absent**, Charles Anderson- **Absent**

**Staff:** Lisa Press, Agent, Pauline Doody

**A. Continuation- 28-2232- 47 Commercial Street** Notice of Intent submitted by Sheree DeLorenzo, Beauport Gloucester LLC, to construct a hotel with associated utilities and parking in a coastal resource area. (Map 1 lot 33).

**Mr. Gulla** opened the meeting at 7:08 pm. He stated documentation was received from Dr. Godfrey, J. Michael Faherty documents dated 2-21-13, Epsilon Associates documented dated 2-26-13 and public comment submissions.

**Presenter: Les Smith, Epsilon Associates.**

**Mr. Smith** stated question/comments were taken from last meeting and a document with responses was submitted to the Conservation Commission. Mr. Smith reviewed each question and responses with the commission. The Epsilon documents dated 2-26-13 are available for review at 3 Pond Road.

**#10 comment:** Sand placed above the stone riprap would be an unconsolidated state which would make it more susceptible to erosion.

**Answer:** the sand will be placed above the stone, compacted using construction equipment; sand will be similar in state of compaction to existing after placement

**Mr. Feener** asked will the density in numbers be used before and after to try to replicate that same number.

**Bob Fairbanks, Fairbanks Engineering**

**Mr. Fairbanks** stated this isn't normal for a typical building foundation.

**Mr. Feener** stated he would like to have the number before and after compaction.

**Mr. Fairbanks** stated a density test will be done. The density will be approximately 85%.

**Mr. Smith** reviewed the Coastal Wetland Performance Standards

**Mr. Feener** asked if beach nourishment will be done more than once.

**Mr. Smith** stated it would be done once.

**Mr. Feener** stated that is replication more than mitigation and believes it should be for a longer period of time.

**Mr. Gulla** asked for clarification regarding sand porosity. Sand in its natural state has 30% or less porosity.

**Mr. Fairbanks** stated that when stone is placed has voids within the matrix of 37%. 37% of the riprap is going to be void. The sand placed has porosity of 5-10%. The focus is on the permeability of the structure.

**Mr. Gulla** stated he was hoping the delta would be smaller. There is a significant change

**Mr. Fairbanks** stated the water will be able to move through the sand and stone, similar to the way it moves now.

**Mr. Gulla** stated that is the concern is that it will erode quickly. There will be only 2 feet of buffer where the stones are placed and the nourishment on top. Monitoring of the beach nourishment would be a condition if the project moves forward. Mr. Gulla asked if there is any benefit or negative in pushing the stones lower into the ground..

**Mr. Fairbanks** stated that it would become more difficult to build.

**Mr. Feener** stated the soils that are deeper are more impervious and to go any deeper may cause a gap in the impervious surface. Mr. Feener asked if there is an opportunity for a dune to migrate toward Stacy Boulevard.

**Mr. Smith** stated that he sees the area as an urban beach system. There is no dune and is not a natural beach dune system, but wind transported sand.

**Mr. Gulla** asked why is this type of seawall being used.

**Mr. Fairbanks** stated the sheet pile wall is driven deep into the ground, and stone riprap placed in the front. If a storm does occur and there is erosion, a line will hold at the elevation of the stone.

**Mr. Gradwohl** stated the latest print of the sheet wall does not show the weep holes or filter fabric in front of the holes to stop the sand from washing out.

**Mr. Fairbanks** stated there will be crushed stone and filter fabric. The wall was designed for the worst case storm. The wall will not fail.

**Mr. Gulla** stated the wall is doing some flood prevention, but as it tapers back toward the back of the lot, will a ponding effect on Commercial Street be created?

**Mr. Feener** asked for the numbers of the waters kept on site.

### **Todd Morey, Beals Associates**

**Mr. Beals** stated that the grade had to be raised and then graded down toward Commercial St. 300 cubic yards of fill will be added to the parking lot in total. The grade will be raised 4.5 inches.

Another question was the total runoff coming off the site today and in the future; to calculate that number rainfall data was taken February 2012 and through January 2013. Every precipitation event was tracked. With the site in its existing state there was 127,000 cubic feet of runoff. The site in the redeveloped state it would be 55,600 cubic feet of runoff. The overflow device would trigger after 1 inch of rainfall and last year there were 6 storms with 1 inch of rainfall.

**Mr. Feener** asked after the wall is brought back, would the beach in front be private or public property.

**Mr. Morey** stated it will be public.

**Mr. Feener** asked if it would be possible to let a dune create in the corner of the site near the parking lot for education purposes. This commission usually requests mitigation for projects. Work is being done in the buffer and mitigation or replication is normally needed.

**Mr. Morey** stated there wasn't room. This buffer is disturbed and 3400 s. f. of beach is being added. There will be more vegetation and beach on site. A condition could be set saying the westerly corner of Pavilion Beach will remain as is.

### **Public Comment:**

**Attorney Michael Faherty, representing Mortilaro Lobster, & Vincent & Gino Mortilaro**

**Mr. Faherty** made several comments addressing the power point presentation by Epsilon Associates.

Number 6: the applicant concedes that the east and west ends of sites will continue to see overtopping.

Number 9: the concern was the seawall changing the existing conditions. It said the proposed seawall closely replicates existing conditions and is not anticipated that the beach profile will be more than a few feet over normal seasonal cycles of accretion and erosion. Mr. Faherty stated that a few feet is not an insignificant change of this beach.

Documents submitted dated 2-21-13 were in response to a question from the council site visit.

Mr. Morey of Beals submitted that 300 cubic yards of fill will be added to the existing parking lot. Mr. Faherty explained that there will be areas that will be elevated with depth of fill being up to 1.4 feet deep. The building is the base elevation for the parking area. It will be a pile supported structure for the basement for parking. To grade the site as described, 450 cubic yards of fill will be needed. Mr. Faherty read from the City of Gloucester Wetlands Ordinance section 12.10. There has not been any discussion or evidence from the applicant showing compliance of the local ordinance.

**Mr. Phillips** asked for specific substantive sections of the ordinance and what is being violated in the provisions of the sections

**Mr. Faherty** stated the definitions of resource areas, land subject to tidal action, land subject to coastal storm flowage, & land subject to flooding. If there is an area that is entirely contained within a flood hazard zone; there are three in the area; velocity zone, AO zone, AE zone. When there is a major event, the water will flow over the existing area of the parking lot. Creating the wall will ensure that once water overtops the wall there will be standing water that will push toward the Mortilaro property. The storm water requirements have been met, but the requirements are only for precipitation from above. If there is a storm event from above of more than an inch, the storm drains flood and it is because the discharge pipe at the edge of the beach is inundated twice a day with storm tides. The contention is the wall will change the natural pattern.

**Mr. Phillips** asked again for specific substantive sections that are being violated.

**Mr. Faherty** stated there is a presumption of significance of all of the issues. There are no performance standards for coastal flowage and in the ordinance it states the commission can propose stronger standards. Section 12.27 speaks to coastal high hazard areas and indicates flood ways cannot be obstructed or natural flow of water onto adjacent properties. That is the standard that is being violated. Mr. Faherty talked about the proposal for the Essex Ave hotel that the site elevation was to be raised. The plans were approved. DEP reached a different conclusion. The plans were completely changed for coastal storm flowage. No modeling has been done under flood conditions.. There have been significant increases in tides in Gloucester.

**Mr. Feener** stated his job is to determine if this project will alter water flow. The site will be more pervious and will be able to withhold an inch of rain before it leaves the site without the storm overflow. How is this not an improvement? The tanks are being installed where they need to be so they are not in ground water.

**Mr. Faherty** stated that the design is not based on a flood episode. The issue is that the natural topography is being changed with fill to make sure there is access to the elevated garage. That is the reason for the fill and the change will have consequences on redirecting storm water and ensuring the flood waters will stay on Commercial St and the Mortilaro property for longer periods of time. The issue is flood control and prevention.

**Mr. Faherty** spoke to the impacts of the beach and reviewed drawings of grade elevations. He stated the building could be moved back and made smaller. The building is too big and the site too small.

**Mr. Phillips** stated that in Dr. Rosen's report indicated the exacerbation of the erosion he sees is premised upon the new arrangement of rocks, being less permeable than the existing silt layer. The information received from the engineer stating the permeability of the new arrangement is .37 compared to sand that was less porous. Dr. Rosen said the opposite was true and that was the basis of his conclusion. Mr. Phillips asked Attorney Faherty if he agreed that there will be a higher level of porosity with the new arrangement.

**Attorney Faherty** stated Dr. Rosen assumption was based on misrepresentation of a minimal amount of fill of less than two feet. The wall is going to absorb energy from waves; the wave will scour the beach. If more fill is added to the top, Dr. Rosen hypothesis works less. The same engineer has already admitted that sand loss will happen.

#### **Nathaniel Mulcahy 33 Middle St**

**Mr. Mulcahy** gave a Power point presentation explaining the wave patterns and impacts of the longer seawall to Pavilion Beach. He stated a vertical seawall will encourage beach erosion in front of it. There are better options than seawalls for this site

#### **Public Comment:**

##### **James Tarantino, 26 Fort Square**

**Mr. Tarantino** stated the dunes have been there and need to be protected. There is a danger to the city. He asked the commission to consider asking the developer to modify the plans to protect the people and property of the city.

**Mr. Feener** stated that according what has been seen on the ANRAD, it is not a dune area. There was a third party reviewer and that information was reviewed and a decision was made.

**Mr. Tarantino** stated that if new information is submitted showing mistakes, then changes should be made.

##### **Rona Tindal 44 Fort Square**

**Ms. Tindal** stated concern that none of the reports to date have taken into account the sea level rise.

##### **Sonny Robinson 20 Harvard St**

**Ms. Robinson** reiterated statements she made at the last Conservation meeting requesting that before the commission rules, to conduct a study projecting ahead 50-100 years to determine possible changes.

**Mr. Feener** stated he was not comfortable with predicting numbers for the future and can only make decision based on today's information.

##### **J. Gustafeto, 9 Starknaught Road**

**Mr. Gustafeto** asked Mr. Fairbanks if the same seawall design would be used to protect the beach as is used to protect the building. The wall protects the applicant not the environment. Moving the structure back is a good suggestion.

#### **Public Comment was closed.**

**Mr. Feener** asked Windhover Construction how a wall would be designed to protect the beach.

**Mr. Fairbanks** stated he is always concerned with a seawalls impact on the beach and the surrounding area. He reiterated he was very comfortable with the lack of impacts to the beach. The same wall would be designed to protect the beach.

**Mr. Phillips** stated that Attorney Faherty is saying that even if the storm water standards are met and if the flows off the property are being reduced by 56%: under the Gloucester ordinance and maybe under state law, in sighting what was done in the Hampton Inn appeal, that there is some generalized authority from the conservation commission to look more broadly at storm flooding concerns. Should the commission be concerned with potential flooding of Mortilaro Lobster Co. and Fort Square? Mr. Phillips asked Attorney Cunningham is that right as a matter of law? Or is the commissions focus limited to whether the storm water management conditions are met.

**Attorney Cunningham** stated the project complies with the standards set in Gloucester's ordinance.

**Mr. Smith** discussed points of both Attorney Faherty and Mr. Mulcahey presentations. He stated the project is not in a floodway and does believe Pavilion Beach is subject of long shore transport.

**Mr. Gulla** asked that the way this project is designed now has the criteria been met for the Gloucester Wetlands Protection Act or has the flooding been changed.

**Mr. Smith** stated that with the higher wall there will be less overtopping. The flood situation will be improved. The area beyond will not be affected by overtopping.

**Mr. Sherman** stated concern that work being done on city property for the project will be handled. He also stated that the beach nourishment that will need to be done will be on city property.

**Mr. Gulla** stated that the city must submit a letter allowing work on city property to be done by the property owners.

**Motion: To close the public hearing for the project at 47 Commercial Street submitted by Sheree DeLorenzo, Beauport Gloucester LLC, to construct a hotel with associated utilities and parking in a coastal resource area. (Map 1 lot 33), leaving the matter for a vote on the application and any conditions that the commission may wish to impose.**

**1<sup>st</sup>: Steve Phillips**

**2<sup>nd</sup>: John Feener**

**Vote: Approved 5-0**

**Motion: To continue the project at 47 Commercial Street submitted by Sheree DeLorenzo, Beauport Gloucester LLC, to construct a hotel with associated utilities and parking in a coastal resource area. (Map 1 lot 33), to March 6, 2013 to review conditions.**

**The commission discussed several conditions.**

- Beach nourishment
- Need to get agreement form the city for beach nourishment
- Independent monitor

**Attorney Cunningham** stated the deed will be given to the city in escrow upon approval of the special permit.

The deed would be recorded by the city and the city would become the owner of the beach upon the completion of the seawall, ramp, walkway, and all work in the vicinity of the beach. All of the construction will be behind the property line.

**Mr. Phillips** reiterated the commission concerns of going on the beach to do work. The city thinks they own the property. A letter from the city confirming that there is no objections to the proposed work to the extent that they are going to take place on the property that the city thinks it has an interest in.

**Attorney Cunningham** stated all of the construction will happen from the site with no heavy machinery on the beach. There will be safety fences on the beach.

**Mr. Sherman** stated at this time the applicant owns the property down to the mean low water mark.

**Attorney Cunningham** stated that there is a deed that shows a parcel down to the low water mark. A contrary deed has not been discovered. When the project is complete the beach will be deeded to the city.

**1<sup>st</sup>: Barry Gradwohl**

**2<sup>nd</sup>: Robert Sherman**

**Vote: Approved 5-0**