



CONSERVATION COMMISSION

PUBLIC MEETING

131 Pleasant Street
Nantucket, Massachusetts 02554
www.nantucket-ma.gov

Thursday, January 27, 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 5:00 p.m. by Ms. Erisman

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

Attending Members: Erisman, Golding, Engelbourg, Phillips, Beale, Williams

Absent Members: LaFleur

Late Arrivals: Williams, 5:33 pm

*Matter has not been heard

I. PUBLIC MEETING

A. Announcements

B. Public Comment –

Turcotte – Request the Commission make the quarterly 2021 SBPF monitoring reports and sand delivery tickets available to the public.

Carlson – We sent the reports out to be posted to the Town website; he'll send the link to them in the morning.

II. PUBLIC HEARING

A. Notice of Intent

1. Lower Pocomo Nominee Trust – 88 Pocomo Road (15-42) SE48-3432 **(Cont. to 2/10)**
2. Pocomo Point Realty Trust – 90 Pocomo Road (15-43) SE48-3438 **(Cont. to 2/10)**
3. Kane – 12 Pond Road (56-295) SE48-3473 **(Cont. to 3/10)**
4. Spencer – 3 Fulling Mill Road (27-27) SE48-3483

Sitting Erisman, Golding, Engelbourg, Phillips, Beale

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

Representative Brian Madden, LEC Environmental

Motion **Motion to Approve the Withdrawal.** (made by: Engelbourg) (seconded)

Roll-call Vote Carried 5-0//Beale, Engelbourg, Erisman, Golding, Phillips-aye

5. Nantucket Memorial Airport – 14 Airport Road (88-15&16) SE48-3490

Sitting Erisman, Golding, Engelbourg, Phillips, Beale

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

Representative Jed Merrow, McFarland Johnson Consultants

Public None

Discussion (5:03) **Merrow** – Massachusetts Natural Heritage (MNH) letter sent out today; regarding the Wetlands Protection Act, they issued no adverse effect on the habitat; they also commented on the upland grassland portion and that the abandoned roadbed be restored. The Airport's preference is to restore the roadbed by using topsoil removed from the new roadbed then let native plants take over.

Staff recomm. Have everything needed to close.

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

Roll-call Vote Carried 5-0//Beale, Engelbourg, Erisman, Golding, and Phillips-aye

6. Taccat, LLC – 14 Union Street (42.3.2-17) SE48-3492

Sitting Erisman, Golding, Engelbourg, Phillips, Beale

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

Representative Art Gasbarro, Nantucket Engineering & Survey

Public None

Discussion (5:08) **Gasbarro** – This is in a flood zone. We were waiting for a file number.

Staff recomm. Have everything needed to close.

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

Roll-call Vote Carried 5-0//Beale, Engelbourg, Erisman, Golding, and Phillips-aye

7. Still Dock Nantucket, LLC – 14 Oakland Street (59.4-255) SE48-3491
 Sitting Erisman, Golding, Engelbourg, Phillips, Beale
 Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.
 Representative Art Gasbarro, Nantucket Engineering & Survey
 Public None
 Discussion (5:10) **Gasbarro** – We have the file number. This is for the renovation of the structure within the existing footprint.
Phillips – Noticed there is an existing exterior wall that becomes interior; asked if that is not extending the footprint.
Gasbarro – That is an infill above an existing deck.
 Staff recomm. Have everything needed to close.
 Motion **Motion to Close.** (made by: Phillips) (seconded)
 Roll-call Vote Carried 5-0//Beale, Engelbourg, Erisman, Golding, and Phillips-aye
8. Still Dock Nantucket, LLC – 40 Tennessee Avenue (59.4-84) SE48-3493
 Sitting Erisman, Golding, Engelbourg, Phillips, Beale
 Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.
 Representative Art Gasbarro, Nantucket Engineering & Survey
 Public None
 Discussion (5:12) **Gasbarro** – We were waiting for a file number; this is south of the last project with a new addition and deck outside the 50’ buffer but within land subject to coastal storm flowage.
 Staff recomm. Have everything needed to close.
 Motion **Motion to Close.** (made by: Beale) (seconded)
 Roll-call Vote Carried 5-0//Beale, Engelbourg, Erisman, Golding, and Phillips-aye
9. Laretta Lane N.T. – 7 Laretta Lane (14-53) SE48-____
 Sitting Erisman, Golding, Engelbourg, Phillips, Beale
 Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.
 Representative Art Gasbarro, Nantucket Engineering & Survey
 Public None
 Discussion (5:13) **Gasbarro** – This is to move a septic to the south with the leech bed north of the house within land subject to coastal storm flowage. Septic will have I/A technology. We were waiting for MNH and file number and have received both.
 Staff recomm. Have everything needed to close.
 Motion **Motion to Close.** (made by: Phillips) (seconded)
 Roll-call Vote Carried //Beale, Engelbourg, Erisman, Golding, and Phillips-aye
10. Wauwinet Inn, LLC – 120 Wauwinet Road (11-17) SE48-3494
 Sitting Erisman, Golding, Engelbourg, Phillips, Beale
 Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.
 Representative Katie Barnicle, Ilex Environmental
 Public None
 Discussion (5:15) **Barnicle** – We were waiting for the file number, which we received; we submitted a request for waiver for work within 100’ of endangered species habitat. This is for repair of the leeching field.
 Staff recomm. Have everything needed to close.
 Motion **Motion to Close.** (made by: Engelbourg) (seconded)
 Roll-call Vote Carried 5-0//Beale, Engelbourg, Erisman, Golding, and Phillips-aye
11. Bartholomae – 52 Tennessee Avenue (59.4-95) SE48-3495
 Sitting Erisman, Golding, Engelbourg, Phillips, Beale
 Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.
 Representative David M. Haines, Haines Hydrogeologic Consulting
 Public None
 Discussion (5:17) **Haines** – This was also waiting for a file number, which we received. They are adding septi-tech I/A component and removing/replacing existing tanks. Asking for waiver for work within 100’ of the wetlands.
 Staff recomm. Have everything needed to close.
 Motion **Motion to Close.** (made by: Golding) (seconded)
 Roll-call Vote Carried 5-0//Beale, Engelbourg, Erisman, Golding, and Phillips-aye
12. Lenhart – 25 Dukes Road (41-530.2&530.3) SE48-3496
 Sitting Erisman, Golding, Engelbourg, Phillips, Beale
 Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.
 Representative David M. Haines, Haines Hydrogeologic Consulting
 Public None
 Discussion (5:19) **Haines** – This is for landscaping and related small structures around a house under construction outside the 50’ buffer to wetlands. There is an area of meadow that was mowed to keep Japanese knotweed down.
Engelbourg – Regarding the annual mowing, he understands it doesn’t require a waiver but the language on page 58 of the regulations says that ConCom determines “appropriate treatment” that serves to enhance the function of the wetland resource area. In his opinion mowing is not an appropriate treatment to control Japanese knotweed; in fact, it can spread the seeds. There are other ways to treat knotweed.

Haines – Point well taken. He hasn’t had luck with blanketing and the owner doesn’t want to use herbicide but does want to maintain it as a meadow; mowing keeps it in check to some extent.

Erisman – Agrees mowing isn’t a great management method; the root base could be getting very strong.

Engelbourg – He agrees mowing is decreasing its short-term fitness, but there are other techniques such as cutting.

Haines – He’d like to leave this open enough that they could handle it under a minor modification.

Golding – Doesn’t know if the mowing has any bearing on this application unless the owner would be mowing in the event there was no knotweed. Asked what the owner would want if there were no knotweed.

Haines – The knotweed is within the 50’ buffer.

Erisman – We don’t want to see an increase in knotweed through mowing.

Engelbourg – It’s important to realize that this is within the 25’ buffer and requires a waiver; the applicant has done this historically without a permit. We need to make sure we’re getting our permitting right.

Staff recomm. Could handle dealing with the knotweed through a minor modification.
Have everything needed to close.

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

Roll-call Vote Carried 5-0//Beale, Engelbourg, Erisman, Golding, and Phillips-aye

13. Cohen & Christman – 24 Medouie Creek Road (40-2) SE48-3498

Sitting Erisman, Golding, Engelbourg, Phillips, Beale, Williams

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

Representative Brian Madden, LEC Environmental

Public None

Discussion (5:33) **Madden** – This involves a new pool, patio, porch, pervious drive, and septic upgrade. Resource is a bordering vegetated wetland with structures outside the 50’ buffer. The pool will have a pergola cover over the patio; the pool will maintain 2’ separation to high ground water. There will be a subsurface infiltration system under the patio; a drywell is proposed within the new pervious driveway. The existing drive will be revegetated with native species. They are proposing to revegetate a portion of the lawn within the 25’ buffer which requires a waiver; reviewed the proposed planting for that area.

Golding – We’ve had discussions on how to make a proposed stone wall more porous.

Madden – Explained the construction of the stone wall to make it porous for appropriate infiltration of water.

Golding – He’d like to have the spaces in the stone wall conditioned.

Madden – A general recognition in the condition could identify the wall will not be impervious and any change would require a modification.

Engelbourg – Regarding our ability to indicate permeability, it’s clear in the regulations that flood control is a protected interest, and a project shouldn’t significantly alter water runoff. Back to the plans, asked if the landscape walls within the driveway is existing or proposed.

Madden – Those are proposed freestanding walls; they don’t meet the definition of structure under the bylaw.

Engelbourg – Asked if ConCom ever contemplated if something like that is a structure; it seems like a structure to him.

Erisman – She wonders about that as well.

Engelbourg – It does create a structural feature. The proposed patio with the pergola, he believes that a patio with a pergola constitutes a structure. Asked if the pergola will it have footings and posts or just a lattice off the structure.

Madden – The pergola will be squared off along the west and abut the pool with steps to the west. Regarding the landscape wall, we can modify that to use plantings to delineate the side of the driveway. He understood a wall had to be mortared and/or support grade to be a structure.

Erisman – She wants to see some design specifications on what Mr. Madden is proposing.

Williams – Under the building code, dry laid stacked isn’t a structure; anything under 48” is not a structure and doesn’t need a permit.

Golding – Read the ConCom regulation definition of “Structure.” Under our regulations this is a structure because it’s impervious material.

Phillips – This sounds like a common stone fence; she would consider it to be structural because it’s static and has a defined shape.

Erisman – There are details to be worked out before we close this.

Madden – Asked this be closed without the stone wall.

Staff recomm. Typically the definition for structure is any assembly of material that holds a shape.
Have everything needed to close.

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

Roll-call Vote Carried 6-0//Beale, Engelbourg, Erisman, Golding, Phillips, and Williams-aye

14. Tsunami Realty Trust – 283 Hummock Pond Road (83-6) SE48-3497

Sitting Erisman, Golding, Engelbourg, Phillips, Beale, Williams
Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.
Representative Brian Madden, LEC Environmental
Public None
Discussion (5:54) **Madden** – This involves relocating the existing single-family dwelling from the eroding coastal bank; it will be located greater than 100’ from the bank. We will upgrade the bordering vegetated wetlands to Hummock Pond and located within the flood zone. Footings will be within 2’ of high ground water so asking for a waiver under no adverse impact/no reasonable alternative. Proposing rerouting the driveway away from the bank. Proposing to restore the existing footprints in kind. Waiting for MNH on this. The septic is outside the 100’ buffer and upgrading to I/A technology.

Phillips – With the waiver and this being a perilous location in which to be building, she wonders if this will work with the amount of impact there would be by removing one structure and building in another place; also, groundwater is an issue.

Madden – The existing structure is outside the 50’ buffer today, but we could lose chunks of erosion in Saturday’s storm. The relocation site is as far from the bank as possible without getting into the 50’ buffer to Hummock Pond.

Engelbourg – Relocation of the house is a good short-term solution. The proposed soil absorption system outside the eroding bank, asked if that absorption system is necessary.

Madden – That is the only viable location for the septic.

Erisman – Burton Balkind asks if this is prudent with the rate of erosion in this area. She doesn’t think this will have a long lifespan.

Madden – Asked for a 2-week continuance.

Staff recomm. None
Motion Continued to February 10th.
Roll-call Vote N/A

15. Town of Nantucket – Sesachacha Pond SE48-____ (Cont. to 2/10)

B. Amended Order of Conditions

1. Rabil – 141 Cliff Road (30-1,2,3,4,5,6&7) SE48-3026

Sitting Erisman, Golding, Engelbourg, Phillips, Beale, Williams
Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.
Representative Paul Santos, Nantucket Surveyors
Seth Wilkinson, Wilkinson Ecological
Public None

Discussion (6:04) **Santos** – Within this request, asking to replace the Wilkinson design fiber-roll array with a new Wilkinson lay out that would raise its height. The bank has been stable since about 2015.

Wilkinson – We have a lush community on the coastal bank; but there is overtopping so plant roots can’t sustain. It will also upgrade the array to being 100% biodegradable. Cited 3 options for treatment of the existing array.

Golding – Of the 3 alternatives, he prefers doing nothing; the peninsular effect is very prevalent, there is end scour, and the building has no statutory protection.

Beale – Echoes Mr. Golding. He’s troubled by the work to be done when the rolls are currently working well. They’d be disturbing a resource area where work was done not that long ago. He doesn’t see the net benefit.

Wilkinson – We haven’t observed end scour where erosion is exacerbated; he’s only seen uniform erosion to the west.

Golding – Accepts he used the wrong term. Still, he’s dismayed by the fact that they want to replace an existing array is working as it was intended. The peninsular effect will eventually encroach on the beach.

Wilkinson – There is a criterion in the Performance Standards that says when mean high water interacts with the array, that’s the end of the array. When that happens, we must come in to determine what action to take including removal of the array.

Golding – Condition 28 is that coir logs should be kept in good repair and repair work to be reported to the commission, and once vegetation is established, placement of the logs is prohibited.

Wilkinson – The rolls are very much playing their role, but they aren’t tall enough considering the storms we are having; 2 more feet is needed. Feels Condition 28 supports our request.

Golding – He’s not seeing a trigger point with mean high water; we need to modify our regulations going forward.

Wilkinson – Read Condition 21 which references the mean high water. Sometimes related to that is the function the bank is fulfilling.

Engelbourg – He’s torn because during the site visit it seemed the array needs maintenance, but it is functioning in the role for which it was designed. He’s not sure a long-term solution is required here; in this case, less is more. Maintain them until they are no longer functioning. The project hasn’t failed yet.

Phillips – The delicacy of coastal banks and what they provide makes them hard to maintain. This is an improved design, but she doesn’t see the need for it. This is working and we want to fool with this delicate

arrangement we have as little as possible; there could come a time an upgrade is needed, but right now it just needs maintenance.

Erisman – She agrees; she wants it to stay in until it’s falling apart. Pulling them out now and replacing them is the antithesis of what she expected. Maintenance should be more robust given the short height of the array.

Wilkinson – This has been regularly maintained; we left it in this condition, so the Commission could see that and have an understanding of the situation.

Golding – Under the MNH orders of conditions, Condition 2 requires adequate sand to cover the array. Asked how much sand has been going down there.

Wilkinson – He doesn’t have the exact volume. March 2018 we were there a lot. Every other time it was a full 145 cubic yards in March.

Erisman – Burton Balkind asked if the rolls are tagged to identify where they come from if break loose; that is required under our Order of Conditions; he’s seen a lot of coir logs but no tags.

Wilkinson – We use stainless steel tags and inventory our rolls on all our projects; we have no record of losing any of our rolls.

Erisman – The Commission is leaning toward maintaining the existing.

Santos – Asked for a withdrawal without prejudice.

Staff recomm.

We haven’t had any issues or complaints with this site. They wanted the commission to see the condition behind the reason for this proposal.

A lot of times, we’ve tagged the rolls; other things we’ve seen a colored thread woven through the material. Sometimes the piece with the tag rips off; some logs are older and don’t have tags. If people see a concentration of coir, let us know.

Motion

Motion to withdraw without prejudice. (made by: Golding) (seconded)

Roll-call Vote

Carried 6-0//Beale, Engelbourg, Erisman, Golding, Phillips, and Williams-aye

III. PUBLIC MEETING

C. Requests for Determination of Applicability

- 1. None

D. Minor Modifications

- 1. Land Bank – 63 Madaket Road (41-480.1) SE48-2147

Sitting

Erisman, Golding, Engelbourg, Phillips, Beale, Williams

Representative

Rachel Freeman, Nantucket Islands Land Bank

Staff recomm.

Under the Americans with Disability Act, boardwalks must be at least 3.9’ wide; if less they have to allow passing spaces every 200 feet.

Discussion (6:36)

Freeman – We were unable to do any mowing until now; our maintenance crew said they are unable to use a 48” wide boardwalk; it needs to be 60” wide to accommodate the mower. This is to request that width change to the boardwalk. There are 6 boardwalks over the wettest parts of the trails.

Golding – Suggested a smaller mower so we don’t have 5’ wide boardwalks on all the Land Bank properties.

Freeman – We went from a walk-behind mower to a riding mower. It is impossible to mow these trails without using the boardwalk due to the extent and wetness of wetlands.

Erisman – She didn’t support this project when it came through because of the many boardwalks. Given the sensitivity of this resource area, she requests they use smaller mowers.

Engelbourg – He doesn’t see an issue and supports the expanded boardwalk.

Beale – He agrees with Ms. Erisman. This property is continually wet and a 60’ boardwalk through the property is above what the commission approved.

Williams – Asked the minimum for handicapped (H/C) accessibility; she can’t remember if it’s 48” or larger. Since this is for public use, it has to meet those requirements.

Erisman – Making this H/C accessible is upon the Land Bank, not part of our purview.

Freeman – We are making an effort for all our sites to be accessible; but that was not part of this project when we applied for it. With that in mind, she asked for a 2-week continuance to research H/C requirements.

Motion

Continued to Feb 10

Roll-call Vote

N/A

- 2. Land Bank – 174 Orange Street & 2 Milestone Road (55-64&65) SE48-3388

Sitting

Erisman, Golding, Engelbourg, Phillips, Beale, Williams

Representative

Rachel Freeman, Nantucket Islands Land Bank

Staff recomm.

Recommend issuing

Discussion (6:51)

Freeman – This is to discuss the Hayes Park; the abutting family has had people crossing their properties; we want to install some fencing and signage to prevent that. Also, people are walking on the salt marsh so want to fence that trail off. The intention is to have split rail but would prefer posts with signs. Once we are within the coastal bank, we won’t need as many posts and no split rail would be required.

Erisman – Any educational signage is a benefit.

Golding – He loves the signs; they hit the right note.

Motion

Motion to Issue the Minor Modification. (made by: Golding) (seconded)

Roll-call Vote

Carried 6-0//Beale, Engelbourg, Erisman, Golding, Phillips, and Williams-aye

E. Certificates of Compliance

1. O'Mara, Trustee – 33 Somerset Road (56-110) NAN-135
 Sitting Erisman, Golding, Engelbourg, Phillips, Beale, Williams
 Staff recomm. Work is complete and signed off. Recommend issuing.
 Discussion (6:57) None.
 Motion **Motion to Issue.** (made by: Golding) (seconded)
 Roll-call Vote Carried 6-0//Beale, Engelbourg, Erisman, Golding, Phillips, and Williams-aye
2. Nicholson – 22 Brewster Road (54-169.1) SE48-3088
 Sitting Erisman, Golding, Engelbourg, Phillips, Beale, Williams
 Staff recomm. Post and wire fencing that crosses the 50' buffer was signed off. Recommend issuing.
 Discussion (6:58) None
 Motion **Motion to Issue.** (made by: William) (seconded)
 Roll-call Vote Carried 6-0//Beale, Engelbourg, Erisman, Golding, Phillips, and Williams-aye
3. Britannia Nantucket, Inc. – 81 Squam Road (13-6) SE48-3261
 Sitting Erisman, Golding, Engelbourg, Phillips, Beale, Williams
 Staff recomm. Work is complete. Recommend issuing.
 Discussion (6:59) None
 Motion **Motion to Issue.** (made by: Phillips) (seconded)
 Roll-call Vote Carried 6-0//Beale, Engelbourg, Erisman, Golding, Phillips, and Williams-aye
4. 88 Pocomo LLC – 88 Pocomo Road (15-42) SE48-2690
 Sitting Erisman, Golding, Engelbourg, Phillips, Beale, Williams
 Staff recomm. Work is in complete. Recommend issuing.
 Discussion (7:00) None
 Motion **Motion to Issue.** (made by: Williams) (seconded)
 Roll-call Vote Carried 6-0//Beale, Engelbourg, Erisman, Golding, Phillips, and Williams-aye
5. 21 Woodbury Lane Limited, Et al – 21,23,&25 Woodbury Lane (41-547,546,545) NAN-114
 Sitting Erisman, Golding, Engelbourg, Phillips, Beale, Williams
 Staff recomm. Work is in complete. Recommend issuing.
 Discussion (7:01)
 Motion **MTI** (made by: Engel) (seconded)
 Roll-call Vote Carried //Beale, Engelbourg, Erisman, Golding, Phillips, and Williams-aye
6. Keeting – 49 Red Barn Road(63-15) SE48-3262
 Sitting Erisman, Golding, Engelbourg, Phillips, Beale, Williams
 Staff recomm. This is a reissue.
 Discussion (7:03) None
 Motion **Motion to Ressue..** (made by: Engel) (seconded)
 Roll-call Vote Carried 5-0//Beale, Engelbourg, Erisman, Golding, and Phillips-aye; Williams recused

F. Orders of Condition

1. Nantucket Island Land Bank – 1,3,5,7,9,11,13,15,15A Miacomet Road (67-49,345,346,679,680,681,682) SE48-3480
 Sitting Erisman, Golding, Engelbourg, Phillips, Beale, Williams
 Documentation Draft Order of Conditions
 Staff Standard fill condition was left in. Condition 20 requires photos of the buffer zone current conditions.
 Discussion (7:04) None
 Motion **Motion to Approve as drafted.** (made by: Golding) (seconded)
 Roll-call Vote Carried 6-0//Beale, Engelbourg, Erisman, Golding, Phillips, and Williams-aye
2. Nantucket Memorial Airport – 14 Airport Road (88-15&16) SE48-3490
 Sitting Erisman, Golding, Engelbourg, Phillips, Beale, Williams
 Documentation Draft Order of Conditions
 Staff The fill condition requires soil from on site; that should be easy for the Airport. Condition 20 requires marking the path outside the fence.
 Discussion (7:06) **Golding** – Asked if any conditions need to be added.
Engelbourg – When MNH issues a letter, we attach it to our Order of Conditions; the requirement to revegetate will be in there. There was talk about demarcating outside the fence to prohibit traffic; wants to require signage to that effect.
Erisman – Some of the revegetated road will be outside the fence and experience deer browsing.
Jed Merrow – The Airport will be amenable to signage.
 Motion **Motion to Approve as amended.** (made by: Beale) (seconded)
 Roll-call Vote Carried 6-0//Beale, Engelbourg, Erisman, Golding, Phillips, and Williams-aye

3. Taccat, LLC – 14 Union Street (42.3.2-17) SE48-3492
 Sitting Erisman, Golding, Engelbourg, Phillips, Beale, Williams
 Documentation Draft Order of Conditions
 Staff Have standard fill and protocol conditions.
 Discussion (7:11) None
 Motion **Motion to Approve a drafted.** (made by: Williams) (seconded)
 Roll-call Vote Carried 6-0//Beale, Engelbourg, Erisman, Golding, Phillips, and Williams-aye
4. Still Dock Nantucket, LLC – 14 Oakland Street (59.4-255) SE48-3491
 Sitting Erisman, Golding, Engelbourg, Phillips, Beale, Williams
 Documentation Draft Order of Conditions
 Staff Requires a waiver or work within the 50’ buffer; have normal conditions.
 Discussion (7:13) None
 Motion **Motion to Approve as drafted.** (made by: Beale) (seconded)
 Roll-call Vote Carried 6-0//Beale, Engelbourg, Erisman, Golding, Phillips, and Williams-aye
5. Still Dock Nantucket, LLC – 40 Tennessee Avenue (59.4-84) SE48-3493
 Sitting Erisman, Golding, Engelbourg, Phillips, Beale, Williams
 Documentation Draft Order of Conditions
 Staff Same conditions as its sister project.
 Discussion (7:14) None
 Motion **Motion to Approve as drafted.** (made by: Beale) (seconded)
 Roll-call Vote Carried 6-0//Beale, Engelbourg, Erisman, Golding, Phillips, and Williams-aye
6. Laurretta Lane N.T. – 7 Laurretta Lane (14-53) SE48-____
 Sitting Erisman, Golding, Engelbourg, Phillips, Beale, Williams
 Documentation Draft Order of Conditions
 Staff The lines are pressure tested for leakage. No special conditions.
 Discussion (7:15) **Erisman** – Asked if we have monitoring components for these projects with longer pipes.
 Motion **Motion to Approve as drafted.** (made by: Williams) (seconded)
 Roll-call Vote Carried 6-0//Beale, Engelbourg, Erisman, Golding, Phillips, and Williams-aye
7. New England Development – 120 Wauwinet Road (11-17) SE48-3494
 Sitting Erisman, Golding, Engelbourg, Phillips, Beale, Williams
 Documentation Draft Order of Conditions
 Staff This is straight forward; no special conditions.
 Discussion (7:17) None
 Motion **Motion to Approve as drafted.** (made by: Beale) (seconded)
 Roll-call Vote Carried 6-0//Beale, Engelbourg, Erisman, Golding, Phillips, and Williams-aye
8. Bartholomae – 52 Tennessee Avenue (59.4-95) SE48-3495
 Sitting Erisman, Golding, Engelbourg, Phillips, Beale, Williams
 Documentation Draft Order of Conditions
 Staff Another septic upgrade with the same condition.
 Discussion (7:18) None
 Motion **Motion to Approve as drafted.** (made by: Phillips) (seconded)
 Roll-call Vote Carried 6-0//Beale, Engelbourg, Erisman, Golding, Phillips, and Williams-aye
9. Lenhart – 25 Dukes Road (41-530.2&530.3) SE48-3496
 Sitting Erisman, Golding, Engelbourg, Phillips, Beale, Williams
 Documentation Draft Order of Conditions
 Staff We need to resolve the knotweed management. Included photo monitoring and ceasing mowing. Suggested removing Condition 20 and setting it up for prior to the growing season requiring they come in with a plan. New Condition 20 requires a management plan prior to the growing season.
 Discussion (7:19) **Erisman** – Mowing isn’t a good management system; within the 25’ we want to cease the mowing.
Golding – Suggested phrasing so that the applicant comes in for a knotweed management plan.
Engelbourg – Wants to impress upon the applicant that mowing is better than nothing, but they are to bring us a well-thought-out management plan to eradicate the knotweed in the long term. Herbicide is not the only technique for removing knotweed; there are others.
Beale – Asked if there is a plant-specific spray.
Haines - Herbicide is the most effective. He’d have to do more research; he wants to talk to Mr. Engelbourg about options. Noted that sheep are good at eating invasives.
 Motion **Motion to Approve as amended.** (made by: Beale) (seconded)
 Roll-call Vote Carried 6-0//Beale, Engelbourg, Erisman, Golding, Phillips, and Williams-aye

- 10. Cohen & Christman – 24 Medouie Creek Road (40-2) SE48-3498
 - Sitting Erisman, Golding, Engelbourg, Phillips, Beale, Williams
 - Documentation Draft Order of Conditions
 - Staff This had the wall pulled at the last minutes. Added Finding 2 relates to the landscape walls. Condition 26 requires the walkway to be pervious.
 - Discussion (7:28) **Golding** – Asked for a provision for the pervious walkway; it doesn't say pervious on the plan.
 - Motion **Motion to Approve as amended.** (made by: Williams) (seconded)
 - Roll-call Vote Carried 6-0//Beale, Engelbourg, Erisman, Golding, Phillips, and Williams-aye

2. EXTENSION REQUEST

- 1. Town of Nantucket – F Street Pier SE48-3152
 - Sitting Erisman, Golding, Engelbourg, Phillips, Beale, Williams
 - Documentation SE48-3152
 - Staff Asking for a 1-year extension to February 2023.
 - Discussion (7:30) None
 - Motion **Motion to Issue the 1-year extension.** (made by: Engel) (seconded)
 - Roll-call Vote Carried 6-0//Beale, Engelbourg, Erisman, Golding, Phillips, and Williams-aye

3. Other Business

- 1. Approval of Minutes 12/16/2021 & 1/6/2022:
 - Motion **Motion to Approve the minutes as drafted.** (made by: Williams) (seconded)
 - Roll-call Vote Carried 6-0//Beale, Engelbourg, Erisman, Golding, Phillips, and Williams-aye
- 2. Monitoring Reports: None
- 3. Enforcement updates
 - a. Pocomo Neighbors
 - Sitting Erisman, Golding, Engelbourg, Phillips, Beale, Williams
 - App reps Art Gasbarro, Nantucket Engineering & Survey for Pocomo Neighbors
Arthur Reade, Reade, Gullicksen, Hanley, & Gifford LLP for Pocomo Neighbors
Seth Wilkinson, Wilkinson Ecological
 - Abutters Sarah Alger, Sarah F. Alger P.C, for abutters
Chris Kelly
 - Discussion (7:32) **Carlson** – There have been questions as to compliance and operation related to the Pocomo Neighbor project; the Commission did a field viewing. Questions centered around the sand delivery point.
Golding – He was disturbed by the abutters letters and wonders how to address that.
Erisman – This project highlights some unforeseen impacts of maintaining these types of projects and how we deal with that.
Gasbarro – There has been a request for him to provide distances of maintenance access from the access point, which is pretty close to the center of the project. Addressed the abutters letters; we've had on-going efforts to meet their concerns and kept the Commission up to date. Regarding damage to the set of stairs, he thinks ice flow pushing against the stairs caused the damage. Mr. Wilkinson was responsive and fixed the stairs. We've been responsive to storm water runoff.
Alger – The commission saw the extent of damage to the proprietor's road near the bank. Wattle has been put in but there's nothing to protect that. Neighbors either side of the project are bearing the brunt of sand delivery. She doesn't see how it can be allowed to continue. Letters from Mr. Kelly and Mr. St. Pierre made good points.
Kelly – Those of us who use that path want to support the efforts to shore up the bluff; we didn't anticipate the extent of damage to the area or the continual nature of the damage from efforts to restore the sand. The reference to sand delivery in the application isn't clear about the scope of traffic required for sand delivery.
Erisman – The damage isn't intentional but the on-going impact to the resource area is apparent.
Reade – He doesn't see why this is coming up under Enforcement. We have an Order of Conditions and Certificate of Compliance with on-going conditions. Many of the concerns are related to property rights, not ConCom jurisdiction.
Erisman – It's in this section because of on-going impacts that need to be addressed.
Wilkinson – The time when the sand was piled up on the access route was a result of stop-work orders resulting from COVID. Scheduling and access are conditioned in the Order of Conditions.
Kelly – His observation was citing the application which he feels failed to convey the impact to this area year after year.
Golding – He'd like to revisit the Order of Conditions. Wants to revisit delivery and requiring sand be delivered from the west end and not the Proprietor's Way.
Carlson – We're working off the Certificate of Compliance. We don't have the ability to amend or modify the initial permit because it's closed. The Certificate of Compliance allows maintenance in perpetuity. Our duty is to consider the environmental impact.
Golding – Any work within 100' of a resource area is within our jurisdiction. He wants to see everything pertinent to this.
Erisman – Coastal erosion projects tend to impact the neighbors more than anticipated. There's something that can be done with the Proprietor's Road especially at the top.

Kelly – Reiterated that the initial application letter didn’t adequately describe the impacts and asked Commissioner to look at that.

Reade – We are dealing with the Order of Conditions and specifically the Certificate of Compliance. The application is superseded by what happened during the hearing and the Order of Conditions.

Gasbarro – It’s important to understand how the initial application was followed up with many meetings and supplemental documentation. We did not dupe the commission. Last year he prepared a planting plan in an effort to change the route going in by adding curves. Pocomo Neighbors were unable to secure a contractor for the work, which would be outside ConCom jurisdiction; they have secured a contractor to do the work this year.

Phillips – She shares Mr. Golding’s need to go through the record; she wants to better understand what the actual circumstances were and what was allowed to be done. She’s concerned about the jurisdictional issues mentioned: impact on the neighbors; she has no reason to dispute what they have said about the impact on their lives. Outside 100’ is not within our jurisdiction. These types of projects often come down to perceptions, and expectations which might or might not end up in the Order of Conditions. This warrants further review and looking at the record.

Wilkinson – There has been unintended consequences; it was clear sand nourishment was to be annual versus every time the fiber rolls were exposed. It would be great if the Commission acknowledged what was in the Order of Conditions regarding the protocols of sand nourishment.

Alger – As you look at other erosion control projects in Pocomo, the Proprietor’s Road should not become the delivery point for sand nourishment.

Carlson – We figured out that the incident about sand taken around the point; everyone now understands the Proprietor’s Road is for this project only. It would be helpful to move forward with getting the permitting documents to Commissioners for their review.

Engelbourg – He hears the desire to review the record; he’s fine with that. He thinks we also need to recognize the reality that the permit history has played out. He thinks ConCom made a mistake in permitting this project but that isn’t relevant right now. He doesn’t see any enforcement issues with how the project is operating. He has had thoughts on how future projects should be permitted.

Continued to Feb 10.

Motion

Roll-call Vote N/A

4. Reports:

- a. CRAC, Golding
- b. CPC, Williams
- c. NP&EDC, Phillips

5. Commissioners Comment

- a. Golding – Asked if Mr. Carlson went to 22 Easton Street.

Carlson – He met with the site foreman; tomorrow he’s meeting with them, DPW and Public health to get it resolved or shut down.

- b. Erisman – She received an email from the Town Manager about a Coastal Resiliency Workshop. She will try her best to make it, but the logistics will make it hard to get off work. That’s March 7th and 8th. She’d like to attend as the ConCom chair.

Engelbourg – Asked if another representative could attend in her stead (yes). He’d like to go.

Carlson – This is the next step in the Coastal Resiliency Plan (CRP); it’s a 2-day workshop where ARCADIS works with everyone for an implementation plan for the CRP. The intent is to get 2 members of ConCom to go. It will be March 7&8 from 8:00 to 3:30. At the next meeting, you can decide who will go. If 4 ConCom members end up attending because of associations with other boards, he has to know in advance; he might have to post it as a ConCom meeting.

- c. Golding – Asked about the informal meeting scheduled for next Thursday. He doesn’t think he can make it and would like to meet with Special Counsel first. He looks forward to a discussion with no counsel present for either side.

Carlson – The request was for next Thursday if possible; there have been some questions about meeting with Special Counsel to talk about compliance. We also need time for the notice will to go out in time for the public can respond. If Thursday doesn’t work, he might shoot for February 17. He’ll get in touch with our Special Counsel Benjamin Tymann.

Erisman – She’s not available for the 10th and wants to talk to Special Counsel first.

6. Administrator/Staff Reports

- a. Fertilizer Advisory Committee met Tuesday, January 25th. The committee was on hiatus during COVID. He’s not on that committee; listed the members. In 2019 he and Mr. Santamaria had started putting together a revision to the fertilizer regulations that would allow inspection of places of business; it was ready to go to Town Council when the COVID shutdown came. He’s excited about getting back to it and getting it to NP&EDC. The Citizen Warrant Article to ban fertilizer has gotten people mobilized.

- b. Regarding Ms. Dodd’s position, we have an offer for employment out and are waiting for a reply

4. Adjournment

Motion **Motion to Adjourn at 8:43 p.m.** (made by: Golding) (seconded)

Roll-call Vote Carried 6-0//Beale, Engelbourg, Erisman, Golding, Phillips, and Williams-aye

Submitted by:
Terry L. Norton