

**Rochester Conservation Commission
May 5, 2020**

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

Absent: (none)

Laurell J. Farinon, Conservation Agent
Tanya Ventura, Board Administrator
Marissa Perez-Dormitzer, Recording Secretary

The meeting convened by telephone and video conference via Zoom Meeting ID: 885 4403 1124. Chairman Conway called the meeting to order at 7:03 p.m. and took attendance of Members, staff, applicants, and representatives. Chairman Conway read a message about remote participation and ground rules for the meeting. He stated the meeting was being recorded. Each presentation was limited to 10 minutes and time was allowed for public comment. Chairman Conway stated that votes would be taken by roll call.

Public Hearings

(Continued from April 9, 2020) **DEP SE 272-0584 Notice of Intent filed by Pedro Rodriguez of Solar MA Project Management LLC, Series XXXVI, 143 West Street, Suite C201, New Milford, CT 06776 for properties located at 0 Walnut Plain Road/0 Old Middleboro Road, designated as Map 21, Lot 33; Map 22, Lots 1 & 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, MWH, LLC. 405 Washington Street, Braintree, MA 02184, and the Town of Rochester, 1 Constitution Way, Rochester, MA 02770.

(Member Gerrior recused himself from the Public Hearing.)

Pedro Rodriguez of Solar MA Project Management LLC and Austin Turner of Bohler Engineering were present at the meeting by video conference. Mr. Turner reported minor edits were made to the report and the plans.

Agent Farinon pointed out the modifications in Members' packets of information and concluded that everything requested was submitted. Agent Farinon recommended that the Commission close the Public Hearing and issue a positive Order of Conditions with the previously discussed special conditions in Members' packets and online.

Chairman Conway closed the Public Hearing.

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A motion to issue a positive Order of Conditions with the stipulated special conditions in Members' packets was made by Vice Chairman Gagne and seconded by Member Thompson. **The motion passed in a roll call vote of 5 in favor, 0 opposed, 0 abstained (5-0-0).**

(Member Gerrior resumed his role in the meeting.)

(Continued from April 21, 2020) DEP SE 272-0588 A Notice of Intent filed by Massachusetts Bay Transportation Authority, 10 Park Plaza, Boston, MA 02116, for properties located at 45 Kings Highway, designated as Lot 21 on Rochester Assessors Map 17. The Notice of Intent application requests permission to install security fencing around the facility and restore the 100-foot buffer zone to Bordering Vegetated Wetlands, pursuant to an Enforcement Order that issued to the MBTA on February 4, 2020. The applicant's representative is Jacobs Engineering Group, 120 Saint James Avenue, 5th Floor, Boston, MA 02116. The property owner of record is Massachusetts Bay Transportation Authority (MBTA) 10 Park Plaza, Boston, MA 02116.

Holly Palmgren, Manager of Environmental Construction for the Massachusetts Bay Transportation Authority reported they submitted a package with responses to questions raised at the last hearing as well as questions from Agent Farinon. She reported that she had a Zoom meeting the previous week with to review the first iteration of changes in advance of submittal. Ms. Palmgren explained that they increased the number, species and locations of some of the plantings.

Member Payne asked if the soil stockpiles will be removed from the site or used in grading. Ms. Palmgren responded that they will remove the material from the site.

Ms. Palmgren shared her screen showing the plan. Agent Farinon explained she worked with Ms. Palmgren on a design that had greater variety of plantings to avoid a line of one species. Agent Farinon stated the MBTA plans to submit a Notice of Intent filing in the future with the final grading of the staging area. She reported the soil stockpiles, if left in place, will continue to be a sediment source.

Chairman Conway asked if Agent Farinon was satisfied with the project. Agent Farinon responded yes. Member Thompson asked if the fence location was moved since the last hearing. Ms. Palmgren responded no.

A motion to issue a positive Order of Conditions was made by Vice Chairman Gagne and seconded by Member Thompson. **The motion passed in a roll call vote of 6 in favor, 0 opposed, 0 abstained (6-0-0).**

Notice of Intent filed by Greg Carey of Rochester MA 4, LLC c/o Clean Energy, 27B Midstate Drive Suite 106, Auburn, MA 01501, for properties located at 139 Sarah Sherman Road, designated as Lot 8C, Lot 8L and 13 on Rochester Assessors Map 28. The applicant proposes to install a large-scale ground mounted photovoltaic solar array on portions of Assessor's Map 28 Lot 8C and an access drive through portions of Map 28 Lot 13 and 8L off of Sarah Sherman Road. Proposed work within the 100 Foot Buffer Zone of a bordering vegetated wetland includes removal of an existing farm building, tree clearing, and construction of roadway, solar array, equipment and energy storage pads. Siltation control measures will be implemented. The applicant's

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representative is Evan Watson of Prime Engineering, Inc., P.O. Box 1088, Lakeville, MA 02347. The property owner of record is William Souza, 139 Sarah Sherman Road, Rochester, MA 02770.

Greg Carey of Clean Energy Collective and Evan Watson of Prime Engineering were present at the meeting by video conference.

Mr. Watson explained the applicant filed for an ANRAD about 2 years ago and received an ORAD approving the wetland delineation. He noted that the Planning Board and department representatives provided the applicant with feedback during that technical review meeting.

Mr. Watson shared his screen showing the Notice of Intent filing and the plans. He provided an orientation of the location, pointed out abutters, and noted the wetland resources running through the site. Mr. Watson identified the location of the proposed array in the back of the property. The location is very flat with sandy soils and a small number of trees. Mr. Carey added that it is a hayfield. Mr. Watson showed photos of the hayfield and stated the woods include pine trees and some understory. He explained there are two areas where trees will be cut. In the planned location of the array, trees will be cut, and stumps will be removed. In the area just south of the array, the trees will be cut, and stumps will be left in place along with the understory.

Mr. Watson explained the access road will be moved with the goal of being further away from abutters. It will require some tree clearing. Mr. Watson mentioned the concrete equipment pad will be the only impervious area and will have a crushed stone surround. Highway Surveyor Jeff Eldridge requested an access road around the panels for safety personnel. The road is a crushed stone surface that will absorb water. There will be a view screening fence, a stockade fence, at the closest point to an abutter. An existing building in the 25 Foot No Disturb zone will be removed. Mr. Watson showed the laydown areas outside the 25 Foot No Disturb Zone. He pointed out a dark area on the site plan that is an easement to protect view from the road. Mr. Watson also noted they are planning to leave the existing vegetation underneath the array.

Mr. Carey mentioned the fence that surrounds the array will be raised a minimum of 6 inches off the ground to allow small animals to pass. Mr. Watson added there are no endangered species on the site according to the Natural Heritage and Endangered Species Program.

Member Bourque noted a significant percentage of the array is within the 100 Foot Buffer Zone. Mr. Watson responded that most of it is outside the 100 Foot Buffer Zone. Member Bourque asked what percentage of the total array is that area. Mr. Watson estimated around 20%. Mr. Cary stated the array area is around 4 acres and the entire property is 23 or 24 acres. Mr. Watson showed a Google Earth image of the area where the array is proposed to be located.

Member Thompson noted it appeared that more trees were to be removed than what Mr. Watson pointed out on the Google Earth image. Mr. Watson showed more details regarding the trees to be cut on the tree clearing plan and said he misspoke. Member Gerrior asked if the owner requested the fence. Mr. Watson explained there are two types of fencing. There is a security fence required by insurance companies and the electrical code. The other fence is a view screening fence. He explained they requested a variance from the Town's setback requirement of 100 feet to pull the array away from the abutter and the wetlands. The request was denied. During that process, an

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abutter expressed concerns about the access road and view which is why they pulled the access road away and added the screening fence.

Member Payne noted in a diagram of the fence line, it appears they are cutting trees beyond the fence line, but not on the wetland side of the array. Mr. Watson explained the panels are oriented south and anything south of the array will cast shadows. To the north of the array, the trees will not have an impact.

Vice Chairman Gagne noted he did not see stormwater controls on the plans. Mr. Watson explained they did a drainage report and found they will not be increasing the curve number or the time of concentration. They are not changing any grades since the site is very flat. The site also slopes away from wetlands and there will not be erosion or drainage into the wetlands.

Mr. Watson reported they believe the features of the project meet the criteria of Massachusetts Department of Environmental Protection's (MassDEP) Wetlands Program Policy 17-1 for low impact development. Vice Chairman Gagne questioned whether they would need stormwater controls seeing the long length of the access road with some steep slopes near Sarah Sherman Road. Mr. Watson stated they have erosion controls in that location. They will need a National Pollutant Discharge Elimination System (NPDES) permit and a Stormwater Pollution Prevention Plan (SWPPP) and will need to add more attributes. He stated he can add some of that detail around the access by Sarah Sherman Road and the laydown area. Vice Chairman Gagne stated a concern that the roadway will increase discharge rates to the wetlands. Mr. Watson responded that they will be prepared to clarify the calculations and design with the Commission and peer review consultant.

Chairman Conway noted in the narrative about erosion and sediment control, it says the area will be inspected within 24 hours of a major rainfall. He asked if the applicant has the resources to do the inspection. Mr. Watson stated the language comes from the U.S. EPA NPDES permit. The contractor is required to inspect and record the information in a log. Chairman Conway asked about a reference to Mattapoissett Road on the long-term pollution prevention plan. Mr. Watson stated it may have been carried over from a previous project. Chairman Conway noted the spill prevention and response plan says to contact a specific person for a spill greater than quarter of a gallon. He suggested instead of naming a specific person, it should be more general. He noted that a specific phrase under snow and ice removal is not clear. Chairman Conway noted the applicant needs to prove there is no practical alternative to removing an existing building in the 25 foot no touch zone. Mr. Watson responded that he can provide more detail to demonstrate why the building should be removed. He noted the building is dilapidated and attracting nuisance wildlife. Chairman Conway noted on the site plan it appears there is a buffer area between the 7 foot fence at the end of the 25 Foot No Disturb Zone and the end of the array. Mr. Watson provided a clarification.

Member Gerrior asked if the location of the access road is the second choice of options. Mr. Watson explained they had developed several different options. Two of the options required easements and one option would create more impact close to the resource area and require a culvert. He noted the time spent trying to acquire easements is the reason for the delay on the project. Member Gerrior commented that the alternative is going to have the most impact of the alternatives. Mr. Carey noted the road design included in the submittal to the Zoning Board of Appeals crossed the wetlands and was designed closer to abutters property to the south. He stated that this is a more favorable design.

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Member Gerrior asked what percentage of solar was lost on the west and south side because they are required to have the 100-foot setback required by the Planning Board. Mr. Watson responded that he did not have the exact number but in general they kept the array a similar size. Member Gerrior noted the setback requirement has pushed the array to the east and north up against the wetland line. Mr. Watson stated they are trying to accommodate everyone's concerns with the design. Vice Chairman Gagne asked if the property is in any watershed protection areas. Mr. Watson replied no. Vice Chairman Gagne suggested confirming it. He said it may cause an issue with the MassDEP Policy 17-1. Mr. Watson stated he will confirm and noted if they are not able to use Policy 17-1, they can show they still comply with the current design or something similar.

Agent Farinon summarized that at the onset of the Covid-19 pandemic, Commission Members stated that they would open large projects in a Zoom meeting for the initial presentation, but then turn the project over to the peer review consultant and not close the hearing until in-person meetings are possible. She stated that Henry Nover provided an estimate for peer review in the amount of \$3,500.00 for this project. Agent Farinon recommended that the Commission request the peer review consulting fee and continue the hearing for a length of time. This will allow time for the applicant to submit the fee, set up the account, and for Mr. Nover to do a thorough review. Chairman Conway added a request that Mr. Nover be available for meetings. Town Counsel Bailey suggested that the estimate from Mr. Nover include some meeting time. Agent Farinon noted they could increase the fee to \$4,000.00.

Member Gerrior asked how the project compares in size to the one on Mattapoissett Road. Mr. Carey responded that it is slightly smaller. Town Counsel Bailey noted the site conditions are more straight forward. Agent Farinon noted that the Planning Board 00 Foot setback requirement presented a challenge because it forces work closer to sensitive wetland resource areas as they want to keep the project the same size. Town Counsel Bailey noted they could make the array smaller so it would not be so close to the wetlands. There was discussion about the best date for a continuance. Mr. Carey suggested 2 weeks. Agent Farinon stated that was not realistic since they do not have the peer review consultant under contract, the account set up, or the review done. They agreed on June 2, 2020. Member Thompson noted he wanted to make sure the applicant does due diligence regarding watershed zoning and adjust if necessary.

A motion to request a check for \$4,000.00 to contract with Henry Nover for peer review was made by Vice Chairman Gagne and seconded by Member Thompson. **The motion passed in a roll call vote of 6 in favor, 0 opposed, 0 abstained (6-0-0).**

A motion to continue the Public Hearing to June 2, 2020 was made by Member Thompson and seconded by Vice Chairman Gagne. **The motion passed in a roll call vote of 6 in favor, 0 opposed, 0 abstained (6-0-0).**

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Commission Business

For Signature

Minutes

A motion to accept the minutes of April 21, 2020 was made by Member Thompson and seconded by Vice Chairman Gagne. **The motion passed in a roll call vote of 6 in favor, 0 opposed, 0 abstained (6-0-0).**

New Business

Discuss Correspondence

Chairman Conway asked about correspondence from the Massachusetts Coastal Railroad. Agent Farinon explained that the packet includes the Massachusetts Coastal Railroad's 2020 Yearly Operational Plan prepared in accordance with the Massachusetts Rights-of-Way Management Regulations along with a copy of the Environmental Monitor notice that was published on April 22, 2020. The maps provided with this plan reflect those approved in the Request for Determination of Applicability (RDA) filed by TEC Associates in 2016. The map details the delineation of no spray zones and limited spray zones near wetland resource and ground water and surface water protection areas. Agent Farinon has ridden the railroad with their biologist and confirmed the extent of wetlands as part of the RDA process. Discussion ensued about the long-term effects of spraying pesticides on the tracks.

Confirm member availability for future site visits and meetings

Members confirmed they are available to attend the next meeting on May 19, 2020. There was discussion about exploring another location for the meeting that would allow for social distancing.

Vote on Re-appointment of John Dvorski as Conservation Commission representative to Soil Board

Agent Farinon reported that Mr. Dvorski was a longstanding member of the Conservation Commission that was historically the Commission's appointee to the Soil Board. Member Gerrior asked if Mr. Dvorski wants to continue in the position. Agent Farinon responded that she had not spoken to Mr. Dvorski directly as the Board of Selectman's office sent the request.

A motion was made to appoint John Dvorski to the Soil Board by Member Gerrior and seconded by Member Thompson. **The motion passed in a roll call vote of 6 in favor, 0 opposed, 0 abstained (6-0-0).**

Agent Farinon explained she recently discovered that five Commission Members were up for re-appointment this year by the Board of Selectmen. To remedy the situation, they adjusted the terms of appointment. Town Counsel Bailey noted that it brings appointments back in line with the statute.

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Adjournment

The meeting adjourned at 8:34 p.m. on a motion made by Vice Chairman Gagne and seconded by Member Thompson. **The motion passed in a roll call vote of 6 in favor, 0 opposed, 0 abstained (6-0-0).**

Marissa Perez-Dormitzer, Recording Secretary

Michael Conway, Chairman