

**Rochester Conservation Commission  
February 20, 2018**

Present: Daniel Gagne, Vice Chairman  
Maggie Payne  
Chris Post  
Christopher Gerrior

Absent: Michael Conway, Chairman  
Rosemary Smith  
Laurene Gerrior

Jessica Brodeur, Recording Secretary  
Laurell Farinon, Conservation Agent

The meeting was held in the Rochester Town Hall Meeting Room. Vice Chairman Gagne called the meeting to order at 7:02 p.m. and announced that the meeting was being televised.

**Public Meeting**

**A Request for Determination of Applicability filed by Willow Creek Builders, LLC, 3 Belcher Street, Plainville, MA 02762 for property located at 157 Forbes Road, Rochester, MA 02770, designated as Lot 42 on Assessor's Map 19A. The applicant proposes the installation of a new private well and the construction of a dwelling near the 100-foot Buffer Zone of an isolated vegetated wetland. The only activity within the 100-foot Buffer Zone will be grading; there will be no work in the 25-foot No Disturb Zone. Erosion Control measures will be implemented. The applicant's representative is Stephen E. Meltzer, Esq., Edgewood Development Company, LLC, 3 Belcher Street, Plainville, MA 02762. The property owner of record is Connet Woods, LLC, 3 Belcher Street, Plainville, MA 02762.**

**Documents Submitted:** *WPA Form 1, Exhibit A (Connet Woods Plotting sheet 2 of 62 (reduced copy)), Exhibit B (Subdivision Plan Sheet 46 of 62 (reduced copy with Lot 42 Highlighted)), Exhibit C (Lot 42 Building Permit Plan (highlighted)), Exhibit C-1 (Lot 42 Building Permit Plan (grading area highlighted)), Exhibit C-2 (Lot 42 Building Permit Plan (showing No Disturb Zone)), Exhibit D (ANRAD Sheet 9 (highlighted)), Exhibit E (Photo of Existing grade)*

Stephen E. Meltzer, Esq. of Edgewood Development Company, LLC was present and explained that Lot 42 located at 157 Forbes Road was part of the Connet Woods project. Attorney Meltzer stated that the reason he was appearing before the board is that there is a large pile of material that needs to be graded within the 100 Foot Buffer Zone. Willow Creek Builders will perform earthwork to level the material pile by approximately ten (10) feet: no work will be done in the 25-foot No Disturb Zone.

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Vice Chairman Gagne noted that the existing tree line is substantially different from that shown on the original site plan, and includes work within the 100 Foot Buffer Zone. He asked Attorney Meltzer if Edgewood Development received permission from the Commission before doing the clearing. Attorney Meltzer stated there had been no clearing in the buffer zone to his knowledge. Agent Farinon reminded the Commission that this development started over ten years ago and that they did clearing for construction of the roadways, stormwater collection system and staging areas in phases. Attorney Meltzer stated that the plan was produced in 2006, and any clearing could have been done before that time or at that time.

Vice Chairman Gagne asked why the proposed dwelling and grading couldn't be pushed further from the 25-foot No Disturb Zone. Attorney Meltzer replied that this was due to the placement of the well, and that the pile in question could cause problems with drainage if left in place. Vice Chairman Gagne stated that there are other solutions, for example: raise the elevation of the house, don't put a full basement, etc. Attorney Meltzer replied that they're trying to make the house fit in with the rest of the neighborhood. Member Payne asked if the pile was a natural feature: Agent Farinon responded that it is not and it appears to be a combination of loam and fill material.

Attorney Meltzer asked if the Commission would be willing to put any appropriate conditions in a Determination of Applicability (DOA) instead of having to go through the process of a Notice of Intent. Vice Chairman Gagne stated he didn't believe conditions in a DOA are as enforceable as they are with an Order of Conditions. Attorney Meltzer reminded the board that if they violate any wetland laws those are, in fact, enforceable.

Agent Farinon recommended that the Commission continue the meeting and schedule a site visit to review the property. Commission members agreed upon Sunday, March 4<sup>th</sup>, 2018 at 9:00 a.m. and confirmed with Mr. Meltzer that he will be available for the site visit. Member Gerrior made a motion to continue the public meeting and conduct a site visit, the motion was seconded by Member Post, all in favor. **The motion passed by a vote of 4 in favor, 0 opposed, 0 abstained (4-0-0).**

**A Request for Extension Permit that was made by Edgewood Development Company, LLC, 3 Belcher Street, Plainville, MA 02762 for property located on King's Highway, Assessor's Map 17, Lots 6, 57, & 58, requesting a three (3) year extension to the previously issued Order of Conditions under DEP SE #272-0483 which will expire on March 22, 2018. The Commission granted approval of a new bituminous concrete manufacturing facility on a 5+ acre site off King's Highway. Regulated activity is limited to construction of portions of infiltration basins within the 100-Foot Buffer Zone to an irrigation pond and a cranberry bog. The project was subject to a prolonged appeal of the Rochester Planning Board decision which has recently been disposed.**

**Documents Submitted:** *Plans entitled "King's Highway Bituminous Concrete Facility", Petition Pursuant to 301 CMR 11.04*

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Agent Farinon explained that the Commission was unable to open the public meeting on this request due to a lack of a voting quorum.

Attorney Meltzer reminded the Commission that the Order of Conditions was set to expire on March 22, 2018. Agent Farinon replied that because Edgewood Development made the request for Extension Permit greater than thirty (30) days in advance of permit expiration they met their legal requirement.

Vice Chairman Gagne reiterated that the Commission would not open this item on the agenda due to a lack in voting quorum.

**Request for Determination of Non-Significance, Southeast Realty Development, Hartley Mills Lot 3, Old Mill Way, DEP #272-537.** Proposed Movement of the Dwelling One Foot to the West to Allow for Overhangs. The applicant's representative is James Holbrook.

**Documents Submitted:** *Plans titled "Southeast Realty Development 'Hartley Mills' Lot 3 Old Mill Way Portion of Map 37 Parcel 27"*

James Holbrook of 1 Bates Road, Rochester, MA was present representing his mother who owns the property. Mr. Holbrook explained to the Commission that when the original plans for this property were drawn up, the house overhangs were not taken into consideration. Mr. Holbrook requested that the Commission allow them to move the dwelling one (1) foot back in order to meet minimum zoning setback requirements.

Vice Chairman Gagne asked Mr. Holbrook if the house footprint has changed at all. Mr. Holbrook stated all they wanted to do was move it back one (1) foot, the footprint of the dwelling will not change at all.

Agent Farinon stated that it was her opinion that moving the dwelling back one foot was not a significant enough change to warrant an Amended Order of Conditions, and recommended that the Commission deem the change non-significant.

Member Gerrior made a motion that the Commission approve the minor change and deem it not significant enough to require an Amended Order of Conditions, the motion was seconded by Member Payne, all in favor. **The motion passed by a vote of 4 in favor, 0 opposed, 0 abstained (4-0-0).**

**Commission Business**

**Minutes**

A motion to approve the minutes of February 6, 2018 was made by Member Gerrior and seconded by Member Post. **The motion passed by a vote of 4 in favor, 0 opposed, 0 abstained (4-0-0).**

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**Voucher(s)**

The following vouchers were approved for payment: W.B. Mason/Name Plate for Recording Secretary: \$6.65, Staples/Office Supplies: \$115.43, and Benjamin Forestry Services/Forest Stewardship Plan: \$383.67.

Agent Farinon explained the Benjamin Forestry Services Voucher: The Commission had applied for and received a DCR Working Forest Initiative Grant with a reimbursement rate of \$1,266.33. She explained that the \$383.67 balance of the \$1,650 invoice for the Stewardship Plan for the two parcels the Commission applied for (the Upper River Bend and Lower River Bend) could be paid from the Conservation Commission Trust Fund that was set up a number of years ago. Said fund has a balance of approximately \$6,000.

**Old Business**

None

**New Business**

**Review and Approve 2017 Annual Report of the Rochester Conservation Commission**

Agent Farinon stated that she has already received a few comments and made the following corrections: Vice Chairman Gagne's name was listed twice, and a redundancy in the third paragraph which has been removed. Member Gerrior made a motion to approve the 2017 Annual Report of the Rochester Conservation Commission as revised, which Member Post seconded. **The motion passed by a vote of 4 in favor, 0 opposed, 0 abstained (4-0-0).**

**Review of Forest Management Plan Prepared by Benjamin Forestry Services, Inc. for Conservation Commission owned Upper River Bend and Lower River Bend Lots off New Bedford Road Adjacent to Shoolman Preserve.**

Vice Chairman Gagne requested Agent Farinon to summarize the plan for the Commission. Agent Farinon displayed an aerial photo of permanently protected lands in the Mattapoisett River Valley to orient Commission members with the location of the properties in question. She pointed to two parcels of land that were purchased through a DEP Aquifer Land Acquisition Grant designated as lots 2 and 6 on Rochester Assessors Map 2. Agent Farinon stated that co-owners of the abutting Shoolman Preserve, the Rochester Land Trust and the Mattapoisett Land Trust, initiated discussion about working collaboratively to do a Forest Management Plan. Agent Farinon explained that the plan is a starting point for evaluating the forest and the next step is to coordinate execution of the plan and hiring a logger once the trees are marked. She reminded Commission members that Phil Benjamin is a local forester that has worked with the Conservation Commission before on the Town Forest and Old Colony Regional Vocational Technical High School project.

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Agent Farinon explained the DCR form and stated that the second page of the document requires that the landowner rate the listed goals in order of importance. Agent Farinon pointed out the Property Overview, Regional Significance, and Management Summary which contained a description of the property, statements about overall forest health, and more project specific information regarding the management plan and regional significance. Agent Farinon then referenced to the Forest Stand Map and Assessor's Map that the forester prepared. She stated that the numbers in the circles are distinct vegetative stands that the foresters have carved out with separate management recommendations. The last page of the document is a signature page that is signed when the Commission votes to approve the plan and abide by the management provisions of the Stewardship Plan.

Member Gerrior asked about the stands designated for light harvesting, and inquired who will do it and when. Agent Farinon responded that the forester will make recommendations based on a number of factors, including acorn and cone crop, the timber market, weather conditions, and ground conditions. Agent Farinon recommends that the Commission take a proactive approach about informing the public about the project as the Shoolman trail is used by many people throughout the year.

Discussion ensued over the Landowner Goals section and Commission members assigned the importance of each item as follows: Enhance the Quality/Quantity of Timber Products was a low priority, Generate Immediate Income was a low priority, Generating Long Term Income was a low priority, Producing Firewood was a low priority, Defer or Defray Taxes was a low priority, Promoting Biological Diversity was a high priority, Enhancing Habitat for Birds was a high priority, Enhancing Habitat for Small Animals was a high priority, Enhancing Habitat for Large Animals was a high priority, Improving Access for Walking/Skiing/Recreation was a high priority, Maintaining or Enhancing Privacy was a low priority, Improving Hunting or Fishing was a high priority, Preserving or Improving Scenic Beauty was a high priority, Protecting Water Quality was a high priority, Protecting Unique/Special/Cultural Areas was a high priority, Attaining Green Certification was uncertain priority. Agent Farinon summarized the stated Commission goals for the property as increasing biodiversity and wildlife habitat, and maintaining/promoting public access.

Member Gerrior made a motion to approve the stewardship plan as presented, Member Post seconded, all in favor. **The motion passed by a vote of 4 in favor, 0 opposed, 0 abstained (4-0-0).**

**Future Meetings and Site Visits**

Commission members discussed their availability for upcoming meetings and site visits. All attending members confirmed they will be available for the March 4<sup>th</sup>, 2018 site visit and the March 6<sup>th</sup>, 2018 meeting.

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**Correspondence**

No new correspondence, but Agent Farinon reported that the Walnut Plain Cedar Swamp Conservation Project (Estabrook property) was awarded a Conservation Partnership grant as well as the previously announced Buzzards Bay mini-grant. The Rochester Land Trust will own the 78.6-acre property and the Rochester Conservation Commission will hold a Conservation Restriction as stipulated by the Conservation Partnership Grant program. The Buzzards Bay Coalition is taking the lead on securing the remaining funding. Agent Farinon stated the timeline for closing is June 30, 2018 therefore the Commission will be reviewing a draft Conservation Restriction and an invoice from RLT for \$35,000 at future meetings.

**Adjournment**

The meeting adjourned at 7:54 p.m. on a motion made by Member Post and seconded by Member Gerrior. **The motion passed by a vote of 4 in favor, 0 opposed, 0 abstained (4-0-0).**

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Jessica Brodeur, Recording Secretary

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Daniel Gagne, Vice Chairman