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K. Daily, Asst.  
ORLEANS TOWN CLERK

**Orleans Conservation Commission**  
**Town Hall, Nauset Room**  
**Hearing Meeting, Tuesday, December 6, 2011**

**PRESENT:** Arnold Henson, Chairman; Judith Bruce, Vice-Chairman; Bob Royce; Adrienne Pfluger; Steve Phillips; James Trainor; John Jannell, Conservation Administrator.

**ABSENT:** Jamie Balliett; Jim O'Brien (Associate Member).  
8:30 a.m. Call to Order

**Continuation**

Last Heard 11/15/2011 (JO1)

**Dan A. Berlinghoff, Donald R. Mattison, & Margaret Rose Libby Mattison, 38 Hinkle Lane.** by Ryder & Wilcox, Inc. Assessor's Map 60, Parcel 14. The proposed construction of a single-family dwelling, installation of a septic system & utilities, & grading & landscaping. Work will occur within 100' of a Vegetated Inland Wetland and an Inland Pond (Baker's Pond). David Lyttle of Ryder & Wilcox & Dan Berlinghoff, applicant, presented the revised plan which included a tightening of the limit of work, a retaining wall at the base of the 75' buffer, a landscaping plan, and a reduction of the deck. David Lyttle reported that a letter from Natural Heritage had been received stating that no adverse impact would occur due to the construction of the new dwelling, and a DEP number had been issued. Arnold Henson asked whether or not the Conservation Department had received copies of both, and John Jannell confirmed both have been received. Judith Bruce felt the revised plan and planting plan were appropriate given what the Commission had requested.

**MOTION:** A motion to approve the site plan dated November 29, 2011, and the accompanying restoration plan, was made by Steve Phillips and seconded by Adrienne Pfluger.

**VOTE:** Unanimous

Last Heard 11/15/2011 (JO1)

**Frank I. & Sylvia White, 31 Canal Road.** by Ryder & Wilcox, Inc. Assessor's Map 18, Parcel 25. The proposed construction of a commercial structure with an apartment, installation of a septic tank connected to an existing leach field, utilities, driveway, grading & landscaping. Work will occur within 100' of the Edge of Wetland, Ditch, and on Land Subject to Coastal Storm Flowage. *Arnold Henson and Steve Phillips recused themselves.* David Lyttle & Frank White, the applicant, presented the Stormwater Report, a requirement of DEP, and a revised plan showing the proposed fence including passage for critters underneath. Bob Royce thought the applicant had provided what the Commission required. John Jannell recommended that the Stormwater Report and Planting Plan be completed as part of the Order of Conditions.

**MOTION:** A motion to approve the site plan final revision November 22, 2011, and subsequent land management plan was made by James Trainor and seconded by Adrienne Pfluger.

**VOTE:** 4-0-2; Motion Passes

Last Heard 11/22/11 (AH1, AP1)

**Vivian Robinson, 7 Wildflower Lane.** by Felco, Inc. Assessor's Map 23, Parcel 22. The proposed replacement and extension of an existing deck. Work will occur within Land Subject to Coastal Storm Flowage and within 50' of the Edge of Wetland. David Lajoie of Felco Engineering and Jen Exner of Wilkinson Ecological Design were present. David Lajoie provided a revised plan which demonstrated a reduction of the deck within the 50' buffer but which still allowed access to the sliding glass doors to be constructed. John Jannell recommended that the Commission incorporate the Land Management Plan as part of their Order of Conditions.

**MOTION:** A motion to approve the plan final revision November 27, 2011, and incorporate the Land Management Plan as a part of the Order of Conditions, was made by James Trainor and seconded by Adrienne Pfluger.

**VOTE:** 4-0-2; Motion Passes, Arnold Henson and Adrienne Pfluger abstained.

### **Notice of Intent**

**Charles Silbert, 40 Gesner Road.** by East Cape Engineering, Inc., Assessor's Map 42, Parcel 91. The proposed removal of an existing dwelling, construction of a single family dwelling, garage, and installation of a new water line and paved driveway. Work will occur within 100' of the Edge of Wetland, Top of a Coastal Bank, Salt Marsh, Land Subject to Coastal Storm Flowage, and the Pleasant Bay A.C.E.C. Tim Brady of East Cape Engineering and Charles Silbert, the applicant, were present. Tim Brady went over the scope of the project, stating that the entire lot was within the buffer zone of the Pleasant Bay A.C.E.C. Arnold Henson asked what plants would be placed within the buffer strip and how they would be arranged. Tim Brady said the buffer strip would include bayberry and beach plums, an arrangement of the plantings had yet to be determined, and he was open to any of the Commission's suggestions. Tim Brady also noted that there were invasive species on the Bank, and that restoration may be a possibility. Judith Bruce felt the lot itself was tough, but that in the case where the entire property was within the buffer zone, the Commission preferred that work within the 50' buffer zone stay within the existing footprint, with the height of the building remaining the same. The second option would be to remove the proposed house from within the 50' buffer zone. Judith Bruce was concerned that the size of the house was almost double by adding a second floor, and asked that Tim Brady calculate the total current volume, proposed volume, and living space. Arnold Henson was concerned about the visibility from the river. Charles Silbert stated that the proposed house would not be as long, and passed around a rough sketch of what the proposed house may look like from the river. Judith Bruce was concerned about the increase in elevation from one story to two stories and its visibility from the river. John Jannell read into record a letter from the Orleans Conservation Trust, one of the abutters, which asked that the Commission take into consideration that the entire property was within BioMap2 Core Habitat, and that although the site itself was not within Natural Heritage's jurisdiction, the property abutted nesting habitat for Diamondback Terrapins. Steve Phillips asked for clarification about the A.C.E.C. boundary, and Tim Brady suggested he would provide a revised plan which color coded the different resource areas. Steve Phillips was concerned about the placement of the proposed garage resulting in the loss of a mature Oak tree.

Judith Bruce suggested the possibility of a detached garage. Arnold Henson suggested moving the garage outside of the 50' buffer zone, and John Jannell asked if the applicant had looked into moving the house outside of the 50' buffer zone. John Jannell suggested that the applicant demonstrate no adverse impact to the A.C.E.C., and asked that a land management plan be provided. John Jannell asked that a revised plan include the location of the mature Oak, as well as the Linden and Holly trees located on site. Tim Brady explained that there was a new alternative septic system on site. John Jannell also voiced his concern paving the driveway, and Tim Brady stated that the paved driveway would provide erosion control, and would be a benefit to the resource area. Sophia Fuller, an abutter, stated her support of the project, but noted that she was concerned about safety during construction, and roadway maintenance given that it was a resident maintained roadway. John Jannell asked about the proposed utilities to serve the house, if any were underground, and whether or not gas would serve the property. Charles Silbert indicated that gas would not serve the house. Tim Brady asked that the hearing be continued until December 20, 2011, to incorporate the Commissions requests.

**MOTION:** A motion to continue the hearing to December 20, 2011, was made by Judith Bruce and seconded by James Trainor.

**VOTE:** Unanimous

### **Amended Order of Conditions**

**Mary Hidden, 10 Bufflehead Lane.** by Ryder & Wilcox, Inc., Assessor's Map 1, Parcel 25. The proposed removal of invasive species & the planting of native species has been amended to include the installation of a ground mounted solar array. Work will occur within 100' of a Coastal Bank, Salt Marsh, and Land Subject to Coastal Storm Flowage. Judith Bruce announced that My Generation Energy, the company proposed to install the solar array, had also installed her solar panels. Judith Bruce stated that since there was no net benefit by her voting for or against the applicant, she did not have to recuse herself. John Jannell stated that this was a Request to Amend an existing Order of Conditions. John Jannell advised the Commission that the original Order was for a vegetation Management project/Invasive species removal, and stated that this Request to Amend was outside the original scope of the Order, and better suited to a new Notice of Intent filing. David Lyttle understood the concerns, and asked if the Commissioners had looked over the plan so he could address any of their issues within the future NOI filing. Steve Phillips asked about a different location for the solar array, and Adrienne Pfluger asked about the picture provided with the filing. Andrew Wade, of My Generation Energy, stated that the picture was an example of the solar panels, which would be 3 rows of 12 panels each. David Lyttle said the stakes in the field demonstrated the extent of the solar array, and he could provide a more detailed plan outlining how the panels were arranged on a revised plan. Judith Bruce was concerned about runoff from the panels, and John Jannell asked about the location of the in ground lines to the inverters, and whether or not trenching would be required. Andrew Wade explained that the empty conduit had been installed, and the inverters themselves were located on the solar panels. David Lyttle formally withdrew the request to Amend the Order of Conditions. A new Notice of Intent will be filed for the project.

### **Administrative Reviews**

**Norman Eaton, 88 Tonset Road.** The proposed removal of a locust tree damaged by recent storm events. Work will occur within 100' of the Top of a Coastal Bank. John Jannell asked that the Conservation Commission hold the application for one week until he spoke with the applicant to clarify which tree was to be removed. The Commission agreed.

**Town of Orleans/Parks Department, Nauset Beach.** The proposed planting of 10,000 beach grass plugs on the dune at Nauset Beach between the Gazebo, Bathhouse, and Front Berm. Work will occur on a Coastal Dune, within the Pleasant Bay A.C.E.C., on Land Subject to Coastal Storm Flowage, and within 100' of a Coastal Beach. Work to be done by the Orleans Parks Department. John Jannell passed around maps demonstrating where the plantings would occur. Steve Phillips asked to clarify that no fill would be brought on site, and John Jannell said it would be only the installation of bare culms.

**MOTION:** A motion to approve this work was made by Judith Bruce and seconded by Adrienne Pfluger.

**VOTE:** Unanimous.

### **Chairman's Business**

Approval of the Minutes from the Meeting on November 22, 2011

**MOTION:** A motion to approve the minutes was made by Judith Bruce and seconded by Bob Royce.

**VOTE:** 5-0-1; Adrienne Pfluger abstained.

### **Other Member's Business**

#### **Administrator's Business**

John Jannell reported that the 3 Cedar Trees have been successfully planted a Meadow on the Cove where the illegal cutting took place.

John Jannell reported that 1,000 wildflower plugs have been planted at Meadow on the Cove by Wilkinson Ecological Design. This project was funded by the Orleans Improvement Association.

John Jannell asked the Commission whether or not a meeting on December 27, 2011, would be cancelled due to the holidays.

**MOTION:** A motion to cancel the work meeting on December 27, 2011, was made by James Trainor and seconded by Judith Bruce.

**VOTE:** Unanimous

The meeting was adjourned at 9:12am.

Respectfully submitted,

Erin C. Shupenis, Principal Clerk, Orleans Conservation Department.