



Meeting Minutes - Edgartown Conservation Commission
February 15, 2023 (4 pm)

Commissioners present: Peter Vincent (Chair), Max Gibbs, Geoff Kontje, Jeff Carlson, Lil Province, Christina Brown, Robert Avakian

Commissioners Absent: Max Gibbs

Staff: Jane Varkonda (Agent), Kara Shemeth (Admin)

Public in attendance: Alexis Colantonio , Alessandra Wingerter , Dylan Sanders, Bill Brine, Bo Reily, Bob, Brooke Kushwaha, Chris Kennedy, Cynthia Hubbard, Darci Schofield, Edward B. Self, Erin Michaud, Gilbert Ross Jr, Ann Floyd, Jay Osler, Jonathan Phinney, Joseph Russo, Judy Murphy, Karen Osler, Leslie Self, Mark Carlson, Rachel Self, Ron Domurat, Russell Hopping, Tom & Becky Ross, Victor Colantonio , William Gazaille, Woody Filley

Continued Public Hearings

The meeting was called to order at 4:09 PM (delay due to technical issues)

Public Hearing –Notice of Intent SE20-1672

Applicant: **Trustee of Reservations**

Address: Norton Point to the Gut

Representative: Darci Schofield, TTOR

Project: Application seeking an Order of Conditions to permit Over Sand Vehicle (OSV) access on the Trustees owned, or managed under contract, approximately 12 miles of beach from Norton Point Beach to the Gut at Cape Pogue Wildlife Refuge in Edgartown, Massachusetts

Eligible commissioners: No Max (absent 2/1)

Darci Schofield reviewed TTOR's written response to questions posed at prior meetings by the Agent and Commissioners (attached to these minutes). She noted that they plan to have a report out on April 4th regarding their stakeholder working group meetings with a draft plan being submitted for Conservation Commission review in October 2023 with new NOI being filed in December of 2023.

Darci noted that AWD vehicles are a minority of the OSV access passes TTOR sells. Regarding crossover trails, the applicant noted there were 9 while the written response says 7. She spoke to intersections at the Jetties and immediately coming off the Dike Bridge (where several trails intersect) there is noticeable erosion. They noted that OSVs did creep into the dunes and grasses in these areas and installed fencing and put out information regarding staying on the trails on social media and in discussions with users.

Commissioner Comment:

Commissioners asked for clarification on who makes up the stakeholder working group.

Darci noted that the group is made up of herself, Chris Kennedy (former TTOR, now consultant for MVBAG) Peter Slikowski (MVBAG), John Piccos (MV Surfcasters), Liz Olson (Biodiversity Works), Ray (Chappaquiddick Wampanoag), Megan (Chappaquiddick Association), Bill Brine (Chappaquiddick resident and Dike Bridge area abutter), Russ Hopping (TTOR), Cynthia Dittbrenner (TTOR), Elizabeth McDonough (TTOR), Rachel Self (Cape Pogue DCPC), Mark Osler (Osler & Murphy Family) Ross Kessler (MA DMF) the group is facilitated by the Consensus Building Institute.

Commissioners asked about vehicle limitations and Darci explained that the stakeholder meetings will weigh that issue heavily. She spoke of exploring ways to get people to the beach that aren't OSVs, she noted that TTOR would welcome any conditions regarding capacity but would not wish to impose new restrictions on users without the public input sessions.

Commissioners noted the distinct and complicated differences between Leland, East Beach and the Elbow & Gut area. They reiterated that if there is one NOI, an appeal of an Order of Conditions, the applicant is liable to lose use of the beach until the appeal is resolved and noted that this was concerning to them. The Chair stated that the Commission should be able to grant separate conditions to separate sections but it was noted that it would be a much more complicated process and separate NOIs would be cleaner.

Commissioners discussed 4WD vs AWD and spoke to the ease of measuring clearance to access OSV trails but it should not be left to vehicle owners/drivers. Commissioner noted that due to bayside trail flooding around high tide, a detailed management plan for the trails through the cedars would be needed.

Public Comment:

The Chair asked if any members of the Public had any new questions or comments.

Victor Colantonio stated that the reason Pogue residents are utilizing the public forums available to them is that they have not had access to open dialog with TTOR and reviewed the lack of continuity of management with 9 different people in charge of TTORs Chappy properties. He noted that Derby time and scallop season are not, and haven't ever been issues, it's the height of the summer season that "wrecks havoc".

Karen Osler made a point regarding the education of OSV pass holders. She noted that vehicles are not checked for correct tire pressure or OSV equipment despite it being listed in the guidelines, it really should be verified by TTOR staff that OSV users have the necessary equipment for OSV driving.

Cynthia Hubbard felt the capacity guidelines the applicant laid out was too much of a burden on the beach and felt that the main source of Chappy Ferry backup was people attempting to access TTORs beach properties.

William Gazaille noted that the trail along the narrows floods anytime there is a tide greater than normal high tide or storm surge and that was not noted by the applicant in their statement or maps presented tonight. He felt there were only 3 active crossover trails and that 2 major trails were missing from the provided maps. (shared photos of flooded trails)

Edward B. Self spoke of the bottleneck at the gatehouse and asked if TTOR was actively considering moving operations to Mytoi and was interested to hear further discussion of 4WD vs AWD.

Chris Kennedy spoke of the importance of vehicle inspections and education. He mentioned that at Cape Cod National Seashore deals with AWD by focusing on wheel diameter and has a 10 minute video and ranger inspection of the vehicle and OSV equipment prior to receiving their OSV pass. He mentioned that in a Chappy Ferry survey done while he was with TTOR showed that 17% of Ferry traffic was associated with TTOR.

Judy Self Murphy spoke of the impact of TTORs management of the trails on Pogue residents' day to day lives including open access across the Dike Bridge and maintenance.

Alexis Colantonio reiterated the lack of trails presented in the applicants recent maps and expressed concerns with the applicants history of non-compliance.

Rachel Self showed additional photos of the flooded trails and areas where the water breaches through the areas bordering the trails. She noted that the applicant's written answer regarding the Cedars gave a lot of information regarding them but did not outline a management plan for the area.

As a representative of the Cape Pogue DCPC Advisory Board, Atty Self advised that the Cape Pogue DCPC advisory committee had met and voted to *recommend to the Conservation Commission ensure that the application be subject to all applicable rules and regulations already in place, including the WPA, the MA Guide to Barrier Beach Edgartown Zoning Bylaws Executive order 190, wetlands bylaws,*

At the DCPC meeting it was discussed per the Zoning bylaw amendment of May 2021 5.4D (pg 322 of Self report) a Special Permit should be in place for their current practices activities. Atty Self noted that it was a very complex issue and questions needed to be addressed.

Jonathan Finney spoke in favor of multiple NOIs and directed attendees to the wetlands mapper of the US Fish & Wildlife website to see the distinctions. Leslie Self expressed concern regarding the number and experience of the applicant's rangers during the 2022 season.

Darci Schofield reiterated TTORs stance on the single NOI and stated that it is a single management unit with multiple habitat and resource areas and the approved 2016 NOI was formatted in this manner. Regarding moving operations to Mytoi, keeping it at the Dike Bridge gate house allows them to take suggestions from these meetings regarding education and equipment checks and implement them better at the gate house than at Mytoi.

Darci spoke of the maps and explained that the beach is dynamic and they based their maps on the trails most used by visitors. The bayside trail, while regularly flooding, is the trail that ensures access for shellfishing. Darci explained the capacity formula does not reflect a desire to have that many vehicles on the beach, it illustrates what the beach could handle based on the established guidelines for barrier beach management and that this is a topic of discussion for tomorrow's stakeholder meeting. She noted that they would appreciate clarity regarding the need for a Special Permit from zoning as it is not something that has been required and the application does not propose development.

Conservation Agent Jane Varkonda asked:

- When in the season TTOR ran out of informational packets.

DS: Ran out in July and were able to restock, ran out again in August and were not able to restock. Darci noted that when people purchase their OSV passes online there is a digital copy and a physical copy is handed out upon sticker pickup.

- Essential vehicles: The Agent asked about the logs regarding essential vehicle tracking. Darci clarified that they are used to document when a vehicle passes through a protected area.

- Requested shellfish access maps. Darci noted that there are no specified shellfish locations but they could look at putting the popular access locations on a map.

The Chair asked for any additional Commissioner comments/questions.

Commissioners asked how they plan to utilize their rangers effectively when potentially understaffed.

There was discussion of the TTOR mission.

Action: A motion was made, and seconded, to continue the hearing to 2/22/23 (to be moved to an agreed upon date).

Passed unanimously via roll call vote

Action: A motion was made, and seconded, to adjourn the meeting.

Passed unanimously via roll call vote

With nothing further to discuss the meeting was adjourned at approximately 5:57 PM

