

**Rochester Conservation Commission
February 4, 2020**

Present: Michael Conway, Chairman
Daniel Gagne, Vice Chairman
Léna Bourque
Christopher Gerrior
Kevin Thompson

Absent: Maggie Payne

Laurell J. Farinon, Conservation Agent
Marissa Perez-Dormitzer, Recording Secretary

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 Hearings

(Continued from January 21, 2020) DEP SE 272-0584 A Notice of Intent was filed by Pedro Rodriguez of Solar MA Project Management LLC, 143 West Street, Suite C201, New Milford, CT 06776 for properties located at 0 Walnut Plain Road/0 Old Middleboro Road, designated as Map 22, Lot 3 and Map 23, Lots 6, 6D, 7, 21, 23, and 31. The applicant proposes the construction of a ground-mounted photovoltaic solar array generation facility and roadway improvements to Old Middleboro Road, an unpaved road that provides access to the array. The project will not alter any wetland resource areas but requires the alteration of portions of the 100-foot Buffer Zone, which are subject to the jurisdiction of the Massachusetts Wetlands Protection Act and Rochester Wetlands Bylaw. The property owners of record are Decas Cranberry Co., Inc., 4 Old Forge Drive, Carver, MA 02330, Diana Murphy, Trustee Midchester Realty Trust, 24 Old Powerhouse Road, Lakeville, MA 02347, and MWH, LLC. 405 Washington Street, Braintree, MA 02184.

(Member Gerrior recused himself from the Public Hearing.)

Chairman Conway announced that the applicant requested a continuance to February 18, 2020 because the applicant is addressing comments from the Conservation Commission's consulting engineer.

A motion to continue the Public Hearing to February 18, 2020 was made by Vice Chairman Gagne and seconded by Member Thompson. **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.)

(Continued from January 21, 2020) Reopened 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-

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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 announced that the applicant requested a continuance because they haven't yet received a letter from the Mattapoisett River Valley Water Supply Protection Advisory Committee. There will be a meeting on February 11, 2020 and they anticipate a letter shortly thereafter.

A motion to continue the Public Hearing to February 18, 2020 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).**

(Continued from January 21, 2020) **DEP SE 272-0587 A Notice of Intent was filed by Steen Realty & Development Corp., 3 Ledgewood Boulevard, Dartmouth, MA 02747 for properties located at 22 Cranberry Highway, designated as Lots 41C and 50 on Rochester Assessors Map 17.** The Notice of Intent application is for work located entirely within the 100 Foot Buffer Zone to a wetland resource area located at 22 Cranberry Highway in Rochester. The scope of work includes associated grading and drainage outfall installation associated with the development of 208 residential units and commercial space within the Cranberry Highway Smart Growth Overlay District. A majority of the work will occur within previously altered/disturbed areas. Minor grading will occur within the Town of Rochester's 25-ft No Disturb Zone which is associated with the installation of the rip rap apron from the outlet pipe.

Chairman Conway announced that the applicant requested a continuance to continue working with the peer reviewer and the Planning Board.

A motion to continue the Public Hearing to February 18, 2020 was made by Vice Chairman Gagne and seconded by Member Thompson. **The motion passed by a vote of 5 in favor, 0 opposed, 0 abstained (5-0-0).**

Commission Business

**For Signature
Minutes**

A motion to accept the minutes of January 21, 2020 was made by Vice Chairman Gagne and seconded by Member Gerrior. Member Bourque and Member Thompson abstained. **The motion passed by a vote of 3 in favor, 0 opposed, 2 abstained (3-0-2).**

Mullin Rule Affidavit

Member Bourque signed a Mullin Rule Affidavit for the Notice of Intent filed by the Steen Realty & Development. Member Thompson signed a Mullin Rule Affidavit for the Notice of Intent filed by the Steen Realty & Development.

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Complaint on Fletcher Property – Old Tuck Bog Road

Chairman Conway reported that he spoke with Town Counsel Bailey who indicated he contacted Mr. Fletcher's attorney Dan Perry to seek permission for both Agent Farinon and Chairman Conway to visit the property. Chairman Conway noted that Town Counsel Bailey had not heard back.

New Business

Chapter 61A Right of First Refusal Request: Morse Brothers Inc., Gerrish Road, Map 43A, Lots 66, 68, and 34

Chairman Conway reported that this item was continued from the last meeting. Agent Farinon distributed maps and explained that the property is in the Chapter 61A tax reduction program and the owners are looking to sell the lots 66, 68 and 34 as shown on Map 43A. She noted that the Purchase and Sale Agreement was included in Members' packets, and the agreement includes a purchase price of \$450,000 with a deposit of \$12,500. She reported that she spoke with Town Counsel Bailey regarding the Commission's concerns about the agreement and deadline dates. She noted they are on day 77 of the 75-day agreement; Town Counsel Bailey has contacted the property owner and an extension of the agreement has been executed.

Agent Farinon reported that Lot 68 has a stream on it. She said that the purchaser of the property, Mr. Smith of Diamond Cut Development, spoke with her about potential wetlands/environmental constraints on the properties. They may need wetland filings for one or all of the properties. Agent Farinon recommended that the Conservation Commission recommend that the Board of Selectman not exercise the Town's Right of First Refusal on the subject properties.

A motion to recommend that the Board of Selectmen not exercise the Town's Right of Refusal 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).**

Discuss Registration for February 29, 2020 MACC Annual Environmental Conference

Member Gerrior and Member Bourque stated they will attend the conference. Member Thompson said he will check his schedule. Vice Chairman Gagne mentioned that Member Payne was interested. Chairman Conway and Vice Chairman Gagne are not able to attend.

Confirm member availability for future site visits and meetings

All Members present except Member Thompson stated they were available for the next meeting. Chairman Conway stated Member Payne will be able to attend.

There was discussion about whether a site visit was needed for an upcoming RDA filing. Agent Farinon explained the applicant is looking to have a determination that a perennial stream is intermittent. Members agreed that a site visit was unnecessary and requested Agent Farinon to provide photos of the property.

Enforcement Order – MBTA, 45 King's Highway

Agent Farinon distributed a packet of information, including photos, of the 45 King's Highway property owned by MBTA. She reported receiving complaints regarding activities up to the edge of wetlands at 45 King's Highway. She explained that a Request for Determination of Applicability (RDA) was filed last June by the MBTA for rail improvements. A portion of proposed work was

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within the 100 Foot Buffer Zone to bordering vegetated wetland: the Commission issued a negative Determination of Applicability with conditions.

Agent Farinon explained that she visited the site on February 3, 2020 and found earthwork and grading up to the edge of an isolated land subject to flooding (ILSF) and bordering vegetated wetland (BVW). She explained she had a 2014 plan prepared for Harris Rebar showing a wetlands delineation on the property. Agent Farinon stated that she met onsite with the representatives present at the meeting. She explained the photos in the packets show the work as of yesterday, and that she was told by MBTA representatives that there was miscommunication about filing for the proper permit from the Conservation Commission.

Agent Farinon noted the photos show erosion control barriers in place. She read a drafted Enforcement Order addressed to the MBTA to Commission members. The order mandates that resource areas to be returned to their original condition with a restoration plan to be submitted by February 28, 2020. Agent Farinon reported that she issued a verbal cease and desist, and that equipment was removed from the site. Chairman Conway asked if the cease and desist order was being followed: Agent Farinon responded yes.

Kyle Purdy, Senior Wetland Scientist and Peter Cruz, Project Manager, both of Jacobs Engineering were present. Mr. Purdy asked if they should add one additional row of erosion controls: Agent Farinon responded yes.

Vice Chairman Gagne asked if work was conducted in an area mapped by the NHESP: Agent Farinon responded no. Vice Chairman Gagne asked the size of the cleared area: Mr. Cruz responded that was approximately 33,000 square feet. Vice Chairman Gagne recommended that all denuded soils be sprayed with hydro-mulch immediately and additional silt fence be wrapped around all the stockpiles immediately.

Mr. Purdy stated they should have provided a courtesy notification of the additional work. Vice Chairman Gagne responded that they should have filed an application for the work. Agent Farinon explained they are creating a staging area to be used by the MBTA. She noted the enforcement order addresses mitigation and restoration. However, there will also be a proposed project. Agent Farinon stated it will be important to deal with both issues and spoke about timing for the mitigation and a filing for the project. Agent Farinon recommended that the Commission issue the Enforcement Order as drafted with addition of the requirements to spread hydro-mulch immediately and add silt fencing around stockpiled soils.

Members discussed the option of ticketing.

A motion to issue the Enforcement Order as amended including stabilization of denuded soils immediately with hydro-mulch, including the installation of silt fence around all soil stockpiles and begin ticketing in conjunction with this project was made by Vice Chairman Gagne and Member Gerrior. **The motion passed by a vote of 5 in favor, 0 opposed, 0 abstained (5-0-0).**

Agent Farinon asked about the ticketing start and stop point. Vice Chairman Gagne responded that it will end with the approval of the mitigation plan.

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A motion to begin ticketing immediately and to cease ticketing upon the approval of a mitigation plan by the Conservation Commission was made by Vice Chairman Gagne and seconded by Member Gerior. Member Gerior noted the approval of the mitigation plan won't happen for at least 2 weeks so they are guaranteed a 2-week fine. **The motion passed by a vote of 5 in favor, 0 opposed, 0 abstained (5-0-0).**

Adjournment

The meeting adjourned at 7:39 p.m. on a motion 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).**

Marissa Perez-Dormitzer, Recording Secretary

Michael Conway, Chairman