

**Rochester Conservation Commission
July 2, 2019**

Present: Michael Conway, Chairman
Daniel Gagne, Vice Chairman
Léna Bourque
Christopher Gerrior (*arrived at 7:01 p.m.*)
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 7:00 p.m. and announced that the meeting was being televised.

Public Meetings

DEP SE 272-0525 A Request for Certificate of Compliance was submitted by Danny & Victoria Hughes for property located at 549 Walnut Plain Road, designated as Lot 64 on Assessor's Map 15A. An Order of Conditions was issued to Danny & Victoria Hughes on July 25, 2016 under DEP SE 272-0525 allowing for the construction of a 576 s.f. two-story structure located in the northeastern corner of the property.

(Member Payne recused herself from the Public Meeting.)

Matthew White of Farland Corp. was present as the owner's representative. He presented the as-built plan on an easel. Mr. White explained the owners constructed a two-story garage adjacent to the dwelling, partially in a riparian zone and buffer to wetland. No changes were made from the approved plan.

Vice Chairman Gagne asked about driveway access. Mr. White responded that there is no driveway because it's a storage building.

Agent Farinon reported that she inspected the property and there was very little if any disturbance resulting from the construction. She recommended that the Conservation Commission issue a Certificate of Compliance to Danny & Victoria Hughes under DEP SE 272-0525.

A motion to issue a Certificate of Compliance was made by Member Gerrior and seconded by Vice Chairman Gagne. **The motion passed by a vote of 5 in favor, 0 opposed, 0 abstained (5-0-0).**

(Member Payne resumed her role in the meeting.)

A Request for Determination of Applicability filed by Jacob Andrews of Boy Scout Troop 31, 4 Taber Lane, Rochester, MA 02770 for work on property located at the YMCA property off Snow's Pond Road, Rochester, MA 02770. As part of an Eagle Scout project, the applicant proposes to cut shrubs within an overgrown pre-existing path down to Snipatuit Pond for canoe/kayak access. Shrubs will be flush-cut with the ground, and there will be no disturbance to the soils. The property owner of record is YMCA Southcoast, Inc., 25 South Water Street, New Bedford, MA 02740. The project location is Snow's Pond Road, Rochester, which is designated as Lot 38 on Rochester Assessors' Map 38.

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(Member Bourque and Member Thompson recused themselves from the Public Meeting.)

Vice Chairman Gagne disclosed that he is a member of the Boy Scout Troop 31 Committee.

Jacob Andrews explained that his project is to open the overgrown path to the Snipatuit Pond and that the project will benefit the YMCA. They will flush cut the shrubs to prevent soil erosion.

Chairman Conway asked the width of the path: Mr. Andrews responded at most 8 feet. Vice Chairman Gagne asked where the cleared brush will be moved. Mr. Andrews responded that most of the brush will go back to the Scout Camp in a pile for wildlife habitat.

Vice Chairman Gagne asked if they will put down wood chips: Mr. Andrews responded no and that they will leave it as natural ground. Member Payne asked if any vehicles will access the path. Kevin Thompson, the Scout Master, responded that a vehicle will only be used in case of an emergency.

Member Gerrior asked if they were putting together a plan for the Boy Scout Troop to maintain the path. Mr. Thompson explained that Eagle Scout projects are one-time activities. However, there will be a maintenance plan for the entire camp filed in the future. He added the project will remove any boating activity away from the herring run.

Dave Watling, 360 Cushman Road, explained he worked with the Boy Scouts on another project and they were diligent. This project will keep foot traffic away from the planks in the herring run.

Agent Farinon reported the Conservation Commission visited the site and confirmed that there was a pre-existing path. At the site visit, they spoke about demarcation of the work area and the material will be removed outside the 100 foot buffer zone. Agent Farinon stated the project can be done without any adverse impacts to the wetland resource areas bordering Snipatuit Pond and recommended issuing a negative Determination of Applicability.

A motion to issue a negative Determination of Applicability was made by Vice Chairman Gagne and seconded by Member Gerrior. **The motion passed by a vote of 4 in favor, 0 opposed, 0 abstained (4-0-0).**

(Member Bourque and Member Thompson resumed their role in the meeting.)

A Request for Determination of Applicability filed by John Maffei of 192 Mystic Drive, Marston Mills, MA 02648 for work on property located at 739 Snipatuit Road, Rochester, MA 02770. The applicant proposes to remove wild vegetation from landscaped areas, remove concrete debris from outlet pipe, clean catch basin and surrounding pavement, install new sod along roadway shoulders, and seal coat pavement. Said work will be performed within the 100-Foot Buffer Zone of a bordering vegetated wetland. The property owner of record is Cape Development LLC, 254 Commercial Street, Portland, ME 04101. The project location is 739 Snipatuit Road, Rochester, which is designated as Lot 17M on Rochester Assessor's Map 47.

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Richard Rheume of Prime Engineering displayed a site plan of the proposed 60-unit residential development on the 38-acre site. The Conservation Commission issued an Order of Conditions in December 2006, which has since expired. He stated some work had been done on the site including construction of one residential unit, roadway and the stormwater collection system and drainage detention basin. He noted they submitted an as-built plan and a report to the Conservation Commission.

Mr. Rheume reviewed the proposed work. The entrance drive is a tree lined boulevard that is overgrown with weeds. They are planning to remove the wild growth vegetation along the roadway and landscaped areas. They will replant lost vegetation and reestablish the sod. They will remove concrete and debris from the pipe outfall and they will reinstall silt socks to prevent silt coming on the road. They will also seal coat the pavement on the roadway.

Agent Farinon reported that John Maffei had visited the Conservation Commission at a prior meeting to explain his project, and the Commission advised him to submit an RDA for the maintenance work. She added that the Order of Conditions has expired. She explained the proposed work can easily be done without impacts to the wetlands. Agent Farinon recommended issuing a negative Determination of Applicability for the maintenance work within the Commission's jurisdiction.

Chairman Conway asked Agent Farinon when she last visited the property. Agent Farinon responded about 3 weeks ago.

Vice Chairman Gagne stated the applicant is proposing to do work in the buffer zone. He asked if there is additional work outside the buffer zone. Mr. Rheume responded that the seal coating of the road, cleaning of catch basins and general maintenance on the shoulders will be outside the buffer zone.

A motion to issue a negative Determination of Applicability was made by Vice Chairman Gagne and seconded by Member Gerior. **The motion passed by a vote of 6 in favor, 0 opposed, 0 abstained (6-0-0).**

Public Hearings

(Continued from May 21, 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 Assessors 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 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.

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Chairman Conway stated they have received a request from the applicant to continue the Public Hearing to August 6, 2019. The reason provided is that they have no new information.

A motion to continue the Public Hearing to August 6, 2019 was made by Member Gerrior and seconded by Member Thompson. **The motion passed by a vote of 6 in favor, 0 opposed, 0 abstained (6-0-0).**

DEP SE 272-0573 An Abbreviated Notice of Resource Area Delineation filed by Erica Buster, Quaker Lane – Simpson Solar, LLC, 3021 Airport Pulling Road N – Suit 201, Naples, FL 34105, for property located at 102 Quaker Lane, Rochester, MA 02770, designated as Lots 6 & 10 on Assessor’s Map 37. The purpose of the filing is to confirm 10,100 linear feet of Bordering Vegetated Wetland boundary and 1,600 linear feet of Riverfront Area. The property owner of record is John Simpson, 102 Quaker Lane, Rochester, MA 02770. The applicant’s representative is SITEC, Inc., 449 Faunce Corner Road, Dartmouth, MA 02747.

Steven Gioiosa of SITEC reviewed the plan on the easel. The property is located at 102 Quaker Lane and consists of 64.5 acres. There is an additional 2.4 acres that is the house lot. A document entitled “Report of Findings for Freshwater Wetland Delineation” was submitted to the Conservation Commission by Natural Resource Services, Inc.

Mr. Gioiosa explained Natural Resource Services, Inc. flagged the site and the flags are visible on the plan. He pointed out the various wetland features on the plan including bordering vegetated wetland, a floodplain, isolated wetland pockets, and Mill Brook.

Craig Parker, 94 Quaker Lane, asked what type of project is proposed for the property: Mr. Gioiosa responded there is no proposed project at this point. They are looking to confirm the wetland delineation to see if there is access to the upland. Mr. Parker asked if the old mill sites on the stream are historical. Mr. Gioiosa responded that he wasn’t aware of the mill sites and will review the Massachusetts Historical Commission database. Mr. Parker also asked about a timetable for the project. Mr. Gioiosa responded they are in the initial planning and evaluation of the property and are months away from filing for a project with the Conservation Commission.

Agent Farinon explained that she has spoken with John Rockwell, a wetlands scientist, about doing a peer review of the wetland delineation. Agent Farinon recommended that the Conservation Commission request a peer review consulting fee of \$3,000.00.

Chairman Conway asked how much time the peer review would take. Agent Farinon responded it would take a couple of weeks and recommended continuing the Public Hearing for a month to ensure sufficient time for the applicant to submit the check and for Mr. Rockwell to consult with the applicant’s wetlands scientist. Mr. Gioiosa committed to submit the check the next day.

A motion to request a \$3,000.00 fee for a peer review consultant 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).**

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A motion to continue the Public Hearing to August 6, 2019 was made by Member Gerrior and seconded by Member Payne. **The motion passed by a vote of 6 in favor, 0 opposed, 0 abstained (6-0-0).**

Commission Business

Minutes

A motion to approve the minutes of June 18, 2019 with two revisions was made by Vice Chairman Gagne and seconded by Member Gerrior. Member Payne abstained. **The motion passed by a vote of 5 in favor, 0 opposed, 1 abstained (5-0-1).**

Vouchers

The following vouchers were approved for payment: BayNet Web Services / Domain Name: \$64.00 and Staples / Panel w/2 Stabilizers: \$314.37.

New Business

Discuss Calculation of Trailside Estates Notice of Intent Fee

Richard Rheume of Prime Engineering stated he submitted a letter on June 27, 2019 showing the calculations of the Town's buffer zone fee. He stated the buffer zone fees would total \$21,777 at a rate of 50 cents per square foot. There is an additional \$200 for the stormwater outfall and the filing fee of \$3,000. The total fees are close to \$25,000. Mr. Rheume asked if the Conservation Commission could waive some of the fees. He stated if the Order of Conditions had not expired and they were submitting a renewal or amending the Order of Conditions, the standard is to submit half the application fee.

Chairman Conway stated the applicant chose to abandon the site. Mr. Rheume noted the project had already been peer reviewed and met the standards at that time. Chairman Conway responded that the standards may have changed. Mr. Rheume stated the applicant would be willing to pay any peer review charges; however, he believed it was onerous to pay \$25,000.

Vice Chairman Gagne noted the project could be redesigned to have no work in the buffer zone in which case the fee would go away. Member Gerrior asked how many units were proposed in the development. Mr. Rheume responded 60 units. He added that the majority of the units are out of the buffer zone and that 11 units are partially or entirely in the buffer zone.

Chairman Conway commented that if the work hadn't stopped, they wouldn't be in this position. Mr. Rheume explained work stopped for various issues including a lawsuit with the Town. Vice Chairman Gagne asked Mr. Rheume what stopped the applicant from renewing the Order of Conditions. Mr. Rheume responded that they should have requested an extension of the Order of Conditions.

Members agreed they were not inclined to waive the fees.

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A motion to not waive the fees on the Trailside Estates project 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).**

Discuss appropriate time for Request for Certificate of Compliance Request Trailside Estates

There was discussion about how best to handle the outstanding Order of Conditions for Trailside Estates. Members agreed the best solution was to request a Certificate of Compliance for the outstanding Orders of Conditions once the new project is filed and a new Order of Conditions issued.

Hartley Wildlife Management Area off Hartley Road

Agent Farinon said she had spoken with Dave Watling, the Rochester Herring Inspector, and Conservation Commission Members who all stated that the water level appears to be low at the Hartley Wildlife Management Area. Agent Farinon distributed photos of the site taken that day.

Agent Farinon emailed Jason Zimmer, Supervisor for the Southeast Wildlife District of Fisheries & Wildlife, to invite him to the next Conservation Commission meeting on July 16, 2019 to discuss the water level. Mr. Zimmer responded that he was unable to attend but provided an update on the work by email. He reported the new flumes are in and functioning. He noted they will be seeding all areas with a native seed mix and the steep slope will be seeded and biodegradable erosion matting installed. He noted they will be raising the water levels slowly to flood the entire wetland in the coming weeks. However, they won't be keeping the water as deep as before for a variety of reasons including encouraging emergent wetland plants.

Vice Chairman Gagne questioned who should be making decisions about the water level in the pond. Agent Farinon agreed there should be discussion and that Mr. Zimmer's comments on the water level are not consistent with what he previously presented.

Vice Chairman Gagne stated when Mr. Zimmer discussed the two flume system; he indicated it was a temporary solution. He asked if there was any time frame on the permanent solution. Agent Farinon responded that her understanding was that a river restoration project would be a lengthy process.

Member Gerrior asked if Mr. Zimmer has legal control over the boards to decide the water level. Agent Farinon was unsure and asked if Dave Watling, Herring Inspector, has control. Mr. Watling responded that he only has control of the first reservoir. Member Gerrior asked if there is a key and lock on the boards and who holds the key. Agent Farinon responded that it's likely the Southeast Wildlife District of Fisheries & Wildlife. Chairman Conway suggested speaking with Town Counsel Bailey on the question of legal authority.

Member Thompson was concerned about the impact of the low water level on wildlife. He mentioned seeing a Blanding's turtle at the site which he believed to be an endangered species.

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Agent Farinon asked if Members would like to invite Mr. Zimmer to a meeting in August or pose questions to him. Vice Chairman Gagne stated he would like both options in which Mr. Zimmer would provide a plan in writing and then Members would have the opportunity to ask him questions in person.

Mr. Watling asked if the Hartley Wildlife Management Area has anything to do with the Mattapoisett River Valley watershed. Vice Chairman Gagne responded it would if it's impacting the groundwater recharge.

Vice Chairman Gagne stated he would like to see a permanent solution. Member Payne commented that when the area was made into a bog, they made straight ditches. If it's restored, she suggested making more of a winding channel.

Member Thompson pointed out that the water level affects recreation. It goes from solid ground to waist deep in one step.

It was agreed by all that Agent Farinon will contact Mr. Zimmer to request that a site visit and meeting with the Commission be scheduled.

Old Business

Review LAND Grant Application for Walnut Plain Conservation Project, Vote to Allow Release of Signature Page and Obtain Signatures of Remaining Members

Agent Farinon reported that Allen Decker of the Buzzard's Bay Coalition forwarded the narrative for the grant application. Chairman Conway asked what is meant by passive recreational activities. Agent Farinon responded that passive recreational activities include walking and hiking. Chairman Conway noted the total cost for property acquisition is \$537,000; however, the grant request is for less. He asked how the difference is reconciled. Agent Farinon responded that the requested grant amount is to purchase the Conservation Restriction (or easement) on the subject property, and that the \$537,000 figure is the appraisal for the fee simple purchase – which is much higher.

Vice Chairman Gagne stated the application looks very consistent with what they proposed.

A motion to release the Conservation Commission's signature page for the grant application 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).**

Both Chairman Conway and Member Payne added their signatures to the page.

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Review Revised Wetland & Buffer Zone Restoration

There was discussion about the restoration plan provided by Brad Holmes of Environmental Consulting & Restoration, LLC. In response to a question from Vice Chairman Gagne, Agent Farinon confirmed that removal of the wood chips has been completed. Member Payne asked what action comes next. Agent Farinon responded that her understanding is that Members would like to see the site before making a decision. Chairman Conway asked if there is a timeline for completing the project. Agent Farinon responded that there is no definitive timeline but the plan mentions summer and fall. The Commission will schedule a site visit of the property prior to the next meeting.

Confirm member availability for future site visits and meetings

Chairman Conway stated the next meeting would take place on July 16, 2019. All Members present agreed they were available for the meeting.

Members agreed to visit 591 Neck Road and an MBTA site on July 15, 2019 starting at 6:00 p.m.

Vice Chairman Gagne suggested discussing availability for the two remaining summer meetings on August 6, 2019 and August 20, 2019. Member Thompson said he is not available for the August 6, 2019 meeting and Member Payne may not be available for the August 20, 2019 meeting. Remaining Members stated they are available for both meetings in August.

Adjournment

The meeting adjourned at 8:29 p.m. on a motion 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).**

Marissa Perez-Dormitzer, Recording Secretary

Michael Conway, Chairman