



Meeting Minutes - Edgartown Conservation Commission
April 5, 2023 (4 pm)

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

Commissioners Absent: Jeff Carlson

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

Public in attendance: See attachment (111 attendees)

Request for Determination of Applicability

Applicant: Geoffrey Kontje & Norma Costain

Address: 249 Chappaquiddick Road (AP 31-29)

Project: Addition to a single family dwelling in an established lawn area, within 100' of a drainage and 200' of wetlands.

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

Commissioner Jeff Kontje abstained.

Norma Costain presented the projects, explaining the existing structures and features of the property and explained that the 1 BR addition is proposed in the existing yard area and that while the property is surrounded by wetlands the house and addition site is a high point. The distances to resources were reviewed.

Commissioner Comment: Commissioners asked about the septic upgrade and the applicant noted that they plan to upgrade the Title V system as the current system is where the addition is proposed.

Public Comment: None

Action: A motion was made, and seconded, to find a negative determination and allow the applicant a 25' construction zone around the addition.

Passed unanimously via roll call vote of members present

Public Hearing - Notice of Intent **SE20-1680**

Applicant: The Edgartown Yacht Club

Address: 94 Peases Point Way (AP 20B-64)

Representative: Ken Abbott (SBH)

Project: Construction of a wooden viewing stand, bluestone patio and restoration of gravel paths

Documents Shared: Aerial, Site Plan, photos of site

Peter Vincent and Lil Provence abstained as EYC members

Ken Abbott presented the site plan and he and Bill Roman from EYC explained the project. The applicant is proposing to add a viewing stand and restore some gravel paths and other minor modifications to landscaping on the EYC tennis court property. The project falls within the 100 year flood and the 100' buffer to the Sheriff's Meadow wetlands to the north. The new deck will be a viewing area for the new pickleball areas. The proposed area is already an established lawn and no vegetation related to the wetlands will be disturbed by this project. There are no protected habitats per NHESP mapping.

Commissioner Comment: Commissioners confirmed that there is no increase in disturbance. Commissioners discussed drainage.

Public Comment: None

Action: a motion was made, and seconded, to approve the plan as presented. (with standard conditions)

Passed unanimously via roll call vote of eligible members

Public Hearing - Notice of Intent **SE20-1684**

Applicant: Crackatuxet Trust

Address: 200 Herring Creek Road (AP 53-12)

Representative: Chris Alley (SBH)

Project: Replacement of a water supply well and associated site work within coastal resources

Documents shared: Aerial, Site Plan

Chris Alley reviewed the property and submersible 4" well for consistent water. The project was proposed several years ago but never implemented. The proposed location of the well allows for appropriate separations for a future septic upgrade. The well will be dug via auger and the lines will be directionally drilled from the well to the structure to reduce impact to the resource areas.

Commissioner Comment: How deep is the well? 10-15'. Commissioners asked about the current use of the cesspool. Chris Alley noted that the soils and use are very conducive for the cesspool to operate efficiently indefinitely. HE

anticipated updating it eventually. Currently the use at the shack includes 1 toilet, a sink and an outdoor shower, all cold water. There was discussion of terrestrial saltwater systems.

Access for the drilling rig was discussed and it was noted that mats or boards should be utilized for the rig when it has to leave the driveway to get to the well site.

Public Comment:

Action: A motion was made, and seconded, to approve with standard conditions plus ADD CONDITIONS HERE

Passed unanimously via roll call vote of members present

Public Hearing - Notice of Intent **SE20-1682**

The Chair noted that the staff had received an email from the applicant's representative requesting that the application be withdrawn without prejudice.

Public Hearing - The Selby Family 2012 Trust **SE20-1679**

Action: A motion was made, and seconded, to continue to the 4/26 agenda to allow the applicant to develop a plan to deal with recent wetlands violations.

Passed unanimously via roll call vote.

Continued Public Hearing - Notice of Intent **SE20-1681**

Applicant: 10 CC Road LLC

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

Representative: Chris Alley (SBH)

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

Continued from 3/22/23 Eligible commissioners: Peter, Lil, Geoff, Jeff, Bob, Max
Bob Avakian recused himself

Chris Alley summarized the property and proposed projects as presented at the previous meeting, the hearing had been continued for a site visit which happened earlier today.

Commissioner Comment: The Agent noted that they would need a pool cross section.

Public Comment: None

Action: a motion was made, and seconded, to approve the plan as presented with standard conditions and an additional condition that measures be put in place to protect the vegetation from the well drilling rig.

Passed unanimously via roll call vote of eligible members present

Continued 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 3/22/23 Eligible commissioners: Peter, Lil, Geoff, Jeff, Bob

Darci Schofield reviewed the answers that TTOR had submitted in response to questions posed by the Agent and Commissioners (answers on file with Conservation Commission).

Highlights:

- Addressed each Resource area subject to WPA and the Bylaw
- Reviewed how the proposed activity will not negatively impact the resource areas and will meet performance standards
- Explained the plan for managing bayside access at Leland where a portion of the trail is close to the marsh. TTOR will shut down the trail where the salt marsh is migrating and change the two way trail to one way with pull outs
- Will close portions of trail that don't have sufficient space based on the 1994 Guidelines for OSV corridors
- Noted that the beach and conditions are dynamic and they would aim to reopen any closed trails as soon as the beach width meets the criteria for OSV travel from the 1994 Guidelines
- Will look to bring on seasonal staff earlier than planned
- Dyke Bridge congestion, TTOR believes that the Dyke Bridge Gatehouse is critical to managing the beach. Deflation will only

occur at Mytoi and visitors who arrive at the gatehouse will be directed back to Mytoi to deflate.

- OSV trail maintenance - trails graded every two weeks +/- in season and as needed in the off season
- OSV corridor management - plan to reinforce OSV corridor delineation to keep any creep down and monitor via camera to note repeat offenders. TTOR has previously utilized social media and connected with Derby organizers when OSV corridor travel resulted in OSV trail widening.
- AWD to be allowed with a minimum of 8" of clearance
- Vehicles have spare tire, tow strap/ rope, jack, support board, shovel, tire gauge and OSV travel guide. TTOR staff will inspect vehicles for this equipment when OSV stickers are picked up.
- Committed to creating an instructional video that needs to be watched regarding OSV travel, similar to Sandy Neck Beach's video
- Patrol and staff responsibilities are described in the written response
- Flooding, surges, and erosion will be monitored and trails closed as needed

Commissioner Comments:

- MYtoi - Commissioners discussed the use of Mytoi and the proposed inspections.
- The forthcoming NOI timeline submission was discussed and Darci noted that their ongoing stakeholder meetings are taking place and they will use the current NOI and the ongoing meetings to guide and inform the new submission in October of 2023. Commissioners asked if it would be feasible to set an expiration date sooner than the WPAs 3 year expiration to reflect the applicants goal of submitting a new NOI and having a new Order of Conditions for OSV access for 2024.
- Commissioners discussed vehicular limits and what areas of the beach offer parking opportunities and access. Commissioners theorized that a daily vehicle limit of 200 on Leland and 50 north of the Dyke Bridge (Cape Pogue) would be appropriate between Memorial Day and Labor Day. Darci Schofield noted that the traffic counter previously used at Norton Point will be utilized north of the Dyke Bridge and TTOR will be able to

gather data regarding usage after this season and that 50 vehicles/day for Cape Pogue Wildlife Sanctuary felt like a low number.

*It was noted that the Town's Zoom account had maxed out at 100 participants, Kara and Jane were working to free up spots to allow more people to join.

Public Comments:

Phil Horton (MV Derby Committee): The Derby supports the NOI and expressed the importance of the beaches and access to them for the Derby and Island Fishermen. He noted that loss of this OSV access would result in a reduction of Derby registrations which would trickle through to the Island economy. He noted that many of the senior Derby participants utilize Chappy OSV access.

Edward Self: Asked for gatehouse/ Mytoi staffing clarification ie job description, numbers

Patrick Paquette (Government Operations Officer, MA Striped Bass Association): For 18 years has been running a trip for the duration of the Derby bringing in \$25,000 + to the island economy. With OSV access in jeopardy, members are unsure if they can commit to coming. Urged the Commission to be careful with carrying capacity numbers as it can be a slippery slope, needs a full, in depth discussion.

Peter Sliwkowski (President, MV Beachgoers Access Group): Noted that due to Chappy and Norton being closed, 47% of the publicly accessible beaches on the island are inaccessible. He spoke of the deep connection to these beaches and the sense of home that they bring people.

Ken Abbott: Spoke to the logistics of mandating OSVs turn around at the Jetties and that it is a problematic area to negotiate due to soft sand, tides, etc.

Dana Stanton (Chappy Ferry Committee): Question to TTOR regarding vehicular access numbers previously and to be collected by the applicant and if the data could be shared to help the committee factor in TTOR beach traffic.

Leslie Self: Noted that there is a sense of urgency but it behooves the Commission to examine the information

Ross Kessler (MA DMF): Explained that DMF owns Leland and TTOR has a MOU for managing the property on their behalf and DMF supports the current application and has worked with TTOR to fix the initial application which he admitted was lacking. He urged the Commissioners to not miss the forest for the trees and work together to implement this plan and focus on the big picture moving forward.

Youssef Rahban: Spoke of his family's love of visiting Chappy and the importance of OSV access to their experience.

Sylvia: Expressed hope for a systematic approach for addressing vehicular limits to ensure that the beach retains its natural environment.

Mike from DE: Expressed how important his family's time on Chappy is to them.

Victor Colantonio: Spoke in favor of OSV access for the Derby and expressed his support for vehicular limits. He noted backups at the Dyke Bridge Gatehouse in regards to people coming and going (OSV and walk on) and purchasing of passes and kayak rentals. He felt that any transactional activities should be based at Mytoi and management needs to be improved.

Nelson Siegleman: Noted that loss of OSV access is a threat to island culture. Felt that the applicant had made a good faith effort and that he has confidence in the Commission and TTOR.

Darci Schofield noted that she has listened to the comments and they have taken them into consideration and asked that commenters focus on the application and not make derogatory comments regarding the staff as they work very hard.

Darci Schofield explained that the vehicular capacity numbers presented were calculated at the maximum amount based on the 1994 guidelines and they do not wish to host the maximum limits. She requested that if limits are imposed they

be capped at the previously proposed number of 289 and then re-evaluated after the season when data has been collected and analyzed.

The Chair asked for any further comments and if the Commissioners would like to move forward on the application.

Commissioners noted that the answers provided by the applicant were very helpful and asked that they be incorporated into an Order. It was noted that portions could be added as appendices.

Commissioners asked if all operations could be moved to Mytoi to reduce back ups. Currently kayak rentals and day passes are sold at the gatehouse, the applicant noted that they could move those back to Mytoi.

Commissioners requested that the daily vehicular traffic counts be provided to the Conservation Commission.

Agent Comment: Jane Varkonda thanked Darci Schofield for the answers TTOR had provided and noted that it was forward thinking. She noted concern with the timeline for a mitigation plan for the area known as the Cedars, 12 months was requested and is too long given the importance of the area. The plan should also not be dependent on identifying a funding source.

The Chair confirmed with the Conservation Staff that they had enough data and notes from the application and its hearings to draft conditions that reflect what has been discussed over the past several months. They confirmed that they did.

Action: A motions was made, and seconded, to close the hearing
Passed unanimously via roll call vote of eligible members

Action: A motion was made, and seconded, to approve the application as presented, from Wasque to the Jetties, with the conditions that have been discussed and with an expiration of 11/30/2023 (per the applicant's own timeline) with exceptions for shellfishing and fishermen access to the waters of Cape Pogue past November with the option under the local bylaw to extend

the OC on a month to month basis. The conditions will be drafted by staff and reviewed by the Commission.

Passed unanimously via roll call vote of eligible members

Minutes:

Action: A motion was made, and seconded, to approve the minutes of 1/11/23 as written.

Passed unanimously via roll call vote of eligible members

Action: A motion was made, and seconded, to approve the minutes of 2/1/23 as written.

Passed unanimously via roll call vote of eligible members

Action: A motion was made, and seconded, to approve the minutes of 2/8/23 as written.

Passed unanimously via roll call vote of eligible members

Action: A motion was made, and seconded, to approve the minutes of 2/15/23 as written.

Passed unanimously via roll call vote of eligible members

Action: A motion was made, and seconded, to approve the minutes of 3/8/23 as written.

Passed unanimously via roll call vote of eligible members

Conditions:

Action: A motion was made, and seconded, to approve the conditions for 20 Orr Lane (SE20-1667) and 26 Orr Lane (SE20-1668) as drafted.

Passed unanimously via roll call vote of eligible members

Action: A motion was made, and seconded, to approve the conditions for Melrod (SE20-1666) as drafted.

Passed unanimously via roll call vote of eligible members

Action: A motion was made, and seconded, to approve the conditions for Goldeneye LLC (Local) as drafted.

Passed unanimously via roll call vote of eligible members

Action: A motion was made, and seconded, to approve both sets of conditions for MV Regency (SE20-1670 & SE20-1671) as drafted.

Passed unanimously via roll call vote of eligible members (Max abstained)

Action: A motion was made, and seconded, to reappoint Peter Vincent as the Conservation Commission representativeCPC

Discussion: Kohlberg Conservation Restriction proposal

Tori Fletcher, Adam Moore (SMF) and Kristen Geagan (SMF) presented the preliminary plan for a Conservation Restriction in the Job's Neck area, the Kohlberg property. Part of Nancy Kohlberg's last will was to put a large portion of their property into Conservation. Tori noted that it is half wooded, half open and there is a caretaker's residence and the Kohlberg's residence, they will remain but not enlarged. 7200' of shoreline will be protected under this CR. 8-acres of rare species habitat will be protected as well as watersheds.

Adam Moore asked that the Commission support the CR and noted that it will be held by Sheriff's Meadow. It does not include public access at this time but it does not preclude it in the future.

Commissioners reviewed the form provided by SMF and the final document will be provided to the Commission as soon as it is ready.

Action: A motion was made, and seconded, to approve the CR as presented subject to a final reading of the document if there are any changes.

Passed unanimously via roll call vote

Action: A motion was made, and seconded, to adjourn the meeting at 6:57 PM.

Passed unanimously via roll call vote