

PROVINCETOWN CONSERVATION COMMISSION

August 3, 2021

6:00 P.M

Members Present: Alfred Famiglietti (arrived at 6:02 P.M.), Oriana Conklin, Joseph Cooper (remotely), Brett McNeilly, and Loretta Butehorn.

Members Absent: Nathaniel Mayo (excused).

Others Present: Tim Famulare (Conservation Agent).

Acting Chair Oriana Conklin called the meeting to order at 6:00 P.M. Commissioners introduced themselves.

Chair Alfred Famiglietti said that there was a pamphlet from the Massachusetts Association of Conservation Commissioners available to the public outside the meeting room that outlines the purview of the Commission, which is the Massachusetts Wetlands Protection Act, G.L. c. 131, s. 40. It also contains the Commission's agenda, information on how to contact the Conservation Agent, and a review of the local Wetlands Protection By-Law, Chapter 12.

1) **Public Comments:** None.

2) **Public Hearings:**

a) **CON-21-43 75 Province Lands Road**

Notice of Intent filed by **Hatches Harbor Condominium Association** 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 extend an existing deck system by three feet. Work to take place within a Buffer Zone to a Coastal Beach and a Salt Marsh. Ms. Butehorn recused herself because of a conflict of interest.

Presentation: John O'Reilly, the project engineer, appeared to present the application. This project came about when the Building Inspector asked for a structural report on an existing deck on the property. After a structural examination by Coastal Engineering, the deck was found to be in poor condition, it was determined that the existing sonotubes were too far apart to adequately support the deck, and several joists were undersized. In that report, certain improvements were recommended, including adding 17 sonotubes to improve the structural stability of the deck and to fill in the existing gaps. Mr. O'Reilly said that the owners of the property seek to extend the deck an additional 3'. The request is to remove the existing deck, including the joists and decking, and allow for the reconstruction of the deck with a 3' extension, adding 17 sonotubes in addition to the existing sonotubes. All work will be done by hand and a limit of work line, comprised of straw wattles staked in place, will be established about 8' from the existing edge of the deck. Mr. O'Reilly said that the work area is located about 89' from the coastal resource area, which includes a salt marsh. American beach grass and native vegetation will be planted, including if existing vegetation needs to be removed in the reconstruction process. He said that any native vegetation, including beach plum and highbush blueberry, would be replaced in kind and other vegetation on the site will be trimmed back. He does not anticipate having to remove any trees on the site, including an existing pine and tupelo tree, although the latter may have to be trimmed back.

Public Comment: Don Roth, an abutter, asked a question about the scope of work. Mr. O'Reilly reviewed the scope of the project. Norman Laurin, an abutter, commented about the height of some vegetation that blocks his view of the street when he tries to pull his car out, asking if it could be trimmed to improve his view. Mr. O'Reilly said that the trimming of that vegetation would be addressed.

Commission Discussion: The Commission questioned Mr. O'Reilly. Mr. McNeilly stressed importance of the established plantings, including the trees, on the site and asked that they be flagged and protected. He suggested that Mr. O'Reilly consult with the Conservation Agent about trimming vegetation. Mr. O'Reilly agreed to flag the vegetation at the pre-construction meeting with the Conservation Agent and the contractor and reiterated that all work would be done by hand. April Evans, a Trustee of the Condominium Association, joined the discussion. Mr. Famulare pointed out the vegetation being discussed in photographs projected on the screen, which included an aerial view of the property. The Commission discussed the vegetation and stormwater runoff with Mr. O'Reilly and Ms. Evans. The latter stated that the work will begin in the fall. Mr. O'Reilly said that the planting of vegetation can be extended to bare spots to improve the management and infiltration of roof runoff on the property. Ms. Evans said that the 1.5' of deck extension will be cantilevered.

Mr. Famulare reviewed the draft conditions. He said the specific conditions are bolded on the page. He reviewed his suggested amendments to condition #7, regarding access and hand-digging with no heavy equipment use, and to condition #12, relating to the planting plan, based upon discussion with the applicant. He recommended that the applicant further minimize, to the extent possible, the limit of work within areas where there is mature, native vegetation within the limit of work and that the vegetation be flagged if it needed to be removed in advance of the pre-construction meeting. He stated that the tree and shrub replacement shall be one to one and the vegetation shall be properly watered to ensure survivability for a period of 3 years. He suggested amending conditions #13 and #14, regarding deck spacing for water infiltration between joints and stormwater runoff, directing roof drains under the deck to dry wells to facilitate groundwater recharge. He added that any disturbed areas associated with roof runoff shall be re-vegetated with native shrubs and American beachgrass. Mr. O'Reilly agreed with the draft conditions.

Oriana Conklin moved to approve Notice of Intent, CON-21-43, 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 extend an existing deck system by three feet with the conditions as discussed, Brent McNeilly seconded and it was so voted, 4-0 by roll call.

5) **Other Business:**

a) **Oyster Shell Reuse Report by Safe Harbor Environmental Services:** Gordon Peabody and Katie Urquhart, a research intern, both of Safe Harbor Environmental, appeared to discuss the issue. Ms. Urquhart reviewed her research based upon the idea of ecosystem services and looking at what social, ecological, and financial values different natural resources, in this case oyster shells, have. She reviewed the process of oyster growth in the ocean. She said it was critical for their growth that oysters find a hard surface to attach to on the bottom of the ocean. She reviewed some old photographs from the 1800s of oysters that were attached to ballast rocks from ships that imported and exported goods to Provincetown. These ballast rocks served to provide a great surface for oyster attachment. Mr. Peabody spoke about an oyster predator called the oyster drill,

which drills through their shells to kill them. Ms. Urquhart said that they don't like fresh water, so oysters thrive in habitat with lower salinity, which happens to be closer to shorelines or where saltwater meets fresh water. Mr. Peabody provided some background stating that the oyster drills, which do not have a planktonic phase, were transported from Long Island to Wellfleet inadvertently on oyster shells from one oyster bed to another.

Ms. Urquhart said that Provincetown has an active recreational shellfish economy. Truro has a larger recreational shell fishing economy and Wellfleet has a large commercial oyster industry. She reviewed the importance of cultch, a hard surface located on the seafloor that baby oysters can attach to, in the propagation of oysters. These can in great numbers form reefs. In most instances, discarded oyster shells are picked up as trash and just taken to landfills, leaving less opportunities for baby oysters to grow if those shells were cleaned and returned to the water. However, as a solution to this, some towns with large oyster economies, are reusing discarded oyster shells as cultch, after weathering the old shells for 1 or 2 years. Mr. Peabody discussed alternatives to throwing oyster shells away. He said Provincetown does not have an oyster plan for cultch and actively do not want oyster shells going back into the bay because so many families utilize the beach and the bay. Broken shells on the beach can be a hazard to the public if stepped on. He said that the oysters are not welcome in Provincetown Harbor, and are even removed from it, and Provincetown currently has no program to recycle shells. However, Wellfleet recycles shells as cultch. He reviewed photographs of how Wellfleet recycles their oyster shells, including having them taken to their transfer station to weather for a year. They are then put back into plastic cages dipped into cement and coated in calcium and put back into the water for oyster spat to attach to during their growth cycle. He stated that there is an organization called the Massachusetts Oyster Project, which may be a solution to the issue. He said that oyster shells can be discarded by local restaurants, weathered in Provincetown, and then brought to Wellfleet for use as cultch. The Oyster Project operates with grant money and would have people come collect oyster shells to deliver them to the Wellfleet transfer station for curing. He said that the organization was anxious to operate in Provincetown. This could also be advantageous to restaurants who may have customers who are ecologically oriented and would appreciate the knowledge that the shells of the oysters that they enjoy are being recycled. He also noted that there are people who deal with growing oysters in Chesapeake Bay and New York Harbor who would pay to have bags of oyster shells delivered to them to be used as cultch. The Commission discussed the issue. Mr. Famiglietti commented on the Division of Marine Fisheries' opinion on the issue. Mr. Peabody said that pulverized oyster shells are also used for bocce courts. Oyster shells are used in art projects as well. He said that there is a restaurant in Provincetown that puts oyster shells in metal cages, used as sculpture to provide direction to pedestrian traffic on Commercial Street. He said that new ideas are needed in the project to recycle oyster shells. Mr. Peabody says that crushed oyster shells are used in all Safe Harbor's plantings to hold nutrients in the soil. In addition, he found in his research that during historical times, farmers used shells instead of manure to nourish crops. For hens that lay eggs, extra calcium is always a positive. He suggested using oyster shells at the B Street Garden to nourish gardens along with the compost and loam. They could reduce the acidity of water to deliver more nutrients to the soil. Mr. Famiglietti said that the shells would have to be ground up finely to be beneficial in the garden. The Commission discussed the idea. Mr. Peabody believes that the solution to this issue should be

local. He would like to explore collaborating with the MA Oyster Project, local restaurants and the Town of Wellfleet. Mr. Famulare will reach out to the MA Oyster Project.

3) **Request to Extend Order of Conditions:**

a) **CON-18-1** (formerly CONLGY 19-000001) **176 Race Point Road (Airport)**

Request for 2nd Extension Permit for Order of Conditions (DEP File No. 058-0535) issued August 3, 2015, filed by the Provincetown Airport Commission for the Provincetown Municipal Airport Capital Improvements Plan. Mr. Famulare reviewed the request. This was a long-term capital improvements project that was reviewed by the Commission, as well as county, regional, and state authorities. They had requested an extension already and were hoping to have the project complete by now, but have experienced setbacks, including the death of the Airport Manager. The project manager for the plan is the Horsley Witten Group and it is requesting an extension of 2 years to complete the work, which includes the installation of taxiway lighting and repairing a site-seeing shack.

Oriana Conklin moved to grant an extension of the Order of Conditions for CON-18-1 for a period of 2 years, Alfred Famiglietti seconded and it was so voted, 5-0 by roll call.

4) **Request for Certificate of Compliance:**

a) **CON-21-44 99 Commercial Street, Unit 7** (DEP File No. SE 058-0635)

(Invalid Order of Conditions – temporary shoring of building). Mr. Famulare reviewed the project for pile repair under the building. The initial Order of Conditions was just for temporary cribbing until the piles could be replaced with helical piles. The applicants filed immediately for a Notice of Intent for the permanent repair. Each of the Orders of Conditions were recorded at the Barnstable County Registry of Deeds. Both decisions were appealed to the Dept. of Environmental Protection, which ruled that both had similar scopes of work. DEP only heard one of them, as they were consolidated into one Order of Conditions. The work has been completed and the DEP will issue a Certificate of Compliance. The initial Order of Conditions is still on the record at the Registry, so the Commission now must issue a Certificate of Compliance for the invalid Order of Conditions, which indicates that the work never commenced.

Oriana Conklin moved to issue an invalid Certificate of Compliance for CON-21-44, 99 Commercial Street, Unit 7, Loretta Butehorn seconded and it was so voted, 5-0 by roll call.

6) **Approval of Minutes:**

July 6, 2021: Oriana Conklin moved to approve the minutes of July 6, 2021 as written, Loretta Butehorn seconded and it was so voted, 5-0 by roll call.

7) **Conservation Agent Update:** Mr. Famulare said that Conservation applications have slowed.

8) **Any Other Business that shall properly come before the Commission:** The Commission discussed the oyster shell issue that was presented by Mr. Peabody and Ms. Urquhart. Mr. Famulare said he would reach out to the MA Oyster Project and explore options for local restaurants to dispose of oyster shells. The Department of Community Development can reach out

to restaurant licensees. He would also like to talk to the B Street Garden Advisory Group about the issue of using them in gardens. The Commission briefly discussed the topic.

Oriana Conklin moved to adjourn the Public Hearing at 7:47 P.M., Loretta Butehorn seconded and it was so voted, 5-0 by roll call.

Respectfully submitted,

Ellen C. Battaglini

Approved by _____ on _____, 2021
Alfred Famiglietti, Chair