

**Rochester Conservation Commission  
February 5, 2019**

**Present:** Michael Conway, Chairman  
Daniel Gagne, Vice Chairman  
Léna Bourque  
Christopher Gerrior  
Maggie Payne  
Kevin Thompson  
  
Laurell J. Farinon, Conservation Agent  
Marissa Perez-Dormitzer, Recording Secretary

**Absent:** Chris Post

The meeting was held in the Town Hall conference room. Chairman Conway called the meeting to order at 7:02 p.m. and announced that the meeting was being televised.

**Public Hearings**

***(Continued from January 15, 2019)* 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.)*

Chairman Conway reported that Steve Long of Borrego Solar sent a letter by email on January 30, 2019 requesting a continuation until February 19, 2019 because the review of the wetland delineation was not completed.

A motion to continue the public hearing until February 19, 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.)*

***(Continued from January 15, 2019)* DEP File # SE 272-0566 A Notice of Intent 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. The applicant proposes to 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.**

**Rochester Conservation Commission  
February 5, 2019**

Chairman Conway reported that Robert Rogers of G.A.F. Engineering, Inc. sent an email on January 31, 2019 requesting a continuation until February 19, 2019.

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 6 in favor, 0 opposed, 0 abstained (6-0-0).**

***(Continued from January 15, 2019)* DEP File # SE 272-0565 A Notice of Intent filed by Sofia 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 Sofia 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.**

John Churchill of J.C. Engineering, Inc., representing Sofia Darras, explained that an onsite meeting was held at the property with the Conservation Commission to review the plan for improving drainage. Mr. Churchill referred to a site plan of the property, and stated that there is a pipe going directly into the wetland that was constructed in the late 1980's. They found a plan on file approved by the Planning Board that indicated a detention basin was supposed to have been constructed to handle stormwater runoff from the Plumb Corner Mall. The detention basin was never built.

Mr. Churchill explained the catch basins on the east side of the property are a little above the pavement, and don't meet the current stormwater management policy requirement of a 4 foot sump. These catch basins will be replaced with a 4 foot deep sump catch basin that will be lower than the existing catch basins. The outfall pipe at the wetland will be pulled back 15 feet with headwall and rip-rap. On the western side of the property, the existing leaching catch basin is raised above the pavement and not leaching. They will add two riprap locations which will allow the water to eventually flow through the pipe toward the wetland. They decreased the peak rate of runoff from the current situation. There is an existing outlet pipe at the rear of the wetland that continues hundreds of feet and discharges to a bordering vegetated wetland to the north. The outlet pipe controls the elevation of the wetland system.

Mr. Churchill stated that they will be meeting with the Planning Board on February 12, 2019 and will be requesting waivers on some of their own regulations. They are looking for input from the Planning Board before they redesign.

Mr. Churchill reviewed some of the recommendations from the peer review letter submitted by Henry T. Nover. Regarding recommended curbing, Mr. Churchill mentioned a Cape Cod berm as an option to help control water going onto a neighboring property. However, he questioned whether a Cape Cod berm was necessary due to the cost. He confirmed that they can include a pea-stone diaphragm, provide calculations for the Hydraulic Residence Time in the swale, off-line Stormceptors, and the Planning Board Water Quality Volume (WQV) below the outlet. Mr. Churchill explained that Ken Motta recommended 1.25 inches of WQV which will result in less water going into the wetland, which is a change from the original plan. He mentioned the need for a waiver from the Planning Board for the change in WQV. Mr. Churchill also stated they will provide the initial saturation thickness used in the mounding analysis.

**Rochester Conservation Commission  
February 5, 2019**

Agent Farinon stated that she had spoken with Ken Motta, the Planning Board's peer review consultant, regarding the curbing. She said that Ken Motta has some design concerns about the way the stormwater flows and Mr. Motta will be proposing an alternative in his report. The Conservation Commission and the Planning Board both have peer review engineers that are reviewing the plan.

Mr. Churchill said they hope to wrap up the process next month.

Vice Chairman Gagne stated that curbing, such as a 3 inch Cape Cod berm, on the eastern edge would be recommended.

Chairman Conway questioned whether there is a need for a NPDES permit. Mr. Churchill stated that he spoke with Newton Tedder from the Environmental Protection Agency who told him there isn't a need for a NPDES permit. Mr. Churchill explained that the requirement for a NPDES permit is that there needs to be an acre of disturbance and contribution to navigable water. Mr. Churchill stated that in this case, there isn't an acre of disturbance.

Vice Chairman Gagne clarified that the question about the NPDES permit related to a concern about point source discharge to a navigable water after the construction period. Discussion ensued about the NPDES permit and Chairman Conway requested the contact information for the EPA staff that responded to Mr. Churchill's inquiry.

Mr. Churchill requested a continuance. He is waiting for the peer review letter from Mr. Motta and will meet with the Planning Board on February 12, 2019.

Agent Farinon recommended continuing the hearing until February 19, 2019.

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 6 in favor, 0 opposed, 0 abstained (6-0-0).**

***(Continued from January 15, 2019)* 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.**

**Rochester Conservation Commission  
February 5, 2019**

John Churchill, Jr. of J.C. Engineering, Inc., representing Repurpose Properties, requested a continuance to February 19, 2019. He stated that they notified the abutters for the next meeting and re-advertised the hearing on February 19, 2019.

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 6 in favor, 0 opposed, 0 abstained (6-0-0).**

**A Notice of Intent filed by Pedro Rodriguez, Solar MA Project Management LLC, Series XXXVI, 143 West Street, Suite C201, New Milford, CT 06776, for property located at 0 Walnut Plain Road and 0 Old Middleboro Road, Rochester, MA 02770, designated as Lots 21, 23, & 31 on Assessor's Map 23. The applicant proposes the construction of a ground-mounted photovoltaic solar array generation facility which requires cutting of trees, earthwork and grading within the 100-foot Buffer Zone of a bordering vegetated wetland. Erosion control measures will be implemented. The Commission issued an Order of Resource Area Delineation (ORAD) on August 10, 2018 under DEP SE #272-556 confirming the wetland resource area boundaries. The property owners of record are Diana J. Murphy, Trustee, Midchester Realty Trust, 24 Old Powderhouse Road, Lakeville, MA 02347 and MWH, LLC, 405 Washington Street, Braintree, MA 02184. The applicant's representative is Dan Wells, Goddard Consulting, LLC, 291 Main Street, Suite 8, Northborough, MA 01532.**

*(Member Gerrior recused himself from the Public Hearing and sat in the audience.)*

Pedro Rodriguez of Seaboard Solar explained this commercial solar project will be part of 35 MW portfolio in Massachusetts and will generate 4.5 MW AC. The entire property is approximately 150 acres and they plan to use to use 33 acres.

Dan Wells of Goddard Consulting LLC referred to site plans of the area and pointed out three parcels that were combined totaling 147-acres. There is a bordering vegetated wetland around the perimeter of the proposed project. The applicant went through the Abbreviated Notice of Resource Area Delineation (ANRAD) process for review and approval of the wetland delineation; the Commission issued an Order of Resource Area Delineation (ORAD) in August 2018.

Mr. Wells stated that the project area is mapped as rare and endangered species habitat for the eastern box turtle, and they are working with the Natural Heritage & Endangered Species Program (NHESP) to create a design to meet their requirements. One requirement is that 1-1/2 times the amount of land must be permanently protected. The solar project footprint is 33.4 acres. Almost 114 acres will be placed into a conservation restriction or deeded for permanent protection. Mr. Wells said he would like to later discuss the Conservation Commission holding a Conservation Restriction (CR) or fee ownership of the property to be dedicated for turtle mitigation.

Mr. Wells discussed the impact on wetlands. There are five separate areas of encroachment into the 100 foot buffer zone that were pointed out on the site plan. Mr. Wells explained that the closest area of proposed work is 29 feet to the nearest wetland flag.

**Rochester Conservation Commission  
February 5, 2019**

Regarding stormwater management, Mr. Wells stated there are 3 infiltration stormwater basins located outside the 100 foot buffer zone. Mr. Wells state that the project complies with the state stormwater guidelines, the local Wetlands Protection Bylaw regarding the setback from the no disturbance zone, and MA Wetlands Protection Act regarding work within the buffer zone.

Mr. Wells stated that the project is mostly outside the jurisdiction of the Conservation Commission. They have received verbal approval from NHESP that the plan will meet the performance standards for their conservation and management permit. There will be a full turtle protection plan that includes a turtle barrier fence surrounding the work area and relocation of turtles found in the solar area.

Vice Chairman Gagne recommended that the Commission require that the project submittal be reviewed by a peer review consultant.

Agent Farinon explained that she sent the submittal package to peer review consultant Henry Nover, who has reviewed the application package. Agent Farinon received a response letter dated January 28, 2019 from Mr. Nover which states that he is prepared to review the stormwater management system submitted in the Notice of Intent and perform several tasks including technical review, site inspection, engineering review, coordination with the Commission and the consultant, preparation of two sets of written comments and recommendations and attendance at one public hearing. Mr. Nover's cost estimate for consulting services on this project is \$3,500. Agent Farinon recommended that the Commission request a peer review consulting fee of \$3,500 for this project.

Vice Chairman Gagne asked about streams in the area and whether they were perennial or intermittent. Mr. Wells stated that streams were looked at through the ANRAD process and mentioned two streams in the area. Vice Chairman Gagne commented that the ANRAD only confirmed the wetland line.

Agent Farinon asked if the applicant had proof of filing of the ORAD at the Registry of Deeds. A copy of the filing was submitted to Agent Farinon by Mr. Rodriguez.

Christopher Gerrior, an abutter, asked how the turtles will coexist with the project after construction and if there will be a turtle barrier fence. Mr. Wells responded that there will be a chain link fence around the perimeter with at least a six inch gap at the bottom for the turtles to pass back and forth. Mr. Gerrior asked if the fence excluded large mammals; Mr. Wells confirmed that it did.

Mr. Gerrior asked if there will be an effort to preserve the stone walls on the property. Austin Turner of Bohler Engineering referred to a site plan of proposed clearing and explained that most of the stone walls will be removed to accommodate the arrays.

Mr. Gerrior asked if the existing old home site close to Old Middleboro Road will be disturbed. Mr. Turner referred to an aerial view, and Mr. Gerrior pointed out the location on the aerial. Mr. Turner explained that they are doing limited grading in the area of the home site and will try to keep the location intact.

Mr. Gerrior asked if there will be clearing outside of the fence. Mr. Turner explained that a 55 foot buffer area will be cleared for the shadow influence zone. There will be limited grading for the stormwater management system and for a perimeter swale.

**Rochester Conservation Commission  
February 5, 2019**

Chairman Conway asked for an explanation of the manufacturing process of the photovoltaic arrays and what potential chemicals might migrate into the wetlands. Mr. Rodriguez responded that there is no liquid inside the panels that could potentially drain into the soil: he will submit further detailed information about all the equipment needed for the project.

Abby Tavilla of 27 Earls Court asked if a maintenance road will be added that will result in a larger buffer zone. Mr. Turner stated that the 55 feet clearing for the shadow protection area includes any perimeter access that will be required.

Mr. Gerrior asked if all maintenance and construction will be done from Old Middleboro Road, and Mr. Turner confirmed that it will be.

Vice Chairman Gagne asked how the 55 feet clearing will be maintained in perpetuity. Mr. Turner stated the intent is to leave the stumps intact and allow the area to re-naturalize to the extent that the shadow influence zone will not be impacted. Discussion ensued about the frequency of maintenance required by the Commission.

Agent Farinon expressed concern about a potential conflict of interest in discussing the Town of Rochester holding a Conservation Restriction or fee ownership of the turtle mitigation property. She offered to provide a list of local land trusts that could be potential owners/CR holders of the property.

Agent Farinon explained that a significant amount of work will need to be done on Old Middleborough Road to get to the site. Referring to a site plan, she explained that Old Middleborough Road is an unimproved roadway; it is a very narrow dirt road with wetlands along the edge at some locations. Any improvements to the road will require a filing with the Conservation Commission. The Planning Board will need to make a determination on the minimum width of the road.

Chairman Conway asked if Old Middleborough Road is a public way: Mr. Rodriguez replied that it is not a public way and he is working with the Town Counsel on a determination. He said they will need to file a new NOI for Old Middleborough Road improvements. Mr. Turner stated they expect to receive feedback from the Conservation Commission, the peer review engineer and from the Planning Board that may change the project. They are looking to start the conversation and then incorporate all the feedback.

Chairman Conway asked about the project timeline. Mr. Turner replied that they are looking to begin in the spring. The timing lines up with the power company's plans to upgrade the system at Old Middleborough Road. Mr. Rodriguez explained that project development started almost two years ago; they have been working to ensure interconnection through Eversource. After approval, they will apply to the SMART program and then apply for a building permit. Agent Farinon asked Mr. Rodriguez when they will file for the roadway work. Mr. Rodriguez stated they will file after receiving feedback from the Planning Board and Conservation Commission. Agent Farinon asked if the wetlands have been flagged yet and Mr. Rodriguez replied that a wetland delineation has not been done adjacent to the road. Agent Farinon reported to the Commission and audience that improvement to Old Middleborough Road will be needed, and that the applicant was informed of such during the technical review committee and informal process by departmental staff. The submitted site plans include no provisions for any improvement to the mile of roadway that will be traveled to access the subject property.

**Rochester Conservation Commission  
February 5, 2019**

Mr. Turner explained that discussions about limitations to Old Middleborough Road have taken place between Mr. Rodriguez' counsel and Town Counsel.

Member Bourque asked if Old Middleborough Road is the boundary of the property, on the property or if abutters go over the road. Mr. Turner pointed out on the site plan that the length of Old Middleborough Road is partially on their property in some locations, partially not on the property, and entirely not on the property in other locations.

Mr. Turner asked if the Planning Board will use the same peer review consultant. Agent Farinon replied that the Conservation Commission and Planning Board do not use the same peer review consultant, however there is little overlap in their scope. She stated that Mr. Nover will be reviewing for wetland impacts and stormwater standards under the Wetlands Protection Act, which the Planning Board consultant does not. Mr. Rodriguez stated that he could pay the retainer right away and wrote and submitted a check during the meeting.

Chairman Conway asked if they are requesting a continuance and Mr. Turner suggested a meeting in March. Vice Chairman Gagne asked Agent Farinon's opinion on moving forward without plans for the road in place. Agent Farinon reiterated her concern about the submitted application not showing a viable means of access. Vice Chairman Gagne suggested continuing the hearing for four months to allow time to resolve the legal issues. Discussion ensued about flagging the wetlands adjacent to the road. Mr. Rodriguez stated that they only want to send out the survey crew once; however, the road hasn't been finalized and may need to be widened in certain areas. They are working on easements for some parts of the road that will be finalized next week.

Chairman Conway suggested continuing the hearing for 4 months and the applicant can request to re-open the hearing earlier if they are ready. Discussion ensued about the best timing for the continuance.

A motion to request professional engineer Henry Nover to review the project on behalf of the Commission 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).**

A motion to continue the public hearing until June 4, 2019 was made by Vice Chairman Gagne and seconded by Member Bourque. **The motion passed by a vote of 5 in favor, 0 opposed, 0 abstained (5-0-0).**

*(Member Gerrior resumed his role in the meeting.)*

**Commission Business**

**Minutes**

A motion to approve the minutes of January 15, 2019 was made by Vice Chairman Gagne and seconded by Member Gerrior. Members Bourque and Thompson abstained. **The motion passed by a vote of 4 in favor, 0 opposed, 2 abstained (4-0-2).**

**Vouchers**

The following vouchers were approved for payment: WB Mason / Name Plates: \$20.40, MACC Conference: \$745.

**Rochester Conservation Commission  
February 5, 2019**

**Review and approve Draft 2018 Annual Report**

Agent Farinon suggested minor edits to the draft 2018 Annual Report. Chairman Conway noted that there were less total RDA applications and Notice of Intent Applications in comparison to prior years. A motion to approve the 2018 Annual Report was made by Vice Chairman Gagne and seconded by Member Gerrior. **The motion passed by a vote of 6 in favor, 0 opposed, 0 abstained (6-0-0).**

**March 2, 2019 MACC Annual Environmental Conference**

Member Bourque received a scholarship to attend the MACC Annual Environmental Conference. Chairman Conway, Member Gerrior, and Member Payne are planning to attend. Vice Chairman Gagne and Member Thompson will not attend. Agent Farinon encouraged each attending Commissioner to communicate their preferences for the workshops as soon as possible as she will be submitting the voucher to register the group.

**Confirm member availability for future site visits and meetings**

Members present except for Member Bourque confirmed they will be available for a site visit on Saturday, February 16, 2019. Members present confirmed they will be available for the next meeting on Tuesday, February 19, 2019.

**Adjournment**

The meeting adjourned at 8:27 p.m. on a motion made by Vice Chairman Gagne and seconded by Member Christopher Gerrior. **The motion passed by a vote of 6 in favor, 0 opposed, 0 abstained (6-0-0).**

---

Marissa Perez-Dormitzer, Recording Secretary

---

Michael Conway, Chairman