

**Rochester Conservation Commission
January 15, 2019**

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

Absent: *(None)*

Laurell J. Farinon, Conservation Agent
Margaret Gonneville, Board Administrator

The meeting was held in the Town Hall conference room. Chairman Conway called the meeting to order at 7:00 p.m. and announced that the meeting was being televised.

Public Meeting

***(Continued from November 20, 2018)* DEP SE 272-0201 A Request for Certificate of Compliance was submitted by Decas Real Estate Trust for property located at 15 Cranberry Highway, designated as Lot 31 on Assessor's Map 17. An Order of Conditions was issued to Decas Real Estate Trust on August 8, 1993 under DEP SE 272-0201 allowing for the construction of two commercial buildings with parking areas, installation of utilities, sewage disposal, drainage systems and associated grading. An Amended Order of Conditions was issued on May 13, 1997 for the revised design to incorporate a more comprehensive stormwater collection system.**

Bob Rogers of G.A.F. Engineering, representing Decas Real Estate Trust, presented a summary of the history on the Order of Conditions and subsequent Amended Order of Conditions issued to Decas Real Estate Trust. Mr. Rogers displayed the 1997 plan of record and explained that the existing USDA building was built in 1997; the proposed Cranberry Growers building was never constructed. The subsurface sewage disposal system and detention basin were constructed, however, the first filtration basin was not constructed. Mr. Rogers stated that because portions of the project were never completed, a remedy can be provided by the Morrison Notice of Intent filing to complete old and new work. Once an Order is issued, a Certificate of Compliance can be issued to Decas Real Estate Trust so that both parties can close on the property. He reported that a Form A plan has been endorsed by the Planning Board.

Mr. Rogers stated that they will be taking the area between the current edges of the pavement and creating a new pretreatment basin. He said a revised stormwater report has been submitted with the Morrison Notice of Intent. Mr. Rogers showed the Commission the planting plan proposed by Brad Holmes in lieu of the originally designed replication area, which would have resulted in the removal of large established trees. He said that the applicants would like to cut the pine trees and scrub pines within the existing basin. They are waiting for a peer review report from the consulting engineer for the Planning Board. Once everything is approved, they will request a Certificate of Compliance for the Decas Real Estate Trust Order of Conditions.

**Rochester Conservation Commission
January 15, 2019**

Agent Farinon recommended that the Commission continue the public meeting. Mr. Rogers requested a continuance until February 19, 2019.

A motion to continue the public meeting until February 19, 2019 was made by Vice Chairman Gagne and seconded by Member Gerrior. **The motion passed by a vote of 5 in favor, 0 opposed, 0 abstained (5-0-0).**

A Request for Determination of Applicability was filed by Kenneth Viera, 54 Vaughan Hill Road, Rochester, MA 02770 for work on property located at 54 Vaughan Hill Road, Rochester, MA 02770 designated as Lots 10 and 11A on Rochester Assessors' Map 31. The applicant proposes to resurface the existing driveway with blue stone, remove five (5) damaged trees, and remove fill that was accidentally staged in the 100 foot Buffer Zone to a bordering vegetated wetland. Siltation control measures will be implemented. The property owners of record are Kenneth & Theresa Viera, 54 Vaughan Hill Road, Rochester, MA 02770.

Documents submitted: *Portion of a Marked-up Site Plan for Vaughan Hill Road*

Mr. Viera was present at the public meeting and explained that the material mistakenly placed within the 100-foot Buffer Zone will be removed and the cut trees will be cleaned up.

Gianno Letteiri of 60 Vaughan Hill Road stated that he had no issue with what Mr. Viera is now doing.

Agent Farinon reported that she investigated a complaint about work near wetlands on the property and met with Mr. Viera's contractor, who was not aware of the wetlands on the property. She issued a verbal cease and desist and requested Mr. Viera to immediately install erosion control barriers and make an after-the-fact filing. Erosion control barriers were installed the day of Agent Farinon's visit. Mr. Viera subsequently filed a Request for Determination of Applicability to remove fill and five damaged trees from the 100-foot Buffer Zone to a bordering vegetated wetland.

Vice Chairman Gagne asked if Mr. Viera if he planned to go wider with his driveway and Mr. Viera replied that he did not.

Agent Farinon recommended the issuance of a Negative Determination of Applicability. A motion to issue a Negative Determination of Applicability was made by Member Payne and seconded by Member Gerrior. **The motion passed by a vote of 5 in favor, 0 opposed, 0 abstained (5-0-0).**

Rochester Conservation Commission
January 15, 2019

Public Hearings

(Continued from December 18, 2018) DEP File # SE 272-0561 An Abbreviated Notice of Resource Area Delineation filed by Steve Long, Borrego Solar Systems, Inc., 55 Technology Drive, Suite 102, Lowell, MA 01851, for property located on 75 Vaughan Hill Road, Rochester, MA 02770, designated as Lot 23 on Assessor's Map 32. The purpose of the filing is to confirm 6,662 linear feet of Bordering Vegetated Wetland boundary. The property owner of record is Kiriakos A. Rentumis, 75 Vaughan Hill Road, Rochester, MA 02770.

(Vice Chairman Gagne recused himself from the Public Hearing.)

Ryan Bailey of Borrego Solar Systems was present at the public hearing and explained that Daniel and Kate MacGregor of 91 Vaughan Hill Road were mailed the requested survey plan showing property boundaries in relation to the wetland line. Dan MacGregor of 91 Vaughan Hill Road stated that he has concerns about the wetland delineation south of their driveway in the eastern portion of the site. Mr. Bailey said that the resource areas are set to state guidelines, but that he could not speak to that front corner. Agent Farinon explained that wetlands are defined using vegetation, soils and hydrology. Mr. MacGregor stated that the vegetation appeared the same on both sides of the line.

Agent Farinon reported that she made major modifications to the original wetland delineation. Member Payne confirmed that soils do not change in summer or winter, and water levels will change the color of the soils over time.

Peter MacGregor of 125 Vaughan Hill Road stated that the northwest most property bound is presently under water and was not flagged as a wetland. Agent Farinon stated that she will visit the site and review the area with the wetland scientist.

Mr. Bailey requested a continuance of the public meeting until February 5, 2019.

A motion to continue the public hearing until February 5, 2019 was made by Member Gerrior and seconded by Member Payne. **The motion passed by a vote of 5 in favor, 0 opposed, 0 abstained (5-0-0).**

(Vice Chairman Gagne resumed his role in the meeting.)

**Rochester Conservation Commission
January 15, 2019**

(Continued from December 18, 2018) **DEP File # SE 272-0557** A Notice of Intent filed by Repurpose Properties, LLC, 55 Main Street, Buzzards Bay, MA 02532 for property located at Rounseville Road, Rochester, MA 02770, designated as Lots 24, 25B, and 25C on Assessor's Map 30. The applicant proposes construction of an age-related community with 22 duplex units and a common building with a pool area. A roadway with underground utilities, drainage facilities, and a shared septic system for all buildings will be installed. All proposed work within the development is outside of the 25-foot No Disturb Zone, but 14 duplex units, 3 point-source discharges, and 16,100 square feet of roadway will be constructed within the 100-foot Buffer Zone to a resource area. Erosion control measures will be implemented. The property owner of record is Gibbs V. Bray & Patricia M. Bray, Trustees, P.O. Box 989, Marion, MA 02738. The applicant's representative is John Churchill, Jr., J.C. Engineering, Inc., 2854 Cranberry Highway, East Wareham, MA 02538.

Chairman Conway stated that Brian Wallace of J.C. Engineering sent a letter by email on January 9, 2019 requesting a continuation until February 5, 2019.

A motion to continue the public hearing until February 5, 2019 was made by Vice Chairman Gagne and seconded by Member Payne. **The motion passed by a vote of 5 in favor, 0 opposed, 0 abstained (5-0-0).**

DEP File # SE 272-0564 A Notice of Intent filed by T-Mobile Northeast LLC c/o Network Building & Consulting, LLC, 100 Apollo Drive, Suite B, Chelmsford, MA 01824 for property located at 98 Bowen's Lane, Rochester, MA 02770, designated as Lot 14 on Assessor's Map 31. The applicant proposes installation of a 25kw generator on a 4' x 10' pad approximately 34' from a bordering vegetated wetland: all work will be performed outside of the Town of Rochester's 25-foot No Disturb Zone. The generator will provide power to a T-Mobile antenna installation attached to the adjacent communications tower. The property owners of record are Michael J. Umano & Donald C. Cody, Trustees, New England Nominee Trust, 40 Lone Street, Marshfield, MA 02050. The applicant's representative is Marty Cohen, Network Building & Consulting, LLC, 100 Apollo Drive, Suite 303, Chelmsford, MA 01824.

Documents submitted: *Plan entitled "Conservation Site Plan" Prepared for T-Mobile Northeast, LLC Prepared by NB+C Engineering Services, LLC dated November 6, 2018 and revised through December 10, 2018*

Marty Cohen of Network Building & Consulting, LLC was present at the public hearing representing T-Mobile Northeast, LLC. He explained that the communication tower at Bowen's Lane contains T-Mobile plus other carriers. T-Mobile wants to install a backup generator in case of loss of power. The generator will be installed on a 4' by 10' concrete pad 34 feet from a bordering vegetated wetland. Silt fencing will be installed for erosion control.

**Rochester Conservation Commission
January 15, 2019**

Member Gerrior asked if the generator will be hard-piped to the propane gas; Mr. Cohen replied that it will be.

Vice Chairman Gagne asked about a stormwater report and commented that he is concerned about potential failure of a large generator only 34 feet from the wetland. He would like to see an Operations and Maintenance plan. Mr. Cohen replied that the generator will have a double wall steel tank, and is built to be durable and is not supposed to leak. Mr. Cohen said that they could send someone out on a regular basis to check the generator and that the generator has safety features. Mr. Cohen submitted the specifications to the Commission. Mr. Cohen said that he can take any technical questions to the engineer.

Mr. Cohen requested a continuance of the public hearing until February 19, 2019. Agent Farinon informed him that the information will be needed by February 13, 2019 to be included on said agenda.

A motion to continue the public hearing until February 19, 2019 was made by Vice Chairman Gagne and seconded by Member Gerrior. **The motion passed by a vote of 5 in favor, 0 opposed, 0 abstained (5-0-0).**

DEP File # SE 272-0566 A Notice of Intent was filed by Schoen & Bonnie Morrison, 15 Cranberry Highway, LLC, 177 Huntington Avenue, Boston, MA 02115 for property located at 15 Cranberry Highway, Rochester, MA 02770, designated as Lot 31C on Assessor's Map 17. The applicant proposes to redevelop the existing commercial office building into a day care center with some rental space, and construct a water quality swale adjacent to an existing parking lot, leading to an existing drainage basin within 25 feet of a bordering vegetated wetland. The property owner of record is Decas Real Estate Trust, William Decas, Trustee, 4 Old Forge Road, Carver, MA 02330. The applicant's representative is William F. Madden, G.A.F. Engineering, Inc., 266 Main Street, Wareham, MA 02571.

Documents submitted: *Plans entitled "Site Improvements Plan" Prepared for 15 Cranberry Highway, LLC Prepared by G.A.F. Engineering, Inc. dated November 8, 2018 and revised through January 2, 2019*

Bob Rogers of G.A.F. Engineering and applicants Schoen and Bonnie Morrison were present at the public hearing.

Mr. Rogers presented the project and explained the submitted plans and pointed out test pit locations. He reported that Field Engineering will review the stormwater calculations for the Planning Board filing, and incorporate Mr. Holmes' planting plan. Mr. Rogers stated that he will be working with Ken Motta on the peer review and will make a final set of plan changes for submittal to the Commission.

**Rochester Conservation Commission
January 15, 2019**

Chairman Conway asked for clarification on how the Notice of Intent will satisfy the Certificate of Compliance request for the open Order of Conditions for the current owner, Decas Real Estate Trust. Mr. Rogers replied that the Morrison Notice of Intent allows for the Commission to get the corrections needed in order to issue a Certificate of Compliance. Mr. Rogers said that conditions can be put in the Morrison Order of Conditions to correct outstanding issues from the original filing.

Agent Farinon stated that she will be seeking advice from Town Counsel regarding the project. Vice Chairman Gagne commented that it is not appropriate to use today's existing conditions on the stormwater report. Mr. Rogers stated that in 1993 and 1997, the Cranberry Growers building did not get built. He said that the use of the existing basin in 2019 is legitimate. Vice Chairman Gagne disagreed and said that the property was not built as it should have been.

Mr. Rogers stated that for 21 years there has been no evidence of erosion and no vegetation. He said that existing conditions are the basis for the stormwater design. Agent Farinon said that stormwater does not get to the basin now, and is not functioning as it was designed. Mr. Rogers said that the pavement and the extra building were never built. He feels that it was originally oversized and that it is a good thing.

Mr. Rogers requested a continuation of the public hearing until February 5, 2019.

A motion to continue the public hearing until February 5, 2019 was made by Member Gerrior and seconded by Member Post. **The motion passed by a vote of 5 in favor, 0 opposed, 0 abstained (5-0-0).**

DEP File # SE 272-0565 A Notice of Intent was filed by Sophia Darras, 79 Walpole Street, Dover, MA 02030 for property located at 565 Rounseville Road, Rochester, MA 02770, designated as Lots 24, 25, & 25D on Assessor's Map 30. The applicant proposes the installation of a new drainage system to replace the existing system, and bring the site into conformance with stormwater standards. This project also involves the permitting of an existing drainage pipe and discharge to the wetlands. The property owners of record are Sophia Darras, 79 Walpole Street, Dover, MA 02030 and Gibbs V. & Patricia M. Bray, Trustee, P.O. Box 989, Marion, MA 02738. The applicant's representative is J.C. Engineering, Inc., 2854 Cranberry Highway, East Wareham, MA 02538.

Documents submitted: *Plan entitled "Site Plan for Drainage Improvements at 565 & 0 Rounseville Road (Map 30, Lots 24, 25, 25D) in Rochester, Massachusetts (Plymouth County)" Prepared for Sophia Darras and Gibbs V. & Patricia M. Bray, Trustees Prepared by J.C. Engineering, Inc. Sheets 1 & 2, dated December 18, 2018*

Brian Wallace of J.C. Engineering and Patricia McArdle, attorney for Sophia Darras, were present for the public hearing.

**Rochester Conservation Commission
January 15, 2019**

Mr. Wallace gave a background summary presentation on the history of the property, outstanding Order of Conditions and new Notice of Intent filing. He stated that in 2018 he filed a Notice of Intent for REpurpose properties and an outstanding Order of Conditions for earth removal was discovered. The fill from the earth removal was used to construct the Plumb Corner Mall plaza. There was never a Certificate of Compliance requested for the old Order of Conditions. The existing illicit discharge of stormwater from the Plumb Corner Mall needs to be addressed. A new drainage system needs to be constructed to bring the site into compliance.

Vice Chairman Gagne asked about the test pits for infiltration and Mr. Wallace replied that there will be an 84" high subsurface infiltration system. Vice Chairman Gagne then asked if the Planning Board has had a Peer Review done yet on the design; Mr. Wallace replied that there will be one done, but he is not aware of the status of the report.

Chairman Conway asked if a NPDES permit was required for the project; Mr. Wallace replied that he was not sure, but will check into that.

Agent Farinon stated that Henry Nover consulted on this project previously, and recommended that the Commission request a Peer Review fee for review of the design and drainage calculations.

Mr. Wallace commented that they are significantly improving the quality of that water and providing storm sceptors.

Attorney McArdle introduced herself and reported that G.A.F. Engineering has reviewed the submitted design and calculations on behalf of property owner Mrs. Darras, and found them to be satisfactory.

Agent Farinon recommended that the Commission request a Peer Review consultant fee of \$3,000, and continue the public hearing. Mr. Wallace requested a continuation of the public hearing until February 5, 2019.

A motion to continue the public hearing until February 5, 2019 and request a check in the amount of \$3,000 for Peer Review as made by Vice Chairman Gagne and seconded by Member Gerrior. **The motion passed by a vote of 5 in favor, 0 opposed, 0 abstained (5-0-0).**

Commission Business

Minutes

A motion to approve the minutes of December 18, 2018 was made by Member Christopher Gerrior and seconded by Member Laurene Gerrior. Vice Chairman Gagne and Member Post abstained. **The motion passed by a vote of 3 in favor, 0 opposed, 2 abstained (3-0-2).**

**Rochester Conservation Commission
January 15, 2019**

Voucher(s)

The following vouchers were approved for payment: BETA Group, Inc. (formerly Nover-Armstrong) / REpurpose Properties / Village at Plumb Corner / Rounseville Road Escrow Account: \$685.00; Commonwealth of Massachusetts / Pesticide License Renew for Conservation Agent: \$100.00; and Staples / Office Supplies: \$19.98.

New Business

Confirm Member Availability for Future Site Visits and Meetings

Members present with the exception of Member Post confirmed that they will be available for the next meeting on Tuesday, February 5, 2019. Members present with the exception of Member Post confirmed that they will be available for any site visits on Saturday, February 16, 2019 and the meeting on Tuesday, February 19, 2019.

New Commission Members

Agent Farinon announced that Kevin Thompson and Léna Bourque were appointed to the Conservation Commission by the Board of Selectmen.

Mary's Pond Road Violation

Agent Farinon informed the Commission that she received a telephone voicemail message about a possible violation on Mary's Pond Road at the 25.83-acre old Boy Scout Camp property. Agent Farinon visited the property and could see from the road that there had been cutting of trees in the 100-foot Buffer Zone to the adjacent cranberry bog. She contacted the new owner of the property, Jose Araujo of 15 Elizabeth Drive, who confirmed that he had cut trees in order to construct a new dwelling in the rear, and cut trees within the Buffer Zone to Leonard's Pond. Agent Farinon reported that she gave Mr. Araujo a verbal cease & desist on the property. Mr. Araujo informed her that he was leaving for Florida the next day for four months, but that she could meet on site with his consultant Rick Charon of Charon Associates to represent him.

Agent Farinon reported she met on site with Mr. Charon and determined that some of the cutting was done in the 25-foot No Disturb Buffer Zone, as well as 100 Foot Buffer Zone. Agent Farinon displayed pictures of the violation on the Samsung Flipchart to the Commission. She said that Mr. Araujo had done some of the cutting himself and had hired loggers to clean up. Mr. Araujo was in possession of a plan from previous owners that clearly showed the wetlands line and Leonard's Pond. Agent Farinon reported that she drafted an Enforcement Order and read it aloud to the Commission; the Enforcement Order requires that a restoration plan for trees cut within the 25-foot No Disturb Zone and 100-foot Buffer Zone.

Vice Chairman Gagne asked if the Commission could request immediate stabilization. Agent Farinon confirmed that the Commission could ask for that and that she would relay the request to Mr. Charon.

**Rochester Conservation Commission
January 15, 2019**

The deadline date for submittal of the restoration plan was set at February 13, 2019 with attendance at the February 19, 2019 meeting; any disturbed areas shall be stabilized by January 25, 2019. A motion to issue the Enforcement Order as drafted was made by Vice Chairman Gagne and seconded by Member Gerrior. **The motion passed by a vote of 5 in favor, 0 opposed, 0 abstained (5-0-0).**

Adjournment

The meeting adjourned at 8:58 p.m. on a motion made by Vice Chairman Gagne and seconded by Member Christopher Gerrior. **The motion passed by a vote of 5 in favor, 0 opposed, 0 abstained (5-0-0).**

Margaret Gonneville, Board Administrator

Michael Conway, Chairman