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K. Darby, Asst.
ORLEANS TOWN CLERK

Orleans Conservation Commission
Town Hall, Nauset Room
Hearing Meeting, Tuesday, July 3, 2012

PRESENT:; Judith Bruce, Chairwoman; Steve Phillips, Vice-Chairman; Bob Royce; Adrienne Pfluger; James Trainor; Jamie Balliett; Jim O'Brien; John Jannell, Conservation Administrator.

8:30 a.m. Call to Order

Notice of Intent

Vince & Evelyn VanNorman, 22 Karen Way. by JC Ellis Design, Inc. Assessor's Map 35, Parcel 44. The proposed construction of an addition to an existing dwelling and driveway extension. Work will occur within 100' of the Edge of Wetland. *Jim O'Brien recused himself.* Jason Ellis of JC Ellis Design Inc went over the proposed work on site, and Judith Bruce explained that during the onsite additional vegetation work was observed to have been done without prior approval by the Conservation Commission. John Jannell felt the proposed construction was fairly simple, and asked if the driveway extension would be pervious. Jason Ellis said the driveway extension would either be gravel or shell. John Jannell explained that although the area cleared was primarily Japanese Knotweed, the concern was the work was done within the buffer zone without a proper filing, a tarp was installed which in turn thwarts any groundcover from sprouting, and a plan as to the future of this area would be best. Judith Bruce said that while the removal of this invasive plant is a good thing, the Commission needs to know what the applicant's objective is for the area. Jason Ellis explained that the abutting properties also suffered from dense populations of Japanese Knotweed, leaving the applicant to either treat their existing stands through a management plan or cease and desist working on the area entirely. Judith Bruce felt consulting a professional may be the best solution, but the issue remained that work was done within the buffer zone to the resource area without prior permission by the Conservation Commission. Jason Ellis suggested a second Notice of Intent be filed to address the cleared area, and Judith Bruce explained that the Notice for the addition could not be addressed until either a land management plan was presented in conjunction with the current Notice or a second approach was taken. Jason Ellis agreed, and John Jannell explained that an Administrative Review for removal of the Japanese Knotweed had been approved along the driveway, but not within the buffer to the vernal pool. Jason Ellis explained he was not part of the previously filed Administrative Review, and felt the addition and land management should be dealt with separately. Jason Ellis asked if the restoration work could be dealt with under an Enforcement Order, and Judith Bruce felt the land management plan and proposed addition needed to be tied in together, so that there would be motivation for the restoration. Judith Bruce thought the two could be done under one filing, and Steve Phillips asked whether or not Jason Ellis wanted to withdraw and re-file or continue the hearing. Jason Ellis asked that the hearing be continued for two weeks to July 17, 2012, to be able to speak with the clients.

MOTION: A motion to continue the hearing to July 17, 2012, was made by Jamie Balliett and seconded by Adrienne Pfluger.

VOTE: Unanimous

Cove Condominium Trust, 13 South Orleans Road. by East Cape Engineering, Inc. Assessor's Map 26, Parcel 64. The proposed replacement of a seasonally removed pier, ramp, and float with a permanent pier and seasonally removed ramp and float. Work will occur in Land Subject to Coastal Storm Flowage, on a Salt Marsh, and in Land Containing Shellfish. Tim Brady of East Cape Engineering, Inc., went over the proposed changes to the existing dock, demonstrating that the applicants wanted to modify the pier to use it for kayaks, which would result in a shortening of the pier. In addition, the portion proposed to become permanent would reduce the amount of disturbance caused by installing and removing the seasonal portion of the dock. Judith Bruce asked if the current dock was out of water, and whether or not it was on stops. Tim Brady said it was out of water, and it was proposed to be on stops. Judith Bruce asked if a chart comparison could be made showing how the existing versus proposed dock and pier structure met the current Orleans Conservation guidelines. Tim Brady clarified that the Commission sought to determine if the proposed permanent portion would be good. Steve Phillips asked where the ramp would be stored during the off-season, and Tim Brady said he was unsure. Steve Phillips was concerned with the parking runoff not being captured or filtered, stating this needed to be corrected. Jamie Balliett asked if an alternative pier and ramp design had been looked at and if reducing the float would be feasible. Tim Brady said the proposed length of the ramp would allow the kayakers to get into the water. Judith Bruce said that if a kayak rack was sought that the applicant should include that in a revised plan. Tim Brady asked to continue the hearing for two weeks to July 17, 2012, to prepare the necessary documents the Commission requested.

MOTION: A motion to continue the hearing to July 17, 2012, was made by Jamie Balliett and seconded by Bob Royce.

VOTE: Unanimous

Brian C. & Cynthia M. Trudell, 25 Pride's Path. by Ryder & Wilcox, Inc. Assessor's Map 5, Parcel 3. The proposed landscape improvements and vista pruning. Work will occur within 100' of the Top of a Coastal Bank. David Lyttle of Ryder & Wilcox, and Jeff Lavoie of Second Nature Landscaping were present. David Lyttle went over the existing site conditions, passed around photos of the site, and discussed the comments made by Christine Odiaga, Southeast Region Circuit Rider for DEP. David Lyttle explained that there was concern about the gravel drainage, and said it would be directed away from the Top of the Coastal Bank, the patio would be dry laid, and the work done by hand. The pruning of the existing vegetation was not done this spring, and the proposed pruning to 4' would not include any of the woody vegetation. Judith Bruce inquired about the area surrounding the air conditioning unit, and if a pad would be installed. David Lyttle said the right of the path would be replanted, and Jeff Lavoie said a base pad would be installed with gravel underneath it for the air conditioning unit. Judith Bruce felt this was a fair increase in hardscape, and David Lyttle concurred, explaining that the proposed wall would ultimately contain stormwater better than what existed on site now. John Jannell asked if the existing air conditioning pad was in failure, and if herbaceous groundcover could be planted around it. David Lyttle said there was potential to plant around it, and Jeff Lavoie said the existing pad was in failure. Jeff Lavoie stated that the area itself would be limited in room, and little bluestem would be planted around it below the height of the window. Jamie Balliett

asked for more details about the current versus proposed gravel drainage trench, and whether or not filter fabric was on the bottom. David Lyttle said the current trench was 2' wide and 1' deep, with no filter fabric present, and the proposed would be a pipe and narrow strip to direct drainage away from the Coastal Bank. Judith Bruce clarified that the existing timber steps with gravel were being replaced with granite steps, which would result in a straight wash. David Lyttle said this was correct, from the existing roof there was significant drainage, and the stormwater would be able to be contained on site within the trenches on site. Steve Phillips inquired about the catch basin located at the end of the cul de sac, and Jeff Lavoie said it was maintained by the town. Adrienne Pfluger asked about the bittersweet to be removed, and Jamie Balliett asked if the chokecherry would be removed. Jeff Lavoie said the chokecherry would stay, though it may be pruned, and the bittersweet would be removed from the cedar. Judith Bruce felt it was important to clean up the cedar, as the bank itself was very steep and any additional removal would potentially destabilize it.

MOTION: A motion to approve this project was made by Jamie Balliett and seconded by Adrienne Pfluger.

VOTE: Unanimous

Amended Order of Conditions

George & Carolann Najarian, 33 Bufflehead Lane. by Ryder & Wilcox, Inc.

Assessor's Map 1, Parcel 27. The proposed replacement of an existing culvert, removal of cattails, and phragmites, has been amended to remove the culvert replacement from the proposed plan. Work will occur within a Salt Marsh, in a Bordering Vegetated Wetland, on Land Subject to Coastal Storm Flowage, and within 100' of the Edge of a Salt Marsh. Stephanie Sequin of Ryder & Wilcox, Jeff Castellani of Lycott Environmental Inc., and Keith Johnson of Billingsgate Land Management, were present. Stephanie Sequin explained that the scope of the original project had been altered to eliminate the replacement of the culvert. Jeff Castellani explained that the scope of the amount of cattails proposed to be removed had been altered after a survey done in May, where it was determined that 60% of the cattails could be removed by the hydrorake in one session as opposed to dividing the work up over a two year period. This would reduce the number of times a crane had to be brought onto site to install the hydrorake. The phragmites located on site would be removed and hand wiped prior to the cattails work commencing. Judith Bruce was concerned about the amount of cattails now proposed to be removed, as in the initial Order of Conditions only 1/3rd of the cattails were to be removed. Jeff Castellani said 40% of the cattails would remain, with a 10' buffer from the edge of the pond maintained throughout. Judith Bruce asked how a pond would benefit from the removal of a native species. Stephanie Sequin said this removal would allow for open water, and Jeff Castellani stated this removal was to control the existing population on site. Judith Bruce felt this pond was not at risk for losing open water, and John Jannell asked for clarification on his site plan regarding the area to be removed versus the buffer strip to remain. Stephanie Sequin said the hatched areas on the site plan were to be removed. Steve Phillips asked how the 40% number to remain was calculated, and why the culvert would be left in place. Jeff Castellani said the Arc View program automatically generated the percentage number, and Stephanie Sequin explained that the applicant, George Najarian, and she conducted a site visit where they determined the pipe was in good shape. Steve Phillips asked when the treatment of the phragmites would be done, and if it would have

an impact on the existing wildlife. Jeff Castellani said the work would not disturb wildlife, and it would be done initially in August and again the following July. Steve Phillips inquired about the swale across from the property, and why that area had died and turned brown. Stephanie Sequin was not sure, and Steve Phillips asked if the stone wall bordering the pond would interfere with the proposed work. Jeff Castellani said that while they were proposing to reach the shoreline, the hydrorake required a certain depth of water; once that was no longer maintained for the machine and it was unable to reach, the work would no longer continue towards the shore. John Jannell reminded the Commission that the initial Order of Conditions was for the first 10', or roughly 30%. James Trainor asked what would grow in the cattails place once it was removed. Jeff Castellani explained that the cattails are part of the rhizome family, and would eventually come back. Judith Bruce was concerned about the phragmites also returning, and Jeff Castellani explained that would be why that area would be treated. Steve Phillips asked if 15-25' in width would be removed along the edge of pond, and Jeff Castellani said where the wetlands were they went out to 50'.

Jamie Balliett left at 9:30

Judith Bruce asked if the Najirian's owned the entire area to be treated, and Stephanie Sequin said the work proposed did extend into the Bierkan property, and a letter in support of the work had been received by the Conservation Department. James Trainor asked if the cattails would eventually return, and what other species besides cattails and phragmites were present. Jeff Castellani said the cattails would eventually come back in 5 to 10 years, and that a full vegetation survey had not been conducted to determine what else was on site. James Trainor was concerned about an invasive species coming into the pond, and taking over. Judith Bruce said she agreed with the initially approved first ring indicated on the approved Order of Conditions, and would not be amenable to expanding the cuttings, as the complete loss of open water was not a concern on this site. John Jannell reiterated the two changes to the initially approved project were the removal of the replacement of the culvert from the site plan, and the increase in cattail management. Judith Bruce asked the Commission if anyone was against eliminating the culvert replacement from the plan, and the Commission agreed it was fine. John Jannell asked if the Commission would be amenable to allowing the first ring to be removed, and Steve Phillips asked what problems would be presented to the applicant by only allowing them to remove the first 10' ring. Jeff Castellani said he was trying to get two rings done at once, and if the Commission was asking him to go back, he would look into leaving more in the wetland and going away from the ring. Stephanie Sequin said they were trying to condense a two year process into one year. John Jannell suggested the Commission conduct a site visit after the initial 1/3rd was removed, Judith Bruce asked if this would be amenable, and James Trainor asked how long it would take to execute the first portion. Stephanie Sequin said the map could be reworked, and Jeff Castellani said the work would take about two weeks to complete. James Trainor felt a site visit may affect the Commission's decision, and reduce the need to have a crane on site to remove the hydrorake each year. John Jannell asked how much cattail would need to be removed to control the nuisance level population. Jeff Castellani said although the cattails are a native species, over time it would eliminate the standing water and turn the area into a wetland. Steve Phillips asked how control would be executed over which areas were to be removed with the hydrorake, and Jeff Castellani said the areas to be removed would be flagged. James Trainor was concerned about changing the ecology in the pond, and Judith Bruce concurred. James

Trainor asked how deep the pond was, and Judith Bruce said in 2008 it was 3'. Adrienne Pfluger was concerned about the habitat for the redwing blackbirds, Bob Royce wanted to keep the work to just the 10' ring, and Jim O'Brien asked what John Jannell recommended to the Commission. John Jannell suggested the Commission provide guidance on what the applicants should return with for a revised plan. Stephanie Sequin said that she was happy to come back at a later time to deal with the entire project, the elimination of the removal of the culvert and the change to the cattail removal, in one Amended Order of Conditions. Bob Royce was concerned that the applicant had returned with a much larger removal, and Jeff Castellani asked if the Commission wanted the revised plan to have the removal of 33% and preserving of 66% of the cattails. The Commission concurred, and Stephanie Sequin asked to continue the hearing for 3 weeks to July 24, 2012, to make the necessary plan changes. **MOTION**: A motion to continue the hearing to July 24, 2012, was made by Bob Royce and seconded by Jim O'Brien.

VOTE: Unanimous

Jim Obrien left at 9:55am

Request for Determination

Frances Davis, 197A Main Street. by Ryder & Wilcox, Inc. Assessor's Map 35, Parcel 90. The proposed installation of a new septic system to serve an existing dwelling including the pumping and abandonment of existing cesspools. Work will occur within 100' of Land Subject to Coastal Storm Flowage and Top of a Coastal Bank. Stephanie Sequin explained this was the upgrade of an existing septic system served by cesspools. Judith Bruce asked if a pump was necessary, and Stephanie Sequin said it would be gravity flow, with a variance requested from the Orleans Health Department because the d-box would be located less than 10' from the garage. Judith Bruce asked if the tank could be relocated to the front yard. Stephanie Sequin said no, as the house would have to be re-plumbed. John Jannell asked about the depth for the leaching field, and Steve Phillips asked if it would be shallower if it were in the front. Stephanie Sequin said that due to the clay on site, a 13' dig would occur in either spot.

MOTION: A motion to issue a negative determination was made by Bob Royce and seconded by James Trainor.

VOTE: 3-2-0; Motion passes,

Certificate of Compliance

Pat & Jim Roberts (2008), 207 Barley Neck Road. The request for a Certificate of Compliance for an Order of Conditions for the construction of a dwelling, installation of a septic system and utilities, construction of a driveway, grading, landscaping, removal of invasive species, and restoration of a native plant community. John Jannell reported that the initial Certificate of Compliance request had been denied due to the work not being completed, and had since been addressed, thus making the property be in substantial compliance.

MOTION: A motion to issue this Certificate of Compliance was made by Bob Royce and seconded by Adrienne Pfluger.

VOTE: Unanimous

J. Bruce Hirschberg (2007), 47 White's Lane. The request for a Certificate of Compliance for an Order of Conditions for the construction of a dwelling and the renovation of an existing barn. John Jannell reported this project to be in substantial compliance.

MOTION: A motion to issue this Certificate of Compliance was made by Bob Royce and seconded by Adrienne Pfluger.

VOTE: Unanimous

J. Bruce Hirschberg (2007), 47 White's Lane. The request for a Certificate of Compliance for an Order of Conditions for the reconstruction of an existing licensed pier and float. John Jannell reported that the on-going conditions for docks were attached to the Certificate of Compliance

MOTION: A motion to issue this Certificate of Compliance was made by Bob Royce and seconded by Adrienne Pfluger.

VOTE: Unanimous

Administrative Reviews

Claire Brock-Ford, 48 Tonset Road. The proposed replacement of creosote stairs and brick walkway with pt/trex walk and stair. Work will occur within 50' of the Top of a Coastal Bank. Work to be done by John Hemmings. John Hemmings, builder, explained the existing stairs were deteriorating, no machinery would be used for the proposed work, and a small drywell would be installed. John Jannell asked if any expansion into the lawn would occur, and if non leaching pressure treated material would be used. John Hemmings said there would be no increase in size, just a removal and replace technique, and pt/trex material would be used. John Jannell asked if it would be laid on sleepers, or if the footings would be dug in. John Hemmings said only two sonotubes would be dug in by hand, one at the top and one at the bottom.

MOTION: A motion to approve this application was made by James Trainor and seconded by Bob Royce.

VOTE: Unanimous

Bill Helene, 21 Pride's Path. The proposed removal of a pitch pine. Work will occur within 100' of the Edge of Wetland. Work to be done by Bartlett Tree. John Jannell explained that the pitch pine was completely overtopped with bittersweet.

MOTION: A motion to approve this work was made by Bob Royce and seconded by Steve Phillips.

VOTE: Unanimous

Steve Quackenbush, 26 Great Oak Road. The proposed removal of one to three storm damaged trees. Work will occur within 100' of the Edge of Wetland. John Jannell clarified this would be the removal of one potentially hazardous sycamore maple.

MOTION: A motion to approve this work was made by James Trainor and seconded by Steve Phillips.

VOTE: Unanimous

Patricia Fuchs, 42 Mill Pond Road. The proposed construction of an 8'x10' elevated deck attached to the existing house and installation of 2 sonotubes. Work will occur within 100' of the Top of a Coastal Bank. Work to be done by Dan Davis. John Jannell

explained that this deck would be over an existing garage and driveway. Bob Royce felt it would not be seen from the water, and John Jannell did state that the deck was proposed at the 42' line, which would waive the 50' variance request. Judith Bruce felt that the proposed work did not warrant a Notice, and Steve Phillips felt the installation of 2 sonotubes would not be disruptive to the buffer zone.

MOTION: A motion to approve this Administrative Review was made by James Trainor and seconded by Bob Royce.

VOTE: Unanimous

Request to Use Conservation Properties

Windmill Wedding Rehearsal 8/17/12 Neth/Bakke 5-7pm 10 people

MOTION: A motion to approve this event was made by Adrienne Pfluger and seconded by Bob Royce.

VOTE: Unanimous

Windmill Wedding 8/18/12 Neth/Bakke 3-8pm 20 People

MOTION: A motion to approve this event was made by Adrienne Pfluger and seconded by Bob Royce.

VOTE: Unanimous

Conservation Commission Land Grant

Orleans Conservation Trust has requested the formal motion and sign-off of the LAND grant for 10 & 18 Twinings Lane. *James Trainor recused himself.* Kris Ramsay of the Orleans Conservation Trust explained that this was a follow up document from the initial approval in November of 2011, and would need to be signed off on by the Orleans Conservation Commission, and its approval contingent upon the Town Administrator's approval.

MOTION: A motion to approve the LAND grant subject to the Board of Selectmen execution on July 11, 2012, was made by Bob Royce and seconded by Adrienne Pfluger.

VOTE: Unanimous

Chairman's Business

Approval of the Minutes from the Meeting on June 26, 2012

MOTION: A motion to approve the minutes was made by Adrienne Pfluger and seconded by Bob Royce.

VOTE: Unanimous

The meeting was adjourned at 10:24am

Respectfully submitted,

Erin C. Shupenis, Principal Clerk, Orleans Conservation Department