

**PROVINCETOWN CONSERVATION COMMISSION**  
**September 21, 2021**  
**6:00 P.M**

**Members Present:** Nathaniel Mayo, Oriana Conklin, Joseph Cooper (joined at 6:02 P.M.), Loretta Butehorn, and Cody Sullivan.

**Members Absent:** Alfred Famiglietti (excused) and Brett McNeilly (excused).

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

Vice Chair Nathaniel Mayo called the meeting to order at 6:00 P.M. He said the Conservation Commission was tasked with environmental resource protection pursuant to the Massachusetts Wetlands Protection Act, G.L. c. 131, s. 40 and the local Wetlands Protection By-Law, Chapter 12. He said that the scope of the Commission's authority included protection of public and private water supplies, pollution prevention, ground water protection, storm damage prevention, flood control, protection of fisheries, and protection of land containing shellfish.

Mr. Famulare explained that even though the public hearing was being conducted in person, there were procedures for public participation in this hybrid-style public meeting. The meeting will not be suspended or terminated if there are technical difficulties interrupt the virtual broadcast, unless otherwise required by law. He reviewed how to use the Microsoft Teams app for public participation or how to participate if using the phone number provided on the agenda. He asked that all members of the public wanting to comment on a particular application state their names. Cell phones should always be muted, other than when speaking, and \*6 will mute or unmute your phone.

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

2) **Emergency Certification:**

a) **Cape Cod National Seashore/Provincetown Airport, off Race Point Road**

Immediate Response Action for investigation and remediation of hazardous materials release resulting from aircraft crash at Provincetown Municipal Airport on September 9, 2021. Work to take place within Land Subject to Coastal Storm Flowage, a Coastal Dune, and an Isolated Vegetated Wetland.

Mr. Famulare said that staff at Horsley Witten Group have been retained by the Cape Air Corporation. They will be responsible for the remediation of the hazardous waste release during the crash event and the emergency response to it. Amy Ball and Bryan Massa, both of Horsley Witten Group, were participating virtually in the discussion. Ms. Ball gave a brief overview of the request. She said that project was located along Race Point Road, across the street from a runway at the Provincetown Airport, within a forested secondary dune. She reviewed photographs of the crash site. The aircraft, which went down on Thursday, September 9<sup>th</sup> around 3:00 P.M., was removed from the area by the NTSB and other regulatory agencies. She noted the burned vegetation and scarred terrain and said several trees had to be cut to allow for the removal of the aircraft. At the far end of the site, there is a small isolated freshwater wetland located downgradient of the impact area. She showed a photograph of the tip of the wetland, which is sparsely vegetated. She said that part of the reason for that was because the vegetation was burned by the crash. The present vegetation is comprised of sedges, rushes and pine needles on an open

soil surface. She reviewed the sequence of events for the crash event. The Massachusetts Dept. of Environmental Protection, including its bureaus involved in wetlands and waste site clean-up, the Conservation Commission, MA Natural Heritage, and the National Park Service are all involved in this remediation and restoration process. She said before they could even start the removal of the two contaminants, aviation gas and PFAS, the latter being the contaminant of greater concern, on the site, soil sampling had to occur on both sides of the street. This sampling, she continued, has been on-going for the last couple of days for both contaminants. The collection points are located both within a forested area and within land subject to coastal storm flowage. A few samples will also be taken from the wetland itself. All the samples will be analyzed by a lab to determine the extent of the contamination. While the samples were being analyzed, a site survey was done, where topography data was collected and the immediate occurring wetland was flagged. She showed a site plan with the burned area delineated and said that this area will have to be excavated up to a minimum of 1-2'. Mr. Massa said that up to a foot would be dug in the area by Race Point Road and a deeper depth of about 2' would be excavated nearer to the wetland, which is where the fire-fighting foam was sprayed, and contaminants released from the aircraft. He said that groundwater was extremely shallow in this area, which is a reason why the excavation would only be to about 2'. Most of the higher level of contamination would be at the surface down to that depth. However, he said that residual levels could be below that. The plan is to remove as much of the higher level of contamination as possible, followed by the collection of post-excavation soil and groundwater sampling to find out if there are still contaminants present that need to be removed or if site restoration can begin. He said the PFAS is an emerging contaminant and a 'forever chemical' and its compounds won't naturally attenuate as would aviation gas. Petroleum constituents, such as the latter, will degrade over time by microbial activity and volatilization. This is a drinking water protection area as well, and the regulatory standard for sample detection levels for PFAS is very low. He said that hopefully most of the contaminants will be removed by the shallow excavation process, but more may be necessary. Samples from the perimeter of the impacted area have been sent out to a lab and with any luck will come back clean, so no additional work will need to be done outside the rectangular area shown on the site plan. After the remediation of that area, post-excavation samples will be collected to find out if any further steps would need to be taken, either further remediation or full site restoration.

Ms. Ball said that while waiting for lab test information, a thick, protective barrier will be laid over the excavation area topped with a layer of about 4" of clean sand that has been approved by the NPS. That should be in place for about a week or so. From there it will be determined what will happen next. A restoration plan will be prepared, which will include the wetland area and the adjacent dune habitat. This will be done in conjunction with the federal, state, and local officials who have jurisdiction over the remediation of the site. Mr. Massa said there would be a need to install some monitoring wells in the area unless the data shows that all contaminants have been removed. He would plan for three wells to be installed in the area as a secondary step to verify whether the groundwater has been impacted. As part of the restoration process, the wells will be removed if the data shows no impact. It was confirmed that they would be returning to the Commission to discuss next steps depending upon the data received. Mr. Massa said ideally the sample data for the outside perimeter would show no indication of PFAS contamination. The work area would then just include the rectangular area. Then at the end of this week, or the

beginning of next, the excavation of the rectangular area will be done and the higher levels of PFAS contamination in the soil will be removed. After that has been completed, another round of samples will be taken and sent to the lab. Those will be the post-excavation confirmation sample results to see if there is any residual PFAS remaining. During that timeframe, the site will be covered with plastic and 4" of clean sand to protect it from rain, which could push any contamination further down into groundwater and spread the surficial extent of it. The plastic should prevent any further infiltration. After the results are received and shared with the relevant federal, state, and local agencies, next steps will be formulated. If the data comes back favorable and groundwater samples show no contamination, the restoration process will commence. If the data come back unfavorable, additional remediation measures, including groundwater management, would have to be implemented. He said they should have more clarification in the next couple of weeks as the data is received. The Commission questioned Ms. Ball and Mr. Massa.

Mr. Famulare reviewed the process of Emergency Certifications, noting specifically that remediation work could begin immediately without an Order of Conditions. A Notice of Intent for any additional remediation and site restoration would need to be filed within 21 days, according to the local by-law, but he said that was probably an unrealistic timeframe in this instance, given the need to wait for lab results, to develop a site restoration plan, and especially if more extensive remediation was required. He noted the following special conditions of the Emergency Certification: placing a silt sock and temporary construction fencing to protect wetland area adjacent to crash site from siltation; placing a protective barrier fence around work area; allowing the area of excavated soils to remain open pending laboratory results and determination of additional remediation and site restoration, but with the requirement that the area be lined with plastic and covered with approximately 4" of clean sand, or other clean backfill, approved by NPS and that the liner be removed from the site as part of the final restoration services; and requiring the filing of a Notice of Intent for additional remediation and/or site restoration no later than Nov. 1, 2021.

***Oriana Conklin moved to approve the Emergency Certification for the immediate response action as proposed by the Horsley Witten Group, Loretta Butehorn seconded and it was so voted, 5-0. (Joseph Cooper by roll call).***

3) **Request for a Certificates of Compliance:**

a) **CON-21-54: 97 Commercial Street (DEP File No. SE 058-0409)** Mr. Famulare said this project and the following one involved the repair of pile foundations. For this project, the work was never performed, so the applicant is requesting an invalid Certificate of Compliance. This will clear the title record for the property. ***Loretta Butehorn moved to grant an invalid Certificate of Compliance for CON-21-54, Oriana Conklin seconded, and it was so voted, 5-0. (Joseph Cooper by roll call).***

b) **CON-21-55: 97 Commercial Street (DEP File No. SE 058-0476)** Mr. Famulare said that this involves a later Order of Conditions. The project involved the installation of support beams under an existing deck and new timber pilings. The Order of Conditions did get amended to allow materials to be brought in by barge and not craned onto the site. He reviewed photographs of the

new reconstructed wave break and supports. He did a site visit today and received certification from the engineer of record stating that all work was completed in substantial compliance with the Order of Conditions, the Amended Order of Conditions, and the design plan. The applicant is requesting a final Certificate of Compliance. He added that there were no on-going conditions. ***Oriana Conklin moved to grant a final Certificate of Compliance for CON-21-55, Loretta Butehorn seconded, and it was so voted, 5-0. (Joseph Cooper by roll call).***

4) **Approval of Minutes:**

**September 7, 2021:** *Oriana Conklin moved to approve the minutes of September 7, 2021 as written, Loretta Butehorn seconded, and it was so voted, 5-0. (Joseph Cooper by roll call).*

5) **Conservation Agent Update:** Mr. Famulare said that the Land Grant, which was approved at Town Meeting, and for which the Commission approved submission to the state's Division of Conservation Services for the purchase of 86R Bradford Street and 88 Atkins Mayo Road for conservation purposes, was awarded. The purchase price for the two parcels was \$300,000. The grant money will reimburse the Land Bank for \$152,000 of that purchase price.

Mr. Famulare did a site visit at 175 Commercial Street, the Anchor Inn. A new underground fuel tank is being installed, in addition to the re-paving of the parking lot, which will include the installation of pervious pavers to improve infiltration of runoff into the Harbor at its edge.

Mr. Famulare told the Commissioners that they should be receiving from the Massachusetts Association of Conservation Commissions information on how to register for its fall conference. He recommended that all who haven't completed the fundamentals course should do so remotely. Commissioners should let him know if they do not receive the information and he will forward it.

6) **Information:**

a) **CON-21-52 361 Commercial Street** (construct two-level deck over an existing patio): Mr. Famulare reviewed the project that the Commission had previously approved involving the elevation of a former hammock shop on the property out of the flood plain. The unit in question is located behind that building. The project involves the installation of a two-level deck on an existing patio. Diamond pin piers will be used to support it. There will be minimal disturbance to the surface of the property.

7) **Any Other Business that shall properly come before the Commission:** Mr. Famulare said that he had spoken to a non-profit theater company called the Campfire Quorum. The company wants to host an outdoor theater performance during the Tennessee Williams Festival this coming weekend and again for some period in October. The location they had chosen was outside the buffer zone of a resource area and outside of the jurisdiction of the Commission. However, late the week before last, when they were blocking during a rehearsal, they discovered a yellow jacket hive in the middle of the proposed performance area. Mr. Famulare met with Dennis Minsky and William Mullin, the Chair of the Open Space Committee, at the site to relocate the performance area. The area that was chosen is in the 100' buffer zone. He passed out some material to the

Commissioners, including some draft conditions for the event. He said that they had obtained permission to use Town land and a license from the Licensing Board. There will be no amplification, but there will be an acoustic instrument used during performances. Minimal sets and props will be utilized. He reviewed photographs of the area where the performance will take place. Props would be taken down daily and a pole that will be installed will subsequently be removed and the hole where it was located filled in when the performances were finished. He reviewed the draft conditions. He said that the Horsley Witten Group will be performing a survey, an environmental assessment, and a wetlands delineation of the area to determine whether or not it is part of the nature trail, and therefore conservation land. The final report should be ready later this month. The Conservation Trust will speak at all performances to bring the audience's attention to the great value of the resource area. The Commission briefly discussed the project. Mr. Famulare will issue the Administrative Review with those conditions.

***Loretta Butehorn moved to adjourn the Public Hearing at 6:49 P.M., Oriana Conklin seconded, and it was so voted, 5-0. (Joseph Cooper by roll call).***

Respectfully submitted,  
Ellen C. Battaglini

Approved by \_\_\_\_\_ on \_\_\_\_\_, 2021  
Nathaniel Mayo, Vice Chair