

**PROVINCETOWN CONSERVATION COMMISSION**  
**VIRTUAL MEETING**  
**January 19, 2021**  
**6:00 P.M**

**Members Present Virtually:** Alfred Famiglietti, Brett McNeilly, Oriana Conklin, Joseph Cooper, and Thomas Skinner.

**Members Absent:** Nathaniel Mayo (excused).

**Others Present:** Tim Famulare (Conservation Agent).

Conservation Agent Tim Famulare, as the moderator, introduced the remote participation meeting and called the roll, determining that a quorum was present.

Chair Alfred Famiglietti, called the meeting to order at 6:02 P.M.

Mr. Famulare explained why a virtual hearing was being conducted and how applicants and the public can view the meeting on PTV and participate by calling a number that is shown on the screen and then entering a conference ID number. He asked that all participants keep their phones on mute when not speaking.

Mr. Famiglietti reviewed the purview of the Commission and explained the protocol of the meeting, including not speaking until recognized by the Chair, and requested that all phones be muted unless called on to speak by the Chair. He explained how to unmute a phone and requested that all speakers state their names prior to speaking.

1) **Public Comments** on any item not on the agenda below: None.

2) **Public Hearings:**

a) **CON-20-2065 29 Bradford Street Extension** (*continued from the meeting of January 5, 2021*)

**Local By-Law Filing** application filed by **The Foxberry Inn, LLC**, pursuant to the Provincetown General By-Laws Chapter 12, Wetlands Protection By-Law, to enclose existing two-story decks and construct new two-story decks. Work to take place within a Buffer Zone to an Isolated Vegetated Wetland.

**Presentation:** Attorney Robin B. Reid, representing the applicant, and Matt Verge, a principal of the applicant LLC, were in the meeting to present the application. Attorney Reid reviewed the project, which involves making modest improvements to the front porch of the manager's quarters and to 4 of 12 existing motel rooms in the motel building. She noted that the property is already developed to a significant extent, with quite a bit of pavement, and very little green space. The manager's quarters, outside the buffer zone, will consist of squaring up the porch and adding a pergola. On the motel building, 2 decks along the front will be enclosed and 2 new decks, one on the east and one on the west end, will be added. The east elevation of the site plan, which is within the buffer zone, is where the work within the purview of the Commission will take place., Attorney Reid said that 4 sono-tubes, 12" in diameter, will be sunk 4' into the

ground to support the new deck structures above. These will be hand dug, no excavation equipment will be employed, and no vegetation will be disturbed. A fiber sediment barrier will be installed to surround the work area and all access will be from existing hardscape. She said that there will be no adverse impact on, or loss of, any portion of the wetland and no alteration of the wetland because of the proposed project. She said that both she and Mr. Verge have reviewed the draft conditions compiled by Mr. Famulare and do not have any objection to them.

**Public Comment:** None.

**Commission Discussion:** Mr. Famulare reminded the Commission of what portion of the proposal was within its purview. The Commission questioned Attorney Reid and Mr. Verge. Mr. Famulare briefly reviewed his draft conditions. He added that there will be no planting plan, so conditions #10 and #12 will be stricken.

***Oriana Conklin moved to approve Local By-Law Filing application, CON-20-2065, pursuant to the Provincetown General By-Laws Chapter 12, Wetlands Protection By-Law for the property located at 29 Bradford Street Extension to enclose existing two-story decks and construct new two-story decks subject to the draft conditions as revised, Joseph Cooper seconded and it was so voted, 5-0 by roll call.***

b) CON-20-2069 **36 Shank Painter Road, Unit 18**

**Request for Determination of Applicability** filed by **Jeffrey Knudsen** pursuant to the Massachusetts Wetlands Protection Act (M.G.L. c. 131, s. 40) and the Provincetown General By-Laws Chapter 12, Wetlands Protection By-Law to add a screen porch to an existing residence. Work to take place within Land Subject to Coastal Storm Flowage and a Buffer Zone to a Bordering Vegetated Wetland.

**Presentation:** Jeff Knudsen was in the meeting to present the application. He reviewed the proposal to add a small screen porch in front of Unit 18. The area is already disturbed and comprised of fill. Any construction material will be brought in by hand and pin piles will be utilized. There are 2 mature trees in the area and will not be endangered by the project, according to an arborist hired to assess the situation in this regard. He said that there will be limited disturbance as a result of the project. The existing plantings are hostas and lilies of the valley. The work will take about a week to perform. Mr. Famulare noted the pin piles on the presentation and a sketch of the house with the porch. He explained how the pin piles will support the structure and reiterated that they will not damage the existing trees on the property. There will need to be some pruning of the trees to accommodate the new porch.

**Public Comment:** None.

**Commission Discussion:** The Commission questioned Mr. Knudsen about the existing trees and the installation of the porch. Mr. Famulare recommended that the Commission approve a Negative #2 and #3 Determination for the project, given its limited impact. He noted the draft conditions. Mr. Knudsen agreed to the conditions. Mr. Knudsen said that all materials will be brought in via the paved area and stored in the paved area.

***Moved to approve a Negative #2 and #3 Determination of Applicability for CON-20-2069 pursuant to the Massachusetts Wetlands Protection Act (M.G.L. c. 131, s. 40) and the Provincetown General By-Laws Chapter 12, Wetlands Protection By-Law to add a screen porch to an existing residence for the property located at 36 Shank Painter Road, Unit #18 with the draft conditions as discussed, Joseph Cooper seconded and it was so voted, 5-0 by roll call.***

c) CON-21-1 479, 481 & 485 Commercial Street (to be continued to the meeting of February 2, 2021)

**Notice of Intent** filed by **Cape Associates, Inc.** to the Massachusetts Wetlands Protection Act (M.G.L. c. 131, s. 40) and the Provincetown General By-Laws Chapter 12, Wetlands Protection By-Law for a proposed bulkhead reconstruction Work to take place within Land Subject to Coastal Storm Flowage, a Coastal Beach, and a Buffer Zone to a Coastal Beach. ***Oriana Conklin moved to postpone CON-21-1 to the meeting of February 2, 2021, Joseph Cooper seconded and it was so voted, 5-0 by roll call.***

### 3) Requests for a Certificate of Compliance

a) CON-20-2068 149A Commercial Street (dune enhancement): Mr. Famulare reviewed the project that was initially proposed as a new bulkhead installation. There was no existing bulkhead, so the project as proposed was never done pursuant to the wetland's regulations. Now there is a proposal to enhance the dune in front of the deck by placing 2 rows of barrier-fencing and adding about 5,000 cu. yds of sand planted with beach grass. He has done a site visit and said that if the project been done in compliance with the Order of Conditions but added that it should be a partial Certificate because there is a three-year survivability requirement for the beach grass plantings. He recommended issuing a partial Certificate of Compliance until the beach grass plantings have survived for 3 years and become established. There are a few ongoing maintenance conditions, including the maintenance of planted dune grass, a requirement that when the dune elevation drops below a certain level that it be nourished, and the requirement that quarterly reports be submitted to the Commission whenever sand is added, which is also an ongoing condition. In addition, the applicant has to submit their final Chapter 91 authorization. ***Oriana Conklin moved to issue a partial Certificate of Compliance for CON-20-2068 for the property located at 149A Commercial Street with the ongoing maintenance conditions as noted, Brett McNeilly seconded and it was so voted, 5-0 by roll call.***

### 4) Work Session

a) Discussion of Commission's 2020 Annual Report (see 2019 Annual Report at p. 175): Mr. Skinner reviewed his draft Report and noted what he had highlighted. Mr. Famulare said that he will include a link to an MACC pamphlet on the online permitting system. The Commission discussed the Report with Mr. Famulare.

### 5) Approval of Minutes of January 5, 2021:

**January 5, 2021:** ***Oriana Conklin moved to approve the minutes as written, Joseph Cooper seconded and it was so voted, 5-0 by roll call.***

4) **Conservation Agent Update:** Mr. Famulare noted that he had had an inquiry about a project that was proposed before he became the Conservation Agent. It had been discussed by the Commission and there was a motion to fund it as a capital improvement project at spring Town Meeting in April of 2017. It involves the west end breakwater, which the Army Corps of Engineers refers to as the Long Point dike. The Army Corps had done a study regarding opening a gap in the breakwater, with a pedestrian bridge over it, which would help improve flow into the

salt marsh and carry sediment into it. A concerned resident reached out to Mr. Famiglietti and to a Select Board member about an article in the Provincetown Independent newspaper about the project. The issue concerned a report by the National Seashore that the marsh was dying off due to an invasive crab that was eating low level salt marsh vegetation and to the rise in sea level. There is a diminished amount of sediment reaching the marsh area because of the breakwater. Mr. Famulare recommended holding a Work Session regarding the problem with the concerned resident, Rex McKinsey, who was the Harbormaster at the time, and a scientist from the National Seashore. In the meantime, he will send the Army Corps reports regarding the issue to the Commissioners to review and become familiar with the history of the project, its origin and the Army Corps findings. There are complicated multiple jurisdictions related to the area. Mr. Famiglietti said that Liz Paine, the secretary of the Select Board, will look for the minutes of that Town Meeting in order that the Commission would be able to review the discussion.

Mr. Famulare said that Town Meeting will be moved from the first Monday in April to the first Monday in May, which is May 1<sup>st</sup>, with a rain date of May 8<sup>th</sup>.

Mr. Famulare said he needs signatures from Commissioners for permits.

5) **Any other business that shall properly come before the Commission:** Mr. Famulare said that at a monthly meeting of Conservation Agents on Cape Cod, he mentioned the issue of reviewing the Commission's approved native planting list. This is a topic that has been discussed by that group and the Cape Cod Extension prior to that meeting. Mr. McNeilly has been doing research on this issue as well. He will let the Commission know if he can tap into the expertise of the County's resources, such as the County plant biologist, as well as other Extension staff. The plant biologist was supposed to be advising the Cape Cod Conservation Agents. The topic was briefly discussed.

***ADJOURNMENT: Oriana Conklin moved to adjourn the Public Hearing at 7:12 P.M., Joseph Cooper seconded and it was so voted unanimously by roll call.***

Respectfully submitted,

Ellen C. Battaglini

Approved by \_\_\_\_\_ on \_\_\_\_\_, 2021  
Alfred Famiglietti, Chair