

Conservation Commission

Meeting Minutes

Town Hall Lower Conference Room

24 Perry Ave., Buzzards Bay, MA 02532

March 2, 2017

I. Call to order

Chm. Gray called to order the meeting of the Conservation Commission at 7:00 PM on March 2, 2017. Chm. Gray explained all of the reviews, unless otherwise stated, are joint reviews. Applications will be processed pursuant to the Massachusetts Wetlands Protection Act, M.G.L. c. 131, s. 40 and pursuant to Article 3.7 of the Town of Bourne Wetlands Protection By-law.

Note: Chm. Gray addressed the audience and explained the 5, 5, 5 rule; which allows the applicant / representative five minutes to make a presentation to the Commission members, Commission members will take five minutes to seek clarification if needed, the conservation agent will also give a report and five minutes of public input is allowed. He asked for all to silence their cell phones.

Note: The meeting was being recorded anyone in the audience who was recording or videotaping was asked to acknowledge such to the Commission. The proceeding listing of matters are those reasonably anticipated by the Chair which may be discussed at the meeting. Not all items listed may be discussed and other items not listed may be discussed to the limited extent permitted by the Open Meeting Law. All items within the meeting agenda are subject to deliberation and vote(s) by the Conservation Commission.

Members Present: Robert Gray, Thomas Ligor, Paul Szwed, Susan Weston (7:15) and Elise Leduc.

Excused Members: Melvin P. Holmes and Rob Palumbo.

Also Present: Sam Haines, Carol Mitchell, Jim Mulvey, Barbara Frappier, Zac Basinski, Dawna Gauvin, Darryl Gauvin, Shawn MacInnes, Robert Sinclair, Bradley Bertolo, Tara Nye, Justin Lamoureux, David Darling, Karen MacLachlan, Dennis Kelly, Brian Murkland, Debra Robbins Pedro Hernandez, Tara Nye, Dan Selene and Brenna Sullivan.

Notice of Intent:

1) David Darling

File # SE7-1970

Representative: Horsley Witten Group, Inc.

25 Perry Ave, Buzzards Bay

To develop a five-story, 100 unit Hampton Inn and related appurtenances within an AE Flood Zone and within 100 feet of a Wetland Resource Area.

(Continued from February 16, 2017 Hearing)

Materials Reviewed – Plan entitled “Hampton Inn by Hilton Perry Avenue, Buzzards Bay, MA”, prepared by Horsley Witten Group, dated February 2017; Plan entitled “Franchise Hotel, 25 Perry Avenue, Buzzards Bay, MA”, prepared by Horsley Witten Group, dated January 2017, March 2, 2017 letter from Coastal Engineering Co. entitled “Peer Review: Stormwater Management Systems” and signed by Taria L. McGrail, P.E.; “Kendall Court Definitive Subdivision Plan, 25 Perry Avenue, Buzzards Bay, MA”, prepared by Horsley Witten Group, dated February 2017. C-7: “Grading and Drainage Plan” prepared by Horsley Witten Group, dated February 2017; “Kendall Court Subdivision Plan Buzzards Bay Bourne, Massachusetts, 2 of 2 Proposed Conditions Drainage Map” prepared by Horsley Witten Group, dated February 2017.

Justin Lamoureux of Horsley Witten and David Darling addressed the board. Mr. Haines stated the previous hearing was continued to allow the applicant time to address storm water issues. Mr. Lamoureux discussed comments they received from the peer review, stating a revised plan addressing those concerns would be submitted the following day. He briefly discussed the reviewer’s concerns with regard to storm water drainage and ponding on the roadway, isolated low points created by the road, the proposed grading, drainage pipes, the appendix with regard to the Hydro CAD, storm water underground inspection ports, soil testing and catch basin details.

A brief discussion transpired with regard to the demolition of the buildings on the nearby parcel as well as the revised hydrology plan for the entire site.

Board Comment - Mr. Ligor asked if they’ve considered the possibility that in the outlined depressed areas water may be retained over time creating an isolated Wetland Resource Areas. Mr. Lamoureux stated they’ve considered that possibility. He mentioned that three or four years ago there was a question as to whether or not the area was a wetland. They used hand augers and found no hydric soil. Based on the ground water levels, it would be highly unlikely, but he’s not saying that couldn’t happen. A discussion ensued.

Agent Comment – Mr. Haines briefly discussed the recommendations resulting from the peer review. He stated they are coordinating with the Planning Board; therefore, if the Commission feels they can issue an Order with conditions, it wouldn't be valid without Planning Board approval. Mr. Haines discussed with the representative another concern that was raised at the last meeting with regard to the potential of a Coastal Bank being created as a result of all the fill that will be used. He stated the Commission will have to take this into consideration whether they want to condition it such that Coastal Banks created by fill in order to meet building code standards, aren't subject to the 50 foot setback. It's an unusual situation with this type of Coastal Bank which doesn't currently exist during the permitting process, but could potentially be there for future design measures.

Additional Board Comment – Ms. Leduc asked the representative to point out the areas on the plan where he had performed soil testing and asked if the results were consistent with each location of testing. Mr. Lamoureux stated all of the red squares on the plan are the testing locations. He stated in terms of groundwater they were consistent; in terms of soil, the results showed some areas contained canal material. Ms. Leduc asked if there is a grain size that they are required to stay within when applying the fill. Mr. Lamoureux discussed the geotechnical engineer's report and his recommendation.

Public Comment – Abutter, Karen McLachlan, expressed her concern with runoff from larger storms flooding her property. Mr. Lamoureux explained the Storm Water Plan.

With no further discussion, Chm. Gray entertained a motion to close the public hearing. **Mr. Ligor moved and Mr. Szwed seconded to close the public hearing.** The motion carried 4-0-0

Mr. Haines - Draft Order of Conditions: All General Conditions, Special Conditions pursuant to M.G.L. Chapter 131, Section 40 numbers 1, 2, 3, 5-7, 9, 12, 13, 16-22, 24, and Special Conditions pursuant to the Town By-law numbers 4, 7, 8, 9 as well as the additional Special Conditions; 1) the applicant must obtain any necessary easements before performing work on abutting parcels owned by the Town of Bourne or the United States government, proof of federal and local approval must be submitted to the Commission prior to work on those parcels, 2) the Order is not valid until the Town of Bourne's Planning Board has completed the peer review on the Storm Water Management System and has approved the project as designed, 3) should the project create Coastal Bank under DEP policy; 92.1 as a result of filling within an AE Flood Zone, these banks would not be subject to the 50 foot setback under the By-law.

With no discussion, **Mr. Ligor moved and Mr. Szwed seconded to move the Draft Order of Conditions to the Final Order of Conditions.** The motion carried. 4-0-0.

Request for Determination of Applicability:

1) Robert McLaughlin

File # CC17-004

Representative: Shawn MacInnes, LLC

63 Eel Pond Road, Pocasset

To repair a septic system within an AE Flood Zone and within 100 feet of a Wetland Resource Area.

Materials Reviewed – Site Photographs, Site Plan of Record and DEP Wetlands Change Mapping.

Shawn MacInnes addressed the board and discussed the proposed project; a general septic repair.

Board Comment – Ms. Leduc asked if the town has a setback requirement for a septic tank. Mr. MacInnes discussed the requirements and described the layout of the proposed site.

Agent Comment – Mr. Haines stated the site does grade toward the saltmarsh, his only recommendation is that erosion controls be placed on the southwest side of the residence. Mr. Haines has no other issues with the project.

Public Comment – None.

Chm. Gray entertained a motion. **Mr. Ligor moved and Ms. Weston seconded a Negative Two Determination.** With no discussion, the motion carried 4-0-0.

2) Natalie Jackson Thrasher

File # CC17-002

Representative: Gauvin Building & Contracting, Inc.

21 Little Bay Lane, Buzzards Bay

To expand an existing deck within 100 feet of a Wetland Resource Area.

Materials Reviewed – Site Photographs, revised Site Plan of Record, Google aerial photograph and DEP Wetlands Change Mapping.

(Continued from February 16, 2017 Hearing)

Dawna and Darryl Gauvin of Gauvin Building & Contracting, Inc. addressed the board. She stated they've submitted a revised plan which now outlines the estimated shed setback. Ms. Gauvin explained that in order for the proposed deck to stay within the shed setback, they've eliminated a row of footings and brought the last row in. The deck is cantilevered outside the lawn but all of the hand digging will take place within the area.

Board Comment – Ms. Weston questioned the difference between the revised plan and the original plan. Ms. Gauvin explained the differences in the two plans. Mr. Haines referred to the diagram he drafted and discussed the revisions. Ms. Weston asked for clarification on the Commission's objective when asking for the revision. Mr. Haines stated as he understood it, it was their objective to keep all ground disturbance behind the shed.

Ms. Leduc stated a concern was raised at the last meeting with regard to setting a precedent for allowing something to encroach closer to the Coastal Bank than they otherwise would simply because there's a shed there. She asked whether or not the shed was ever before the Commission to be permitted and expressed concern that a property owner can place a shed close to the bank to allow them to put future buildings closer to the bank. Mr. Haines stated he did not find any permitting for the shed; though it was not recently installed. A discussion ensued.

Agent Comment – Mr. Haines briefly discussed his meeting with the applicant at the site. He stated if the Commission decides to go with the precedent of the shed, which is an existing structure on the site, he suggests a Negative Three Determination with a Condition that the foundation footing may extend no further from the existing deck than 14 feet.

Additional Board Comment – None.

Public Comment – Abutter, Jim Mulvey, addressed the board and provided background with regard to the previous deck which was converted into a sunroom leaving only 4' of deck space. He stated he is not opposed to the homeowner's desire to extend the deck; however, he objects to the size being larger than 10 – 12 feet. Mr. Haines informed Mr. Mulvey that it's the placement of the footings that's been revised; the deck will be extended as designed to almost where they originally planned it. A discussion ensued.

Chm. Gray entertained a motion. **Mr. Ligor moved and Mr. Szwed seconded a Negative Three Determination with the additional Special Condition that the foundation footings may extend no further from the existing deck than 14 feet.** With no discussion, the motion carried. 3-1-0. Ms. Weston opposed.

3) Valeri Construction

File # CC17-003

Representative: Warwick & Associates, Inc.

188 Captains Row, Mashnee

Install a new Title V septic system within a V Flood Zone and 100 feet of a Wetland Resource Area.

Materials Reviewed – Site Photographs, Site Plan of Record, Engineer Stamped Plan and DEP Wetlands Change Mapping.

(Continued from February 16, 2017 Hearing)

Barbara Frappier addressed the board and discussed the proposed project.

Board Comment – None.

Agent Comment – Mr. Haines stated the replacement of the septic tank will take place within an existing gravel driveway. It will be located as far away from the Resource Area as can be achieved on the lot. The lot was created prior to 1995. The BOH has a supplied a letter stating the septic system has failed and needs to be updated. The only issue Mr. Haines has is it is an upgrade within a Velocity Zone. It appears to be allowed under the state act and Title V; however, section 3.74 of the By-law contains language regarding work performed in a Velocity Zone. It states that an engineer must certify in writing that the project has been designed to prevent damage to the Wetland Resource Area. A written certification was not submitted as part of the filing. Mr. Haines questioned how the Commission has handled similar filings in the past. Chm Gray stated it's never been applied to a septic system. That language was inserted into the By-law for items such as buildings, revetments, docks etc. The only time he recalls a certification being required pertained to home construction and generally, if the plan showed compliance with FEMA, the state building code and was prepared by a professional engineer, the engineers stamped plan was accepted as proof that the By-law requirement was met. He recalled that the only major project where an engineer certified a massive structure in a Velocity Zone was at Mass. Maritime.

After a brief discussion with regard to the By-law, Chm. Gray asked for public comment. There wasn't any.

Chm. Gray entertained a motion. **Ms. Weston moved and Mr. Ligor seconded a Negative Two Determination.** With no discussion, the motion carried 4-0-0.

Notice of Intent:

2) Dennis Kelly

File Number: SE7-1971

Representative: JC Engineering, Inc.

15 Mashnee Road, Bourne

To raze the existing dwelling and construct a new dwelling with all associated utilities within an AE Flood Zone and Riverfront Area.

Materials Reviewed – Site Photographs, Site Plan of Record and DEP Wetlands Change Mapping.

Chm. Gray recused himself and asked Mr. Ligor to chair the meeting.

Brad Bertolo of JC Engineering addressed the board and discussed the proposed project. He discussed the property's location and the fact that the proposed structure will be flood compliant. Additionally, he discussed the need to replace the septic system.

Board Comment – None.

Agent Comment – A site visit was performed on February 24, 2017, he stated the site has been recently cleared; most of the trees on the site have been removed. Mr. Haines spoke with the building inspector who informed him the existing structure has been condemned and demolition of the structure is required. The deck appears to be closer to the Riverfront Area than any previous structure; however, there's an exemption for decks in existing landscaped areas under 10 CMR 10.2; which he feels applies to this project. Other than the unpermitted tree work, there are no issues with the project.

A brief discussion transpired with regard to the proposed location of the new structure and its proximity to the Riverfront Area.

Public Comment – None.

Mr. Ligor entertained a motion to close the public hearing. **Ms. Weston moved and Ms. Leduc seconded to close the public hearing.** With no discussion, the motion carried. 4-0-0.

Mr. Haines - Draft Order of Conditions: All General Conditions, Special Conditions pursuant to M.G.L. Chapter 131, Section 40 numbers 1-6, 9, 12, 13, 16-22, 24, and Special Conditions pursuant to the Town of Bourne Natural Resources By-law numbers 7, 8, 9 and Special Conditions 20 & 24 shall continue in perpetuity.

With no discussion, **Ms. Weston moved and Mr. Szwed seconded to move the Draft Order of Conditions to the Final Order of Conditions.** The motion carried. 4-0-0.

3) Steven L. Candela

File Number: SE7-1964

Representative: Bracken Engineering, Inc.

41 Harbor Drive, Pocasset

Permitting a modified pier/float system on an existing stone groin within a V Flood Zone and Wetland Resource Area.

Materials Reviewed – Site Photographs, Site Plan of Record, Alternative Site Plans and DEP Wetlands Change Mapping.

(Continued from February 16, 2017 Hearing)

Zack Basinski of Bracken Engineering addressed the board and recapped the proposed project as previously discussed at the February 16, 2017 hearing. Mr. Basinski presented two alternatives from the previously submitted proposal; the first alternative, labeled option 2, is reconstructing the pier in accordance with the Chapter 91 license that was approved. The representative doesn't feel that this is an environmentally sensitive design even though this was what was previously approved by the Commission under a previous RDA. The representative discussed the definition of hardship as defined in article 3.7 of the town's By-law and how he feels it applies to this project. Mr. Basinski then discussed option 1 which is the design that the property owner prefers to do based on comments that came back from the Division of Fisheries and Wildlife as well as comments received from the Commission during the previous hearing. Mr. Basinski asked the Commission to consider the hardship he discussed and asked them to perform a site visit. He would like to continue the matter to the next meeting.

Board Comment – Ms. Weston asked if basically the float will remain the same except for the proposed extension of the ramp. Mr. Basinski stated yes.

A brief discussion transpired with regard to the length of the proposed ramp and the depth of the water.

Mr. Ligor questioned how the structure could be classified as a float when float stops are proposed to be installed on the pipe piles on the pier. Ms. Basinski replied that it meets the definition of a float because it will be floating at Mean High Water.

Ms. Weston asked Mr. Basinski to explain option 2. Mr. Basinski stated option 2 is to rebuild the structure exactly as it was. This does not eliminate the problem of the applicant's boat that will sit on the sea floor during certain times of the tide. This was a concern noted in the comments from the Division of Fisheries and Wildlife.

Ms. Leduc asked why he couldn't move the float stops 8 feet back and have less use of the dock during certain times of the tides. Mr. Basinski stated this will not prevent the applicant's boat from sitting on the sea floor at certain times.

Agent Comment – Mr. Haines explained that the regulations prohibit modifications of an existing pier that is located within a V Zone. Even though there are issues, he feels the Commission would be setting a serious precedent by allowing any modification of a dock or pier within a Velocity Zone. Mr. Haines feels the Commission needs to be very aware that decisions made on this may set precedent on future dock/pier issues.

Mr. Basinski stated although it may not have been the intent of the Commission at the time of the application, he feels a precedent was set when the Commission allowed the direct abutter to relocate their float and expand it.

Mr. Basinski asked to continue the hearing to March 16, 2017.

Ms. Leduc moved and Ms. Weston seconded to continue the matter to March 16, 2017. With no discussion, the motion carried. 4-0-0.

Ms. Weston asked if Mr. Haines had an opportunity to review the neighbor's filing. Mr. Haines stated there was expansion allowed at 43 Harbor Drive. He reviewed the minutes of August 18, 2011, which state after the hearing was closed, a member of the public asked what happened and whether the Commission allowed expansion within the V Zone. The minutes indicate that the Commission may have misinterpreted the regulations. They would review the regulations in an attempt to resolve the issue, but at that time, the public comment came after the hearing was closed and the Order was issued.

Mr. Haines will coordinate a site visit with Commission members.

Request to Amend Order of Conditions:

1) Debra Robbins

DEP File Number: SE7-1897

Representative – Bracken Engineering, Inc.

14 River Road

To Amend the Order of Conditions SE7-1897 to revise A/C and generator locations; modify the deck to a screened porch, relocate porch steps, install a landscape wall, pervious patio and walkways within land subject to coastal storm flowage, Riverfront Area and within 100 feet of a Wetland Resource Area.

Materials Reviewed: Site Photographs, Site Plan of Record and DEP Wetlands Change Mapping.

Zack Basinski addressed the board. He stated the current owner, Debra Robbins, took over the construction of the house. He discussed some modifications that Ms. Robbins performed without filing for an amendment to a previous Order of Conditions, which is one of the reasons why they are before the Commission now. Additionally, they would like to install a retaining wall at the back portion of the house and a patio. Mr. Basinski briefly discussed an Enforcement Order that was previously received for some clear cutting which has since been addressed.

Board Comment – Ms. Leduc asked if the A/C unit has already been installed. Mr. Basinski stated it has, adding that it wasn't shown on the original plan that was approved.

Ms. Weston asked if this was a new house. Mr. Basinski stated yes it was a new house. A brief discussion transpired with regard to the location of the porch steps.

Agent Comment – Mr. Haines stated the stairs and generator are already in place on the site. They are in violation of By-law Special Condition #4 from the previous Order regarding no accessory structures within 50 feet of the Wetland Resource Area. Mr. Haines doesn't believe they are a risk to the Resource Area; however, the Commission will have to make a determination on those structures that are already in place. Mr. Haines wanted to make it clear to the applicant that any further accessory structures will result in enforcement. Mr. Haines spoke with the Building Department and the dwelling did receive an occupancy permit as currently constructed. Mr. Haines also discussed storm water runoff. He doesn't feel there will be a substantial difference in storm water runoff as a result of pavers vs. grass. Mr. Haines stated he does not have an issue with the

retaining wall. He feels it will provide a clear delineation between the restoration area that was required under a previous Enforcement Order and the grass area. It appears to comply with the setbacks from the Restoration Planting Plan from July 2014 which was created as a result of that Enforcement Order. If the Commission issues an Amended Order of Conditions, Mr. Haines recommends the following Conditions; 1) this Order allows for the relocation of stairs, screened porch, placement of generator, retaining wall to delineate the restored vegetated buffer, grading and a construction of pervious paver patio and walkway within the Resource Area buffer zone and the Riverfront Area, 2) this Order does not allow any vegetation clearing or vista pruning within the 30 foot restored buffer between the delineated saltmarsh and the proposed retaining wall.

Board Comment – A brief discussion transpired with regard to the previously approved deck that was converted to a screened porch. Ms. Weston mentioned that prior to the conversion, the deck was not in the 50 foot buffer zone, but it is now. Mr. Haines stated the screened porch is slightly larger than the former deck was and on the original plan, the stairs came off the side.

Ms. Leduc stated the Commission could approve this with Conditions; but asked, what if they didn't approve it? Is there a fine? Would the porch have to be removed? Mr. Haines stated he'd have to review the proper procedure to enforce this issue; but at this point, the Commission may vote not to allow the amendment.

Ms. Weston stated it may seem minor; but she has a problem with one plan being submitted to the Commission and a different plan being submitted to the Building Department. Mr. Haines stated another option could be to require additional mitigation.

Ms. Robbins stated she bought the lot with the plan; she wasn't the one who previously came before the Commission. She didn't like the original proposed location of the stairs and had no idea she'd need approval to change the location.

Public Comment – Robert Sinclair, representing the owners of Mooring Basin Lane, addressed the Committee. He stated their main concern is encroachment on any of the lots on Mooring Basin Lane. He asked for a copy of the plan so that he may review it with the owner of Mooring Basin Lane. Mr. Basinski stated he would supply him with a copy.

Mr. Ligor entertained a motion to close the public hearing. Ms. Leduc stated she doesn't feel comfortable closing the hearing; she feels it is wrong for an applicant to submit a plan for approval, turn around and build whatever they want and then come before the

Commission for approval. Mr. Haines stated the Commission may either allow or deny the amendment. He stated an enforcement could be issued, the stairs would have to be removed and the generator facility would have to be taken outside the 50 foot because they aren't in compliance with the Order of Conditions. He stated a Certificate of Compliance can't be issued as currently shown which is why they came forward requesting an amendment.

Mr. Ligor asked if the entire house is on a standby generator, if it's operated by natural gas and if the gas and electrical components are underground. Ms. Robbins stated yes to all three questions. He noted that she would have to tear all that out if the amendment isn't issued. She acknowledged that and added that the A/C condenser line and the conduit line for the generator would also have to be moved which are located under the slab.

A discussion pertaining to the violation ensued.

Mr. Haines asked if there has ever been a precedent for mitigation in the past as opposed to having to move the structures. He stated if the Commission is looking to reduce the adverse impact to the Wetland Resource Area, allowing the applicant to increase the restored native vegetation between the Pocasset River and the house may be a consideration.

Mr. Basinski discussed a possible solution and asked for a continuance to allow him to prepare a new plan.

Ms. Leduc thought the mitigation suggestion seemed fair. A brief discussion concerning the proposed solution transpired.

Mr. Basinski requested a continuance to the March 16, 2017 meeting.

Ms. Leduc moved and Ms. Weston seconded to continue the hearing to March 16, 2017. With no discussion, the motion carried. 4-0-0.

Chm. Gray returned to chair the meeting. Mr. Szwed recused himself from discussion and vote.

- 2) Massachusetts Maritime Academy
DEP File Number: SE7-1936
Representative: Horsley Witten Group, Inc.

101 Academy Drive, Buzzards Bay

To amend the Order of Conditions for filing SE7-1936 to remove invasive plant species and replace with native plant species in an AE Flood Zone, V Flood Zone and within 100 feet of a Wetland Resource Area.

Materials Reviewed – Site Photographs, Existing Plant Removal Plan L1, dated August 24, 2016.

Project Manager, Pedro Hernandez, along with Tara Nye and Dan Salene addressed the board and discussed the proposed project. He is requesting to revise the Order of Conditions to remove some of the invasive species outside the limit of work. Ms. Nye referred to the plan and discussed the property line (depicted by a red line on the plan), the limit of work in the original Order and the location of the proposed area outside the limit of work. She discussed the various types of invasive species and the proposed plan to effectively remove them.

Board Comment – Ms. Weston noted that the red line on the plan is the property line. She asked what the blue line on the plan represents. Ms. Nye stated the blue line represents the Resources; i.e., saltmarsh, Coastal Dune and Coastal Bank. The dotted lines represent the 50 foot buffer from the Resource Areas and the farthest line on the plan represents the 100 foot buffer from the Resource Areas.

Ms. Weston asked who owns the land on the other side. Mr. Hernandez offered a brief history on the land and stated MMA requested a limit of work last year on property owned by the academy, somewhere between the Order of Conditions and now, a deed study was performed which shows that the marsh and everything down to the Mean Water Line is owned by the academy. They are just extending the removal of invasive species outside the original limit of work.

Chm. Gray stated the town always thought the land was town owned; however 3-6 months ago, town counsel and the applicant's counsel performed a deed search and could not find any instrument that showed there was a formal conveyance of that property to the Town of Bourne. A discussion ensued.

Ms. Leduc asked what types of plants they will select for the replanting. Dan Selene, the landscape architect, reiterated the details of the proposed project. He referred to the Bid Plan and discussed two alternate plans that were discussed in case funds were available; Bid Alternate #1 would eradicate the invasive species and the area would be seeded with native grasses. In Bid Alternate #2, in year two, native shrubs would be planted in the

seeded area, this would be after the seed has grown in, to ensure no invasive species have returned to that seeded turf. Mr. Selene stated presently, the academy only has enough funds to complete Bid Alternate #1. Mr. Haines explained that when he issues the COC, it's issued based on the plan that was submitted; landscape plan, L2. If that's the plan the applicant wants the Commission to approve, then what's on the plan has to be in place as part of the Certificate of Compliance process. Mr. Selene questioned whether or not the hearing should be continued to allow time for a revised plan to be drafted. Mr. Hernandez stated the academy would prefer not to continue the matter, especially since the contractors will return after the winter is over to begin the process to remove the invasive species. He stated they will still comply with the plan to remove the invasive species and replace them with a native plant species. A modified plan will be submitted specifying that the plantings will be native grasses.

Chm. Gray referred to the submitted plan which is color coded to define the types of invasive and non-invasive plantings that are growing in the limit of work and asked if the non-invasive species will remain. Mr. Selene stated yes, only the invasive species will be removed. Chm. Gray asked if someone will be supervising the landscape crew to ensure that only the invasive species are removed. Mr. Selene stated the contractor who's undertaking this work is experienced with working in Coastal Zones. Additionally, a consulting team will see to it that the existing native plants are identified prior to the commencement of work. A brief discussion ensued.

A brief discussion transpired concerning cadets from the academy participating in the proposed project.

Mr. Haines asked what the time line is for this management program. Mr. Selene stated typically, this type of work takes 3 years. The first year the plants are removed and the area is seeded with native seed. The seeds are allowed to grow in over two growing seasons. During the period that the grass is maturing, they will watch for any invasive regeneration and treat any with herbicide. He stated over a couple of cycles, he has found this to be a successful method in eliminating invasive plants.

Mr. Haines stated his concern with the timeline is two-fold; the first being the two year Management Plan under this Order probably isn't enough time to deal with the invasive species. On the other side of that, he doesn't want there to be an open ended Management Plan. Mr. Haines stated MMA has an excellent landscaping program, they keep their lawns and grounds well-manicured, and he does not want to see that on these Coastal Banks. He is concerned that the Coastal Banks will become a lawn. A discussion ensued.

A brief discussion transpired concerning the Draft Order of Conditions.

Public Comment – Jim Mulvey questioned the purpose of disturbing natural, wild vegetation, stating invasive species can provide sustenance for wildlife and insects. He doesn't understand why state funds will be used for this purpose on land that isn't going to be utilized. Chm. Gray stated there's a general mandate from the state to eliminate invasive species whenever possible. Everything the applicant has identified for removal is on the state's list of species they want removed. A discussion ensued.

Mr. Mulvey stated he subscribes to the invasive explanation in general but in this case, the invasive plants are contained on one side by a salt water bay and on the other by development of the academy. He stated they have nowhere to invade other than where they currently exist. Additionally, he mentioned that this is the same area within the last couple of years that the academy proposed for hauling in the dredging material from the new proposed marina and depositing it there. He questioned their motivation and hopes at the very least that a Condition be added prohibiting change to the topography and no change of the present use of the land involved. Chm. Gray stated there is nothing proposed to change the topography.

Mr. Haines asked what type of equipment will be used. Mr. Selene stated typically a small excavator is used or at times a chain is sometimes tied around a larger plant to assist with the removal; there will not be any earth disturbance. Mr. Haines stated under the Wetlands Protection Act and the town's By-law, they couldn't change the topography; that would result in a violation. He has it written that the Amended Order allows for the management of the invasive species of the plant only.

Ms. Leduc questioned the use of a chain and asked if the plants will be removed by their roots or are they being cut and the debris will be removed with a machine. Mr. Haines stated he doesn't recall the narrative mentioning the chain method being used for removal; he recalls it was all cut. Ms. Nye stated she doesn't think there's anything big enough requiring removal with a chain. She added, the easiest method is to cut and paint the stem with herbicide. A discussion ensued.

Mr. Mulvey asked if tracked vehicles will be allowed on the site. Ms. Nye stated there will not be vehicles on the site. Mr. Haines stated there will be management mowing allowed on the bank. A discussion transpired with regard to the process of removing the Japanese Knotweed that is growing on the bank.

A brief discussion transpired with regard to the expiration date of the original Order of Conditions.

Mr. Mulvey suggested that there be some degree of oversight. Mr. Haines stated this can be discussed further once the hearing is closed but that relates to Chm. Gray's earlier question with regard to the landscape crew being supervised to avoid the removal of native species.

Chm. Gray entertained a motion to close the public hearing. **Ms. Weston moved and Mr. Ligor seconded to close the public hearing.** With no discussion, the motion carried. 4-0-0.

Mr. Haines - Draft Amended Order of Conditions: All General Conditions, the L2 would be removed from the Draft Order as currently written. Special Conditions pursuant to M.G.L. Chapter 131, Section 40, numbers; 1, 2, 3, 9, 11, 12, 13, 16-24, and Special Conditions pursuant to the Town By-law numbers 7, 8 and 9 as well as the additional Special Conditions; 1) this Amended Order allows for the management of invasive species only within the area identified as Bid Alternate #1 as shown on the plan entitled Existing Plant Removal Plan L1, dated August 24, 2016, 2) no native vegetation shall be removed as part of this project and all invasive management activity shall be conducted so that they avoid impacts to native vegetation to the extent practicable, 3) any disturbed vegetation must be reseeded with a native seed mix, the seed mix must be approved by the Commission or its agent prior to any work being performed.

A lengthy discussion transpired concerning the presence of an environmental monitor being required. Mr. Ligor expressed his concern that requiring a monitor for this project will set a precedent with future filings.

After further discussion, the Commission decided to vote separately on whether or not to add a fourth Special Condition.

Mr. Haines stated Special Condition #4 would read as follows; 4) an environmental monitor will oversee the invasive species management activities, the monitor must be approved prior to the management activities.

Ms. Weston moved and Ms. Leduc seconded to include Special Condition #4 in the Amended Order of Conditions. With no further discussion, the motion carried. 3-1-0. Mr. Ligor opposed.

Chm. Gray entertained a motion to move the Amended Draft Order of Conditions as Mr. Haines previously discussed to the Final. **Ms. Weston moved and Ms. Leduc seconded to move the Draft Amended Order of Conditions to the Final Amended Order of Conditions.** With no discussion, the motion carried. 4-0-0.

Request for Certificate of Compliance:

2) Michael & Mary Perra
DEP File Number: SE7-1943
Representative: Same
29 Back River Road

Construction of a barn within 50 feet of a Wetland Resource Area.

Agent Comment – A site visit was performed. Mr. Haines stated other than a small area of unstabilized soil, which does not appear to be a risk to the Resource Area, there were no issues. Mr. Haines recommends issuing the Certificate of Compliance.

Ms. Weston moved and Mr. Szwed seconded to issue the Certificate of Compliance. With no discussion, the motion carried. 4-0-0.

Other Business:

- Discussions- None.
- Revisions to the Bourne Conservation Commission's Special Conditions- Deferred
- Revisions to the Bourne Conservation Commission's Flood Zone Policy - Deferred
- Vote excused Absent Members, if necessary – Deferred
- Acceptance of Previous Meeting Minutes – Deferred
- Report of the Conservation Agent – None.
- Correspondence – None.
- Any other business that may legally come before the Commission – None.
- Questions and Answers re: M.G.L. Chapter 131 s. 40 and 310 CMR 10.00-10.99 – None.
- Questions and Answers re: Town of Bourne Wetland Protection By-law (Article 3.7) and BWR 1.00-1.16 – None.

II. Adjournment

Ms. Weston moved and Mr. Szwed seconded to adjourn. With no discussion, the motion carried. 4-0-0. The meeting adjourned at 9:48 PM.

Minutes submitted by: Carol Mitchell