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CONSERVATION COMMISSION MINUTES

4 Fairgrounds Rd

Nantucket, Massachusetts 02554

www.nantucket-ma.gov

Thursday, August 22nd, 2024 – 5:00 p.m.

This meeting was held in a hybrid format with some participation using ZOOM and YouTube.

<https://youtube.com/live/7RcPvoTZLWg>

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

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

Staff in attendance: Jeff Carlson, Natural Resources Director, Will Dell’Erba, Conservation Agent, Vincent Murphy, Sustainability and Projects Manager

Attending Members: Engelbourg, Braine, Misurelli, Plandowski, Williams, and Schafer

Absent Members: -

Members Left Early: -

I. PUBLIC MEETING - Public Comment

Chair Engelbourg called for public comment.

Public Comment	No public comment

1. Sconset Bluff Preservation Fund- 41-119 Baxter Road (various) SE48-3736 (Posner)

Sitting	Engelbourg, Braine, Misurelli, Plandowski, Williams
Recused:	- Schafer not sitting
Representative:	
Documentation:	-
Discussion:	Legal Update Carlson - Beverage and Diamond update have been posted online - George Pucci has been authorized by select board to attend on select boards behalf Vince Murphy - Attorney Pucci is online Pucci - He is here paying attention to the meeting to get more of a handle on the ongoing proceedings - Not here as policing agent Williams - Asks when we’d have their (councils) opinion Carlson - ASAP
Public Comment/Discussion:	Doug Rose - Has found some issues with “the devil in the details” and isn’t surprised with the amount of time it’s taken to get this complete. - Brought out tape measure to demonstrate height of geotube in comparison with the “walkable beach” Burton Balkind - Questions when the town would vote for the geotubes at town meeting

	Engelbourg - Clarifies lease of license or intent for a town vote, but if this project receives a positive NOI then it will need a license which is subject to town approval Carlson - Explains like anything else, you need all permits and licenses but it's not within the scope of the wetland's protection act Engelbourg - Conservation commission does not have any say over licenses of the land Pucci - Confirms what staff and Engelbourg has said Engelbourg - States if positive COC is approved and the meeting vote is positive, select board still must approve Balkind - States if this process is done correctly and thoroughly, there exists all the time in the world Engelbourg - reiterates it is not the commissions job to delay review Dr. Kriebel - Discusses potential downdrift and impacts of geotubes through data sets and visual slides Engelbourg - Commission received letter from Nylon's office Nylon - Agrees that the commission isn't able to determine property boundaries - Believes they have reached an agreement in regard to reaches - Believes this isn't an issue of ongoing arguments but order of conditions - Submitted a cover letter with proposed revisions, identified what they consider the "key issues" in regards procedure and sequences as well as requested a waiver in the event the commission finds some of the lots aren't eligible. - Cannot have a segmented geotube. Engelbourg - Wants nylon to flesh out why the waiver is necessary Nylon - Stated they spent 8 months demonstrating why a waiver is needed Engelbourg - Emphasizes the requirements are due to requirements Dr. Dunk - Mentioned erosion started at Greenhill's property started before the geotubes were implemented - Believes properties are eligible for a waiver and just wanted to have the request on the record but does believe a waiver may not be required Engelbourg - Back to reviewing conditions - Commissioners' duty to do the conditions correctly Staff - Gives overview of current working order of conditions Discussion on findings Engelbourg - Hold off on imminent danger criteria - Discussion additional changes Discussion was had about conducting reach 1, 2, and 3 all together Turcotte
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	- Concerned that the imminent danger aspect may alter which reaches can be done first or not Carlson - Reiterates there's not staff approval just commission approval Engelbourg - Moves to discuss 24 Plandowski - Questioned if it was tougher to include as a Coastal engineering structure (CES) Engelbourg - Doesn't not believe it matters - Meets Nantucket definitions as coastal engineering structure Carlson - Reiterates it requires a license because it's on town land for erosion Pucci - Agrees Engelbourg - Move on to finding 25 Discussion had on wording and town meeting approval Moves on to additional findings Turcott - Questions position on 22 and explains the number for nourishment is important Carlson - Explains intent of wording Discussion had on the amount of sand needed previously and, in the future, Engelbourg - Proceeds with discussion of imminent danger Discussion had on which option to go with for the wording involving imminent danger in addition to imminent danger criteria, house relocation ability, gap lots, and waivers Murphy - Points out that a few numbers have existing geotubes and agrees with the position of waivers Engelbourg - Emphasizes importance of the standards Dunk - Explains gap lots were included to protect the road Engelbourg - Cannot give regulations that are less stringent than state and bylaw Carlson - Staff will put together language for a waiver Nylon - Disagrees with interpretation of infrastructure - Questions special meeting timeline Engelbourg - States legal opinion may now be needed after review of last meeting Special hearings discussion on dates September 6th confirmed for the next special meeting at 4:00pm First hour available for SBPF on the 5th as well
Motion	
Vote	
Action:	Continued until September 9th

Notice of Intent

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

Sitting:	Engelbourg, Braine, Misurelli, Plandowski, Williams,
Recused:	Schafer not sitting
Representatives:	-
Documentation:	-
Public Comment:	-
Discussion	-
Staff Recommendations:	
Action:	Cont. September 9th

2. Pocomo LLC- 61 Pocomo Road (15-15) SE48-3801 (Haines)

Sitting:	Engelbourg, Braine, Misurelli, Plandowski, Williams
Recused:	
Representatives:	David Haines
Documentation:	Site and topographical plans
Public Comment:	No public Comments
Discussion:	No Discussion
Staff Recommendations	All necessary items have been received to close
Motion:	Motion to close (Williams) Seconded (Plandowski)
Vote	Vote Carried: 6-0 Engelbourg, Braine, Misurelli, Plandowski, Schafer, and Williams (aye)

3. Nantucket Conservation Foundation- Pest House Pond (43-123) SE48-3802 (Karberg)

Sitting:	Engelbourg, Braine, Misurelli, Plandowski, Williams, Schafer
Recused:	
Representatives:	Naomi Valentine
Documentation:	Site and topographical plans
Public Comment:	There were no public comments.
Discussion:	Engelbourg - Has ability to issue 5-year order but it is not standard practice Valentine 3 year is fine
Staff Recommendation:	All necessary items have been received to close
Motion	Motion to close (Made by Williams) (Seconded by Misurelli)
Vote:	Vote Carried: 6-0 (Engelbourg, Braine, Misurelli, Plandowski, Schafer, Williams aye)

B. Amended Order of Condition

1. 13 Commercial Street LLC- 13 Commercial Wharf (42.2.4-10) SE48-3563 (Santos)

Sitting:	Engelbourg, Braine, Misurelli, Plandowski, Williams, Schafer
Recused:	
Representatives:	Paul Santos
Documentation:	Site and topographical maps

Discussion/public comment:	Williams - Has no issue with application but would like to see it higher Misurelli - Questions parking Confirmed location of parking Homeowner - Claims HDC really liked this plan Engelbourg - States he was the one who had issue with this project and had waiver approved on very specific requirements - Has issue with location of building itself and obstruction of views Williams - Does not see how its obstructing the view and flood zone implications Homeowner - Explains reason for adding entry, confirms they are raising house and there is no impact to the line of sight - Doesn't understand logic why the house would be a problem Engelbourg - Explains why he has issue Plandowski - Has no issue Misurelli - Site visit requested RJ Turcott - Explains other applicants have been denied when asking for less Homeowner - Believes this area is unique to Nantucket and explains what has changed in recent years Engelbourg - Request to send all documentation of change explanations and will look into an enforcement order - Explains they will only look environmental Santos - Welcomes site visit and will submit a specific waiver request
Staff Recommendation:	
Motion	
Vote:	
Action	Continued 9/5

2. *Elnaggar- 30 Union Street (42.3.2-143) SE48-3652 (Haines)

Sitting:	Engelbourg, Braine, Misurelli, Plandowski, Williams, Schafer
Recused:	
Representatives:	David Haines
Documentation:	Site and topographical maps
Public Comment:	There were no public comments.
Discussion:	Engelbourg Requested photo for deck due to the term “pervious” Continue request
Staff Recommendation:	
Motion	

Vote:	
Action:	Continued 9/5

PUBLIC MEETING

A. Requests for Determination of Applicability

1. Hamson- 59B Polpis Road (54-26.1) (Gasbarro)

Sitting:	Engelbourg, Braine, Misurelli, Plandowski, Schafer
Recused:	Williams
Representatives:	Art Gasbarro
Documentation:	Site and topographical maps
Public Comment:	There were no public comments.
Discussion:	No discussion
Staff Recommendation:	All necessary items have been received to close with positive 2a, negative 2 and negative 3
Motion	Motion to approve RDA with conditions (Made by Misurelli) (Seconded by Plandowski)
Vote:	Vote Carried: 5-0 (Engelbourg, Braine, Misurelli, Plandowski, Schafer (aye) Williams recused

B. Minor Modifications

1. Family Ties ACK LLC- 11 Alliance Lane (39-24.1) SE48-3457 (Madden)

Sitting:	Engelbourg, Braine, Misurelli, Plandowski, Williams, Schafer
Recused:	
Representatives:	Brian Madden
Documentation:	Site and topographical plans
Public Comment:	No Public Comment
Discussion:	No discussion
Staff Recommendation:	
Motion:	Motion to issue minor modification (made by Williams) (Seconded by Misurelli)
Vote:	Vote Carried: 6-0 (Engelbourg, Braine, Misurelli, Plandowski, Schafer, Williams (aye)

2. 256 Polpis LLC- 256 Polpis Road (25-25) SE48-3644 (Gasbarro)

Sitting:	Engelbourg, Braine, Misurelli, Plandowski, Williams, Schafer
Recused:	
Representatives:	Gasbarro
Documentation:	Site and topographical plans
Public Comment:	No Public Comment
Discussion:	Engelbourg Noted not all is native
Staff Recommendation:	
Motion:	Motion to approve (made by Williams) (seconded by Plandowski)
Vote:	Vote Carried: 5-0 (Braine, Misurelli, Plandowski, Schafer, Williams (aye) Engelbourg abstained

C. Certificate of Compliance

1. 117 Madaket Road Nominee Trust- 117 Madaket Road (40-60.3) SE48-2776 (Santos)

Sitting:	Engelbourg, Braine, Misurelli, Plandowski, Williams, Schafer
Recused:	
Representatives:	Paul Santos
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Public Comment:	There were no public comments.
Discussion:	No discussion
Staff recommendation	
Motion:	Motion to approve the issuance of the Certificates of Compliance for both properties (Made by: Misurelli) (Seconded by: Williams)
Vote:	Carried://6:0 Engelbourg, Braine. Misurelli, Williams, Plandowski, Schafer (aye)

2. Van Dyke- 74 North Beach Street (29-9) SE48-1523 (Reissue) (Brescher)

Sitting:	Engelbourg, Braine, Misurelli, Plandowski, Williams, Schafer
Recused:	
Representatives:	Brescher
Documentation:	Site and topographical plans, photos, requisite departmental reports, and correspondence.
Public Comment:	There were no public comments.
Discussion:	No discussion
Staff recommendation	Dell 'Erba recommends issuing the COC
Motion:	Motion to approve the issuance of the Certificates of Compliance (Made by: Williams) (Seconded by: Misurelli)
Vote:	Carried:// 6:0 Engelbourg, Braine. Misurelli, Williams, Plandowski, Schafer (aye)

3. Moores- 14 Tautemo Way (83-13) SE48-276 (Reissue)(Brescher)

4. Moores- 14 Tautemo Way (83-13) SE48-1276 (Reissue) (Brescher)

5. Moores Realty Trust- 14 Tautemo Way (83-13) SE48-3468 (Reissue) (Brescher)

6. Nantucket Maria Mitchell Association- 31 and 33 Washington Street (42.3.2-82.3 & 82.1) SE48-2378 (Robinson)

Sitting:	Engelbourg, Braine, Plandowski, Williams, Schafer, Misurelli
Recused:	
Representatives:	
Documentation:	Site and topographical plans, photos, requisite departmental reports, and correspondence.
Public Comment:	There were no public comments.
Discussion:	No discussion
Staff recommendation	Dell 'Erba recommends issuing
Motion:	Motion to approve the issuance of the Certificates of Compliance with continuing conditions (Made by: Williams) (Seconded by: Plandowski)
Vote:	Carried://6:0 Engelbourg, Braine, Williams, Plandowski, Schafer, Misurelli

All COC's agreed to be approved at once

D. Orders of Conditions (If the public hearing is closed – for discussion and/or issuance)

1. Pocomo LLC- 61 Pocomo Road (15-15) SE48-3801 (Haines)

Sitting:	Engelbourg, Braine, Misurelli, Plandowski, Williams, Schafer
Recused:	
Representatives:	-

Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Public Comment:	There were no public comments.
Discussion:	Dell “Erba Explained OOC with additional conditions 18 and 19
Motion:	Motion to approve as drafted. (Made by: Williams) (Seconded by Misurelli)
Vote:	Carried:// 6:0 Engelbourg, Braine, Misurelli, Williams, Plandowski, Schafer (aye)

2. Nantucket Conservation Foundation- Pest House Pond (43-123) SE48-3802(Karberg)

Sitting	Engelbourg, Braine, Misurelli, Plandowski, Williams, Schafer
Recused:	
Representatives:	-
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Public Comment:	There were no public comments.
Discussion:	Dell ‘Erba Gave explanation with conditions 18-23 and waiver of invasive species Engelbourg Added wording to require dates for reports
Motion:	Motion to approve as amended. (Made by: Misurelli) (Seconded by: Plandowski)
Vote:	Carried:// 6:0 Engelbourg, Braine, Misurelli, Williams, Plandowski, Schafer (aye)

E. Extension of Order - None

F. Other Business

1. Approval of Minutes- 4/04/2024

Approval of minutes

Motion to approve minutes (made by Williams) (seconded by Misurelli)

Vote: Carried:// 5:0 Engelbourg, Braine, Misurelli, Williams, Plandowski (aye) Schafer abstained

2. Monitoring Reports - None

3. Enforcement Actions/Potential Enforcement Actions -

117 Baxter Road- Williams

Engelbourg

- Will be placed on meeting for next agenda as it is not on the current agenda

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

CRAC:	Braine - No report.
CPC:	Schafer • No report
NP&EDC:	Misurelli • No report
Harbor Plan	Williams • Had a draft, had great comments and may have final draft in a few months
Offshore Wind Work Group:	N/A

6. Commissioner’s Comments

Discussion:	Williams • Great meeting
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7. Administrator/Staff Reports

Discussion:	• November 14th for procedural meeting at 5pm but can be flexible • Sending out special meeting for SBPF on September 6th 4-6 • Check out ConCom page as there was some additions • No minute's taker anymore, stay tuned for updates
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Adjournment:

Motion:	Motion to adjourn. (Made by: Williams) (Seconded by: Plandowski)
Vote:	Carried://6:0 6:0 Engelbourg, Braine, Misurelli, Williams, Plandowski, Schafer (aye)

Submitted by: Morgan Nelson