



CONSERVATION COMMISSION MINUTES

131 Pleasant Street
Nantucket, Massachusetts 02554

www.nantucket-ma.gov

Thursday, October 3, 2024 – 4:00 p.m.

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

<https://youtube.com/live/vmBo4Jt5DEw>

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

Called to order at 4:00 p.m. by Chair Engelbourg

Staff in attendance: Jeff Carlson, Natural Resources Director, Will Dell’Erba, Conservation Agent
 Attending Members: Engelbourg, Misurelli, Plandowski, and John Schaffer (In person); Williams arrived @ 4:15PM; Turcotte arrived at 4:38PM
 Absent Members: Braine
 Members Left Early: - None

I. PUBLIC MEETING - Public Comment

Chair Engelbourg reviewed Commission meeting procedures.

Public comment - None

II. PUBLIC HEARING

1. Sconset Bluff Preservation Trust – 41-119 Baxter Road (various) SE48-3736

Sitting:	Engelbourg, Misurelli, Plandowski, and Williams
Recused:	Schaffer, Turcotte
Representative:	Attorney Nysten, Dr. Dunk, Meredith Moldenhauer (SBPF); Vince Murphy Town of Nantucket
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Discussion:	Engelbourg - No quorum present delaying until there is quorum - Returned to this item at 4:21PM - Requests update on legal review - Staff provides update on independent legal review and that it has been distributed. Scheduling a date for independent council to be present. - Williams has scheduling concerns - Engelbourg raises Mullin rule concerns - Engelbourg polls the Commission for scheduling - Nysten wants to ensure that all voting members can be present at next meeting - Engelbourg clarifies which version of the draft we are working on. - Engelbourg “calls” the conditions 52-None 53-Nysten 53c-Balkind 53d-Balkind 53f-Plandowski 53h-Nysten #53 Chip Nysten (SBPF) has concerns with requiring amending Orders of Conditions; would prefer an administrative sign off but believes that is a

	Commission decision. Williams agrees with Mr. Nylen. Engelbourg provides his view and discusses Commission authority. Mr. Nylen continues with his concerns over amending the Order. Meredith Moldenhauer (SBPF) does not like the word amend thinks it unnecessary. Williams agrees with SBPF's assessment. Misurelli agrees with Williams. Engelbourg provides his assessment. Staff discusses why this language is originally included as the recommendation. Williams asks if there are no changes why there would be an amendment. Engelbourg believes the NOI acknowledges that a change is included for Phase 2. Nylen disagrees that there will be a project change and there may not be this would restrict future Commission actions. Dr. Dunk agrees with Nylen. Engelbourg reiterates his original point and requests staff to provide additional options. Misurelli asks for staff to relook at this condition and where everything is placed in the Order. Staff reviews some potential options. #53c Burton Balkind (Nantucket Coastal Conservancy) asks for clarity on when to discuss the overall monitoring plan. Engelbourg clarifies. #53f Plandowski has concerns about how the costs of removal are determined and updated and who verifies that estimate. Engelbourg clarifies the Commissions role in this matter. Staff provides further clarity. Engelbourg starts calling the next section. #54 - Dunk #55 - Plandowski #56 - Engelbourg #57 - None #58 - None #59 – None #60 – None #61 – None #62 - None #63 - Engelbourg #64 – Engelbourg/Plandowski #65 – Engelbourg Engelbourg clarifies that the discussion will end after 54-56 are discussed Nylen and Engelbourg agree that waivers will need to be discussed. #54 Nylen discusses that monitoring is described within the NOI. Dr. Dunk discusses the conditions together as they relate to the application materials. Chair Engelbourg describes some concerns with monitoring. Trey Ruthevan describes the need for licensure for data collection and the need for consistency. Engelbourg clarifies the condition. Moldenhauer would like the Commission to outline any further concerns the Commission has relative to monitoring. Engelbourg seeks comment. Williams would like to see applicants rewrite of these specific conditions. Engelbourg clarifies. Misurelli asks the Town as a co-applicant for their involvement in monitoring. Engelbourg clarifies. Vince Murphy presents the Town's view of monitoring and schedule. Dr. Dunk provides additional clarity as to the proposed monitoring plan. Ruthevan
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	believes that one year is not sufficient for a reduction in monitoring based on construction timeline. Plandowski has some additional comments. The chair turns to scheduling next hearing.
Staff Recommendation:	N/A
Motion:	Continued to 10/17/2024
Additional:	N/A - Misurelli requests 2 minute break; meeting resumes at 5:35

A. Notice of Intent

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

Sitting:	Engelbourg, Misurelli, Plandowski, and Williams	
Recused:	-	
Representative:	Dr. Dwight Dunk	
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.	
Discussion:	- Dunk – review timeline for application and signature requirements - Staff confirms all requirements have been met for the application but not physically in pack.	
Public Comment/Discussion:	- None	
Staff Recommendation:	Continue	
Motion:	Continued to 10/17/2025	
Vote:	N/A	

2. Chioffi – 5 Crow’s Nest Way (12-22.2) SE48-3803 (heard prior to SE48-3736)

Sitting:	Engelbourg, Misurelli, Plandowski, and Schaffer	
Recused:	Williams	
Representative:	David Haines presented the item and responded to Commissioners questions.	
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.	
Discussion:	- Haines reviews delineation and possible proposed plan - Engelbourg questions about delineations and Coastal Bank/Coastal Dune; Haines responds; Schaffer seeks clarification with the chair and others providing clarification. - Engelbourg requests the plan to show correct delineation and provide a proposed plan. - Staff discusses staff visit and delineation review and jurisdictional areas. - Misurelli would prefer a plan with inly current delineations - Haines clarifies the plan to be developed	
Public Comment/Discussion:	- None	
Staff Recommendation:	N/A	
Motion:	Request to continue to 10/17/24, accepted	
Vote:	N/A	

3. Maddigan – 6 Sheep Pond Road (63-2) SE48-3804

Sitting:	Engelbourg, Misurelli, Plandowski, Schaffer and Williams	
Recused:	-	
Representative:	Paul Santos, Nantucket Surveyors, LLC	
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.	
Discussion:	- Santos	

	Provides project overview and description. Addresses concerns raised by an abutter and need for Zoning approval. Confirms sand drift fencing portion of the proposal and need to alter existing fencing installed without a permit. - Misurelli has questions about existing fencing; Santos responds - Engelbourg asks after age of the home as it relates to the fence as a Coastal Engineering Structure (CES). Continues to suggest the need to determine the fence as a CES or not. Reviews applicable definitions. Misurelli provides his opinion and believes that it is not a CES. Plandowski questions the need for this discussion and Engelbourg clarifies. Williams agrees with Misurelli and asks about the potential for waivers. Engelbourg reviews the purpose of this discussion. Santos provides his opinion that the fencing design is not to restrict sand flow. He does not recall fencing as a stand alone structure ever being considered a CES. Schaffer has a question about the house move.
Public Comment/Discussion:	- Burton Balkind – private citizen; requests conditions for material marking and debris pickup by the permit holder.
Staff Recommendation:	All necessary items have been received in order to close.
Motion:	Motion to close. (Made by: Williams) (Seconded by: Plandowski)
Vote:	Carried://5:0 Engelbourg, Schaffer, Misurelli, Williams and Plandowski (aye)

4. 250 Polpis Trust – 250 Polpis Road (26-27) SE48-3811

Sitting:	Engelbourg, Turcotte, Schaffer, Misurelli, and Plandowski
Recused:	Williams
Representative:	Mark Rits, Site Design Engineering, presented the item and responded to Commissioners questions.
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Discussion:	- Rits introduces the project and resource areas. Includes some history of the site. Engelbourg pauses the discussion for Commissioner Williams to recuse. - Misurelli asks about the “bubble” around the court either as plan detail or planting. Rits clarifies that screening is being planted for the court. Misurelli requests a planting list. Engelbourg clarifies jurisdiction. Schaffer questions the retaining wall and rits clarifies the site topography and need.
Public Comment/Discussion:	- George Tom – abutter; believes construction has started; primary concern is related to lighting and would prefer it to not be used after dark. Rits clarifies that no lighting is proposed. Confirms that some work had started.
Staff Recommendation:	All necessary items have been received in order to close.
Motion:	Motion to close. (Made by: Plandowski) (Seconded by: Misurelli)
Vote:	Carried://5:0 Engelbourg, Turcotte, Schaffer, Misurelli, and Plandowski (aye) / Williams (recused)

5. Maxwell House LLC – 15 Cliff Road (42.4.4-56) SE48-3808

Sitting:	Engelbourg, Turcotte, Schaffer, Misurelli, Williams and Plandowski
Recused:	None
Representative:	Brian Madden, LEC Environmental, presented the item and responded to Commissioners questions.
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Discussion:	- Engelbourg believes that this is an Ecological Restoration Limited Project; asks applicant to review. Madden does not believe that this project would not need limited project status with justification provided. Staff agrees with Madden’s assessment.

	- Williams asks after last site visit and has concerns over the condition of the site. Staff will review. - Williams asks about Ecological Restoration permits; Engelbourg clarifies, staff clarifies as well. Madden shares the checklist for a Restoration Limited Project. Feels that this project is of the scale where this is not needed. Commission would like to get a comment/opinion from MassDEP.
Public Comment/Discussion:	- None
Staff Recommendation:	None
Motion:	Continued to 10/17/24
Vote:	N/A

6. 88 Pocomo Realty Trust- 88 Pocomo Road (15-33 & 42) SE48-

Sitting:	Engelbourg, Turcotte, Schaffer, Misurelli, Williams and Plandowski
Recused:	-
Representative:	Mark Rits, Site Design Engineering, presented the item and responded to Commissioners questions.
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Discussion:	- Engelbourg asks if a DEP file number has been received. Staff and applicant confirm that it has not.
Public Comment/Discussion:	- None
Staff Recommendation:	File number needed to close hearing.
Motion:	Continued to 10/17/24
Vote:	N/A

7. LAZ Family Nom Trust- 20 Waquoit Road (90-5) SE48-

Action:	Continued without opening to 10/17/2025
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8. 256 Polpis, LLC- 256 Polpis Road (25-25) SE48-3809

Sitting:	Engelbourg, Turcotte, Schaffer, Misurelli, Williams and Plandowski
Recused:	-
Representative:	Art Gasbarro, Nantucket Engineering and Survey, presented the item and responded to Commissioners questions.
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Discussion:	- Gasbarro emphasized that the applicant has attempted to relocate structure to maximum compliance with buffer zones. Restoration would occur in previously disturbed areas.
Public Comment/Discussion:	- None
Staff Recommendation:	All necessary items have been received in order to close.
Motion:	Motion to close. (Made by: Williams) (Seconded by: Plandowski)
Vote:	Carried://6:0 Engelbourg, Turcotte, Schaffer, Misurelli, Williams and Plandowski (aye)

B. Amended Orders of Conditions

1. The Graylan Group LLC- 7 Pond Road (56-153) SE48-3556

Sitting:	Engelbourg, Schaffer, Misurelli, Williams and Plandowski
Recused:	-
Representative:	Paul Santos, Nantucket Surveyors, LLC
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.

Discussion:	- Santos plan changes reflect abutter concerns - Williams seeks to confirm which is the plan of record; Santos confirms the plan - Schaffer asks about contact with abutters - Misurelli references standard pool conditions - Engelbourg suggests adding the standard pool conditions and lighting conditions.	
Public Comment/Discussion:	- Nicole Tara, 8 Meadow View abutter; describes concerns related to sound, concerns with water and groundwater, concerns related to light; Engelbourg clarifies - Elisa Allen, 9 Pond Road supports the changes made to the original plan; provides later comments related to the plan of record; Engelbourg clarifies	
Staff Recommendation:	All necessary items have been received in order to close and issue.	
Motion:	Motion to close and issue with pool and lighting conditions. (Made by: Misurelli) (Seconded by: Williams)	
Vote:	Carried://6:0 Engelbourg, Turcotte, Schaffer, Misurelli, Williams and Plandowski (aye)	

PUBLIC MEETING

A. Requests for Determination of Applicability – None

B. Minor Modifications

1. Hitherview Associates, LLC- 26 Tennessee Avenue (60.1.2-29) SE48-3576

Sitting:	Engelbourg, Turcotte, Schaffer, Misurelli, Williams and Plandowski
Recused:	N/A
Representatives:	Mark Rits, Site Design Engineering. presented the item.
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Staff Recommendation:	Approval
Discussion:	There were no comments made by Commissioners.
Motion:	Motion to approve the Minor Modifications (Made by: Misurelli) (Seconded by: Williams)
Vote:	Carried://6:0 Engelbourg, Turcotte, Schaffer, Misurelli, Williams and Plandowski (aye)

C. Certificate of Compliance

1. ACK86QR- 86 Quidnet Road (21-102, 103, & 69) SE48-3412

Sitting:	Engelbourg, Turcotte, Schaffer, Misurelli, Williams and Plandowski
Recused:	Williams
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Staff Recommendation:	Approval
Discussion:	There were no comments made by Commissioners.
Motion:	Motion to approve (Made by: Misurelli) (Seconded by: Plandowski)
Vote:	Carried://5:0 Engelbourg, Turcotte, Schaffer, Misurelli, and Plandowski (aye); Williams(Recused)

2. Red Horse LLC- 88 Quidnet Road (21-70, 104, & 109) SE48-3297

Sitting:	Engelbourg, Turcotte, Schaffer, Misurelli, Williams and Plandowski
Recused:	N/A

Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Staff Recommendation:	Approval
Discussion:	There were no comments made by Commissioners.
Motion:	Motion to approve (Made by: Williams) (Seconded by: Plandowski)
Vote:	Carried://6:0 Engelbourg, Turcotte, Schaffer, Misurelli, Williams and Plandowski (aye)

3. Red Horse LLC- 88 Quidnet Road (21-70, 104, & 109) SE48-3668

Sitting:	Engelbourg, Turcotte, Schaffer, Misurelli, Williams and Plandowski
Recused:	N/A
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Staff Recommendation:	Approval
Discussion:	There were no comments made by Commissioners.
Motion:	Motion to approve (Made by: Williams) (Seconded by: Plandowski)
Vote:	Carried://6:0 Engelbourg, Turcotte, Schaffer, Misurelli, Williams and Plandowski (aye)

4. Elnagger- 30 Union Street (42.3.2-143) SE48-3652

Sitting:	Engelbourg, Turcotte, Schaffer, Misurelli, Williams and Plandowski
Recused:	N/A
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Staff Recommendation:	Approval
Discussion:	There were no comments made by Commissioners.
Motion:	Motion to approve (Made by: Williams) (Seconded by: Plandowski)
Vote:	Carried://6:0 Engelbourg, Turcotte, Schaffer, Misurelli, Williams and Plandowski (aye)

5. Montano 49 Nominee Trust- 49 Wauwinet Road (14-26) SE48-3751

Sitting:	Engelbourg, Turcotte, Schaffer, Misurelli, Williams and Plandowski
Recused:	N/A
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Staff Recommendation:	Approval
Discussion:	There were no comments made by Commissioners.
Motion:	Motion to approve (Made by: Williams) (Seconded by: Misurelli)
Vote:	Carried://6:0 Engelbourg, Turcotte, Schaffer, Misurelli, Williams and Plandowski (aye)

6. Petrocelli- 2 North Beach Street (42.4.1-64) SE48-3135

Sitting:	Engelbourg, Turcotte, Schaffer, Misurelli, Williams and Plandowski
Recused:	N/A
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Staff Recommendation:	Approval
Discussion:	There were no comments made by Commissioners.
Motion:	Motion to approve (Made by: Williams) (Seconded by: Plandowski)
Vote:	Carried://6:0 Engelbourg, Turcotte, Schaffer, Misurelli, Williams and Plandowski (aye)

7. Galley West LLC- 1 Mothball Way (83-42.4) SE48-2619

Sitting:	Engelbourg, Turcotte, Schaffer, Misurelli, Williams and Plandowski
Recused:	N/A

Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Staff Recommendation:	Approval
Discussion:	There were no comments made by Commissioners.
Motion:	Motion to approve (Made by: Williams) (Seconded by: Misurelli)
Vote:	Carried://6:0 Engelbourg, Turcotte, Schaffer, Misurelli, Williams and Plandowski (aye)

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

1. Sconset Beach Preservation Fund- 59-83 Baxter Road (various) SE48-3759 (cont to 10/15/24)
2. Chioffi – 5 Crow’s Nest Way (12-22.2) SE48-3803 (cont to 10/15/24)
3. Maddigan – 6 Sheep Pond Road (63-2) SE48-3804

Sitting:	Engelbourg, Schaffer, Misurelli, Williams and Plandowski
Recused:	Turcotte
Staff Recommendation:	Presents the draft Order of Conditions
Discussion:	Williams suggests pickup and marking conditions; Engelbourg proposes language for that condition
Motion:	Motion to issue the Order of Conditions as amended (Made by: Misurelli) (Seconded by: Williams)
Vote:	Carried://5:0 Engelbourg, Schaffer, Misurelli, Williams and Plandowski (aye); Turcotte (Recused)

4. 250 Polpis Trust – 250 Polpis Road (26-27) SE48-3811

Sitting:	Engelbourg, Turcotte, Schaffer, Misurelli, and Plandowski
Recused:	Williams
Staff Recommendation:	Presents the draft Order of Conditions; suggests lighting conditions.
Discussion:	Engelbourg makes some clerical corrections on the draft Order. Misurelli requests a condition for a planting plan; Engelbourg provides draft condition language
Motion:	Motion to issue the Order of Conditions as amended (Made by: Misurelli) (Seconded by: Turcotte)
Vote:	Carried://5:0 Engelbourg, Turcotte, Schaffer, Misurelli, and Plandowski (aye); Williams (Recused)

5. Maxwell House LLC – 15 Cliff Road (42.4.4-56) SE48-3808 (cont to 10/15/24)
6. 88 Pocomo Realty Trust- 88 Pocomo Road (15-33 & 42) SE48- (cont to 10/15/24)
7. 256 Polpis, LLC- 256 Polpis Road (25-25) SE48-3809

Sitting:	Engelbourg, Turcotte, Schaffer, Misurelli, Williams and Plandowski
Recused:	None
Staff Recommendation:	Presents the draft Order of Conditions, including waivers
Discussion:	Engelbourg makes some clerical corrections on the draft Order. Misurelli requests a condition for a planting plan; Engelbourg provides draft condition language
Motion:	Motion to issue the Order of Conditions as amended (Made by: Williams) (Seconded by: Schaffer)
Vote:	Carried://6:0 Engelbourg, Turcotte, Schaffer, Misurelli, Williams and Plandowski (aye)

E. Extension of Order

1. Eat Fire Spring Trust 2018- 12 Margaret’s Way (20-9) SE48-3475

Sitting:	Engelbourg, Turcotte, Schaffer, Misurelli, Williams and Plandowski
Representative:	Art Gasbarro, Nantucket Engineering and Survey
Discussion:	Three one-year extensions
Motion:	Motion to issue the extension (Made by: Williams) (Seconded by: Plandowski)
Vote:	Carried://6:0 Engelbourg, Turcotte, Schaffer, Misurelli, Williams and Plandowski (aye)

2. High Cliff Trust & Six East Hallowell Lane Trust- 6 & 11 East Hallowell Lane (30-98 & 17) SE48-3594

Sitting:	Engelbourg, Turcotte, Schaffer, Misurelli, Williams and Plandowski
Representative:	Mark Rits, Site Design Engineering
Discussion:	Three one-year extensions
Motion:	Motion to issue the extension (Made by: Williams) (Seconded by: Schaffer)
Vote:	Carried://6:0 Engelbourg, Turcotte, Schaffer, Misurelli, Williams and Plandowski (aye)

3. 88 Pocomo Trust- 88 Pocomo Road (15-33 & 42) SE48-3506

Sitting:	Engelbourg, Turcotte, Schaffer, Misurelli, Williams and Plandowski
Representative:	Mark Rits, Site Design Engineering
Discussion:	Three one-year extensions
Motion:	Motion to issue the extension (Made by: Williams) (Seconded by: Misurelli)
Vote:	Carried://6:0 Engelbourg, Turcotte, Schaffer, Misurelli, Williams and Plandowski (aye)

F. Other Business

1. Approval of Minutes – None
2. Nantucket Harbors Sediment Transport Study & Dredge Plan - presentation on plan development and seeking commission feedback on dredging

Presented by Vince Murphy Town of Nantucket Natural Resources Department; reviews scope of study and planning. Shows preliminary model results as presented by Gordon Thompson Baird Associates. Murphy discusses permitting path. Williams provides some commentary on seeding Eelgrass and dredging impacts. Murphy main goal is to have navigational channels with minimal impacts. Williams wants to be sure this plan is all encompassing. Turcotte encourages continuous data collection and dredge volumes. Murphy provides some clarity to these questions. Misurelli asks after disposal of dredge material. Williams references the Harbor Plan; Engelbourg wants to clarify the scope of the Commission in these discussions.

3. Monitoring Reports – Two reports included in the packet; no discussion

3. Enforcement Actions/Potential Enforcement Actions

- a. 62 Wanoma – enforcement action – deer fence

Sitting:	Engelbourg, Turcotte, Schaffer, Misurelli, Williams and Plandowski
Staff discussion	Investigated site in question from a public way to see a substantial deer fence without benefit of permit.

Discussion:	Engelbourg suggests issuing the enforcement and holding discussion at a future meeting. 11/7/24 is the recommended meeting
Motion:	Motion to issue the enforcement (Made by: Williams) (Seconded by: Turcotte)
Vote:	Carried://6:0 Engelbourg, Turcotte, Schaffer, Misurelli, Williams and Plandowski (aye)

Staff provides an update on the Summer House enforcement; Engelbourg requests investigating

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

CRAC:	Braine - Not present
CPC:	Schaffer - Grant packages issued
NP&EDC:	Misurelli - No report.
Harbor Plan	Williams - No report

6. Commissioner's Comments

Discussion:	- None
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7. Administrator/Staff Reports

Discussion:	No reports.
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Adjournment:

Motion:	Motion to adjourn at 7:55pm. (Made by: Plandowski) (Seconded by: Williams)
Vote:	Carried://6:0 Engelbourg, Turcotte, Schaffer, Misurelli, Williams and Plandowski (aye)