



Meeting Minutes - Edgartown Conservation Commission
March 22, 2023 (4 pm)

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

Commissioners Absent: Christine Brown

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

Public in attendance: (49) Aaron Gouveia, Alessandra Wingerter, Alexis Colantonio, Bill Brine, Bo Reily, Bob, Bruce Dew, Caitrin (WED), Ian Peach (WED), Cathy Thompson, Chris Alley (SBH), Chris James, Chris Kennedy, christopher Scott, cynthia Dittbrenner (TTOR), Darci Schofield (TTOR), Darran, David Hedley, David LeBreton, Ron Domurat, Doug Hoehn (SBH), Dylan Sanders (TTOR), Edward B. Self, Elizabeth McDonough (TTOR), Erin Michaud, 413 374 5991, Isabela Tinana, Jean's iPhone, Joseph Russo, Judy Murphy, Karen Osler, Leslie Self, Malissa & Jay Osler, Mark Carlson, Melissa Vail, Morgan Herman, Patrick Ahearn, Patricia Hyde, Penn Edmonds, Peter Callaghan, Peter Sliwkowski, Rachel Self, Richard Thompson, Tom & Becky Ross, Victor Colantonio, Vineyard Gazette, William Gazaille, Zoom4Edgartown

4:03 Meeting called to order by Chair

Public Hearing - Notice of Intent SE20-1675

Applicant: Cygnus I & II Realty Trust

Address: 0, 19 & 20 Swan Neck Road (AP 43- 3.35, 3.34, 3.36)

Representative: Ian Peach (Wilkinson Ecological Design, Inc)

Project: Phragmite management

Documents shared: aerial/ site plan

Ian Peach explained that in 2011 the applicant had an approved phragmite mgmt plan approved and re-assessment shows that the project was successful and there are some small patches left. Wilkinson proposes to remove the remaining phragmite by hand this season and treat the stalks with herbicide and filing monitoring reports

Action: A motion was made, and seconded, with standard conditions.
Passed unanimously via roll call vote of members present

Public Hearing - Notice of Intent SE20-1679

Applicant: The Selby Family 2012 Trust

Address: 12 Swan Neck Road (AP 43-3.23)

Representative: Doug Hoehn (SBH) and Darren Rubin (Breese Arch)

Project: Construction of a guest house, installation of a new septic system, landscaping and related site activities

Documents shared: site plan, aerial, architectural plans/ elevations

Doug Hoehn explained that the applicant is proposing a 1345 + square foot guest house on a 12 acre lot. The guest house will have 500 square feet of boathouse as well, that area is not accessible via the guest house. Doug reviewed the EPD zone 1 and 2 lines. The project is below the FEMA flood elevation 10. The new septic will be advanced treatment and will get more distance between the septic system and the well.

Darren Rubins reviewed the architectural plans and explained that the building will be set on a slab on grade. Doug noted that the structure is set back 400-500' from the pond and it was noted that the limit of work per NHESP has been put on the plan and most work will take place landward of the structure. The homeowner noted that the existing structures do not have HVAC and this guest house will allow the homeowners to enjoy the property year round.

Commissioner Comment: Commissioners asked about groundwater, Doug explained that they use elevation 5' as a conservative estimate of groundwater in this area to accommodate the fluctuations throughout the year.

The size of the lawn was requested as it appears to be more than allowed in the EPD. Commissioners asked how much fill will be needed (applicant will return with that information). Commissioners asked about measures that can be taken to protect the tree near the proposed site.

Public Comment: none

Action: A motion was made, and seconded, to continue to April 5 for a site visit and to allow the applicant to submit further information (wildlife inventory, fill data, renderings)

Passed unanimously via roll call vote of the members present

The Chair noted that the Herring Creek Farm Landowners Association has asked that their application (SE20-1677) be continued to April 26 to allow them to submit further information to NHESP.

Action: A motion was made, and seconded, to continue the hearing until 4/26/23

Passed unanimously via roll call vote of members present

Public Hearing - Notice of Intent LOCAL

Applicant: 10 CC Road LLC

Address: 10 Crackatuxet Cove Road (AP 44-33.1)

Representative: Chris Alley (SBH) and Patrick Ahearn (arch)

Project: Relocation and expansion of an existing single-family dwelling, construction of a pool, upgrade of a septic system and associate site work within 100' of land subject to coastal storm flowage

Documents shared: aerial, site plan, renderings, architectural plans/ elevations

Note: Robert Avakian recused himself

Chris Alley gave a brief history and overview of the property (previously owned by the Aldebourghes). There is an historic structure on the property with several newer additional buildings ranging from a guest house to outbuildings. None of the property falls within NHESP habitat mapping. The "Sail Loft" will be removed and not replaced, the guest house will be renovated in the same footprint, the garage is rebuilt and the barn stays put with the addition of a seasonal bathroom. A pool is proposed as is a septic upgrade to an advanced system to better manage nitrogen. The only portion that falls under the WPA is some of the pool's fencing and a corner of the pool, the rest is under the local bylaw. Rather than install a dry well, the applicant proposes to utilize the to be abandoned leaching field for any pool draw down.

Patrick Ahearn reviewed the architectural plans and elevations

Commissioner Comments: It was noted that the applicant would need to submit a cross section of the pool.

Public Comment: none

Action: A motion was made, and seconded, to continue the hearing to 4/5/23 to allow for a site visit

Passed unanimously via roll call vote of members present

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 Wasque* to the Gut at Cape Pogue Wildlife Refuge in Edgartown, Massachusetts

*the Conservation Commission received correspondence from applicant requesting Norton Point Beach be withdrawn from application

Continued from 2/15/23 Eligible commissioners: All except Max

4:45

The Chair opened the hearing and noted that the Applicant had requested that the area from the Jetties to the Gut be removed from the NOI as well as Norton Point be removed from the application. Darci Schofield confirmed that this was accurate and that the applicant felt this was the best course of action to move forward and give time to work with abutters to find better solutions for the Cape Pogue area. The NOI will now encompass the area from Wasque to the Jetties which is approximately 6.2 miles of OSV trails and 4 miles of beach.

The Chair noted that responses to questions posed at previous meetings had been submitted and asked for Commissioner comments/ questions.

Commissioner Comment:

Commissioners asked about the mid June seasonal staff training and how that coincided with the increased beach usage and bird arrivals well before June.

Darci clarified that TTOR starts having seasonal staff arrive in May and arriving until June 17. Those individuals are trained for their specific jobs, the seasonal staff training in June covers more broader, contextual training regarding visitor experience and being a TTOR ambassador. She noted that there are several year round staff on island including ecologists and stewards.

She noted that with the gatehouse unstaffed, they have stewards and rangers in the area if people access the beach.

The Commissioners expressed Cedars concern for the salt water intrusion at high tide that is exacerbated by the OSV trails and asked how that area could be better managed.

There was discussion about how TTOR plans to get word out about closed trails more efficiently. Commissioners raised concerns about some OSV access (ie trails that may be closed on either side of high tide) could be left to the discretion of OSV drivers and cause issues. Darci noted that during times with the highest number of visitors, they will have the staffing to handle things and deal with issues directly.

Carrying capacity was discussed Darci noted that the busiest day of 2022 at Norton Point had 220 vehicles on the beach with 289 vehicles crossing the Dike Bridge on the busiest day on Chappy which has double the mileage of beaches. The TTOR capacity numbers were calculated utilizing the MA Barrier Beach Management Guidelines. The calculations result in Leland having 395 and Pogue having 386 POTENTIAL parking spots for OSVs, the applicant made it clear that this is based on the established formula and that they do not intend to reach those maximum numbers.

Commissioners raised concerns about the condition of the bulkhead on TTOR property leading on/ off the east side of Dike Bridge. Darci and the TTOR Atty Dylan Sanders spoke to the responsibility of the maintenance of the bulkhead with Atty Sanders emphasizing that the maintenance is not the responsibility of TTOR as a public bridge is made up of the approaches on either side of the bridge. He stated that while it is not their primary responsibility, they are interested in working with the Town and State to develop a maintenance plan regarding when maintenance needs to be done and who will pay for it.

AWD vs 4WD was discussed with clearance issues being brought up. Darci stated that they are happy to look at the issue and reiterated that they haven't found it to be an issue and could look at shutting AWD down but would prefer to do that in the future NOI when stakeholders have had a chance to weigh in.

Public Comment:

Abutters expressed displeasure with the present state of the bulkhead on the TTOR side of the Dike Bridge. Photos and video of the bridge and approach were shared as well as the plans submitted by TTOR in the 1990s. Abutters noted

that TTOR took over ownership of the property in 1959 and reviewed the deterioration of the bulkhead. Abutters asked that TTOR operations be moved to Mytoi so that an already damaged area isn't further burdened.

Jay Osler spoke of his desire for public access to remain protected and for the land to be managed properly. He stated he and others want reasonable and responsible management of this unique place and for rules and regulations to be brought to standard now and into the future.

Chris Kennedy spoke to Commissioners' concerns about the bayside trails and noted that travel within the intertidal zone is not illegal as long as it's not a shellfish flat.

Alexis Colantonio took issue with recent TTOR press releases that she felt made Pogue residents scapegoats for the difficulty the application has run up against and addressed safety issues on the trails she felt were caused by current TTOR policies and management.

Tom & Becky Ross were concerned about the lack of beach management plan.

Joe Russo spoke to the lack of investment in the property by TTOR and about the lack of a special permit to operate a business and noted that the applicant brought in a significant amount of money via this property. He stated that the applicant should operate this property in a manner keeping with conservation goals or donate it to the Town or organization that will operate it in a manner that if this is not an issue of profitability.

Bo Reily spoke of the need for multiple NOIs and felt that recent PR was slanderous to Pogue property owners.

Victor Colantonio spoke of ideas that had been developed by stakeholders last fall and discussed with the Cape Pogue DCPC, some of which was to open the outside beach from the Jetties to the Elbow after September with the Gut opened (over their private property) for shellfishing and fishing.

Bill Brine asked if the applicant could provide information on other BMPs that allow travel in the intertidal zones.

William Gazaille shared a video of travel through the Cedars and the state of the trails.

Cynthia Dittbrener spoke of the impact of sea level rise in response to Bo Reily's comments regarding the issue. She spoke of the TTORs goals to utilize the study in their upcoming BMP and explained how the capacity is calculated and that the numbers represent only how many vehicles CAN fit mathematically per the Barrier Beach Guidelines and is not a representation of their goals for number of vehicles on the beach at a time.

The Chair then closed the public input portion of the meeting.

Conservation Agent, Jane Varkonda, asked for clarification on the logs for essential vehicles.

She spoke of her conversations with Russ Hopping (TTOR) regarding the Cedars and noted that he relayed that TTOR does not actively manage the Cedars rather the area is allowed to exist as part of a Barrier Beach mosaic subject to natural processes. She noted that if the habitat is being damaged by OSV trails then mitigation of that impact needs to take place.

She noted the dredging of the Narrows was supposed to provide sand to nourish the trails but due to lack of institutional knowledge within the organization that did not happen.

She also asked if the pay beach (swimming beach could be moved to allow OSV access on the outside trails. She confirmed that the applicant does exceed protection measures on Leland currently.

Continuation was discussed, it was felt that answers to outstanding questions were still needed and an additional site visit would be prudent given the amount of information that has been received.

Continuing the hearing to 4/19 was discussed and Atty Sanders stated for the record that the applicant did not consent to a continuation of more than 21 days.

It was noted that the meeting had not been closed and the Commission has the ability to continue the hearing until the applicant has provided the requested information.

Action: A motion was made, and seconded, to deny the application due to: lack of requested information, plan not being suitable for the use of the beach, different use patterns, ecological impacts in different areas are not reflected in a single NOI

The motion, and second were withdrawn.

Action: A motion was made, and seconded, to continue the hearing to 4/5/23 to allow the applicant to submit more information and for an additional site visit
Passed unanimously via roll call vote of eligible members present

Action: A motion was made, and seconded, to adjourn the meeting at 6:46 PM.
Passed unanimously via roll call vote