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CONSERVATION COMMISSION MINUTES

131 Pleasant Street

Nantucket, Massachusetts 02554

www.nantucket-ma.gov

Thursday, May 22, 2025 – 5:00 p.m.

This meeting was held via remote participation using ZOOM and YouTube.

<https://youtube.com/live/zXJWYL76NAC>

Commissioners: Seth Engelbourg (Chair), Linda Williams (Vice Chair), Tim Braine, Mike Misurelli, Joe Plandowski, John Schafer, and RJ Turcotte

Called to order at 5:00 p.m. by Chair Engelbourg

Staff in attendance: Jeff Carlson, Natural Resources Director
 Attending Members: Engelbourg, Misurelli, Plandowski, Schafer, Turcotte, & Braine
 Absent Members: Braine & Williams
 Members Left Early: -

I. Acceptance of the Agenda

Motion	Motion to accept Agenda (Made by: Misurelli) (Seconded by: Plandowski)
Vote	Vote Carried: 6-0 Engelbourg, Misurelli, Plandowski, Schafer, and Turcotte(aye)

II. Public Comment

Chair Engelbourg called for public comment

Public Comment (00:02:53)	none
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III. Public Hearing

A. Notice of Intent- No Waiver Required: Pre-January 1st Submissions (none)

B. Notice of Intent- No Waiver Required

1. Nantucket Islands Land Bank- Smooth Hummocks Way (82-30) SE48-3893

Action:	CONTINUED UNTIL JUNE 26TH
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C. Notice of Intent- Waiver Required: Pre-January 1st Submissions

1. Sconset Beach Preservation Fund- 59-83 Baxter Road (various) SE48-3759

Action:	CONTINUED UNTIL JUNE 5TH
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2. The Summer House of Nantucket Realty Trust- 10 & 16 Ocean Avenue (73.2.4-15, 23, & 21) SE48-3824

Sitting:	Engelbourg, Misurelli, Plandowski, Schafer, and Turcotte
Recused:	---
Representatives:	Art Gasbarro, Nantucket Engineering & Survey P.C Valerie Moore, Nutter, McClennen & fish, LLP Stan Humphries, Environmental Consulting & Restoration, LLC
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Public Comment:	Willa Arsenault, Nantucket Land and Water Council John Shea, Sconset resident
Discussion: (00:03:10)	Moore - Reviewed supplemental information that was submitted in reference to the activity described as “dining in the dunes.” The tables and chairs are removed after lunch service and there are no remaining signs of the activity taking place there.

	- There are no alterations associated with the activity and wouldn't be jurisdictional under the Wetlands Protection Act or the bylaw. - This was not part of the Notice of Intent due to the activity not being jurisdictional and was limited to the removal of the portion of the deck shown on the plan and the relocation of the shed. - If the Commission finds this a jurisdictional activity, dining in this area has taken place since at least the 1960's, if not before which pre-dates the bylaw and the state act. Humphries - Submitted his findings to the Commission as a geologist speaking to the conditions he found at the dune. - As a follow up to the assessment of geology and different areas of the dune, it's my professional opinion that the primary frontal dune coincides with the extent of the velocity zone and that the seasonal dining area is located landward. Moore - Unlike almost every application that comes before the Commission, when you speculate what impact an activity might have on a resource area, here you have the benefit of decades of use showing that the dune has remained stable and the vegetation has only increased in density. Misurelli - I was initially concerned about this at the first meeting and remain concerned about it. I do think this activity is within our jurisdiction and just by going in daily, I believe it is destabilizing to beach grass and fragile plants that are in this area. Schafer - Doesn't believe it's within the Commission's jurisdiction and after reading the information that was submitted, he doesn't believe it will have any adverse impacts. Plandowski - Supports Misurelli's position on dining in the dunes. Engelbourg - Agrees with Misurelli as well as there are many inconsistencies in the application and the dialogue of the wording used. - We can get all past that and figure out what the actual resource area is, which I'm fully confident it's in the buffer zone to the Coastal Dune, which would be protected under our local regulations. - There's a lack of clarity on what's going on, on this site. - Unless we have definitive evidence of this use happening not on just a one-off basis, but happening as an ongoing permanent thing, that doesn't meet the standard for pre-existing use. - These activities aren't considered minor activities and needs to be applied for with an RDA or NOI. Arsenault - Reviews letter that will be submitted to the Commission and entered into the record. - Echoes the same concerns of the Commission in consideration of the word "activity". - Would caution the Commission to consider formalizing a use that's already potentially degrading the dune structure. - Considering this or considering this not an activity or impact would be concerning for any future management of Coastal Resources on Nantucket. Shea - Reviews the history of the property and asks the Commission to allow the commercial operation to continue as it has been. Misurelli
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	- Remains concerned about the activity in the dune. The Summer House will continue to go with their other activities. Moore - Requests a continuation from the Commission to submit evidence of the dining operation in the open sand for public record. Engelbourg calls a 5-minute break
Action:	CONTINUED UNTIL JUNE 26TH

3. West Ashored LLC- 62 Wanoma Way (92-16) SE48-3869

Sitting:	Engelbourg, Misurelli, Plandowski, Schafer, and Turcotte,
Recused:	---
Representatives:	Brian Madden, LEC Environmental
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Public Comment:	There were no public comments.
Discussion: (00:37:34)	Madden - Initially presented the application back in early January and have now gone through the HDC process. - Review location and proposed application of the relocation of a previously installed deer fence. - The HDC had requested to have the wire fence be inset a little bit further interior and have Evergreens wrapped around along the edge, which is outside the 100-foot buffer zone. - The applicant is proposing to relocate the fence along the 50-foot buffer zone in accordance with the regulations with a few exceptions where the existing lawn area encroaches into the 50-foot buffer zone. Misurelli - Sympathize with the homeowners but doesn't see how the Commission could allow a full fence through the 50-foot buffer as it's restricting to the wildlife in that proximity to the pond. Engelbourg - There is ample room on the site to relocate all of the fence to be outside the 50-foot buffer zone or to provide alternatives to that fence to have the same level of deer protection. - It doesn't meet the performance standards and in applying for a waiver, we would have to look at long-term net benefits or no reasonable alternatives. Turcotte - In agreement with Misurelli and Engelbourg Madden - Recommends the Commission go out to the site and conduct an on-site review where the fencing is proposed in relation to where it could be approved against the 50-foot buffer zone. Engelbourg - We could schedule a field viewing but noted that notes that there isn't an alternatives analysis in the application. We would require that before moving forward. - The field viewing prior to the June 26th meeting is June 24th.
Action:	CONTINUED UNTIL JUNE 26th

D. Notice of Intent- Waiver Required

1. *ACK TU LLC- 14 Plover Lane (12-53) SE48-3905

Action:	CONTINUED UNTIL JUNE 5TH
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E. Amended Orders of Conditions- No Waiver Required (none)

F. Amended Orders of Conditions- Waiver Required (none)

IV. Public Meeting

- C. Orders of Conditions/ Amended Orders of Conditions- Waiver Required: Pre-January 1st Submissions (none)
- D. Orders of Conditions/ Amended Orders of Conditions- Waiver Required (none)
- E. Orders of Conditions/ Amended Orders of Conditions- No Waiver Required (none)
- F. Request for Determination of Applicability- Delineation Only (none)
- G. Request for Determination of Applicability- Work Requested (none)

H. Minor Modifications

1. Kane- 12 Pond Road (56-295) SE48-3555

Sitting:	Engelbourg, Misurelli, Plandowski, Schafer, and Turcotte
Recused:	----
Representatives:	Brian Madden, LEC Environmental
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Public Comment:	There were no public comments.
Discussion: (00:49:56)	Madden - The minor modification is for a slight driveway relocation along with a reconfiguration of the approved garage.
Motion:	Motion to approve the Minor Modification (Made by: Misurelli) (Seconded by: Plandowski)
Vote:	Carried://5:0 Engelbourg, Misurelli, Plandowski, Schafer, and Turcotte (aye)

1. Osprey Way Real Estate Trust- 1 Osprey Way (65-19) SE48-3741

Sitting:	Misurelli, Plandowski, Schafer, Turcotte
Recused:	Engelbourg
Representatives:	Cloe Coggins, Nantucket Surveyors LLC
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Public Comment:	There were no public comments.
Discussion: (00:51:36)	Coggins - The plan demonstrates a revision of the footprint areas for the previously approved expansion of the existing dwelling and cottage.
Motion:	Motion to approve the Minor Modification (Made by: Schafer) (Seconded by: Plandowski)
Vote:	Carried://4:0 Misurelli, Plandowski, Schafer, Turcotte (aye) Engelbourg (recused)

I. Certificate of Compliance

1. Golden Sunshine Realty Trust- 100 Cliff Road (41-14) NAN-139

Sitting:	Engelbourg, Misurelli, Plandowski, Schafer, and Turcotte
Recused:	-----
Representatives:	Ryan Maxwell, Bracken Engineering
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Public Comment:	There were no public comments.
Discussion: (00:54:34)	Carlson confirms that everything is in compliance but would continue the lighting condition #20
Motion:	Motion to approve the COC with ongoing condition #20 (Made by: Misurelli) (Seconded by: Plandowski)
Vote:	Carried://5:0 Engelbourg, Misurelli, Plandowski, Schafer, and Turcotte (aye)

2. Aveen Irwin- 87 Hummock Pond Road (56-310.1) SE48-2197
3. Kelly- 87 Hummock Pond Road (56-310) SE48-1744
4. Kelly- 87 Hummock Pond Road (56-310) SE48-2352

Sitting:	Engelbourg, Misurelli, Plandowski, Schafer, and Turcotte
Recused:	----
Representatives:	Jeff Blackwell, Blackwell Associates
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Public Comment:	There were no public comments.
Discussion: (00:55:57)	Blackwell reviews all three projects with SE48-2197 & SE48-1744 with work not being completed expired. Carlson confirms that everything is in compliance with no ongoing conditions.
Motion:	Motion to approve the COC for SE48-1744 & SE48-2197 to close out and invalidate those Orders (Made by: Misurelli) (Seconded by: Plandowski)
Vote:	Carried://5:0 Engelbourg, Misurelli, Plandowski, Schafer, and Turcotte (aye)
Motion:	Motion to approve the COC SE48-2352 (Made by: Misurelli) (Seconded by: Plandowski)
Vote:	Carried://5:0 Engelbourg, Misurelli, Plandowski, Schafer, and Turcotte (aye)

5. Murphy Foundylier- 9 Massachusetts Avenue (60-83) SE48-3568

Sitting:	Engelbourg, Plandowski, Schafer, and Turcotte
Recused:	Misurelli
Representatives:	David Haines, Haines Hydrological Consulting
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Public Comment:	There were no public comments.
Discussion: (01:00:40))	Haines reviews the as built plan of the completed project. Carlson confirms that everything is in compliance but would continue the lighting condition #20
Motion:	Motion to approve the COC with ongoing condition #20 (Made by: Schafer) (Seconded by: Plandowski)
Vote:	Carried://4:0 Engelbourg, Plandowski, Schafer, and Turcotte (aye) Misurelli, (recused)

6. Easton Street LLC- 55 Easton Street (42.4.1-86) SE48-3590

Sitting:	Engelbourg, Misurelli, Plandowski, Schafer, Turcotte, and Williams
Recused:	----
Representatives:	Brain Madden, LEC Environmental
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Public Comment:	There were no public comments.
Discussion: (01:03:46)	Madden reviews the completed project. Carlson confirms that everything is in compliance with no ongoing conditions
Motion:	Motion to approve the COC with no ongoing conditions(Made by: Misurelli) (Seconded by: Plandowski)
Vote:	Carried://5:0 Engelbourg, Misurelli, Plandowski, Schafer, and Turcotte (aye)

7. Four Quaise Pasture Nominee Trust- 4 Quaise Pasture Road (29-69) SE48-2903

8. Four Quaise Pasture Nominee Trust- 4 Quaise Pasture Road (29-69) SE48-3293

Sitting:	Engelbourg, Misurelli, Plandowski, Schafer, and Turcotte
Recused:	----
Representatives:	Brian Madden, LEC Environmental
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Public Comment:	There were no public comments.
Discussion: (01:05:27)	Madden reviews both projects with SE48-2903 being expired with no work conducted. Carlson confirms that everything is in compliance but would continue the lighting and pool conditions #19, #20 & 21
Motion:	Motion to issue COC to invalidate the Order for SE48-2903 (Made by: Misurelli) (Seconded by: Plandowski)
Vote:	Carried://5:0 Engelbourg, Misurelli, Plandowski, Schafer, and Turcotte (aye)

Motion:	Motion to approve the COC with ongoing conditions #19, #20, #21 (Made by: Schafer) (Seconded by: Plandowski)
Vote:	Carried://5:0 Engelbourg, Misurelli, Plandowski, Schafer, and Turcotte (aye)

J. Extension Requests (none)

K. Other Business

1. Approval of Minutes 04/03/2025, 04/17/2025, 05/01/2025

Motion:	Motion to approve all the Minutes (Made by: Misurelli) (Seconded by: Plandowski)
Vote:	Carried://5:0 Engelbourg, Misurelli, Plandowski, Schafer, and Turcotte (aye)

2. Monitoring Reports – None

3. Reports: CRAC, CPC, NP&EDC, Harbor Plan, Offshore Wind Work Group, etc.

CRAC:	Braine is not in attendance - No report
CPC:	Schafer - No report
NP&EDC:	Misurelli - Reviewed transportation plans and budgets surrounding that. Barry Rector has stepped aside as the chair.
Harbor Plan	Williams is not in attendance - No report

4. Commissioner's Comments

Discussion: (01:10:38)	none
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5. Enforcement Actions

1. 14 Plover Lane

Sitting:	Engelbourg, Misurelli, Plandowski, Schafer, and Turcotte
Recused:	-----
Representatives:	Brian Madden, LEC Environmental Consultants- representing the applicant Dan Bailey, representing the abutters Glenn Wood, representing the property owner George Pucci, Town Council
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Public Comment:	Tony Cahill, concerned citizen Doug Delaney, Owner of 16 Plover Lane
Discussion: (01:10:44)	Carlson - The question for the discussion tonight related to the potential use of deer fencing to protect any of the replanting and regrowth areas. Madden - We have submitted a deer fencing proposal and sketch with some narrative. The planting has all been completed as previously reviewed. - We are scheduled to have the plantings installed on the neighboring properties next week so the priority would be to get some of this temporary deer protection fencing in place. - Reviews the narrative for the fencing proposal. - The intent would be to have a gap between the easterly fencing and the central wetland fencing to allow wildlife movement through that area, which can be field adjusted. Misurelli - Asks if there is a time frame to which the deer fencing has to stay up. Madden

	- I didn't put an exact time frame on it, but I think it's something that we could review in the annual report. Engelbourg - This Commission has the authority to put in a timeline if we choose to do so or we could require a specific recording in the annual report to justify why that fence is still needed. Misurelli - Thinks it's important that it doesn't get inadvertently left out there and wrapped in to become a mess. I'm fine with revisiting it on a regular basis in the reports. Engelbourg - We can require in the annual report that there needs to be justification as to why the fence is continued to be required or no longer needed. - In order to allow this, we need to Amend the Enforcement Order to accept this deer fence sketch as part of the restoration planting plan and to delineate the requirements we want for monitoring that fence.
Motion:	Motion to Amend the Enforcement Order to accept the deer fence sketch as part of the restoration planting plan and require documentation of the condition of the fence and why it should be retained or removed in the annual monitoring report (Made by: Schafer) (Seconded by: Misurelli)
Vote:	Carried://5:0 Engelbourg, Misurelli, Plandowski, Schafer, and Turcotte (aye)
Discussion: (01:23:32)	Misurelli - Asks Carlson if there is going to be regular inspections of the work as certain phases wrap up. Carlson - We will do regular inspections as while the work is going on and anytime, we're in that area of Swam or Wauwinet, we'll probably just stop by and see how it's doing.

6. Administrator/Staff Reports

Discussion: (01:24:37)	none
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Adjournment:

Motion:	Motion to adjourn at 6:24pm. (Made by: Misurelli) (Seconded by: Plandowski)
Vote:	Carried://5:0 Engelbourg, Misurelli, Plandowski, Schafer, and Turcotte (aye)

Submitted by:
Lisa Graves