

Orleans Conservation Commission
Town Hall, Nauset Room
Hearing Meeting, Tuesday, April 16, 2013

PRESENT: Judith Bruce, Chairwoman; Steve Phillips, Vice-Chairman; Bob Royce; James Trainor; Jim O'Brien; Nancy O'Mara, Associate; John Jannell, Conservation Administrator.

ABSENT: Jamie Balliett; Judy Brainerd; Philips Marshall, Associate.

8:30 a.m. Call to Order

Judith Bruce asked for a moment of silence in lieu of the Boston Marathon Bombing.

Please note: the minutes reflect the order in which each filings were addressed, and is different than the published Agenda. This change was to accommodate the applicants for the proposed projects.

Continuations

Last Heard 2/19/13 (JO1)

William N. Kubsch, 9 Lewis Road. by FELCO Inc. Assessor's Map 36, Parcel 156. The proposed replacement of wooden piles for an existing licensed dock. Work will occur within Land Subject to Coastal Storm Flowage, Land Under Water, Land Containing Shellfish, Salt Marsh, & the Pleasant Bay A.C.E.C. John Jannell explained an e-mail letter had been received requesting a continuance to the April 23, 2013 meeting.

MOTION: A motion to approve this continuance was made by Bob Royce and seconded by Jim O'Brien.

VOTE: Unanimous

Last Heard 3/19/13 (JO1)

Colonial Gas Company d/b/a National Grid, 32 Pochet Road. by Coastal Engineering Company, Inc. Assessor's Map 36, Parcel 83. The proposed installation of a gas service connection. Work will occur within 100' of the Edge of a Wetland. Brad Malo of Coastal Engineering Company, Inc. was present. Brad Malo explained that the Commission was concerned that this was an after the fact filing and that there was excavation going towards the wetland. Brad Malo reported that the excavation had not been done by National Grid, the siltfence was installed hopefully to the Commission's satisfaction, and the trench was in place. Judith Bruce noted that the barrier had gone up quickly, and inquired if the trench had been filled in. Brad Malo reported that as of this morning the trench had not been filled in. John Jannell explained that the Highway manager had looked at the site and saw that water flows into the area where the gas company had been working. Judith Bruce asked for clarification whether the trench had or had not been filled in, and Brad Malo said it had not. Brad Malo explained that water would fall into the trench if there was a rain event today, the siltfence would provide a filtering dam. The area itself would need time for the seed mix to generate, and that it provided a filtering function beyond what the purpose would be to protect the silt area. Judith Bruce said the Commission would typically ask for them to be removed, but that they would want to wait until the grasses established themselves. John Jannell said

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that this application came in as an RDA, and after receiving the application it was discovered that it had already been done. When the meeting was opened the Commission asked for erosion control measures to be installed, and the question of how long it would remain in place would be to allow the seed mix to germinate. The Commission continued the hearing to ensure the erosion control measures were properly installed, and that the Commission could act on this application. John Jannell felt that the issues with drainage were the Highway Department's concerns. Judith Bruce stated that the Commission typically asked for the haybales to be removed, and inquired whether or not they should stay. John Jannell noted that a time and date could be set, and Brad Malo suggested that if the Commission issued a negative determination, they could request from National Grid to remove the sedimentation barrier within 2-6 months. John Jannell recommended that it be removed sometime during the summer, noting that the seed mix needed to be successfully grown up, and suggested around July may be suitable. Brad Malo said this would be fine, as they received monthly status reports from National Grid, and it would be an Administrative process if the Conservation agent consented. Judith Bruce felt this would be fine.

MOTION: A motion to close the hearing was made by Bob Royce and seconded by Jim O'Brien.

VOTE: Unanimous.

MOTION: A motion to issue a Negative Determination was made by Bob Royce and seconded by Steve Phillips.

VOTE: Unanimous.

Last Heard 3/19/13

Christopher Frey, 11 Freeman Lane. Assessor's Map 5, Parcel 48. The proposed replanting of the buffer zone as a result of the unpermitted removal of trees & bushes. Work occurred and will occur within 100' of the Edge of Wetland. Christopher Frey, applicant, was present. Christopher Frey explained at the last hearing the presented plan did not provide the necessary detail which the Commission required, and since that time he employed Ryder & Wilcox, Inc. to do a survey of the property. This revised plan included planting on the north and south sides in front of the house, as well as the rear of the property. A barrier comprised of post and rope was proposed to prevent people from going into the back area as opposed to a green barrier which would take longer to grow. Steve Phillips asked if the applicant wanted the Commission's opinion on the rope, and Christopher Frey explained that he was trying to create a physical barrier. Steve Phillips thought it looked good, and Judith Bruce noted that the 15' was what had been asked for by the Commission and provided accordingly. Christopher Frey said that after a discussion with the Conservation Administrator, it was determined that Tupelo would be appropriate and 3 were proposed. American Holly's were also proposed to provide screening from the neighbor's property, and the trees, while slow growers, could reach up to 40' in height. The remaining plantings included low-lying trees, cinnamon ferns, inkberry, and viburnum. Christopher Frey noted that the house had an irrigation well and would like to introduce a temporary irrigation system for the eastern side of the house for the first two years of growth. This system would be removed prior to the request for a Certificate of Compliance, and would be installed by a professional. Judith Bruce suggested drip irrigation as a sprinkler system typically did not work for trees, and Christopher Frey thought the bushes would benefit from an

oscillating system. John Jannell felt that the applicant's suggestion of above ground irrigation was something which the Commission could permit, and would have to be removed at the end of the project. Judith Bruce noted that the naturalized area could not be weeded or mulched and needed to remain naturalized. Judith Bruce was concerned that the area, prior to the clearing, had a significant amount of canopy species, and what was going to be installed was not a reflection of what had been present. Christopher Frey noted that Tupelos could grow upwards of 50', and Judith Bruce explained that this growth would take time. Christopher Frey asked what she would recommend, and Judith Bruce suggested doubling the number of Tupelos and Holly trees, and eliminating some of the ferns. Steve Phillips asked for more details on the northern and southern sides, stating that while on site it was mostly comprised of mulch. Christopher Frey said that the area had been mulch for the past 25 years, and that on the north side cinnamon fern plantings were proposed by the road. Steve Phillips asked about the area by the brick wall and the wetland, and Christopher Frey said on the north side there was a stand of planted brush and otherwise very little space. John Jannell noted that there were plantings at that location, and Christopher Frey clarified that they were foundation plantings. Steve Phillips asked for further clarification, and Christopher Frey explained that from the road facing the house were plantings on the left hand side which had been put in many years prior. Steve Phillips asked about the 15' area which would be maintained between the existing deck and the proposed post and rope fence. Christopher Frey stated that he would tape it off to determine the installation location, and nothing within this buffer strip would be planted. Judith Bruce asked the Commission whether or not an adjusted plan would be necessary to show the additional trees to be planted, and Jim O'Brien felt writing it on the plan would be suitable. Christopher Frey clarified that the number of tupelos and Holly trees would be doubled, and said that the numbers could be changed on the plan. Steve Phillips asked if a fine for the unpermitted clearing was necessary, and Jim O'Brien felt the applicant had been responsive and that a fine was not necessary. Judith Bruce noted that this was not the applicant's first time in front of the Commission for a violation, and hoped that he would know better than to clear cut within the buffer zone to a resource area. Steve Phillips and Bob Royce agreed that the applicant had been responsive, and Judith Bruce asked that the applicant come in front of the Commission with all future filings prior to the commencement of work.

MOTION: A motion to close the hearing was made by Bob Royce and seconded by Jim O'Brien.

VOTE: Unanimous.

MOTION: A motion to approve the site plan dated with the conditions that the irrigation be removed after two years and that the number of tupelos and holly trees double (6 Tupelo and 4 Holly trees) was made by Steve Phillips and seconded by Jim O'Brien.

VOTE: Unanimous.

Notice of Intent

Ronald E. Provost, 24 & 26 Pine Ridge Lane. by JC Ellis Design Company, Inc.

Assessor's Map 27, Parcel 76 & 77. The proposed septic system upgrade, abandonment of existing septic system components, & construction of an addition. Work will occur within 100' of the Edge of an Isolated Vegetated Wetland. Jason Ellis of JC Ellis Design was present. Jason Ellis explained that the existing septic system was

not in compliance with Title 5 regulations, and along with the proposed upgrading of the septic system a 19'x14' addition to the north side of the house was proposed. The wetland was delineated by Paul Shea of Independent Environmental Consultants, Inc. Jason Ellis said that the property consisted of two parcels which are contiguously owned but cannot be split, despite the fact that the town recognizes them as two lots. After a discussion with Brian Harrison, Building Commissioner, the two lots become one lot of non-conformity. Steve Phillips noted that the Commission typically saw pump and fill of the existing system as opposed to the note on the plan which said the existing system would be abandoned. Jason Ellis said there was nothing to fill of the leaching field, and the existing tank would be pumped dry and filled. Steve Phillips asked if the laundry shed was to remain. Jason Ellis explained that the laundry would be removed, the water line would be taken out, and the shed transformed into a tool shed. Steve Phillips inquired if the shed could be moved further away from the resource area. Jason Ellis was unsure his clients were prepared to move the shed, since this would mean that they would need to meet building setback requirements and would require a revision of the proposed plan. Kathryn Shepard, an abutter at 7 Pine Ridge Lane, was concerned about the lot which encompassed the wetland, as it had been filled in prior to the Wetlands Protection Act and experienced significant drainage concerns and icing during winter months. Kathryn Shepard was concerned about the potential for additional out buildings on this lot, and did not want it to be considered for additional use. Vincent Ollivier explained that while he was not an abutter, he owned the cranberry bog to the southeast of the property. Vincent Ollivier explained that he was concerned that this wetland, which was historically a white cedar swamp, was not Isolated as shown on the proposed plan. Vincent Ollivier said that based on his hydrological observations, he felt that the wetland adjacent to this proposed work was part of the bog. Vincent Ollivier passed around a map illustrating his hydrological connections, and went over the history of the area. Vincent Ollivier felt that the proposed work did not qualify under exemption for the buildability of the house, and was concerned about septage effluent and water table fluctuations. James Trainor asked where Vincent Ollivier was going with his discussion, and Vincent Ollivier explained that he was trying to address the 8 Health variances noted on the plan. Vincent Ollivier felt the house should remain a 2 bedroom house and that the northern lot be deemed unbuildable. Steve Phillips asked if the water flowing across the road was the reason for the ice, and Vincent Ollivier said that the water comes through town property across the road during wet springs. Steve Phillips said that he noticed note 20 which said the shed would be eliminated, and Jason Ellis clarified that the washer and dryer would be taken out, and they would be eliminating the use of this shed as a laundry facility. Steve Phillips inquired if this was an existing 2 bedroom house which would remain a 2 bedroom house, and Jason Ellis said that although the Assessor's Card had it listed as a 2 bedroom house, there were 3 rooms in the house which were used as bedrooms. Jason Ellis explained that the Board of Health and the Assessor's Department have two different definitions of bedrooms, and Steve Phillips asked if this was a new regulation. Judith Bruce said no, and noted that there was often confusion about how a room could be classified as a bedroom. Jason Ellis said that a bedroom typically had 70 square feet, and that since this was an older home, light and ventilation had to be looked at to determine whether or not this was a 2 or 3 bedroom home. Judith Bruce said that there were several issued which the Commission needed to address, one of which being the classification of the wetland as Isolated or Bordering, and therefore whether or not the state had

jurisdiction or if it was just to be filed for locally. Another issue was the number of bedrooms and increased usage of the site, but Judith Bruce explained that the variances shown on the plan were not variances from Conservation Commission regulations, but variances from Board of Health regulations. Jason Ellis stated that a variance request for work within the 50' buffer zone had been submitted to the Conservation Department for the limit of work to abandon the existing septic components and abandonment of the laundry drywell. Jason Ellis said this plan would be going in front of the Board of Health on Thursday, April 18th, and Judith Bruce asked about why the septic system was failed. Jason Ellis said that the septic system, installed in the 1970's, was installed too close to the groundwater and would not pass inspection. Jason Ellis explained that in order for a house to transfer, there either had to be a Certificate of Compliance for a new septic system or an inspection on sale showing that the septic system passes. Jason Ellis admitted that this was a difficult wetland, and thus why Paul Shea was brought in to delineate the area. Jason Ellis noted that 59 Hopkins Lane, which shared this hydrological system, was delineated by Seth Wilkinson for new construction and he determined it to be an Isolated Wetland Subject to Flooding. John Jannell explained that the Commission had accepted delineations calling the wetland both Bordering and Isolated in previous filings. John Jannell explained that Paul Shea admitted that his delineation was done during dry winter months, and that it was old agricultural land. John Jannell explained that by calling this an Isolated Wetland, it was not appealable at the state level, though the local appeal was still available, and also reminded the Commission that the local regulations were more stringent than the state regulations. The Board of Health variances have been listed, and while the Commission had not commented on the proposed addition, John Jannell said he would not recommend the Commission try to limit its usage. John Jannell noted that they were currently unsure whether or not this was a 2 or 3 bedroom property, and this would be important in terms of the increase of effluent and the proximity to the wetlands. John Jannell stated that there was no work proposed on Parcel 77, and any work proposed for that area would have to be filed for by the Commission, with the majority of the lot being encumbered by the 50' buffer line. Steve Phillips asked how the property was listed in terms of bedrooms, and Kathryn Shepard said that she did not recall an MLS listing. Judith Bruce stated that anytime there was a retreat from the resource area it was seen as a good thing, and elimination of the drywell for the laundry was also something which the Commission would encourage. Judith Bruce felt that the either 2 or 3 bedroom issue was to be determined by the Board of Health, and what concerned the Commission was whether or not this wetland was subject to both local and state regulations. Judith Bruce said that while this may not change the way that the application was viewed, it would change the appeal process. Steve Phillips stated that a number of the issues which the Commission brought up apply to the adjacent property, and it would be addressed at a later filing if one was submitted. If the Commission accepted this delineation, it would stand for this proposed work, and any work after this may require a new delineation. Steve Phillips said that in general he felt the proposed work was an improvement, although he shared the abutters concern for future expansion. Jim O'Brien noted that the Commission had not requested the calculations which were typically requested of an applicant, and Steve Phillips asked about the proposed elevation of the addition. Jason Ellis explained that the applicant did not have any building plans, and wanted to ask for a footprint before he bears the expense of architectural plans. The addition would be one story, one floor,

and would have to meet the building code. Jim O'Brien asked if the application could be approved prior to the Board of Health determination, and Judith Bruce said that the Commission had typically approved projects subject to Board of Health approval. Vincent Ollivier explained that he was concerned about what the next person who owned this house, and wanted to make sure the Commission had a definite idea of what was proposed for this footprint. Jason Ellis noted that the proposed septic system was outside of Conservation Commission jurisdiction, and the proposed 19'x14' additional was outside of the 50' buffer zone and met the requirements for an addition being located in lawn area adjacent to the paved driveway. Jason Ellis stated that this was the best location for an addition, and the house itself was fairly small. Steve Phillips noted that the specific details provided to the Commission were for the septic work and not the addition, and Jim O'Brien said the bedroom determination had yet to be made. Judith Bruce suggested the Commission wait until the Board of Health had made its determination on the bedroom count, and Jason Ellis inquired about the significance of the bedroom count for this Notice. Judith Bruce explained that the expansion could drive more use, and the Commission would want a comparison of current and proposed flow. John Jannell said that he had no additional requirement, and agreed with Jason Ellis that the leaching was all outside of the 100' buffer regardless of the wetland classification. John Jannell pointed out that no one had asked whether or not this was a full foundation addition and how many floors. John Jannell suggested that if the Commission waited to get guidance from the Board of Health, John Jannell could go out with Paul Shea to re-examine the potential hydrological connections for the wetland. Steve Phillips asked if there was a sump pump at the house, and Jason Ellis said that while he could not recall, the addition would be a crawl space. John Jannell asked at what point it would be determined whether the house was a 2 or 3 bedroom, and Jason Ellis said Thursday April 18th. Judith Bruce said this was a question of two lots versus one lot, and asked if it was possible to ask that the second lot be left undisturbed. John Jannell said he was not sure, and Judith Bruce felt that the Commission saw this as a modest increase in size. John Jannell noted that the 50' buffer went street side on the other lot, and the jurisdiction was different then to the north. The wetland edge itself was well defined, and any work in that area would have to be granted a variance. Judith Bruce asked that the proposed versus existing square footage be provided to the Commission. Jason Ellis said that it was his understanding that if the Commission challenged the wetland classification done by his client's wetland scientist that the Commission must pay for a new delineation. Judith Bruce thought it would be the applicant's expense, and Jason Ellis noted that if Paul Shea had to go back on site, it would be an additional expense for the applicant. Steve Phillips inquired if it was the delineation or the classification of the wetland which was being questioned, and Jason Ellis did not think the delineation was the concern. Judith Bruce noted that it was the classification which was being questioned, and that the delineator could meet with John Jannell to defend their work. John Jannell said that he could go out to determine whether the wetland was Isolated or Bordering, and could invite Paul Shea to attend. Jason Ellis asked that the hearing be continued to May 7, 2013.

MOTION: A motion to continue to May 7, 2013, was made by Jim O'Brien and seconded by Steve Phillips.

VOTE: Unanimous.

Steve Cahill & Ellen Farrell, 40 Lake Drive. by Ryder & Wilcox, Inc. Assessor's Map 87, Page 74. The proposed renovations & construction of additions to a single-family dwelling; the construction of a detached garage; & the upgrade of a septic system. Work will occur within 100' of an Inland Bank & Vegetated Inland Wetland on Lily Pond. Russ Holden of Ryder & Wilcox, Inc. explained that this work was proposed in this area due to the location of the septic system, and that the work would take place in existing lawn area. Judith Bruce noted that while on site, she noted a nice undisturbed naturalized buffer. Steve Phillips asked if the patio would be pervious and if there was a room proposed above the garage. Russ Holden explained that this would be a studio office space with a half-bath, and Steve Phillips asked if this would qualify as a bedroom. Judith Bruce noted that there would not be a full bath installed, and James Trainor said that a bedroom was determined by egress. Steve Phillips inquired if the 8% increase in living space included the room above the garage, and Russ Holden said there was 800 square feet of dwelling addition, 576 of garage, and it was included. James Trainor felt this was as private as it could get, and John Jannell said that he noted an undisturbed buffer while on site with the owners. John Jannell explained that a DEP number had been issued, and Judith Bruce asked if the audience had any comments, of which there were none.

MOTION: A motion to close the hearing was made by Steve Phillips and seconded by Bob Royce.

VOTE: Unanimous.

MOTION: A motion to approve the site plan dated 3/28/13 with the condition that the patio be pervious was made by Steve Phillips and seconded by James Trainor.

VOTE: Unanimous.

James Trainor recused himself.

Amended Order of Conditions

David J. & Pamela L. Driscoll, 26 Horseshoe Lane. by Ryder & Wilcox, Inc. Assessor's Map 89, Parcel 9. The proposed stabilization of a coastal bank including the removal of several trees, installation of fiber rolls & replanting of the area with native species has been amended to extend the bank stabilization 80' to the north. Work will occur on a Coastal Bank, Land Subject to Coastal Storm Flowage, & within 100 feet of the Top of a Coastal Bank. David Lyttle of Ryder & Wilcox, Inc. and Seth Wilkinson of Wilkinson Ecological Design were present. David Lyttle announced that Kris Ramsay, Administrator for the Orleans Conservation Trust (OCT), was present, and that the OCT held a Conservation Restriction over this property. David Lyttle explained that after the NOI for work on this site had been filed, it had been determined that the access area used to do the work encroached on Pleasant Bay Narrows Trust (PBNT) property, over which OCT held a restriction. David Lyttle noted that the revised plans accompanying the Amended Order of Conditions application showed the encroachment. Judith Bruce asked if the construction access was over the property line, and David Lyttle read into record a letter from the OCT addressing the encroachment, and the erosion and vegetation concerns. David Lyttle explained that this access area had significant scarp problems, and they wanted to extend the fiber roll protection. Seth Wilkinson said that procedurally this was an Amendment to the work performed on 26 Horseshoe Lane, which he reported had been successful thus far. A stable beach elevation had been

established, and while it was not cutting off the sediment supply, the recent storm events resulted in the need to stabilize the additional 80' of the Coastal Bank. Judith Bruce asked if the area had been nourished, and Seth Wilkinson said last year. Judith Bruce asked about the cobble to the north as opposed to the sides, and David Lyttle said that if you walked to the north, it appeared that someone had dumped cobble onto the bank, though it was from glacial deposits. Judith Bruce agreed that the bank was looking good, and David Lyttle pointed out that there was significant amount of cobble in the soils. Judith Bruce noted that typically the scope of work was not expanded under an Amended Order of Conditions (AOOC), but asked that if an AOOC was issued, that the monitoring period be extended to 5 years. John Jannell asked if Judith Bruce was looking at a monitoring period as a condition, and she said yes. Steve Phillips said that the plan looks as though more than 13' of work on the OCT property would occur, and David Lyttle said the proposal would be to extend the fiber rolls 13'. Steve Phillips inquired if this would involve work on the beach, and how the fiber rolls would be transported to this location. Seth Wilkinson said work would occur on the beach, and the original Notice of Intent included a ramp built on the beach, which would be utilized to provide nourishment at any time. Steve Phillips asked how far the cut would be, and David Lyttle said the maximum number was 8'. Steve Phillips questioned about the number of trees which would be lost, and Seth Wilkinson stated that the majority of the trees which would have been removed had already come down. David Lyttle clarified that 3 to 4 trees would be removed, with the rest on the bank leaning over and falling which would also have to be removed. Seth Wilkinson explained that there was a dense 50' cedar grove to remain, and while Steve Phillips noted the area was well treed, Judith Bruce felt that screening was not a concern for this site. Steve Phillips asked about the pool being pumped onto the ground, and asked that the applicant install a catch basin. Kris Ramsay thanked David Lyttle for making the OCT letter part of the record, and explained that Mon Cochran, a trustee of the OCT, had been separated from this process to ensure that there would not be a conflict of interest. Kris Ramsay noted that while OCT did not own the property but rather had Conservation Restrictions over the property and that as long as the applicants back track and protect the area, that the OCT would be in support of the work. David Lyttle asked what type of application would be required so that the work proposed could be extended, since they had not legally notified nor advertised for the work on the adjacent property. Judith Bruce was not sure, and Seth Wilkinson wondered that if the applicant re-notified all of the necessary applicants and tried to expand the work under the open Order of Conditions. David Lyttle pointed out that the abutting property was all owned by the Pleasant Bay Narrows Trust, and Steve Phillips felt this would be a legal matter. Judith Bruce noted that under an Amended Order of Conditions an applicant could not be added, and was not sure if the Commission could give the correct answer today. Steve Phillips thought that a Notice of intent may be required because the original application was a Notice of Intent. John Jannell said the existing Order that the fiber roll protection was filed under was proposing to use the existing access area under the Amendment, and that he did not believe that there would be building in the PBNT property. John Jannell pointed out that the construction of toe armor would require a new Notice of Intent, but driving over the sand onto the front beach to access the fiber rolls may not, and that this would have to be confirmed by OCT. David Lyttle hoped that the letter from OCT would be permission for the applicant to use the access for the AOOC, and that a new Notice of Intent would be filed for the additional work. Steve Phillips asked if

the applicant was looking to start soon, and David Lyttle said that the new filing would come if an AOOC was issued. John Jannell felt the letter permitted the construction and use of the access, and the Commission was not permitting anything to be built. Judith Bruce noted that the next filing would have to be a Notice of Intent and the use of the scarp line would be fine. John Jannell noted that this would be conditional upon OCT not objecting to the work, and Steve Phillips suggested making the OCT letter which had been read into record part of the approval process. John Jannell noted that the fiber roll protection had been successful in this area, and that the applicant provided a new Construction Protocol for this AOOC application, and a Planting Specifics Plan dated 9/10/10 which was part of the original approval. Judith Bruce inquired if a nourishment trigger was specified, and John Jannell said that the original Order did not specify when nourishment would be required. Seth Wilkinson explained that when working on a cobbled winter beach, there typically was not much fluctuation. There had not been a shift in elevation since the start of the project, but Seth Wilkinson agreed that the fiber rolls should be kept nourished. Steve Phillips asked at what point was nourishment typically sought, and David Lyttle said after storm episodes. Seth Wilkinson explained that this past year it was difficult to keep sand on the beach, and Steve Phillips asked if they were worried about the footing. David Lyttle noted that cobble had been up against the toe, and Judith Bruce felt that the applicant could continue to use the existing scarp as a sand ramp to get to the beach until the new Notice of Intent was submitted. John Jannell noted that the Commission needed to make two votes: one to affirm that an Amended Order of Conditions request was acceptable, and a second to Amend the Order of Conditions and include any special conditions. Judith Bruce noted that the monitoring should be extended to 5 years, and John Jannell asked about the planting requirements. Seth Wilkinson said it was their intention to use the same Planting Specifics dated 9/10/10.

MOTION: A motion to close the hearing was made by Steve Phillips and seconded by Jim O'Brien.

VOTE: Unanimous

MOTION: A motion to accept the application for an Amended Order of Conditions was made by Steve Phillips and seconded by Jim O'Brien.

VOTE: Unanimous

MOTION: A motion to approve the site plan dated 4/8/13, including the approval letter by the Orleans Conservation Trust, and the Planting Specs Plan dated 9/10/10, with the renourishment to continue as needed and agreement to extend the monitoring to 5 years from today was made by Steve Phillips and seconded by Jim O'Brien.

VOTE: Unanimous.

Revised Plan

Last Heard 4/9/13 (JB1, JO1, PM1)

Peter & Susan Worley, 26 Deer Run. The proposed construction of a 4-bedroom dwelling and an attached garage has been revised to include proposed changes to landscaping and stairs. David Lyttle explained that this was held pending a site visit, and Judith Bruce felt that once the on-site was conducted the Commission was not concerned about the changes. Steve Phillips confirmed that the stone walls shown would no longer be built, and David Lyttle said yes. John Jannell noted that there was an approved Land Management Plan which would not be replaced by this Revised Plan but would accompany the previous approvals.

MOTION: A motion to accept this Revised Plan was made by Steve Phillips and seconded by Bob Royce.

VOTE: Unanimous.

Steve Phillips recused himself.

Administrative Reviews

Elaine Flanigan, 190 Barley Neck Road. The proposed removal of wind thrown uprooted locust and cedar trees and cutting of invasives. Work to be done by Donald Mackenzie. Elaine Flanigan, applicant, was present. John Jannell explained that he had been working with the applicant who had downed trees on her property and, while away for the winter, someone had harvested firewood from her property. John Jannell explained that there were roughly 30 trees down due to winter storm damage, and that the area was quite a mess. Elaine Flanigan said she was not sure if there was anything growing within the 30' strip that connected her property to the Pochet Waterway System that was not invasive. Elaine Flanigan was upset that someone came in and cut down some of the fallen cedars and locust trees without her permission, and that the steep bank to the north which was the water access had been disturbed. Elaine Flanigan said she would like to start with the 4 cedars at the top of the hill, and 2-3 locusts which were leaning, and would come back with a planting plan for the area which would be open up and under sun exposure. John Jannell said that he wanted to recommend that some work commence at this time, and noted that it did not benefit the interests of the Conservation Commission by leaving the down and damaged Locust trees along this 30' strip. Elaine Flanigan noted that the one year approval granted with an Administrative Review did not give her a lot of time to do a lot of work, and said that someone in the neighborhood had offered to take the larger pieces of the trees while the smaller ones could be burned. John Jannell agreed that the applicant would have to return, and Judith Bruce agreed that it would be good to allow the applicant to start to get some of the downed locusts off of her property. John Jannell said the Administrative Review application was for the blown down locusts and cedar trees, and Judith Bruce inquired about the invasives on site. Elaine Flanigan explained that it was honeysuckle. John Jannell asked how the wood would be hauled off site, and Elaine Flanigan said through to path to make it less disruptive. Judith Bruce asked if there was anything other than invasives seen on site. John Jannell said there were some live cedars which would remain, that all of the trees to be removed were flagged, and none of the flagged trees were live cedars. James Trainor suggested that the applicant remove the first 1/3rd of the proposed trees, then have John Jannell come out on site. Elaine Flanigan explained that she would not be able to hire the amount of people needed to remove all of the downed trees within the next year, and that it would not all be completed by the expiration of the Administrative Review. James Trainor asked that the applicant keep the Conservation Administrator up to date of the work on site, and Elaine Flanigan was hopeful that she could come up with a planting plan. John Jannell reiterated that the Administrative Review was only for the cut and removal of downed trees, no uprooting, and Judith Bruce said that the removal of invasives or replanting was not part of this application or approval. Elaine Flanigan agreed that no uprooting or additional work was permitted.

Jim Obrien left

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

VOTE: Unanimous.

Jim O'Brien left at 10:37am.

Other Business

Carole Ridley, Pleasant Bay Alliance

2013 Pleasant Bay Resource Management Plan, Update prior to Town Meeting
Carol Ridley provided the Commission with a video outlining the Pleasant Bay Alliance Resource Management Plan.

Steve Phillips asked about new docks, and Carol Ridley explained that the categorical restriction remained, consistent with the management plan. Steve Phillips asked if this meant that new docks were permitted, and Carol Ridley stated that the prohibition would continue. Steve Phillips asked if the regulations were in any way loosened, and while Carol Ridley said no, it was now classified as a categorical restriction. Judith Bruce publically commended the reviews and updates, and thought that it would be important for the Commission to support the Revised Land Management Plan.

MOTION: A motion to support the Pleasant Bay Alliance's Land Management Plan to be discussed at the Orleans Town Meeting was made by James Trainor and seconded by Steve Phillips.

VOTE: Unanimous.

Stephen Loomis, 176 Namequoit Road. The proposed removal of 3 trees that may damage house. John Jannell explained this was the proposed removal of 2 pitch pines and 1 black oak 10' from the house.

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

VOTE: Unanimous.

Dee Kling, 168 Quanset Road. The proposed removal of a leaning pitch pine. Work to be done by The Tree Wizard. John Jannell said this was a mature pitch pine with a rotten base which could be removed under this filing.

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

VOTE: Unanimous

Val Stinson, 32 Hinkle Lane. The proposed removal of a storm damaged oak tree. Work to be done by The Tree Wizard. John Jannell stated this tree was broken half-way down, and the applicant would leave the stump.

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

VOTE: Unanimous.

Rich Bloomer, 11 Richwood Farm Lane. The proposed removal of 5 black oaks and one down swamp maple. Work to be done by ABC Tree. John Jannell explained that the houses along this road were originally built with Orders of Conditions which had a strict no touch within the 75' buffer line, and the proposed oaks to be cut are currently

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dropping limbs which are landing on the dwelling. John Jannell held this application until he was able to speak with the person proposed to do the work, who explained that the Gall Wasp had infected these trees. Judith Bruce asked if all of these trees were over the house, and John Jannell said they were both hanging over the house and the garage. John Jannell felt this work was acceptable without replanting, and anticipated receiving a similar application from the abutter.

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

VOTE: Unanimous.

Michael & Elizabeth Bell, 43 Nichols Road. The proposed annual view easement cutting over 45 Nichols Road. Work to be done by Jeffrey LaVoie. John Jannell said this was an annual request which the Commission could accommodate.

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

VOTE: Unanimous.

Correspondence

Conservation Enforcement Letter
Conservation Enforcement Letter
Encroachments on Town Property Letter

165 Tonset Road
4 Duck Pond Lane
4 Overland Way

John Jannell explained that there were a few bits of correspondence which did not warrant much discussion. Two Enforcement letters were issued to 165 Tonset Road and 4 Duck Pond Lane, both of which would be back for an Enforcement Hearing. Additionally, there was correspondence from the Town Administrator regarding 4 Overland Way, which had failed to receive the necessary privileges for the use of Town Property, and required the applicant to return with an appropriate Restoration Plan. Judith Bruce asked if the Conservation Department was waiting for a plan at this time. John Jannell said the letter from the Town Administrator requested information within 90 days. Steve Phillips asked for additional details on this issue, and John Jannell explained that there was an encroachment issue onto town property, and the applicant was coming in on a voluntary basis trying to create a suitable Restoration Plan. Judith Bruce noted that the applicant had previously come in front of the Commission with a Restoration Plan which they had found suitable, but was not approvable for the Selectmen. Steve Phillips recalled the discussion, and John Jannell said the other two applicants were noticed that Enforcement Orders and fines would be discussed on May 7, 2013.

Chairman's Business

Judith Bruce announced that an Ask the Experts panel would be at the Church of the Holy Spirit on April 22, and the forum would be on Namskaket Marsh.

The meeting was adjourned at 11:04

Respectfully submitted,

Erin C. Shupenis, Principal Clerk, Orleans Conservation Department