

1. 10/26/22

Jane Varkonda noted that there were several errors in the TTOR application that would need to be dealt with prior to the Commission reviewing the application and that a new NOI would be filed and the application would be held at a later date.

Public Hearing –Notice of Intent

Applicant: **Trustee of Reservations** - Norton Point to the Gut SEE NOTE ABOVE

Victor Colantonio asked questions regarding the connection of the application to the DCPC and commercial activities. Jane Varkonda clarified that the application only pertains to activities within the resource area and buffer zones and does not deal with commercial activities but any permits regarding such activities would come after an Order of Conditions is issued by the Conservation Commission. She further noted that the granting of an Order of Conditions only allows the ability to determine where trails are located and how the resource is managed.

2. 11/9/22 - re submission

Public Hearing –Notice of Intent **SE20-???** (no DEP number issued at this time)

Applicant: **Trustee of Reservations (TTOR)**

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

Documents shared: none

Darci Schofield, TTOR Island Director presented the NOI to obtain permission for Over Sand Vehicle (OSV) access on the beaches owned or operated by TTOR. This application is intended to obtain an Order of Conditions to fill the gap between now and 2023 when a more thorough beach management plan is submitted by TTOR. Darci Schofield mentioned that TTOR would like to install snow fencing to help build up the dune. In 2016, a Beach Management Plan was requested by the Conservation Commission, prompting this application. Darci Schofield noted that this application reflected current practices and reflects the work currently being done on the ground.

After Commissioners did not have any questions, Chair Vincent asked if any members of the public had questions. Peter Silowski of the MV Beach

Access Group had some questions about some of the items in the application not being current practices.

Agent Jane Varkonda noted that this application covers all aspects of the Beach Management Plan and not just OSV access.

Several Cape Pogue property owners/ residents objected to the TTOR's running of Cape Pogue and noted that land north of the Dyke Bridge has unclear ownership and questioned how an Order of Conditions could be issued for land that TTOR does not own or have a management agreement for.

Cape Pogue property owners/ residents expressed concerns about the management practices of TTOR in the Cape Pogue area and the lack of current permits. The behavior of and the lack of education provided to those accessing the beach utilizing TTOR access stickers is very concerning. Bill Gazielle asked that the Commission take time to look at the proposal and how it affects the people who live on Cape Pogue and the fact that TTOR is "selling stickers to trespass". Abutters spoke of lack of communication regarding trail closures which poses a safety concern for them as the trails are their access to and from their homes.

There were questions regarding the legality of operating a commercial enterprise and it was questioned if the activity could even be permitted under Edgartown's Zoning. Abutters asked that the Conservation Commission consider a cease & desist order for activities north of the Dyke until TTOR can get the necessary protections and permits are in place. (note: Abutters Rachel Self and Alexis Collantonio the requested cease & desist order)

Darci Schofield acknowledged the challenges that are faced by TTOR and spoke to the group's goals of finding balance between conservation of the resource and access. She noted that she looked forward to and that some of the specific issues would be addressed by TTOR's attorney with responses submitted to the Conservation Commission.

A decision was made to continue to 12/14/22 to allow TTOR to submit the supplemental information requested by the DEP

3. 12/14/22

Darci Schofield noted that TTOR has submitted all the requested information to the DEP and is awaiting a file number.

Abutters voiced concerns about the fragility of the resource and disappointment that a completed application is not yet submitted. It was noted

that the most recent map/ plan in the TTOR application was from 2019 which doesn't reflect current or recent conditions.

The Conservation Agent clarified for attendees that any Order of Conditions issued by the Conservation Commission does not grant rights over private property and she noted that Darci has been making an effort to get the DEP file number but that the DEP is overwhelmed and understaffed, the DEP anticipates a number being issued shortly.

Abutters noted that there is no way for TTOR to access Cape Pogue without passing over private property. The Chair clarified that approval by the Commission only extends to the applicant's property. Property owners at Cape Pogue noted that the application implies ownership or management of 12 miles of contiguous beach which is not the case.

Chris Kennedy spoke of the importance of providing for interim OSV access to allow for continued use of the beaches and noted that there were issues that needed to be resolved in regards to ownership and access rights. Pogue property owners reiterated repeated attempts to get information from and to work with TTOR in regards to TTOR visitors access on private land and noted that the organization regularly expressed an inability to enforce their own rules for unruly behavior once their visitors are on private property and rights of way ((August 15 2022 email referenced), abdicating responsibility for their customers in the eyes of the residents. Residents noted unsafe conditions that went with very little response from the applicant.

Residents requested a cease and desist, it is not known if that is an available route for the Conservation Commission to implement.

Island residents interested in beach access recognized the complex situation and spoke in favor of access noting that there are three distinct beach areas here and most of the discussion is centered around Pogue.

Darci Schofield noted that TTOR is listening and compiling the questions and concerns raised by attendees and the organization will address them all in one document.

There were questions regarding breaking the application into 3 separate NOIs as the contention of one area could derail the entire application in a long appeal process.

The agent also posed several questions/ notes to the applicant:

- The application lacks a necessary assessment of the condition of the state ranked community of cedars and a plan for its management.
- What is the carrying capacity for the upcoming season?

- If the Commission approved an interim plan, what is the timeframe for a “real” plan?
- Will you allow AWD? There are concerns about some of the roads in the intertidal zones and roads that regularly flood.
- Are you exceeding the state guidelines for bird management on the state owned property?

The historic access to the gut was discussed and homeowners noted that they don't want to end access for fishermen and responsible OSV users but the number of people that lack education about OSV use and a lack of etiquette has grown in recent years and is a problem. Visitors have been driving up into beach grass, relieving themselves in yards when they can't find the portapotties amongst other behaviors.

Action: A motion was made, and seconded to continue to January 25 meeting to allow the applicant to address the questions raised by the Agent and abutters.

Passed unanimously via roll call vote

4. 1/25/23

The Chair confirmed with the applicant that Norton Point had been removed from the application. Chair Vincent also confirmed that the Commission was still awaiting the input of the Cape Pogue DCPC and that a vote would not be taken until their input had been received.

Darci Schofield spoke of attempts to meet with the Cape Pogue neighbors and will be meeting with them on 2/3/23. Darci read into the public record TTORs written responses to questions and comments raised at previous hearings (attached to these minutes).

Commenters noted that the benefit of multiple NOIs was brought up by the Commission's Agent as well as Cape Pogue abutters. There is currently active litigation regarding property access in areas north of the Dike Bridge. The WPA does not permit “injury to private property or invasion of property rights”. Abutters noted that TTOR advised that their authority extends to TTOR property only and the TTOR does not regulate trespassers on private property when responding to concerns regarding unruly passholders.

Commenters noted that many of the of the existing OSV trails north of the Dike are not in compliance with the WPA yet the NOI seeks to continue their use without a proposal to remedy the lack of compliance. Concerns were raised about the unlimited number of OSV vehicles potentially allowed on the

beaches of Chappy.

Photos of the recent damage of the bulkhead at the Dike Bridge were shared and concerns about the state of it were raised. A resident of Cape Pogue felt a cease and desist order should allow only essential vehicles over the bridge until it is satisfactorily repaired.

Pogue residents noted that they had historically met annually with TTOR and most recently TTOR had conditioned the meeting upon a mediator being present. Also requested was a beach management plan prior to approval by the Conservation Commission. The residents want a positive relationship with TTOR. Another abutter noted the attention to detail and resources with other applications and felt the TTOR application did not pass muster.

Action: A motion was made to continue this hearing to Wednesday Feb 1, 2023 with TTOR as the only agenda item with all Commissioners in favor

5. 2/1/23 - TTOR only meeting

The Chair asked the applicant if they had any response to the questions raised at the previous meeting, the applicant noted that they would reserve comment until the end of this meeting. The Chair opened the floor to public comment.

Rachel Self noted that the Cape Pogue DCPC had scheduled a special meeting for the following week to discuss and opine on the application. She noted that she had visited the Conservation office recently and created a file that encompassed the documentation on file dating back to the initial NOI in the 1990s.

Jay Osler shared his frustration and sadness that the management of the area had deteriorated to the point that access may not be available for even a season. He spoke in favor of the historic access for fishermen and shellfishermen and offered ideas for compromise, specifically considering Different rules in different season, Daily limit on vehicles or reservation systems

Tom & Becky Ross spoke of their opposition to the TTOR application based on its lack of an approved beach management plan (BMP), and noted that the last approved BMP dated back to the early 1990s. They referenced points from the 1991 TTOR reports that noted the need to protect the area from OSV over use and that the access should be limited to current (1991) levels. They reviewed how the trail through the area known as *the cedars* had been opened due to

hurricane damage to other trails and the use of the trails was to be reviewed annually and was supposed to be used by emergency vehicles and Pogue homeowners. The trail has been in general use ever since with no indication that it would be closed as directed. They noted that these points show that TTOR does not follow their own protocols that they established, at risk of permanent damage to the preserve. They noted that their current practices have neglected infrastructure and ignored their own policies.

Leslie Self spoke of the history between TTOR and Chappy property owners. She recalled the land, time, and monetary donations to TTOR to preserve and care for the property. She explained the amount of work volunteers put in fundraising for TTOR for their Chappy properties and expressed the disappointment of the volunteers when TTOR informed the Friends of Cape Pogue group that their fundraising efforts would not go back into the beaches but to the central TTOR accounts in Beverly MA. Access to these beaches is a reality because of the donations of previous and current landowners and they only ask that the established regulations be followed.

Bo Reily requested the NOI be rejected due to its incorrect and misleading nature. Mr. Reily asserted that some of the properties listed in the NOI are not in fact owned or managed under contract by the applicant. He noted that 1.5 miles of trail pass over private property, including his own and he requested that TTOR retain access trails on their own properties or properties they actively manage.

Judy Murphy spoke to the history of the Dike Bridge and the need for the applicant to maintain the bulkhead on their property and that Pogue residents had been encouraging maintenance on the bulkhead for the past 10 years. She also spoke to the bottleneck at the gatehouse between kayak rentals, people airing down there rather than Mytoi and all traffic being directed into a single lane. Move all gate house ops to Mytoi (except kayak rentals), staff needs to be trained as to where TTOR properties end and where private property begins, communication between TTOR and the applicant need to be clear, do not impede traffic on the bulkhead.

Victor Colantonio addressed the WPA and voiced concerns about the lack of plan stamped by a professional and that the submitted plan does not accurately delineate resources and setbacks from these resources. He noted that trails that were previously 10' wide are now 40'

William Gazaille stated that the protection of Cape Pogue is paramount and that he didn't want the landowners and the Commission to be blamed for

TTORs poor management and their opposition to separating the application into one for each distinct beach.

Joe Russo spoke of TTORs *State of the Coast* report and the future inundation predicted at Cape Pogue. Mr. Russo felt that the current management activities likely contributed to the vulnerability of Pogue. He expressed disappointment with the applicant's management of the properties and the lack of attention to the ecology of the area and compliance with the WPA.

Rachel Self spoke to the black and white of the law and of the WPA and its regulations. She spoke of the need of other Pogue residents to follow the procedures laid out by the WPA in regards to submissions, abutter notifications, the recording of Orders of Conditions and extensions. It was noted that the applicant had been issued an Order of Conditions in 2016 (which is not on record at the Registry of Deeds **CONFIRM THIS**), the submission of a complete BMP be submitted by the Fall of 2016, this BMP is not on record as being submitted. The last valid BMP was in 1990 and based on a 5 year study utilizing local experts, university members, and the public. One of the conditions set when the Edgartown Selectboard approved the BMP was an annual review/approval of the BMP and transparency regarding the funding for the execution of the BMP. Rachel noted that none of the access limits or monitoring set forth in the 1990s were ever implemented. She also noted that the portable toilets were in violation of the 2016 Order of Conditions that allowed them but mandated that they be "unobtrusively located" (pictures shared) and that they regularly tipped over during storm events, into the resource area.

Rachel Self raised concerns about the commercial use of the property and the increase in tours and reviewed the complaints filed with the then Edgartown Zoning Inspector. She noted that it did not appear that any NOI or abutter notification had been submitted for this expanded use. She also noted that the applicant had, without permitting or abutter notification, installed a chemical toilet at the Cape Pogue Lighthouse (pics of lighthouse and surrounding area shared). She also noted that the Cape Pogue DCPC regulations require a current BMP.

Edward B. Self thanked the Commission for providing the space for public comment.

The Chair asked for any Commissioner questions or public comment, there were none. He thanked the attendees for the valuable information provided.

The Chair asked the Agent to review the questions that had been posed to the applicant by herself and the board including:

- Applicant should provide maps and/or lists of trails that are closed to OSV traffic during flooding
- Alternative access around the Cedars when the bay side is flooded
- Does TTOR protect unlisted species on Leland Beach
- Does TTOR exceed state guidelines regarding the OSV corridors on Leland
- What is the condition of the Maritime Cedars a state ranked community labeled as imperiled
- Timeframe for submitting the new NOI to change practices and what will those practices entail
- Why allow AWD on their Vineyard beach properties when AWD is not allowed on their Nantucket properties
- Location of cross over trails, would ramps help?
- Locations of signs marking restricted areas
- What information is given out to OSV users
- If TTOR can't meet staffing requirements and be in compliance with any permit issued, what do they plan to do.

Darci Schofield (TTOR) thanked everyone for their thoughtful comments and advised that TTOR is working with the public to develop their new BMP and build consensus around the plan. Darci spoke of the challenge of balancing all multiple interests in these places is almost insurmountable. She spoke of her commitment to improve management of and access to the properties. She noted that they have listened over the past year and have reduced the number of tours and dealt with porta potty issues and noted that change takes time.

Darci advised that she and her staff do redirect visitors who deflate on Dike Bridge road rather than Mytoi. She noted that the BMP submitted with the NOI was an effort to best capture existing practices. She spoke of her commitment to work within the regulations and noted that this NOI is designed to give visitors access this summer season while they work with the community to develop a more extensive plan.

The Chair asked if anyone had anything new to add.

Alexis Colantonio requested that Commissioners review the photos and videos provided by abutters as they will provide a glimpse of the day to day on

the properties. She noted that this is not an issue with Darci but a longer term TTOR management problem that has led to these issues.

Action: A motion was made, and seconded, to continue the hearing to 4 PM on 2/15/23

Passed unanimously via roll call vote

6. 2/15/23 - TTOR only meeting

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 "wreaks 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

7. 3/22/23

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 ebay 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.

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 ecological impacts in different areas
The motion, and second were withdrawn.

Action: A motion was made, and seconded, to continue the meeting to 4/5/23
Passed unanimously via roll call vote