



'22 FEB 15 2:56PM

Orleans Conservation Commission
Via Zoom
Hearing, Tuesday, February 1st, 2022

PRESENT: Chair Ginny Farber, Vice Chair Mike Brink, Clerk Drusilla Henson, Member Bob Rothberg, Member Ron Mgrdichian, Member Jerry Wander, Associate Member Judith Bruce, Associate Member Maia Ward & Conservation Agent John Jannell

ABSENT: Associate Member Alan Carrier, Member Walter North

8:30 a.m. Call to Order

Notices of Intent

TLW 150 Tonset LLC 150 Tonset Rd
By Ryder & Wilcox, Inc. Map 27, Parcel 8. The proposed establishment of 3 view corridors, site restoration, and installation of a kayak rack. Work will occur within the 100' buffer zone to the top of a Coastal Bank, on a Coastal Bank, and within Land Subject to Coastal Storm Flowage.

David Lyttle, Ryder & Wilcox, was present and reviewed the application. Theresa Sprague, Blue Flax Design, reviewed the land management plan including vista pruning.

Ms. Farber said she'd like a note saying they plan to use an herbicide. Ms. Farber had concerns about removing the rugosa rose and its potential to destabilizer a stable bank. Some other Commissioners had concerns about the action of removing the rosa rugosa, they thought it was aggressive. Mr. Wander said he did not have a problem with the rugosa, and he liked the location of the kayak rack. Mr. Brink requested a kayak rack spec. Mr. Mgrdichian joined the meeting.

Ms. Bruce agreed with Mr. Wander regarding the rosa rugosa. Ms. Bruce was concerned with 25% canopy pruning. She asked if they could flag the trees they are proposing to prune. Mr. Lyttle clarified that the 25% of the canopy being proposed to pruning is only within 30% of the lot, not 25% of the entire bank. He said the proposal meets the regulations. Mr. Lyttle thought they should get a poll from the Commission regarding the rosa rugosa.

Mr. Brink requested a plan note indicating there will be no more than ¼ of pruning in the view corridors. He requested another plan note to define saplings (3" dbh). Mr. Brink also pointed out the need for a note for a licensed applicator and cut and wipe application.

Mr. Rothberg said he doesn't require specs on the kayak depending on its proposed size. The Commission was polled on the rosa rugosa. Mr. Brink preferred no removal. Mr. Rothberg said he is fine with removal, but he will be absent next time. Ms. Henson said she prefers to leave it but it's not hard and fast. Mr. Wander was ok with removal. Ms. Ward said to leave it. Ms. Bruce was ok with removal. Mr. Mgrdichian was ok with removal ok. Ms. Farber requested they leave it.

Mr. Brink said the Commission prefers, when installing racks, they have a bow to stern orientation. Mr. Lyttle said it will be oriented with as little disturbance to the land as possible.

No public comment was heard.

MOTION: A motion to continue the public hearing to 2/15/22 was made by Mike Brink and seconded by Drusy Henson.

VOTE: 7-0-0 Unanimous
MB, GF, DH, RM, BR, JW, MW

Continuations

Eastward Companies Business Trust 76 Rock Harbor Rd
By J.M. O'Reilly & Associates. Map 16, Parcel 92. The proposed construction of a single-family dwelling. Work will occur within the 100' buffer zone to a Bordering Vegetated Wetland.

Bob Reedy, JM O'Reilly Associates, was present and reviewed the minor changes made since the previous hearing date. An amended filing would be required for the buffer zone work they'd like to do, so the strategy is to move forward with the current proposed plan and then come back with an amended filing for the land management work. He reviewed what's changed since the previous hearing: they added a pool fencing and shifted the patio to fit within the pool fence area. The limit of work and house footprint are the same. There were comments on the paved driveway at the previous hearing, but since nearly all of the driveway is outside of the buffer zone they are going to move forward with pavement.

Mr. Rothberg remembered a suggestion about trucking discharge off-site. Ms. Farber said yes if the pool is drained it will be taken off site. Mr. Reedy said they can add a plan note.

No public comment was heard.

MOTION: A motion to close the public hearing was made by Mike Brink and seconded by Drusy Henson.

VOTE: 7-0-0 Unanimous

MOTION: A motion to approve the project at 76 Rock Harbor Rd attaching the Conservation Commission findings and standard conditions and with the special condition that if the pool needs to be drawn down it will be diverted into the backwash pit or trucked off-site was made by Mike Brink and seconded by Drusy Henson.

References: J.M. O'Reilly letter dated 12/3/21, Eastward Companies letter dated 1/13/22, J.M. O'Reilly Site Plan dated 12/29/21, elevations dated 11/1/21.

VOTE: 7-0-0 Unanimous
MB, GF, DH, RM, BR, JW, MW

John A. & Anna P. Sommers 7 South Little Bay Rd
By Ryder & Wilcox, Inc. Map 82, Parcel 7. The proposed stabilization of an eroding Coastal Bank by regrading and installation of a fiber roll array and the replacement of existing timber steps. Work will occur on a Coastal Beach, on a Coastal Bank and within Land Subject to Coastal Storm Flowage.

David Lyttle, Ryder & Wilcox, reported there were no changes to the Ryder & Wilcox plan, so he handed the presentation over to Seth Wilkinson. Seth Wilkinson, Wilkinson Ecological Design (WED) reviewed the changes, there was a notation addition for bayberry and removal of the connection detail. The revised land management plan noted that they were using Greg

Berman's erosion rate for the area and gave more detail on an annual monitoring program. Mr. Jannell reported on Mr. Berman's comments. Mr. Wilkinson explained why they're using high density fiber rolls at the top of the bank and how they plant this area.

Ms. Farber said the Commission would like to do a site visit to see how a project like this takes place. Mr. Jannell followed up, he'd like to be notified of the construction schedule and it would be a good opportunity for the Commission to witness installation.

Mr. Rothberg had questions about linking the two properties. Mr. Wilkinson reviewed the process and reported that the grades will be matched.

No public comment was heard.

Ms. Ward reviewed the tape of the previous hearing and provided her voting certification sheet so she will be voting on this project.

MOTION: A motion to close the public hearing was made by Mike Brink and seconded by Drusy Henson.

VOTE: 7-0-0 Unanimous

MOTION: A motion to approve the project at 7 So little Bay Rd attaching the Conservation Commission findings and standard conditions and with the special conditions that there be a time of year restriction for work on the fiber rolls from 1/1/21-4/1/22 and a contractor change clause be implemented was made by Mike Brink and seconded by Drusy Henson.

Discussion: Mr. Jannell suggested carrying the typical TOY restriction (11/1-4/1). Mr. Brink amended his motion.

References: Ryder & Wilcox project narrative; Ryder & Wilcox Site Plan dated 12/15/21, WED plan revised 1/26/22; WED work protocol revised 1/26/22

VOTE: 7-0-0 Unanimous

Andy & Maria LeStage 14 Hayward Ln
By Ryder & Wilcox, Inc. Map 50, Parcel 2-1. The proposed construction of a single-family dwelling, landscaping, invasive species removal and site restoration. Work will occur within the 100' Buffer Zone to the top of a Coastal Bank, on a Coastal Bank, within Land Subject to Coastal Storm Flowage, and within the Pleasant Bay ACEC.

Bob Rothberg recused; Ms. Bruce will be voting on the project.

David Lyttle, Ryder & Wilcox, was present and reviewed the revisions. They eliminated the stone risers and now propose timber risers. Ms. Sprague stated that they added 3 Eastern Red Cedars (ERCs) to provide additional canopy within the 50' BZ. Ms. Farber asked if there were any viable native trees that could be saved, Mr. Jannell identified an oak tree off the patio at the on-site. Ms. Farber asked if the tree was going to make it through construction. Ms. Sprague responded that there is not much excavation associate with the home in that area and the patio is dry laid so it shouldn't affect it. She believed the tree can be protected during the construction of the house and the patio will be outside of the root zone. Mr. Lyttle said that, additionally they are proposing almost no grade changes at the patio adjacent to the tree.

Ms. Henson shared her concerns about the trees. She was concerned about the amount of patio in the ACEC and the amount of canopy they are losing. The patio causes a bunch of tree loss, some of which are still viable.

Mr. Wander said the amount of patio in the ACEC is a concern to him. He didn't have issue with the tree removals because he didn't believe they could be saved. Mr. Lyttle pointed out there is nothing in the regulations that prohibits patio in the ACEC, he thinks they can demonstrate there will be no adverse impacts to the resource areas. Mr. Lyttle said even if they propose to eliminate the patio in the ACEC and the tree removal would still occur. Ms. Sprague said the trees are not viable to save, even if they removed the ivy from the trees they'd fall over because the only thing anchoring the trees to the ground is the English ivy.

Ms. Henson responded that those trees are still providing canopy, if they need to be removed, they could plant more. Ms. Bruce thought this project could overcome the adverse impacts presumption. If the patio remains, would it be possible to pull back lawn to continue to provide more shrub underlayer? Mr. Lyttle said he could address that with the homeowner's for the next meeting. Mr. Mgrdichian agreed with Ms. Bruce's recommendation. Mr. Brink requested specs for the dry laid patio.

Mr. Jannell agreed with Ms. Sprague. A deciduous tree may survive the efforts of pruning but the evergreens, while are alive and providing canopy, but they have less than 10% in foliage. I think there's been an attempt to replace that with 3 ERCs added to this schedule. They've already planted out the entire space that's available.

Ms. Henson said she would like to see more plantings as compensation for the 17 trees being removed in the ACEC. Mr. Brink pointed out they could move house back 30' and they won't be in the ACEC. Mr. Brink requested a revised plan from SV Design.

No public comment was heard.

MOTION: A motion to continue the public hearing to 2/15/22 was made by Mike Brink and seconded by Drusy Henson.

VOTE: 7-0-0 Unanimous
MB, GF, DH, RM, JW, JB, MW

Certificates of Compliance

Town of Orleans

Uncle Harvey's Pond

DEP # SE054-2520: The alum treatment of all properties (extending to the center point of the pond) abutting Uncle Harvey's Pond, except for those property owners which have declined to consent of the proposed alum treatment on their property, for the purpose of controlling cyanobacteria blooms.

Mr. Jannell introduced the request and reported that the work has been mostly completed. The applicant is seeking to close the OOC with the request that everything outstanding be included as continuing conditions for the Town to carry out. This will relieve the private property owners of the encumbrance on their property by requiring the town to complete the reporting.

Ms. Bruce thought it was too early to issue a COC at this time. She didn't understand the race to do this, and she thought it could wait until after the 1-year report. Mr. Brink suggested requesting a date certain for the report.

MOTION: A motion to approve the issuance of a Certificate of Compliance at Uncle Harvey's Pond with the ongoing condition #9 and #10 and that the reporting occur before 7/1/2022 was made by Mike Brink and seconded by Drusy Henson.

VOTE: 7-0-0 Unanimous

Revised Plan Request

Charles A. Sanders

3 South Little Bay Rd

The proposed connection of the shorefront protection to the abutting property to the south.

Mr. Wilkinson described the revisions. He stated that because of covid tolling for permits this project is still active.

MOTION: A motion to approve the revised Restoration Plan dated 1/26/22 was made by Mike Brink and seconded by Drusy Henson.

VOTE: 7-0-0 Unanimous

Administrative Reviews

Bill Wibel

65 Keziah's Ln

The proposed creation of hugel terraces and wattle terraces.

Mr. Jannell described the request. Ms. Bruce asked how close to the resource area the project is? Some Commissioners had questions about the timber steps shown on the plan. Mr. Jannell is going to get clarification on the timber steps.

MOTION: A motion to approve the project at 65 Keziah's Ln was made by Mike Brink and seconded by Drusy Henson.

VOTE: 7-0-0 Unanimous

Betsy Furtney

57 Pochet Rd

The proposed removal of invasive plant species and replanting with native vegetation.

Mr. Jannell introduced the request. Betsy Furtney, applicant, reviewed the proposal.

MOTION: A motion to approve the project at 57 Pochet Rd was made by Mike Brink and seconded by Drusy Henson.

VOTE: 7-0-0 Unanimous

Pablo Parada-Pentz & Courtney Poignand

82 Lake Dr

The proposed deck, over digging for a portion of the proposed garage foundation, and the pumping and filling of existing leach pits and septic tank. The proposed garage, driveway, and new septic are located outside of jurisdiction.

Mr. Jannell reviewed the proposal. He had limited concerns, but he wanted to bring it to the Commission, so they'd have awareness of it if they saw it going on.

MOTION: A motion to approve the project at 82 Lake Drive was made by Mike Brink and seconded by Drusy Henson.

VOTE: 7-0-0 Unanimous

Monitoring Report

Jack & Marina Leonard
DEP# SE 54-2471

19 So. Orleans Rd

Administrator's Business

Vote to authorize the spending of \$2,500.00 from the Wetlands Protection Fund for educational brochures.

Mr. Brink recommended buying even more and providing them to real estate agents. Ms. Bruce thought we should send them out to new homeowners. We could include mailing and postage costs. Mr. Brink suggested voting on the \$2,500 today and then if more money is necessary, we will come back for more.

MOTION: A motion to approve the spending \$2,500 out of the Wetlands Protection Fund for educational brochures was made by Mike Brink and seconded by Drusy Henson.

VOTE: 7-0-0 unanimous

Discussion

Mr. Jannell reported that he and Ms. Henson, along with Rick Francolini, are going to the CPC meeting to request the grant monies for Putnam.

Chairman's Business

Meeting minutes of 1/18/22

Ms. Farber pointed out that the heading should be edited to reflect that the meeting was Zoom only.

MOTION: A motion to approve the minutes as edited was made by Mike Brink and seconded by Drusy Henson.

VOTE: 7-0-0 Unanimous

Ms. Bruce voted because Ms. Ward was absent at the 1/18 hearing.

Mr. Mgrdichian asked what is the status of landing at crystal lake? Mr. Jannell said the boardwalk has been reconstructed. The only things remaining are the beach nourishment and reinstalling the picnic bench. The project will be complete once that's done. He reported on the drainage issues and that the DPW jumped in to abate some of those issues.

MOTION: A motion to adjourn the public hearing was made by Mike Brink and seconded by Drusy Henson.

VOTE: 7-0-0 Unanimous

The meeting adjourned at 10:40 a.m.

Submitted by:

Kristyna Smith, Principal Clerk, Orleans Conservation

