



CONSERVATION COMMISSION MINUTES

4 Fairgrounds Rd
Nantucket, Massachusetts 02554
www.nantucket-ma.gov

Thursday, September 19th, 2024 – 5:00 p.m.

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

<https://youtube.com/live/nRHcmZ8a2ql>

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: Will Dell 'Erba, Conservation Agent, Vincent Murphy, Sustainability and Projects Manager

Attending Members: Engelbourg, Braine, Misurelli, Plandowski, Williams (remote, arrived at 5:05 pm), and Schafer (remote)

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:	Chip Nylen
Documentation:	
Discussion:	Chip Nylen - Has nothing to present Engelborg - Intent of meeting to complete the working conditions - Special municipal council will be present at the next meeting Dell 'Erba - Confirmed left off on 44
Public Comment/Discussion:	Engelbourg - Staff still working on 44 and 43 Nylen - Discussion on the cubic yards of sand and if it's under contract/available Linda Williams arrived at 5:05 pm Engelbourg - Discussion on 47 Nylen - Removal plan in place prior to construction Engelbourg - Discussion on 49 Nylen - Said they provided sand nourishment plan - Claims OOC was removed when the geotubes were ordered to be removed - Doesn't believe they have a sand deficient

	Engelbourg - Concerned it only provides sand up until removal order, which never received COC and there is nothing that should absolve applicant of fulfilling their requirements Discussion continued about sand mitigation procedures going forward as well as whether the applicant met the mitigation measures already agreed upon Disagreement over if the sand nourishment should have continued after removal order was put in place or for the length of the permit through 2025 amongst commissioners Doug Rose - Understands confusion amongst commission but believes the root issue is about timing - Emphasizes the reason the condition exists is how to retire that debt Trey Ruthven - Reiterates applicant has been behind on mitigation requirements since 2014 Engelbourg - Reiterates condition finding 17 Misurelli - States the legal representation will be present next meeting Nylen - States it's important to know they stopped nourishing the sand because they believed it was too much Engelbourg - Acknowledged applicants point as well as everyone else Discusses hearing schedule for additional meetings - Special meeting not possible so continue to next meeting - Asks staff to look at timing for the next meeting to make a special first hour on October 3rd
Motion	
Vote	
Action:	Continued 10/3 at 4 pm

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:	Dunk
Documentation:	-requested continuance
Public Comment:	-
Discussion	-
Staff Recommendations:	
Action:	Continued 10/3

2. *Hitheridge Nominee Trust- 36 Tennessee Avenue (59-79) SE48-3807 (Santos)

Sitting:	Engelbourg, Braine, Misurelli, Plandowski, Williams, Schafer
Recused:	
Representatives:	Paul Santos
Documentation:	Site and topographical plans
Public Comment:	No public Comments

Discussion:	Williams • Questioned the two separate lot usages Santos • Will be addressing with other entities Williams • First time she's seen the lot of septic system being separate is an issue Engelbourg • This is not a ConCom issue Schafer • Asked if there would be a silt fence Santos • Confirmed
Staff Recommendations	All necessary items have been received to close
Motion:	Motion to close (made my Misurelli) (Seconded by Williams)
Vote	Vote Carried: 6-0 Engelbourg, Braine, Misurelli, Plandowski, Schafer, and Williams (aye)

3. *Nantucket Islands Land Bank- Rear Backus Lane (67-483) SE48-3805 (Phelps)

Sitting:	Engelbourg, Braine, Misurelli, Plandowski, Williams, Schafer
Recused:	
Representatives:	Liz Phelps
Documentation:	Site and topographical plans
Public Comment:	There were no public comments.
Discussion:	Misurelli • Questioned when the work would be done Phelps • Potentially next year Brian Mullen • Would appreciate if the spread into his yard could be prevented as well
Staff Recommendation:	All necessary items have been received to close
Motion	Motion to close (made by Williams) (seconded by Plandowski)
Vote:	Vote Carried: 6-0 (Engelbourg, Braine, Misurelli, Plandowski, Schafer, Williams aye)

4. *Third Point Holdings, LLC- 39 Quaise Road (26-3) SE48-3806 (Gasbarro)

Sitting:	Engelbourg, Braine, Misurelli, Plandowski, Williams, Schafer
Recused:	
Representatives:	Art Gasbarro
Documentation:	Site and topographical plans
Public Comment:	There were no public comments.
Discussion:	Williams • Questioned if structures were getting relocated or demolished Gasbarro • Garage is going away, but the house is staying the same Engelbourg • Good idea to receive calculation of buffer zone net loss/gain Gasbarro

	- Between 0 and 25 ft there is a 352 sqft reduction between 25 and 50 there's a 65 ft increase and between 0 and 50 there's a 256 ft decrease net benefit of 256 sqft - Depth of the deck is 10ft Rj Turcotte - If the porch is new, would not be allowed within the 50 historically even if its a benefit Williams - Structure already has porch on the water side and needs clarification Gasbarro - Grey area is existing deck
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. 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, photos of deck
Discussion/public comment:	Brought photos of the deck asked for in previous meeting Haines Confirmed there's gaps for water to get underneath
Staff Recommendation:	All necessary items have been received to close
Motion	Motion to close the hearing and issue amended order (made by Williams) (seconded by Plandowski)
Vote:	Vote Carried: 6-0 (Engelbourg, Braine, Misurelli, Plandowski, Schafer, Williams aye)

2. *Nantucket Land Council- Nantucket Harbor (various) SE48-3092 (Turcotte))

Sitting:	Engelbourg, Braine, Misurelli, Plandowski, Williams, Schafer
Recused:	
Representatives:	RJ Turcotte
Documentation:	Site and topographical maps
Public Comment:	There were no public comments.
Discussion:	Eelgrass managers present on eelgrass as a whole - Success and failure rates at recent eel grass plantings - Expressed desire to reseed new locations at 4th bend and the 2nd pier - Don't plan to close sites to anchoring Williams - Great job - Questioned the spider crabs going to 4th bend

	Managers - Hoping by extending the beds with existing beds this will diminish the clipping of eel grass Misurelli - Questioned seed germination techniques Managers - Dispersal along 1-meter increments along a transect
Staff Recommendation:	All necessary items have been received to close
Motion	Motion to close the hearing and issue amended order (made by Williams) (seconded by Misurelli)
Vote:	Vote Carried: 6-0 (Engelbourg, Braine, Misurelli, Plandowski, Schafer, Williams aye)

PUBLIC MEETING

A. Requests for Determination of Applicability – None

B. Minor Modifications - None

C. Certificate of Compliance

1. West Ashored LLC- 62 Wanoma Way (92-16) SE48-2850 (Bracken)

Sitting:	Engelbourg, Braine, Misurelli, Plandowski, Williams, Schafer
Recused:	
Representatives:	Will Dell 'Erba
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Public Comment:	There were no public comments.
Discussion:	Site was in compliance
Staff recommendation	On going condition of 19
Motion:	Motion to approve the issuance of the Certificates of Compliance (Made by: Williams) (Seconded by: Plandowski)
Vote:	Carried:// 6:0 Engelbourg, Braine. Misurelli, Williams, Plandowski, Schafer (aye)

2. Nantucket Islands Land Bank- Rear Backus Lane (67-483) SE48-3477 (Phelps)

Sitting:	Engelbourg, Braine, Misurelli, Plandowski, Williams, Schafer
Recused:	
Representatives:	Liz Phelps
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 with no containing conditions
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. Nantucket Islands Land Bank- 40 Western Avenue (87-84) SE48-3730 (Phelps)

Sitting:	Engelbourg, Braine, Plandowski, Williams, Schafer, Misurelli
Recused:	
Representatives:	Liz Phelps
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 COC
Motion:	Motion to approve the issuance of the Certificates of Compliance with continuing conditions (Made by: Williams) (Seconded by: Misurelli)
Vote:	Carried://6:0 Engelbourg, Braine, Williams, Plandowski, Schafer, Misurelli

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

1. Nantucket Island Resorts- 20 Cherry Street (55-378.5) NAN-140 (Barnicle)

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 • Conditions 20-23 • Added photo monitoring as 24 and 25
Motion:	Motion to approve as amended. (Made by: Misurelli) (Seconded by: Williams)
Vote:	Carried:// 6:0 Engelbourg, Braine, Misurelli, Williams, Plandowski, Schafer (aye)

2. Hitheridge Nominee Trust- 36 Tennessee Avenue (59-79) SE48-3807 (Santos)

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 • Waivers granted
Motion:	Motion to approve as amended. (Made by: Williams) (Seconded by: Misurelli)
Vote:	Carried:// 6:0 Engelbourg, Braine, Misurelli, Williams, Plandowski, Schafer (aye)

3. Nantucket Islands Land Bank- Rear Backus Lane (67-483) SE48-3805 (reissue)

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:	Engelbourg • Add photo monitoring and documenting on methods utilized Dell 'Erba • Added conditions
Motion:	Motion to approve as amended. (Made by: Williams (Seconded by: Plandowski)
Vote:	Carried:// 6:0 Engelbourg, Braine, Misurelli, Williams, Plandowski, Schafer (aye)

4. Third Point Holdings, LLC- 39 Quaise Road (26-3) SE48-3806 (Gasbarro)

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 overview • Conditions 18, 19 and added lighting • Waiver Discussion over use of word “replacement” Changed to relocation and replacement
Motion:	Motion to approve as amended. (Made by: Williams) (Seconded by: Misurelli)
Vote:	Carried:// 6:0 Engelbourg, Braine, Misurelli, Williams, Plandowski, Schafer (aye)

E. Extension of Order -

1. Waterfront Pocomo, LLC- 17 Laurretta Lane (14-10.2) SE48-3542 (Gasbarro)

Sitting	Engelbourg, Braine, Misurelli, Plandowski, Williams, Schafer
Recused:	
Representatives:	Art Gasbarro
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Public Comment:	There were no public comments.
Discussion:	Request for 3 one-year extension
Motion:	Motion to grant request. (Made by: Williams) (Seconded by: Misurelli)
Vote:	Carried:// 6:0 Engelbourg, Braine, Misurelli, Williams, Plandowski, Schafer (aye)

F. Other Business

1. Approval of Minutes- None
2. Monitoring Reports - None
3. Enforcement Actions/Potential Enforcement Actions - None
4. Request for ConCom to comment regarding Surfside Crossing ZMA remand

Discussion	Engelbourg explained a request was made by ZBA for the ConCom to weigh in on the above issue • Review portions of project related to open space, environmental protection and conservation and provide comment letter to them by November 14th • Reviewing materials and discussing comment scope • Will not do tonight Williams • Expressed concern as to why they were being asked now and not before Engelbourg • Agrees but the commission still has an opportunity to do it • Will look at project on a limited scope Williams • Questioned if they could require the replanting of native species Engelbourg • Can't require, but can suggest Dell ‘Erba • No matter what occurred before he is appreciative, we get to offer opinions now Engelbourg • Agrees Williams
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	- States 11-12 different town boards that can way in before a 40B and is concerned they weren't notified before clearcutting occurred Engelbourg - Commission didn't have hearing but unclear if there were papers - Would commissioners like to schedule a special meeting or just read the packet and give to will to write Williams - Chose option to review packet Engelbourg - Asked commissioners to go through packet and send comments to Will Williams - Will trust Engelbourg's expertise Engelbourg - Everyone look at the packet and send comments to Will
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5. Reports: CRAC, CPC, NP&EDC, Harbor Plan, Offshore Wind Work Group, etc.

CRAC:	Braine No report.
CPC:	Schafer - Moving forward with interview for grants 13 applications
NP&EDC:	Misurelli No report
Harbor Plan	Williams - Closing in on final drafts 35 people at public meeting with new public comments to incorporate
Offshore Wind Work Group:	N/A

6. Commissioner's Comments

Discussion:	Williams Great meeting
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7. Administrator/Staff Reports

Discussion:	Feel free to send comments of ZBA to Will no matter how brief
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Adjournment:

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

Submitted by: Morgan Nelson