

Present: Chairman DeeDee Holt, John Geiger, Billie Bates (4:10 PM), Paul Chamberlin and Bob Lear, Assistant Conservation Agent Lara Slifka and Secretary Mary Fougere.

Absent: Commissioner Carol Scott and Conservation Agent Kristin Andres

83 Seagull Road, Outermost Harbor Marine Realty Trust, Francis Facchetti, Trustee, SE 10-2668: The hearing was re-opened for a Notice of Intent (NOI) for the proposed repair of 326 feet of existing licensed bulkhead on the northeastern side of the marina at 83 Seagull Road. **At the Applicant's Request, the Commission unanimously voted to grant a continuance of the hearing to October 27, 2010 to allow time for the applicant to file with MESA.**

Between 1566 & 1610 Main Street (The Captain George N Harding Conservation Area), Town of Chatham-owner/applicant, SE 10-2671: The hearing was re-opened for an NOI for the receipt of a file number from DEP and NHESP response for proposed land management including invasive species removal and replanting of native species at The Captain George N Harding Conservation Area. A file number had been received. **The Commission unanimously voted to grant the applicant's request for a continuance to October 20, 2010 to allow time for NHESP to comment on the application.**

Parcel P17 Orleans Road & 15 Pursel Drive, SE 10- 2675:The hearing was re-opened for an NOI for the for receipt of a file number from DEP for proposed pruning & trimming of vegetation with inclusion of long-term maintenance clause on Pcl P17 Orleans Road & 15 Pursel Drive. A file number had been received; **it was moved, seconded and unanimously voted to close the hearing.**

428 & 434 Old Comers Road, Harriet Whiting & David Foster & Kristine Etter-Foster-owners , Town of Chatham-applicant, SE 10- 2677: The hearing was re-opened for an NOI for receipt of a file number from DEP for the proposed renovations to Lovers Lake fishway associated with Ryders Cove Herring Run at 428 & 434 Old Comers Rd. A file number had been received; **it was moved, seconded and unanimously voted to close the hearing.**

205 Champlain Rd, George & Margaret Seybolt, SE 10- 2672: The hearing was re-opened for an NOI for the receipt of a file number from DEP for proposed replacement of wastewater pump chamber pursuant to an Emergency Certification, and proposed replacement of landscape retaining wall at 205 Champlain Rd. A file number had been received; **it was moved, seconded and unanimously voted to close the hearing.**

3 Lady Slipper Lane, Stello Construction-applicant, Cheryl Lubin-owner, SE 10-2657: The hearing was re-opened for an NOI for the proposed revision to Notice of

Intent application under SE 10-2657 to include proposed view pruning with long-term maintenance at 3 Lady Slipper Lane The Construction portion of the proposal requires a Special Permit and the project is scheduled on the ZBA agenda for Oct 14, 2010.

Representative: No one was present

Documents to be reviewed:

- Site plan dated 7-19-2010 revised 10-6-10, prepared by Clark Engineering LLC

It was moved, seconded and unanimously voted to continue the hearing to October 20, 2010 since the Commission had questions regarding the view corridors shown on the plan.

Violation re: 303 Old Queen Anne Rd, Abel: Seth Wilkinson of Wilkinson Ecological Design was present to follow up on the violation at 303 Old Queen Anne Road. For the record, the Chair expressed her appreciation to Seth for following through and getting the Land Management Plan to the Commission. She also stated that the scope of the violation is extensive, the condition of the inland bank is such that if the applicant becomes non-compliant, the Commission will levy fines of \$300.00 per day until the matter is resolved. She asked that Mr. Wilkinson convey the seriousness of the issue to the applicant and that there be little delay in the implementation of the restoration.

Mr. Wilkinson agreed and compared the scope of this violation to one in Brewster three years ago that was the subject of several newspaper articles. He noted that there is not much lead time for him to implement the management plan but he felt that if the plants can be ordered by the end of October, the restoration planting could be completed by Thanksgiving at the end of November. His associate Doug Guey-Lee will be in charge of the project. The hardest thing to replicate will be the 26" Black oak at the base of the inland bank.

The removal of the debris will be the most challenging aspect of the project. The fact that all the staking and planting work is on a slope will also add to the challenge. Viable native species that have re-sprouted and several oaks will be saved. Mr. Lee will work with Bartlett Tree Experts to determine the status of all oak clusters; by trimming the oak clusters to one or two main stems and allowing them to grow is the fastest way to restore the oaks that were providing canopy.

Discussion ensued regarding the particulars of the Land Management Plan dated October 5, 2010. The proposed plant list species, need for canopy, size and density of planting, the use of machinery to remove the debris, ability to secure plants and the obtaining of a contract from the applicant were reviewed. Mr. Wilkinson noted that there is no erosion issue now since it appears that the duff layer was undisturbed.

Mr. Wilkinson stated that the restoration will be a three part project including restoration of the canopy, restoration of the lower story plants and Invasive plant management. The

Chair noted that there may be other mitigation required as well including the removal of the irrigation system at the top of the inland bank and removal of some lawn area.

Mr. Wilkinson stated that he will:

- Consult with Bartlett Tree experts and finalize the restoration plan with The Agent by Oct 22, 2010. A work protocol will be discussed on October 27, 2010.
- The plant species must be reserved ASAP because in the fall planting season plant size and species availability becomes difficult to secure by the end of October. He anticipates that fall planting season could last into the end of November and hopes it may be a little longer, into December.
- Monitor the existing plant species for signs of re-sprouting
- Contact the applicant with pricing figures and obtain a signed contract for the work

Ms Slifka stated that there has been an attempt to notify the contractor who completed the work through email, but there has been no response. The business card has no mailing address. The Commission asked that there be additional effort to notify the contractor requiring that he appear before the Commission and that fines will be imposed.

The Commission unanimously voted to require the Agent to issue an Enforcement Order to Ms Abel by October 20, 2010. The EO will require that the applicant finalize the restoration plan by Oct 22, 2010. Additionally, the restoration planting must be completed by Thanksgiving (end of November). The Commission also will require monitoring reports of the plantings for three years. The Enforcement Order was signed and will be ratified the October 20th meeting.

Discussion re: Home Rule Petition:

Representative: Principal Planner, Terry Whalen and Victor DiCristina, Chairman of Land Bank and Open Space Committee

A copy of the Home Rule Petition Article was provided to the Commissioners. The Petition will be considered at a future Town Meeting, hopefully in November 2010. The purpose of the Article is to allow the Town of Chatham to seek exemptions from MGL c 40 s 8C and 301 CMR 5.00. Section 8C is the Conservation Commission's "enabling" statute and 301 CMR 5.00 is the EOEEA Open Space Grant Regulations.

Section 8C prohibits a Conservation Commission from owning/controlling land outside its municipal boundary. In order for the Town of Chatham to receive certain State grants for The Mill Pond Property (aka Fratus Property), whose purchase was approved at Town Meeting in May 2010), the requested exemptions are necessary as the grant regulations require that the Conservation Commission control the property. The enabling statute prohibits this control as the property is located in Harwich. The purchase of this property would protect water rights for Chatham.

The Commissioners were in favor of the proposal. Commissioner Lear questioned whether the article before Town Meeting should be specific to this one purchase in order to make passage at Town Meeting more favorable. Mr. Whalen stated that he would take the suggestion under advisement.

Although sympathetic to the proposal, the Commission unanimously voted to take no action at this time.

428 & 434 Old Comers Rd, Town of Chatham, SE 10-2677: The Commission reviewed a draft Order of Conditions for the repairs to the existing fish way in Lovers Lake. It was moved, seconded and voted to approve the project as outlined in the Notice of Intent application. **An Order of Conditions was signed.**

Violation, 33 Sky Way, Kahn: The Kahns were present in response to a letter dated January 27, 2010 regarding the platform on the beach at White Pond. The Commission has a record of permitting the stairway to the pond; a Certificate of Compliance was issued for that project. The platform appears to be an unpermitted "extra" that was added at the time of construction of the stairs. Although the letter alerting the Agent to the violation was received in 2009, Ms Andres was unable to easily view the property until January 2010 when ice formed on the pond. Unfortunately, the property had changed hands and the new owners were unaware of the violation.

Documents that were reviewed:

- Letter dated January 27, 2010 from Lara Slifka, Assistant Conservation Agent
- Photographs of existing site conditions dated Sept 30, 2010
- Response letter dated October 11, 2010 from the Kahns
- Letter dated Oct 20, 2009 from prospective buyer of 33 Sky Way

The Kahns stated that the platform was in place when they bought the property, it was assumed that the platform has been in place for approximately 20 years. As proof, the Kahns showed the Commission a 2007 real estate listing photograph showing the platform and the wooden retaining boards in place. They objected to the removal of the platform because it has been in full view for many years and no one has complained prior to the recent letter from an unknown source.

Commissioner Chamberlin felt that leaving/or removing the platform is inconsequential because re-growth of the wetland plants is unlikely due to waterfront activity in the immediate area. The property owners could mitigate for the platform by lifting the boat off the wetland vegetation and allowing the wetland vegetation to grow back so that the platform area is the only clear area. This pond area is mapped by NHESP as rare or endangered plants species. Mr. Kahn stated that it may be harmful to beach vegetation to remove the platform.

Commissioner Geiger felt that since the structure does not pre-date the wetlands regulations and it is an unpermitted structure on a pond, it should be removed. He stated that it is unfortunate that the real estate person who sold the property was not more aware of conservation regulations, however it would set a precedent if the Commission were to allow the platform to stay in place. The Commission agreed that a site visit was necessary; **the discussion was continued to October 27, 2010.**

155 Mill Creek Rd, Linnane, SE 10- 2607: The Commission reviewed a draft Order of Conditions for the demolition of an existing dwelling and construction of a new dwelling. It was moved, seconded and unanimously voted to approve the project shown on the Clark Engineering plan dated 11-6-09, revised 6-23-10. **An Order of Conditions was signed.**

Pcl P17 Orleans Rd & 15 Pursel Drive, Adams, SE 10-2675: The Commission reviewed the draft Order of Conditions for vegetation control, as shown on the parcel maps submitted with the Notice of Intent application. It was moved, seconded and unanimously voted to approve the project. **An Order of Conditions was signed.**

500 Shore Road, Geary, SE 10-2666: The Commission reviewed a draft Order of Conditions for the shorefront protection project. It was moved, seconded and unanimously voted to approve the project as shown on the Coastal Engineering Company Inc plan dated 7-19-10 revised 9-20-10. **An Order of Conditions was signed.**

384 & 414 Fox Hill Road, Holmes, SE 10-2670: The Commission reviewed a draft Order of Conditions for the pathway and stairway on a coastal bank. It was moved and seconded to approve the project as shown on the Eldredge Surveying & Engineering LLC plan dated 8-9-2010. The vote was 4- in favor of the motion, 1-opposed. Commissioner Bates felt that the project was being proposed on an eroding coastal bank that would further erode by doing this project. **An Order of Conditions was signed.**

104 Old Salt Works Rd, Zervas, SE 10-2658:

110 Old Salt Works Rd, Goodrich Chatham, SE 10-2659: The Commission reviewed draft Orders of Conditions for 104 and 110 Old Salt Works Rd. It was moved and seconded to approve the Clark Engineering LLC site plan (for both properties) dated 8-2-10 revised 9-29-10 and the Clark Engineering LLC Planting Plan (for both properties) dated 8-31-10 revised 9-29-10 for the proposed dune enhancement project. The vote was 4- in favor of the motion, 1-opposed: Commissioner Bates felt that this was an area where the salt marsh is moving landward. **An Order of Conditions was signed.**

205 Champlain Rd, Seybolt, SE 10-2672: A draft Order of Conditions was reviewed. The Commission voted unanimously to approve the construction of a retaining wall and

installation of a new pump chamber per Clark Engineering LLC plan dated 9-15-2010.
An Order of Conditions was signed.

151 Deep Hole Road, Terry, SE 10- 2654: A draft comment letter from the Commission to the Zoning Board of Appeals(ZBA), as requested, regarding the proposed demolition and reconstruction of a single family dwelling was discussed. **It was moved, seconded and unanimously voted to approve the content of the letter as amended at the table.**

3 Lady Slipper Lane, Lubin, SE 10-2657: The applicant is anxious to begin planting some of the mitigation areas shown on the Clark plan for the addition and deck expansion. Although the Commission is not ready to write an Order, there was no objection to the applicant taking advantage of the fall growing season and complete the plantings before the construction has begun. **The proposal to plant was approved under an Administrative Review, a NOI filing has already been reviewed by the Commission. Unanimous approval.**

29 Manomock Road, Chilton: A Notice of Intent had been submitted for the construction of an addition and subsequently withdrawn from consideration in March 2010.

David Lyttle of Ryder & Wilcox submitted a request to allow the applicant to file an RDA for the addition that is smaller than originally proposed; the new proposal has been approved by the ZBA.

After reviewing the plans for the originally proposed addition and the new ZBA approved addition, the Commission felt that the applicant will need to file a Notice of Intent. Although no work is proposed within the No-Disturb Zone (NDZ) to the vegetated wetland, there is substantial work proposed in the outer AURA to the wetland. Additionally, the mitigation area originally proposed was to augment a wildlife area that was on the property line to the west. Since the original proposal, the abutter has cleared a lot of the habitat on their property.

Adjourn: It was moved, seconded and voted to adjourn the meeting at 7:00 PM.

Respectfully submitted,
Mary Fougere, Secretary