



CONSERVATION COMMISSION

PUBLIC MEETING

131 Pleasant Street
Nantucket, Massachusetts 02554

www.nantucket-ma.gov

Thursday, March 24, 2022 – 5:00 p.m.

This meeting was held via remote participation using ZOOM and YouTube.

Commissioners: Ashley Erisman (Chair), Ian Golding (Vice Chair), David LaFleur, Seth Engelbourg, Maureen Phillips, Mark Beale, and Linda Williams

Called to order at 5:10 p.m. by Ms. Erisman

Staff in attendance: Jeff Carlson, Natural Resources Director; Terry Norton, Town Minutes Taker

Attending Members: Erisman, Phillips, Beale, Williams

Absent Members: Golding, LaFleur, Engelbourg

*Matter has not been heard

I. PUBLIC MEETING

A. Announcements

B. Public Comment –

II. PUBLIC HEARING

A. Notice of Intent

1. Town of Nantucket – Sesachacha Pond SE48-3522

Sitting Erisman, Phillips, Beale, Williams

Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.

Representative Thais Fournier, Natural Resources

Public None

Discussion (5:13) **Fornier** – This is for 0.02% of the area in which the mats are out to mitigate widgeon grass.
Beale – Confirmed no chemicals are involved.

Staff recomm. We were waiting for Massachusetts Natural Heritage (MNH) came back no adverse impact.
Have everything needed to close.

Motion **Motion to Close.** (made by: Williams) (seconded)

Roll-call Vote Carried 4-0//Beale Erisman, Phillips, and Williams-aye

2. Linda Loring Nature Foundation – 90,110,124,130&136 Eel Point Rd. (39;32;33;38-&2;33;18;4,3,6, & 41) SE48-3500 (Cont. to 4/7)

3. Island Orange Group – 129 Orange Street (55-147) SE48-3507

Sitting Erisman, Phillips, Beale, Williams

Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.

Representative Mark Rits, Site Design Engineering

Public None

Discussion (5:16) **Rits** – We made some modifications to the plan: existing concrete pad will be replaced with crushed stone and fence enclosure and relocated the proposed loading dock and shortened. The net result decreases impervious area on the property by about 15%. The loading dock will be covered with 4 infiltration chambers to handle that runoff outside the 25’ buffer. The new loading dock will prevent vehicles from running into the wetland.

Williams – She read back in. She thinks this is a good proposal to rectify a bad situation and better protects the wetlands.

Beale – This site development is maxed out and is surrounded by water and wetland; shouldn’t be working within that zone. Feels the current loading dock is sufficient. He does not support this.

Erisman – She wondered if they would explore mitigating in the wetland. She is concerned about what would infiltrate through the crushed stone and where it will go.

Rits – We don’t have any control of the wetland; we don’t own any of it. We are reducing structures within the 25’ buffer with removal of the concrete pad. That storage area is a fenced enclosure for recyclables; we could direct that runoff into our infiltration chambers

Phillips – We had talked about off-site mitigation being added to our regulations. She feels they have done what they are able to, and this is as good as we can get.

Williams – Mentioned the fund Planning Board has for off-site “mitigation.”

Staff recomm. We would need to create a new fund to support off-site mitigation; however, those often become revolver funds, so might need another funding mechanism.
Have everything needed to close.

Motion **Motion to Close.** (made by: Williams) (seconded)

Roll-call Vote Carried 3-1//Erisman, Phillips, and Williams-aye; Beale-nay

4. 13 Commercial Street LLC – 13 Commercial Wharf (42.2.4-10) SE48-3501 (Cont. to 4/7)

5. Augustine – 13 Woodbury Lane (41-549) SE48-3510
 Sitting Erisman, Phillips, Beale, Williams
 Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.
 Representative Paul Santos, Nantucket Surveyors
 Public None
 Discussion (5:31) **Santos** – This is for landscaping improvements within the buffer to an off-site bordering vegetated wetland Resubmitted a revised landscape plan reflecting plants based upon commissioner comments and removal of the firepit.
Phillips – It was a good idea to remove the fixed firepit.
 Staff recomm. Have everything needed to close.
 Motion **Motion to Close.** (made by: Williams) (seconded)
 Roll-call Vote Carried 4-0//Beale, Erisman, Phillips, and Williams-aye
6. 9B Crows Nest, LLC – 9B Crows Nest Way (12-20.2) SE48-3508
 Sitting Erisman, Phillips, Beale
 Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.
 Representative Brian Madden, LEC Environmental
 Public None
 Discussion (5:55) (5:35) Skipped over to figure out quorum issues.
Madden – Asked for a continuance
 Staff recomm. If you have 4 members present and one recuses, you need a unanimous 3 Roll-call Vote.
 Motion Continued to 4/7
 Roll-call Vote N/A
7. Meyer-307 Polpis Road (38-45) SE8-3517 (**Cont. to 6/9**)
8. *S/P Norwell, LLC- 2 Mariner Way (5514-72) SE48-3511
 Sitting Erisman, Phillips, Beale, Williams
 Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.
 Representative Kathryn Barnicle, ILEX Environmental, Inc.
 Public None
 Discussion (5:38) **Barnicle** – Have a valid Order of Conditions but we can't complete the project before they expire. The resource areas are an off-site isolated vegetated wetland under local jurisdiction and Flood Plain. This is a resubmittal for a dwelling and garage and drive. We were required to put in storm-tech chambers to collect roof runoff. This includes a deck that wasn't part of the previous Order of Conditions. Will meet building code for construction within a flood plain.
Williams – Her concern is bouncing back and forth between ConCom and the Historic District Commission (HDC) should the HDC require changes.
Erisman – They can come back for an amended order or minor mod if HDC changes the structure.
 Staff recomm. Have everything needed to close.
 Motion **Motion to Close.** (made by: Williams) (seconded)
 Roll-call Vote Carried 4-0//Beale, Erisman, Phillips, and Williams-aye
9. *S/P Norwell, LLC – 4 Mariner Way (5514-72.2) SE48-3512
 Sitting Erisman, Phillips, Beale, Williams
 Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.
 Representative Kathryn Barnicle, ILEX Environmental, Inc.
 Public None
 Discussion (5:46) **Barnicle** – Similar situation. No work within the 25' buffer; work of 195sf is within the 25'-50'. Rest of the work is within 50'-100' buffer.
 Staff recomm. Have everything needed to close.
 Motion **Motion to Close.** (made by: Phillips) (seconded)
 Roll-call Vote Carried 4-0//Beale, Erisman, Phillips, and Williams-aye
10. *S/P Norwell, LLC – 6 Mariner Way (5514-72.4) SE48-3513
 Sitting Erisman, Phillips, Beale, Williams
 Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.
 Representative Kathryn Barnicle, ILEX Environmental, Inc.
 Public None
 Discussion (5:50) **Barnicle** – Similar situation. Asking to maintain the tree line as is. The brick drive is within the 50' buffer. The single structure is within the 100' buffer.
 Staff recomm. Have everything needed to close.
 Motion **Motion to Close.** (made by: Williams) (seconded)
 Roll-call Vote Carried 4-0//Beale, Erisman, Phillips, and Williams-aye
11. *Brant Point Club, LLC – 6,8 North Beach Street/4 Dolphin Court (42.1.4-65;65.1;65.2) SE48-3518
 Sitting Erisman, Phillips, Beale, Williams
 Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.
 Representative Brian Madden, LEC Environmental
 Ryan Maxwell, Bracken Engineering

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| Public Discussion (6:51) | <p>R.J. Turcotte, Nantucket Land Council (NLC)</p> <p>(5:54) Same quorum issue as for Madden’s other project; Mr. Madden asked for time to talk to his clients.</p> <p>Madden – This is for renovation work and additions to three structures on the lots. Site is within land subject to coastal storm flowage; vegetated wetlands are over 100’ to the south and to the west. Will remove the access from North Beach Street and utilize curbcut off Dolphin Court. Reviewed the scope of work.</p> <p>Beale – Regarding the pool; asked the elevation of the deck and outer rim (above elevation 7). At that level, it’ll look like an above-ground pool (it will be). We didn’t like the flush pool on Easton Street; this is more concerning.</p> <p>Erisman – This is substantial development; asked about the infiltration system.</p> <p>Maxwell – The infiltration systems will be 2’ above ground water. Explained the infiltration systems.</p> <p>Beale – At the corner of Easton and North Beach Streets, an empty lot was declared unbuildable because of high ground water and wetlands.</p> <p>Turcotte – NLC shares concerns about ground water and storm water infiltration. This is a high-risk area as defined in the Coastal Resiliency Plan (CRP); there’s concern about new development in a high-risk area such as this.</p> <p>Erisman – Flooding and added development is a concern that should be addressed in the rewriting of our regulations.</p> <p>Phillips – Agrees it is something we need to address going forward. It frustrating because you think it will cause trouble in the future and that concern is supported by a consultant’s report. Doesn’t think we can make a determination as our regulations are currently written.</p> <p>Beale – We can’t turn it down based upon the ARCADIS recommendations; it has to be based upon our bylaws.</p> <p>Carlson – Regarding the area taken up by the above-ground pool, asked if the flood-area storage calculation is included within the subsurface drainage area as compensatory storage. We don’t get a lot of above-ground pool requests, and it should be properly discussed.</p> <p>Maxwell – We didn’t analyze the volume.</p> <p>Madden – That’s relative to the performance standards regarding ability to absorb flood water. Doesn’t know if we can supply compensatory flood storage as we do inland.</p> <p>Erisman – Mr. Beale also asked for more information on the pool. There are other options other than infiltration; would like those options looked into.</p> <p>Madden – Asked for a 2-week continuance.</p> |
| Staff recomm. | The difference between this and the corner lot, is we were able to identify the presence of wetland vegetation at 2 North Beach Street and high ground water was much higher. This sits about 2’ higher. |
| Motion | Continued to 4/7. |
| Roll-call Vote | N/A |
| | 12. *JFM Cacique, LLC – 36 Easton Street (42.1.4-19) SE48-3525 |
| Sitting | Erisman, Phillips, Beale, Williams |
| Documentation | Site and topographical plans, photos, requisite departmental reports and correspondence. |
| Representative | Jeff Blackwell, Blackwell & Associates |
| Public | None |
| Discussion (5:56) | <p>Blackwell – Renovation in place with addition of decks and porches but no change to the footprint.</p> <p>Phillips – It was hard to see if the brick patio is already there (existing).</p> <p>Erisman – The planting beds look to be against the bulkhead; asked if those are native and flood-tolerant species (don’t know). She’d prefer those hold flood-tolerant, native species.</p> |
| Staff recomm. | Have everything needed to close. |
| Motion | Motion to Close. (made by: Williams) (seconded) |
| Roll-call Vote | Carried 4-0//Beale, Erisman, Phillips, and Williams-aye |
| | 13. *Sea-Turne Realty Trust – 10 Blue Heron Way (38-29.1) SE48-3520 |
| Sitting | Erisman, Phillips, Beale, Williams |
| Documentation | Site and topographical plans, photos, requisite departmental reports and correspondence. |
| Representative | David M. Haines, Haines Hydrogeologic Consulting |
| Public | None |
| Discussion (6:02) | <p>Haines – Septic repair replacement with no expansion; discharge will be to a Septi-tech I/A system into a new leaching field. This is above the flood plain. All work will be within existing lawn within the buffer zone, except the leach field. Resource areas are a salt marsh, coastal bank, land subject to coastal storm flowage, and bordering vegetated wetlands. Sediment control will be set up prior to work with everything restored to grade and existing conditions after work is complete. No waivers are requested.</p> |
| Staff recomm. | Have everything needed to close. |
| Motion | Motion to Close. (made by: Williams) (seconded) |
| Roll-call Vote | Carried 4-0//Beale, Erisman, Phillips, and Williams-aye |
| | 14. *64 Baxter Road Realty Trust – 63 Baxter Road (49-22) SE48-3521 |
| Sitting | Erisman, Phillips, Beale, Williams |
| Documentation | Site and topographical plans, photos, requisite departmental reports and correspondence. |
| Representative | David M. Haines, Haines Hydrogeologic Consulting |

Public None

Discussion (6:06) **Haines** – Move house back from top of bank outside the annual erosion rate. Existing site will be restored to lawn. Front porch are within 50’ of coastal bank so require a waiver.
Phillips – Asked if the new foundation would be the same as existing (yes).

Staff recomb. Have everything needed to close.

Motion **Motion to Close.** (made by: Williams) (seconded)

Roll-call Vote Carried 4-0//Beale, Erisman, Phillips, and Williams-aye

15. *Kerwin- 28 Tennessee Avenue (301.2-31) SE48-3523

Sitting Erisman, Phillips, Beale, Williams

Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.

Representative Don Bracken, Bracken Engineering

Public None

Discussion (6:09) **Bracken** – For septic repair to septi-tech system within buffer to salt marsh, bordering vegetated wetlands and land subject to coastal storm flowage. Dispersal field is outside the 100’ buffer.

Staff recomb. Have everything needed to close.

Motion **Motion to Close.** (made by: Williams) (seconded)

Roll-call Vote Carried 4-0//Beale, Erisman, Phillips, and Williams-aye

16. *Nantucket Conservation Foundation Inc – Gibbs Pond (51-1) SE8-3519

Sitting Erisman, Phillips, Beale, Williams

Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.

Representative Jonathan Shuster
 Karen Beattie, Nantucket Conservation Foundation (NCF)
 Naomi Valentine, NCF

Public None

Discussion (6:12) **Shuster** – Water-quality management plan to treat toxic algae blooms. Submitted a MESA checklist to NHESP. Resource area is land under water and also within 100-year flood plain. NLC has done testing for 3 years here. He submitted a supplemental letter regarding alternative analyses. Will us Alum by a licensed applicator. Algicide would be applied about 4 weeks later. There will be water-quality testing before and after application.
Phillips – She’s not familiar with this type of application nor the methodology. Asked how they will oversee this if they aren’t experts and how often will the monitoring and testing be done.
Shuster – Considering SOLitude® for the applicator. The first and immediate test will be water column testing.
Valentine – Water-quality testing will continue at the same rate as in the past. We are familiar with the baseline science behind this type of product. They will use a trailing hose to reach the deeper parts of this pond. The built-in limitation is the fact that the amount product that can be shipped at any one time is limited.
Phillips – SOLitude® did the work on Long Pond and Hummock Pond.
Beattie – NLC is our partner on this project and have been responsible to a vast amount of the water-quality testing.
Erisman – Regarding the ecological restoration and chemical treatment, she’s concerned about chemicals being used in conjunction with an ecological restoration. She wants more information about why we wouldn’t experiment with dredging, given how isolated it is. Restoration is more restoring than management, which this proposal is.
Shuster – We are taking small bites at a time; each application is very modest related to the amount of treatment necessary to treat the whole pond. We could provide additional information why dredging isn’t feasible. We want to manage the pond in a way safe for wildlife and humans; the goal is to get the toxic algae down.
Erisman – Worried this is treating the symptoms, not the problem and would involve years of treatment. Wants a better analysis of treatment versus dredging.
Beale – He wonders if chemical would eliminate or control phosphorous. He’s not wild about chemical treatment when dredging is an alternative.
Shuster – It would bind to the phosphorous in the pond making it no longer active; it wouldn’t take the phosphorous out of the system.
Beattie – We aren’t taking the idea of using chemicals lightly; every pond is different. Gibbs is a very big pond and deep so dredging would cost millions, which is outside our budget. There is the issue of the cost for the removed material to be shipped off. It’s also a significant site for Native Americans prior to dredging and would require an archeological study.
Beale – Asked what the source of phosphorous is.
Beattie – Likely from the cranberry bogs; it could be atmospheric. We’ve done sediment testing of the bottom.
Valentine – It is an isolated pond; we surveyed the area to identify sources for phosphorous and other nutrients. It is well buffered and there was no indication of nutrient introduction. We concluded it was from water being pumped to and from the cranberry bogs. SOLitude® will conduct another round of sediment testing from the deepest area.
Phillips – Asked if the binding process neutralizes the phosphorus.
Shuster – It binds the phosphorous and creates an inert element.
Phillips – Asked if that “compound” would have to be removed (no).
Erisman – Asked if the phosphorous could end up being reintroduced as a result of a storm.

Valentine – The Alum bind creates a layer on the top surface of the sediment; however, any phosphorous not bound to the alum could be circulated.

Beale – Asked how they will rate success for failure.

Shuster – We have 3 years of data from NLC on what algae species are there; we can carry that forward and will know what is occurring.

Valentine – For pond of this size, any reduction in phosphorous concentration would be a success. There is no goal to get phosphorous down to zero; you want some nutrients. A 10% reduction in the 1st year would be amazing. From there we can provide Commissioners with future goals.

Erisman – Wants more information on the issues with dredging.

Beale – He would like to see a cost comparison for chemicals versus dredging.

Shuster – We could put together numbers and what would be involved regarding dredging. We’re still waiting for response from MNH and MESA. Asked for 2-week continuance.

Staff recomm. We have an estimated to dredge Miacomet pond for \$4.5m to \$5m; Gibbs would be more expensive.

Motion Continued to 4/7.

Roll-call Vote N/A

17. *Park City Wind, LLC – New England Wind Connector (N/A) SE48-3524(Cont. to 4/7)

B. Amended Order of Conditions

1. Philips, Trustee – 19 East Tristram Avenue (31-4.1) SE48-3304 (Cont. to 4/7)

2. EPR RGH LLC – 119 Eel Point Road (33-17.2) SE48-3442 (Santos)

Sitting Erisman, Phillips, Beale, Williams

Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.

Representative Paul Santos, Nantucket Surveyors

Public None

Discussion (7:14) **Santos** – This is for a set of aluminum beach stairs and lead-in wooden walkway and a wooden platform. It was held for a profile showing the stairs; a revised plan was submitted with that and dimensions of the stairs.

Staff recomm. Recommend issue the Amended Order.

Motion **Motion to Issue.** (made by: Williams) (seconded)

Roll-call Vote Carried 4-0// Beale Erisman, Phillips, and Williams-aye

III. PUBLIC MEETING

C. Requests for Determination of Applicability

1. Breckenridge – 170 Cliff Road (41-68) SE48-_____

Sitting Erisman, Phillips, Beale, Williams

Representative Ryan Maxwell, Bracken Engineering

Staff recomm. Recommend a Negative 3 for work within the buffer.

Discussion (7:11) **Maxwell** – This is for construction of a patio and associated improvement within 100’ of a isolated vegetated wetland and off-site pond. There will be regrading with extension of a timber retaining wall. The well will be relocated.

Motion **Motion to Issue as a Negative 3.** (made by: Beale) (seconded)

Roll-call Vote Carried 4-0// Beale Erisman, Phillips, and Williams-aye

D. Certificates of Compliance

1. Hurley – 5 Sandy Drive (29-74) SE48-3456

Sitting Erisman, Phillips, Beale, Williams

Representative Don Bracken, Bracken Engineering

Staff recomm. Work is done; the site is still bare earth; recommend issuing a partial cert for the house removal and leaving the permit open for the site to be revegetated.

Discussion (7:17) None

Motion **Motion to Issue the partial certificate.** (made by: Phillips) (seconded)

Roll-call Vote Carried 4-0// Beale Erisman, Phillips, and Williams-aye

2. 8 Bishops Rise, LLC – 8 Bishops Rise (40-32) SE48-3181

Sitting Erisman, Phillips, Beale, Williams

Representative Don Bracken, Bracken Engineering

Staff recomm. The work is done and recommend issue.

Discussion (7:19) None

Motion **Motion to Issue.** (made by: Williams) (seconded)

Roll-call Vote Carried 4-0//Beale Erisman, Phillips, and Williams-aye

3. Hehir, Fuller, O’Connell – 37, 43A, 43B Massachusetts Avenue (60.3.1-1.3,1.1,1.2) SE48-2274

Sitting Erisman, Phillips, Beale, Williams

Representative Paul Santos, Nantucket Surveyors

Staff recomm. This was for relocation of some dwellings and septic work. We got Certificate of Compliance from the Health Department. We feel comfortable with issuing the Certificate.

Discussion (7:20) None

Motion **Motion to Issue.** (made by: Williams) (seconded)

Roll-call Vote Carried 4-0//Beale Erisman, Phillips, and Williams-aye

4. Moldenhauer & Honey – 71 Baxter Road (49-26.1) SE48-3449
 Sitting Erisman, Phillips, Beale, Williams
 Representative Paul Santos, Nantucket Surveyors
 Staff recomm. This was in response to an Enforcement Order related to installation of an irrigation system. Work is complete and clearly marked the public way to the Bluff. It is in compliance and recommend issuing.
 Discussion (7:22) None
 Motion **Motion to Issue.** (made by: Williams) (seconded)
 Roll-call Vote Carried 4-0//Beale Erisman, Phillips, and Williams-aye

E. Orders of Condition

1. Town of Nantucket – Sesachacha Pond SE48-3522
 Sitting Erisman, Phillips, Beale, Williams
 Documentation Draft Order of Conditions
 Staff He included the regular reporting condition since it’s described as a pilot project.
 He can add the limited area of treatment to Finding 2.
 Discussion (7:23) **Erisman** – The reason she’s comfortable with this is that’s it’s such a small percentage of the pond; asked if that would be part of a Finding.
 Motion **Motion to Approve as amended.** (made by: Beale) (seconded)
 Roll-call Vote Carried 4-0//Beale Erisman, Phillips, and Williams-aye

2. Island Orange Group – 129 Orange Street (55-147) SE48-3507
 Sitting Erisman, Phillips, Beale, Williams
 Documentation Draft Order of Conditions
 Staff He doesn’t have a draft Order of Conditions for this.
 Discussion (7:27) **Erisman** – She’d like a condition that they check what goes into the wetland from this site.
 Motion Continued to 4/7.
 Roll-call Vote N/A

3. Augustine – 13 Woodbury Lane (41-549) SE48-3510
 Sitting Erisman, Phillips, Beale, Williams
 Documentation Draft Order of Conditions
 Staff He included regular work and silt conditions and restoration photos.
 He’ll add Condition 21 regarding use of native plants within the buffer.
 Discussion (7:29) **Erisman** – Asked if we should memorialize the use of native species.
 Motion **Motion to Approve as amended.** (made by: Beale) (seconded)
 Roll-call Vote Carried 4-0//Beale Erisman, Phillips, and Williams-aye

- 4. S/P Norwell LLC – 2 Mariner Way (5514-72) SE48-3511
- 5. S/P Norwell LLC – 4 Mariner Way (5514-72.2) SE48-3512
- 6. S/P Norwell LLC – 6 Mariner Way (5514-72.4) SE48-3513

Sitting Erisman, Phillips, Beale, Williams
 Documentation Draft Order of Conditions
 Staff All these orders look the same except for the Permit Overview.
 Discussion (7:30) None
 Motion **Motion to Approve 2,4,&6 Mariner Way as drafted.** (made by: Phillips) (seconded)
 Roll-call Vote Carried 4-0//Beale Erisman, Phillips, and Williams-aye

7. JFM Cacique LLC – 3 Easton Street (42.1.4-19) SE48-____
 Sitting Erisman, Phillips, Beale, Williams
 Documentation Draft Order of Conditions
 Staff He will add Finding 3 recommending native, salt-tolerant plants in the beds.
 Discussion (7:32) **Erisman** – She’d like a condition requiring native plants in the planting beds.
 Motion **Motion to Approve as amended.** (made by: Williams) (seconded)
 Roll-call Vote Carried 4-0//Beale Erisman, Phillips, and Williams-aye

8. Sea-Turne Realty Trust – 10 Blue Heron Way (38-29.1) SE48-3520
 Sitting Erisman, Phillips, Beale, Williams
 Documentation Draft Order of Conditions
 Staff Has regular conditions and added the new silt condition.
 Discussion (7:35) None
 Motion **Motion to Approve as drafted.** (made by: Williams) (seconded)
 Roll-call Vote Carried 4-0//Beale Erisman, Phillips, and Williams-aye

9. 64 Baxter Road Realty Trust – 63 Baxter Road (49-22) SE48-3521
 Sitting Erisman, Phillips, Beale, Williams
 Documentation Draft Order of Conditions
 Staff If we grant a waiver allowing a structure within the 50' when there isn't one, that waiver is then in place; the activity is permitted down to the 25' buffer.
 He can add a condition requiring all surface areas are to be restored.
 Discussion (7:36) **Erisman** – Asked if there should be something prohibiting heavy machinery from the 25' buffer.
Williams – Asked if ConCom can add a restriction on further structures within the 50'.
 Motion **Motion to Approve as amended.** (made by: Williams) (seconded)
 Roll-call Vote Carried 4-0//Beale Erisman, Phillips, and Williams-aye

10. Kerwin – 28 Tennessee Avenue (301.2-31) SE48-3523
 Sitting Erisman, Phillips, Beale, Williams
 Documentation Draft Order of Conditions
 Staff He has the standard septic upgrade conditions.
 Discussion (7:43) None
 Motion **Motion to Approve as drafted.** (made by: Williams) (seconded)
 Roll-call Vote Carried 4-0//Beale Erisman, Phillips, and Williams-aye

11. Nantucket Land Council – Nantucket Harbor SE48-3505
 Sitting Erisman, Phillips, Beale, Williams
 Documentation Draft Order of Conditions
 Staff This mirrors their last permit, except it includes seeding.
 Discussion (7:44) None
 Motion **Motion to Approve as drafted.** (made by: Beale) (seconded)
 Roll-call Vote Carried 4-0//Beale Erisman, Phillips, and Williams-aye

12. Hellzapoppin Trust – 25 Willard Street (29-33) SE48-3503
 Sitting Erisman, Phillips, Beale, Williams
 Documentation Draft Order of Conditions
 Staff He included Condition 20 requiring permanent markers and photos of the naturalized area and removal of any invasive species.
 This has a waiver.
 Will add Condition 23 regarding lighting; he will research the lumen maximum in the Town Code.
 Discussion (7:45) **Erisman** – Asked if a lighting conditions is needed.
Williams – There is a lumen maximum for exterior lighting in the Town Code; asked if that should be added.
 Motion **Motion to Approve as amended.** (made by: Williams) (seconded)
 Roll-call Vote Carried 4-0//Beale Erisman, Phillips, and Williams-aye

F. Extension Request

1. Powers – 164 Hummock Pond Road (65-13.1) SE48-3031
 Sitting Erisman, Phillips, Beale, Williams
 Representative Brian Madden, LEC Environmental
 Staff recomm. Work on the dwelling is done and much of the unpermitted work has been undone. Waiting for restoration. It looks like everything is in or close to being in compliance.
 Discussion (7:49) **Madden** – Asking for 3 1-year extensions to complete restoration activities. The structures have been relocated and we're waiting on an as-built.
 Motion **Motion to Issue 3 1-year extensions.** (made by: Phillips) (seconded)
 Roll-call Vote Carried 4-//Beale Erisman, Phillips, and Williams-aye

G. Other Business

1. Approval of Minutes
 a. 3/10/2022
 Motion **Motion to Approve as drafted.** (made by: Phillips) (seconded)
 Roll-call Vote Carried 4-0//Beale Erisman, Phillips, and Williams-aye
 b. 3/21/2021 (SBPF)
 c. 6/30/2021 (SBPF)
 Motion Continued to 4/7 for a full board.
 Roll-call Vote N/A
 2. Monitoring Reports: None
 3. Enforcement updates
 a. Williams – Asked if there was a resolution to 119 Baxter Road.
 Carlson – Talked to Massachusetts Department of Environmental Protection (DEP) about what to do; waiting to hear back from them. The DEP has been contacted by the Army Corps of Engineers.
 4. Reports:
 a. None
 5. Commissioners Comment
 a. Erisman – Regarding intimation made by members of the Select Board, the ConCom has met with Town entities as recently as February. Many statements made were disturbing and cast a negative light upon ConCom for doing our job.

Williams – Agrees. Some of the insinuations were disturbing; she thought the language in the Memorandum of Understanding (MOU) was clear and inappropriate. Now that MOU was signed and approved, asked where that leaves us.

6. Administrator/Staff Reports

a. None

C. Executive Session

Motion

Motion to go into Executive Session Pursuant to MGL C. 30A § 21(A) for Purpose 3: To Discuss Strategy with Respect to Litigation with Regard to Siasconset Beach Preservation Fund (SBPF) Geotextile Tube Project Removal Order (SBPF v Nantucket Conservation Commission), where an Open Meeting May have a Detrimental Effect on the Litigation Position of the Conservation Commission. And, to Discuss Strategy related to the proposed Memorandum of Understanding between the Town of Nantucket Select Board and Siasconset Beach Preservation Fund with Respect to Litigation with the Siasconset Beach Preservation Fund (SBPF) Geotextile Tube Project Removal Order (SBPF v Nantucket Conservation Commission), where an Open Meeting May have a Detrimental Effect on the Litigation Position of the Conservation Commission at 8:04 pm. with no intent to return to open session. (made by: Beale) (seconded)

Roll-call Vote

Carried 4-0//Beale Erisman, Phillips, and Williams-aye

Submitted by:

Terry L. Norton

PROPOSED