

## PROVINCETOWN CONSERVATION COMMISSION

March 21, 2023

5:30 P.M

**Members Present:** Alfred Famiglietti, Oriana Conklin (online and left at 6:41 P.M.), Joseph Cooper (online), Mark Adams (arrived at 5:54 P.M.), and Emma Fillion (left at 7:47 P.M.).

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

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

Chair Alfred Famiglietti called the meeting to order at 5:30 P.M. Mr. Famulare called the roll.

### 1) Work Session:

a) Pre-application presentation of proposed development at 227R and 227-229 Commercial Street: Jeffry Burchard, of Machado Silveti, the architect on the two projects, was online to discuss the project. He gave a quick introduction to the two projects. He was joined online by Todd Turcotte, of Coastal Engineering Co., the engineer on the project. Mr. Burchard reviewed a PowerPoint presentation about the projects, which are on two different parcels adjacent to each other. The project on the front parcel is to restore the existing 229 Commercial front building and to remove the existing 229 Commercial rear building and to replace it with a structure that recreates the maritime industrial character and height of the historic building. In addition, the projects include the restoration of the existing 227 Commercial front building, and the removal of an existing non-historic rear shed at 227 Commercial, replacing it with a new addition to that building in order to provide ADA access into both the 229 Commercial front building and the 227 Commercial front building by way of a new conjoined ramp/stair/deck design along Commercial Street. The site conditions will be improved throughout the properties, including the renovation of the public right-of-way that will connect to 227R Commercial Street and the beach. The design and materials pallet reflects Provincetown's proud maritime heritage. For the existing buildings the proposal is to repair, refinish, and or replace in kind all exterior architectural details and components. In addition, on the 229 Commercial Street front building, several windows will be replaced, and the garage doors along the east and the front doors will be restored to their original historic design and detail. The properties are located in the velocity zone, with 227R Commercial Street entirely within the velocity zone, and 227-229 Commercial Street almost entirely within the AE zone. Both have base flood elevations of 13'. An existing dilapidated wharf and pilings extend about 250' into the Harbor. All of 227R Commercial Street is within Chapter 91 jurisdiction, as is a portion of 229 Commercial Street. He showed photographs and other images of buildings that used to be located on the parcels back when Provincetown depended on the sea for its existence. The buildings in the middle and rear of 227 and 229 Commercial Street lots are in rough shape and need to be demolished. The proposed building at 227R Commercial Street will be lifted and elevated to comply with FEMA regulations for buildings in the velocity zone. The intention is to recreate the size and scale of the industrial buildings that used to sit on these lots that related to the fishing industry in Provincetown. The size of the proposed pier has not been settled as of yet. People will be able to walk underneath the pier on the beach, so the public way will not be obstructed. He reviewed images of what the proposed buildings will look like, both from Commercial Street down the public right-of-way to the pier and from the beach.

Mr. Turcotte said that they are beginning the process of the Chapter 91 and MEPA (MA Environmental Policy Act) review and permitting, so there is still much to be done before the projects come before the Commission. He is working on structural issues for the two projects, the state permitting, and the pier construction. He said there may be a marina on the wharf, as a water-dependent use, along with the rebuilt pier and that would come as one project, however that is still a preliminary process.

The Commission questioned Eliza Cox, an attorney representing Ms. Barker. She said they have received permits for 227R Commercial from the Zoning Board of Appeals and the Planning Board. The permits were appealed by abutters, two of which have been solved, and one which has not and is still pending in the Land Court. The project for 227-229 Commercial is scheduled to appear in front of the Historic District Commission on April 5<sup>th</sup>, and HDC approval for 227R Commercial has already been obtained.

Mr. Cooper asked Mr. Famulare about his concerns for projects of this scale. Mr. Famulare said that there would be concerns about eelgrass and habitat in this area of the Harbor. There would have to be opinions solicited from the Shellfish Constable and the MA Division of Marine Fisheries about any potential impacts to shellfish habitat. He said there may be 'time of year' restrictions for driving piles and for disturbing the bottom of the Harbor. As to the landward side of the project, he said he wasn't clear about how one of the ground-floor uses, which is parking, is delineated with respect to the coastal beach, what material the parking area would be, and what would be the interaction between the coastal beach and the ground-level uses. Mr. Turcotte said that the Commission will have all of the comments from MEPA, DMF, the Department of Environmental Protection, and Coastal Zone Management regarding the project before its consideration begins. Mr. Famulare asked if tying in the coastal dune project at Ryder Street to this project would be considered by the team and noted that there is an existing dune that will be disturbed by this building.

2) **Public Comments**: on any item not on the agenda below. Gordon Siegal, of 27 Standish Street, requested that the Commission consider recommending a warrant article he was bringing to the Spring Town Meeting. Article 22 is a non-bonding article that looks at limiting fireworks on the Fourth of July to 30 minutes. He is putting forth this article in consideration of the pets in Town whom, he said, have nowhere to hide. Many of those pets are afraid or fearful throughout the firework display and beyond. He said that the wild animals around us may suffer as well and he would like them protected.

Steve Wisbauer, the Shellfish Constable, spoke about Capital Improvement Project 9D., which is the Long Point dike modification. He reviewed the situation on the Moors, which have been devastated by the infestation of purple marsh crabs. He said that something needed to be done, such as modifying the dike. The money requested is for a study for the modification and the benthic movements, but doesn't take into consideration other ways to get rid of the crabs and remedy the problem. He would like to investigate those other means of ridding the area of the crabs.

Alex Brown, the longest owner of a shellfish grant in Town, spoke about the same warrant article. He thinks there have been too many studies of the marsh system in the west end and asked if there had been a comprehensive study of what is living out there and how it is being affected by the purple crabs. Once the water flows through the dike, how would the scouring be controlled? What if sediment buries the public shellfish grants in the area? How will the flooding of the road be affected, as it currently floods now during extremely high tides? How will the beach between New Beach, Herring Cove, and Wood End be affected by the flow? He said that he will not move his grant location. He would like to find a natural way to get rid of the purple crabs, such as introducing another species into the area, but advises that the issue be studied before that happens.

### 3) **Public Hearings:**

a) In accordance with §2-3-g of the Provincetown Charter, the Provincetown Conservation Commission will hear comment from the public and vote to determine the number of Commissioners in favor or opposed to the articles related to the natural environment on the warrant of the April 3, 2023 Annual Town Meeting. Mr. Famiglietti called for public comment. The following were Articles on the Warrant that Mr. Famulare suggested that the Commission weigh in on:

**Article 9B:** Mr. Famulare said that this Article is what the Coastal Resiliency Advisory Committee is working to develop a scope of work for. It would develop a Capital Improvement Plan for coastal resiliency projects, adding a side note that Province Lands Road is on their agenda to raise, as it is a low-lying road. The Town will retain a consultant, based upon the recommendation of the Advisory Committee, to look at the Town's goals and to develop realistic Capital Improvement Projects for the next 5-10 years for engineering projects, such as re-locating our infrastructure. *Mark Adams moved to recommend Article 9B, Oriana Conklin seconded, and it was so voted 5-0 by roll call.*

**Article 9C:** Mr. Famulare reviewed the request to clean up the Eder property, which will be restored to its natural space. *Mark Adams moved to recommend Article 9C, Alfred Famiglietti seconded, and it was so voted 5-0 by roll call.*

**Article 9D:** Mr. Famulare said that the explanation for this Article gives a history of the issue but does not specify what the money is for. He said the money requested was for the finalization of the initial feasibility study the Commission had reviewed back in 2016, when it was first submitted by the Army Corps of Engineers. The issue, which was re-visited with the National Seashore in 2021 is about the proliferation of the purple marsh crab, which are destroying the marsh grass and the peat beds in the west end marsh. For the project to move forward, to finalize the feasibility study, and to look at some engineering and modeling, the Town has to pay 50% of the ACE's cost. The request is not to fund the full project, just the study. The purpose of the study is to answer questions that the public has, regarding hydrologic modeling to show how an opening and its size may affect channelization or scour on the marsh and the Harbor sides and for sediment transport modeling to show how sand may move through the gap. The study has not shown where the gap would be located, and it would recommend that location. Mr. Famulare said that if putting a gap in the dike looks like it is going to disrupt the commercial or recreational

shellfish beds, then it would not move forward. He said that he had increased the budget a bit and would be researching grant funding in order to explore other alternatives for dealing with the purple crab issue, other than an opening in the dike to let fish predators into the marsh. Gordon Peabody, of Safe Harbor Environmental, spoke about the issue and said that healthy marshes are subject to flushing and less healthy marshes tend to have the potential for becoming out of balance, causing one species to be amplified over others. He said that anything that can be done should be done. *Mark Adams moved to recommend Article 9D, Alfred Famiglietti seconded, and it was so voted 5-0 by roll call.*

**Article 9K:** Mr. Famulare said that this was an on-going project and would make funds available when there is dredging at the Pier and for the re-use of clean sand to nourish Town beaches. *Mark Adams moved to recommend Article 9K, Alfred Famiglietti seconded, and it was so voted 5-0 by roll call.*

**Article 17:** Mr. Famulare said that this Article is about instituting a single-use plastic ban at food establishments in Town. The sense of the Commission was that they didn't have enough information about the Article to weigh in. The Commission took no action.

**Article 21:** The Commission took no action.

**Article 22:** The Commission took no action. Mr. Adams suggested that the environmental impact of fireworks on the Harbor, from such things as debris and soot.

b) **CON-23-32 Bradford Street & Ryder Street**

**Determination of Applicability** filed by **Eversource Energy** 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 install a conduit and pad mount transformer. Work to take place within Land Subject to Coastal Storm Flowage.

**Presentation:** Jeremy Egler, an environmental scientist with Tighe & Bond, Inc., representing Eversource, was online to present the application for a proposed padmount transformer and conduit installation project along Bradford Street and Ryder Street. The focus of this application is the installation of three new utility poles with low-voltage risers, two padmounted transformers, and approximately 276 linear feet of electrical conduit within Bradford Street and Ryder Street. All proposed work will be undertaken within previously disturbed and paved areas without any anticipated impacts to resource areas. The proposed project involves the installation of a new low-voltage riser and utility pole along the east side of Ryder Street, the installation of approximately 276 linear feet of electrical conduit within the roadways of Ryder Street and Bradford Street, the installation of two new low-voltage risers and utility poles along the south side of Bradford Street, and a new padmounted transformer.

**Public Comment:** None.

**Commission Discussion:** Mr. Famulare said that erosion control and sediment management for excavation would be the relevant protocols and he recommended a Negative #2 Determination with conditions as drafted by staff.

*Mark Adams moved to grant a Negative #2 Determination of Applicability with conditions as drafted by staff, Alfred Famiglietti seconded, and it was so voted, 4-0 by roll call.*

c) CON-23-27 27 Winthrop Street

**Notice of Intent** filed by **Thomas G. Myers and Joseph M. Casto** 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 raze an existing dwelling and construct a new multi-family development. Work to take place within Land Subject to Coastal Storm Flowage and a Buffer Zone to a Bordering Vegetative Wetland.

**Presentation:** Doug Dolezal was present in the room and online was Raul Lizardi-Rivera, with Cape & Islands Engineering, the project's engineer. The project is to raze the existing dwelling and appurtenances and construct a new multi-family development. The project includes three structures, a new driveway and parking lot, stormwater management to contain surface runoff, and landscape walls and utilities with the associated grading and landscaping. All proposed work is within previously, legally disturbed areas within the FEMA flood zone. The site is partially located within the 100-year flood zone. A small portion of the property lies within 100' from a wetland located on another parcel across the street. No structures are proposed in the 100' buffer to that wetland. The overall development renders a more resilient development for development in the flood zone since the existing structure is not built to the current floodplain construction standards and the new structure will be. Only site grading and utility service installation is proposed within the 100' buffer to the freshwater wetland located on the Fire Department parcel off Winthrop Street and behind the neighbor's developed property across the street.

The first task will be to establish the limits of work and erosion and sedimentation controls. The limit of work, consist of compost roll with a silt fence backing, will be installed as shown on the drawings along the property lines to enclose and confine the main project. The limit of work will be maintained throughout the construction phase. The demolition process will follow and will be performed from within the confines of the limits of work. All refuse material will be removed from the property and properly disposed of. Construction of new structures will follow common construction practices for conventional stick-built home construction. A unique difference for this construction is that the structures have to meet requirements for construction in the floodplain. A new foundation will be constructed for the dwelling units in accordance with current building code construction requirements. The new parking area and driveway will be constructed of pervious materials once all the structures have been built. New landscaping will complete the work, and the site will be stabilized. There will be landscaping in the 100' buffer. A portion of the property (approximately 65 square feet) is located within the 100' buffer to a bordering vegetated (BVW) associated with a small pond located on 25 Shank Painter Road across the street (Fire Department property). No structures for this project are proposed in the 100' buffer of this wetland. There are other developments already within the 50' buffer that are not within this locus: fueling tanks, parking, a building at 28 Winthrop Street and Winthrop Street itself. This project will not alter the 50' buffer zone and the small alterations within the 100' buffer zone, in the form of landscape and utility services, are minor in scope.

**Public Comment:** There were 2 letters: both from abutters, with concerns about the effect of the project on the environment and on endangered species in the area. Brad Malo and Anu Advani, both abutters, spoke in opposition to the application.

**Commission Discussion:** The Commission and Mr. Famulare questioned Mr. Lizardi-Rivera and Mr. Dolezal. Mr. Famulare asked about the septic system, as the plans show a sewer hook-up. Mr.

Dolezal said the property is now hooked into the Town's sewer system and will remain so. Mr. Lizardi-Rivera reviewed the stormwater management plan for the property, which includes a leaching strip and leaching basins to catch the roof runoff that will utilize the downspouts on the structures. Mr. Famulare pointed out the stormwater system elements on the site plan. Mr. Lizardi-Rivera explained how the stormwater management report shows that less runoff will be coming off the property and onto the street.

Mr. Famulare reviewed the draft conditions, including #7 that requires the Final Approved Plans be in full compliance with the floodplain requirements of the MA State Building Code and makes any non-compliance with those a violation of the Order of Conditions, #13 requires that proposed driveways and parking areas consist of crushed stone, crushed shell, pervious pavers or gravel and not be surfaced with asphalt and is an on-going maintenance condition, #14 requires roof runoff be directed to the proposed subsurface stormwater infiltration basin or to dry wells to facilitate groundwater recharge and is also an on-going maintenance condition, #15 requires that no fill except for the construction of the foundations of the proposed structures and any placement of existing elevations as shown on the approved plans, #16 requires hardscape materials be decking or dry-laid stone (no mortar) for walkways, patios, and driveway aprons that would promote infiltration in place by allowing stormwater to flow between the joints of constructed materials. For post-construction conditions, #22 requires that the stormwater management report shall be incorporated as an on-going maintenance condition, and #23 that prohibits the storage of chemicals or other hazardous materials in sheds or other structures or areas that are below the base flood elevation of 9'. Mr. Dolezal reviewed the permitting process that the project has gone through so far.

***Alfred Famiglietti moved to approve an Order of Conditions for CON-23-27, 27 Winthrop Street, Emma Fillion seconded, and it was so voted, 4-0 by roll call.***

d) CON-23-29 951R Commercial Street

**Request for a Determination of Applicability**, filed by **Dean Madden**, 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 plant native vegetation. Work to take place within Land Subject to Coastal Storm Flowage.

**Presentation:** Gordon Peabody appeared to present the application. He reviewed the landscape plan. An NOI application will be submitted to the Commission regarding the easement on the property. He said there has been a lot of wind erosion in the planting area as a result of a delay in getting this project completed. This application is just about the proposed planting plan. He said that the applicant had requested that some pitch pines be planted, to partially screen the carport, along the limit of work, in addition to what is on the plan. He is recommending five 6' pitch pines to be planted along the limit of work. He said the area is under high stress in terms of wind erosion.

**Public Comment:** None.

**Commission Discussion:** The Commission questioned Mr. Peabody. Mr. Famulare said that this property was under an Order of Condition, which has expired. This project was one of the requirements of the Order that had not been completed. Once this is established, the applicant can get a final Certificate of Compliance. He recommended a Negative #2 Determination with the draft conditions, which are standard conditions pertaining to erosion control, site cleanliness, and

compliance with the approved planting plan and that all plants survive within the first three years of being planted.

***Alfred Famiglietti moved to issue a Negative #2 Determination for CON-23-29, 951R Commercial Street, with the conditions as drafted by staff, Mark Adams seconded, and it was so voted, 3-0 by roll call.***

e) CON-23-34 **629 Commercial Street**

**Notice of Intent** filed by **Jo Ann Hirshhorn** 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 repair a seawall and deck. Work to take place within Land Subject to Coastal Storm Flowage, a Coastal Beach, and a Buffer Zone to a Coastal Beach.

**Presentation:** Gordon Peabody was present in the room and Eric Larsen was online to discuss the application. Mr. Peabody said that there was a lot of discussion about this application at a previous hearing. At the last hearing, the elevations had not yet been submitted by the engineer, but since then they have. He thinks that all of the information has been received by the Commission. Mr. Famulare said that the deck would need a building permit, but not the seawall. He reviewed the site plan. Mr. Larsen clarified the bulkhead is intact and was repaired under the Emergency Order. The secondary wall is mimicking the adjacent properties and is acting as a foundation system for the replacement deck. The purpose of the wall itself is to mimic the two adjacent properties, so the scour doesn't get forced from those properties, which was part of the erosion problem that occurred on this property. The top of the new wall will match the walls on the adjacent properties. In the interest of maintaining everything landward of the new foundation wall, they are proposing individual footings. Mr. Famulare reviewed a profile of what the new wall would look like, with a little more fill on the landward side than on the seaward side.

**Public Comment:** None.

**Commission Discussion:** The Commission questioned Mr. Larsen. Mr. Famulare reviewed the draft conditions. He struck #7 and amended #13 to say that no fill shall be placed on site that would alter the existing elevations, except as is shown on the approved plans, and noted #14 that requires the decking to be built to allow for infiltration between joints.

***Mark Adams moved to approve an Order of Conditions for CON-23-34, 629 Commercial Street, with the Special Conditions as drafted and revised by staff, Alfred Famiglietti seconded, and it was so voted 4-0.***

f) CON-23-31 **539 Commercial Street**

**Notice of Intent** filed by **Fanizzi Realty Trust**, 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 replace a bulkhead and deck. Work to take place within Land Subject to Coastal Storm Flowage, a Coastal Beach, and a Buffer Zone to a Coastal Beach.

**Presentation:** Cole Bateman, of Coastal Engineering Co., and Paul Fanizzi, the unit owner, were online to present the application. Mr. Bateman said the Commission was presented with the damage and proposed immediate repairs subsequent to the December 22, 2022 storm. The proposed immediate repairs consist of installing a replacement sheet pile bulkhead with returns, installing new fender piles which will be later repurposed to support a replacement viewing platform, and repairs to the existing building framing. The Commission granted an Emergency Certificate on February 7th. This NOI application is intended to finalize the permitting of those

repairs. The subject property consists of a mixed-use condominium and restaurant building. Along the waterfront, there is a timber bulkhead and an accessible viewing deck with access stairs down to the beach. A portion of the viewing platform is located on 535 Commercial Street's property (approximately 90 sq. ft. of total area of 250 sq. ft.). As a result of storms during the winter of 2022/2023, one of specific note occurred on December 23, 2022, when the existing timber bulkhead was overtopped causing an existing generator, a portion of the parking lot, and a large amount of backfill to be displaced. The existing viewing deck was damaged beyond repair. The beach access stairs remain in good condition and can be reused. In addition to damage to site components, the wall and floor framing for the dining room was damaged. The existing timber soldier pile and lagging bulkhead is no longer sufficient to protect the parking area, adjacent buildings, and coastal beach. Approximately 60 linear feet of epoxy coated steel sheet piles landward of the existing wall location are proposed. This includes approximately 32' of seaward-facing bulkhead, 10' of return bulkhead at the west side, and 18' of return bulkhead on the east side. The existing timber bulkhead will be removed. The new bulkhead will be topped with a cantilevered concrete cap that will extend no further seaward than the existing seaward face of the existing timber bulkhead. A landscape wall with scuppers is proposed on top of the concrete cap to serve as a fall protection guard and to limit wave overtopping. The existing accessible timber viewing platform is proposed as being replaced in-kind with new framing, decking, and timber piles. Damaged piles will be removed to the greatest extent possible or cut a minimum of 2' below the beach grade. The existing beach access stairs will be reconnected to the new viewing platform. The damaged parking area is proposed to be replaced in kind with pavers set on a pervious substrate. Proposed framing repairs to the building consist of rebuilding hinged wall assemblies at the dining room and repairs to damaged portions of the first-floor framing. The current foundation is in good condition. He reviewed the difference between the EO and the NOI. He said that DMF had no comments regarding the project, as they initially had proposed accessing the area from the landward side. However, after talking to the contractor, he now thinks that a skid steer will have to be used on the beach during the project. The purpose of the skid steer would be to hold the sheet pilings in place while they are being installed. They will access the beach from the Kendall Street Town Landing.

**Public Comment:** Eric Rubenstein, an abutter, asked several questions about the project and its schedule. There were 2 emails from abutters in support of the application.

**Commission Discussion:** The Commission questioned Mr. Bateman. Mr. Fanizzi said that he is planning on putting the generator back on the property. Mr. Bateman pointed out on the plan where the generator was located and said he thought it would be better protected by the new seawall. Mr. Famulare said that the replacement of the generator should be an amendment to the Order of Conditions when the time comes to install it. Mr. Famulare reviewed the draft Order of Conditions, noting #13 stating that the existing timber bulkhead shall be removed after installation of the new steel sheet pile bulkhead. Damaged piles seaward of the bulkhead will be removed to the greatest extent possible or cut a minimum of 2' below the current elevation of the beach. Number 14 states that proposed driveways and parking areas shall consist of crushed shell, pervious pavers or gravel as shown on the final approved plans and shall not be surfaced with asphalt. The latter is an on-going maintenance condition and shall not expire upon the issuance of a Certificate of Compliance. Photographs of the beach before the construction begins and after it has been completed, as well as the path of travel of the equipment that will be using the beach will be required. Number 17 requires that the tidal heights shall be monitored, and no work shall



be done on the beach at times when the level of the tide is within 15' of the toe of the existing seawall. Construction equipment shall be moved off-site daily, as necessary, to maintain a minimum of 5' between the path of travel and the level of the tide of Provincetown Harbor. Number 21 requires the owner of the property to be responsible for the proper and regular maintenance of the proposed bulkhead to prevent degradation and loss of its structural integrity and this is an on-going maintenance condition which shall not expire upon the issuance of a Certificate of Compliance.

***Alfred Famiglietti moved to approve an Order of Conditions for CON-23-31, 539 Commercial Street, Mark Adams seconded, and it was so voted, 3-0.***

4) **Emergency Certification:**

a) CON-23-37 **471 Commercial Street** (bulkhead repair): Jed Hannon, with Atlantic Coast Engineering, was online to make the request. The property had suffered damage in the December 23, 2022 storm, as well as subsequent storms. There has been significant damage done to the deck and the bulkhead in the rear of the structure that abuts the beach. He said the owner of the property wants to get the work done as expeditiously as possible. There is no new work proposed, but only the replacement of damaged decking and some pilings, as well as the repair of some cracked concrete. It's an in-kind replacement for the existing system. He said a more permanent solution would be developed with an NOI or an amendment to an existing Order of Conditions. Mr. Famulare noted the property and the site of the repair on a plan of 467 Commercial Street. He agreed that the work should take place sooner rather than later. Mr. Hannon said that the owner and his contractor would like to do a temporary fix in April or May, and then a more permanent solution with a new design would be installed in the fall. He thought that 3 months would be a reasonable amount of time for submitting an NOI. Mr. Famulare said that he would recommend that the Commission ratify the Emergency Certification.

***Alfred Famiglietti moved to ratify the Emergency Certification, CON-23-37, 471 Commercial Street, for temporary repairs to a failing bulkhead provided that an NOI, or a request to amend an Order of Conditions, is submitted within 3 months from the date that the Emergency Certification is issued, Oriana Conklin seconded, and it was so voted, 5-0 by roll call.***

5) **Requests for Certificates of Compliance:**

a) CON-22-14 **315A-319 Commercial Street** (DEP File No. SE 58-0587): Mr. Famulare said that this is for the Surf Club and is a request for a partial Certificate of Compliance, as there is a continuing obligation to control the Japanese knotweed on the property. He has done a site visit and there are a couple of deviations. A proposed new grease trap has not been installed and the existing one has not been pumped, filled, and then abandoned. The property owner would have to come back to the Commission for a new Order of Conditions if that were to be done. There were also some slight variations to roof lines and a reorientation of access stairs, none of which are substantial deviations.

***Alfred Famiglietti moved to issue a partial Certificate of Compliance for CON-22-14, 315A-319 Commercial Street with a stipulation about the future replacement of the grease trap, Mark Adams seconded, and it was so voted, 3-0.***

b) CON-23-24 **795 Commercial Street, Unit 2** (DEP File No. SE 58-0590): Mr. Famulare said that this was a demolition and reconstruction of a single-family home. Mr. Peabody was the property owner's representative and is seeking a final Certificate of Compliance. Mr. Famulare said that there were some mitigation plantings, which have been successfully established in the ground for 3 years, on the coastal dune seaward of the property.

*Alfred Famiglietti moved to issue a final Certificate of Compliance for CON-23-24, 795 Commercial Street, Unit 2, Mark Adams seconded, and it was so voted, 3-0.*

6) **Approval of Minutes of March 7, 2023:** Tabled.

7) **Conservation Agent Update:** Mr. Famulare said he did a site visit last week at 199 Commercial Street. Egress stairs and decks in the rear of the building are being replaced. He will be doing a site visit tomorrow to look at the National Seashore's bike trail project.

Mr. Famulare said that this is his last meeting as the Conservation Agent.

8) **Information:**

a) CON-23-36 **119 Commercial Street** (patio replacement, native plantings): Mr. Famulare said that he approved this project as an Administrative Review.

9) **Any other business that shall properly come before the Commission:** None.

*Mark Adams moved to adjourn the meeting at 8:40 P.M., Alfred Famiglietti seconded, and it was so voted, 3-0.*

Respectfully submitted,  
Ellen C. Battaglini

Approved on April 18, 2023

Alfred Famiglietti, Chair