

**Rochester Conservation Commission
July 7, 2020**

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

Absent: Léna Bourque

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

The meeting convened by telephone and video conference via Zoom Meeting ID: 860 3748 9319. Chairman Conway called the meeting to order at 7:01 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 3 minutes were allowed for public comment. Chairman Conway stated that votes would be taken by roll call.

DEP SE 272-0543 A Request for a Certificate of Compliance was made by William Chamberlain on behalf of Decas Cranberry Company, for work completed on Old Middleboro Road, designated as Map 23, Lot 7

William Chamberlain representing Decas Cranberry reported that a report from Brooke Munroe, wetlands consultant of Pine Brook Consulting, was included in Members' packets. Site photos were also forwarded to the Commission.

Agent Farinon explained the project was a wetland mitigation project resulting from an Enforcement Order issued for illegal tree clearing within the 100 Foot Buffer Zone. The property has a bordering vegetated wetland to the west and a small isolated vegetated wetland adjacent to Old Middleboro Road. Agent Farinon shared her screen showing photos of the site. She stated the mitigation plan focused on enhancing the wildlife habitat value and vegetative buffer around the isolated vegetated wetland. Agent Farinon noted all the required plantings were made as per the restoration plan and recommended that the Commission issue a Certificate of Compliance to Decas Cranberry Company for work completed on Old Middleboro Road under DEP SE 272-0543.

A motion to issue a Certificate of Compliance on DEP SE 272-0543 was made by Member Payne and seconded by Member Thompson. **The motion passed in a roll call vote of 5 in favor, 0 opposed, 0 abstained (5-0-0).**

Public Hearings

(Continued from June 16, 2020) DEP # 272-0591 Notice of Intent filed by Hank Ouimet Renewable Energy Development Partners, 99 Derby Street, Suite 200, Hingham, MA 02043 for property located off Pierce Street, known as Eldredge Bogs designated as Lots 8, 9A on Assessors Map 12 and Lots 6, 10D, 12, 13, and 31 on Assessors Map 13. The applicant proposes a two-phased project on Land in Agricultural for the creation of more efficient agricultural bypass canals in portions of the bogs and existing uplands, along with the installation of a canopy solar

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array over the constructed canal network. The applicant's representative is Sarah Stearns, Beals and Thomas, Inc., 32 Court Street, Plymouth, MA 02360. The property owner of record is Peter Beaton, Bayside Agricultural, Inc., 77 Charlotte Furnace Road, West Wareham, MA 02576.

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

Chairman Conway reported that the applicant submitted a request for a continuance to July 21, 2020 because they were waiting for information from Henry Nover.

A motion to continue the Public Hearing to July 21, 2020 was made by Member Thompson and seconded by Member Payne. **The motion passed in a roll call vote of 4 in favor, 0 opposed, 0 abstained (4-0-0).**

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

(Continued from June 2, 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 reported that the applicant requested a continuance to July 21, 2020 because they are waiting for the Planning Board's decision and Mr. Nover's review.

A motion to continue the Public Hearing to July 21, 2020 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).**

DEP # 272-0593 A Notice of Intent filed by Brandon Dion, 13 Bradford Lane, Rochester, MA 02770, for property located at 13 Bradford Lane, designated as Lot 3H on Rochester Assessors Map 39.

The applicant proposes to construct a 25'X26' garage with a new 8' mud room and covered porch. The applicant also proposes to construct a new 10'X15.5' deck to extend the existing wood deck. The work including associated grading and utility relocation will occur within the 100' Buffer Zone to a Bordering Vegetated Wetlands.

Bill Madden of GAF Engineering was present on behalf of the applicant. He explained the project includes construction of a garage and a connecting link between the garage and the house, referred to as a mud room, as well as a deck. He stated the project is within the 100 Foot Buffer Zone to a fringe bordering vegetated wetland along a small pond on site. He noted the work could be done without impacts to the 25 Foot No Disturb Zone. The limit of work will be delineated in the field with an erosion control barrier. Mr. Madden stated a small infiltration bed will collect runoff and discharge to an underground chamber.

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Member Payne asked if they were proposing to remove any vegetation. Mr. Madden responded that only a few trees are proposed to be removed. Chairman Conway asked about the CULTEC unit. Mr. Madden responded that it is a plastic rectangular unit that is essentially a dry well. Chairman Conway asked the dimensions of the mud room. Mr. Madden responded that it appears to be 8' x8'.

Agent Farinon asked if Mr. Madden anticipated dewatering during the installation of the CULTEC unit; Mr. Madden responded no. Agent Farinon shared her screen showing photos of the site. She stated that based on the wood line, it appeared that some small shrubs would need to be removed. She mentioned the most sensitive spot is the garage addition and noted the CULTEC unit is a beneficial feature that will handle roof runoff, and prevent direct discharge to the bordering vegetated wetland. Agent Farinon recommended issuing a positive Order of Conditions with the stipulation that there be a preconstruction meeting to review installation of erosion control barriers and meet with the foreman prior to any construction activity.

A motion to issue a positive Order of Conditions as stipulated by Farinon 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).**

DEP# 272-0594 An Abbreviated Notice of Resource Area Delineation filed by property owner William Clapp, 52 Clapp Road, Rochester, MA 02770, for property located at 52 Clapp Road, designated as Lots 2B & 3 on Rochester Assessors Map 30. The purpose of the filing is to confirm 505 linear feet of bordering vegetated wetland boundary. The applicant's representative is Claire Hooegeboom, LEC Environmental Consultants, Inc., 12 Resnik Road, Suite 1, Plymouth, MA 02360.

Chairman Conway mentioned they did not have a complete file number for the filing. Claire Hooegeboom of LEC Environmental Consultants, Inc. shared her screen showing the GIS map, an aerial map, and the delineation plan. The site, comprised of two parcels, includes a single-family dwelling surrounded by forested upland. The eastern, western, and southern portion of the site includes wetlands. Ms. Hoggeboom stated they are requesting to confirm flagging stations A58 to A75 for the wetland delineation. She mentioned that Agent Farinon reviewed the line and did not re-locate any flags. The Professional Land Surveyor (PLS) stamp was added as requested by Agent Farinon. Ms. Hoggeboom noted she received the DEP file number in the online portal, but she had not yet received email confirmation.

Agent Farinon shared her screen showing an orthophoto of the site as well as two photos of the wetland delineation. She stated she reviewed the delineation and agreed with the flagging. She noted that while on site she found an eastern box turtle and will file an observation form with the Natural Heritage and Endangered Species Program. Agent Farinon recommended issuing an Order of Resource Area Delineation accepting flags A58 to A75 as shown on the wetland delineation plan by Schneider, Davignon and Leone, Inc. revised that day with a PLS stamp.

A motion to approve the Order of Resource Area Delineation as presented and stamped on July 7, 2020 was made by Member Payne and seconded by Member Gerrior second. **The motion passed in a roll call vote of 5 in favor, 0 opposed, 0 abstained (5-0-0).**

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(Continued from June 16, 2020) **DEP# 272-0592 Notice of Intent filed by property owner SEMASS Partnership 141 Cranberry Highway, West Wareham, MA 02576, for property located at 141 Cranberry Highway, designated as Lots 1 & 10 on Rochester Assessors Maps 17 and 18.** The applicant proposes tree trimming and tree removal to mitigate imminent hazard to approximately 1,500 linear feet of overhead utility lines. The overhead utility lines lie within the 100-foot wetlands buffer zone, with most within the 25-foot “no touch” wetlands buffer zone. The applicant’s representative is Paul Shamoian, Civil & Environmental Consultants, Inc., 31 Bellows Road, Raynham, MA 02767. The property owner of record is SEMASS Partnership 141 Cranberry Highway, West Wareham, MA 02576.

The following were present: Daniel Peters and Joseph Duggan of SEMASS Partnership and Paul Shamoian of Civil & Environmental Consultants, Inc.

Mr. Shamoian reported SEMASS was issued Emergency Certification for tree trimming and tree removal along a critical fiberoptic line with most of the work in the 25 Foot No Disturb Zone. The work was completed in March 2020. The current submittal is the required after-the-fact Notice of Intent. At the last meeting, Members suggested that the applicant expand the application to include not only the work permitted under the Emergency Certification but additionally elimination of future hazards. Mr. Shamoian reviewed the construction sequencing and reported they propose to remove 125 trees with the stumps left in place. Work would be done from the pavement with a bucket truck and all trees would be removed from the site.

Member Payne asked if they have determined a schedule for the work. Mr. Shamoian responded no and stated that the Order of Conditions will be valid for three years. Member Payne recommended removing the trees outside of bird nesting season which is April to August. Chairman Conway commented that he had requested a maintenance plan at two previous meetings. He suggested they draft and submit a maintenance plan for the Commission’s approval.

Agent Farinon explained that removing the trees will require balancing shutdowns for tree removal and operating the facility. Agent Farinon noted Chairman Conway’s request for a maintenance plan and recommended including the following conditions when a permit is issued: 1. Erosion control barriers shall be installed along the limit of bordering vegetated wetland; 2. All work shall be completed from the pavement; 3. Trees will be removed from the site; and 4. Work will not be conducted from April to August in any given year.

Mr. Shamoian asked if the maintenance plan was for the entire site or just the fiber optic line. Chairman Conway responded that it would be for the trees along the access road. Town Counsel Bailey asked if the maintenance plan could be included as a condition and approved by Agent Farinon. Chairman Conway responded that he wanted to see the plan in place before a vote. He added that he had asked several times for a plan and it was not done.

A motion to continue the Public Hearing to July 21, 2020 was made by Member Gerrior and seconded by Member Thompson. **The motion passed in a roll call vote of 5 in favor, 0 opposed, 0 abstained (5-0-0).**

DEP# 272-0595 A Notice of Intent filed by property owner Michael Oliver, 1009 Walnut Plain Road, Rochester, MA 02770, for property located at 1009 Walnut Plain Road, designated as

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Lot 17 on Rochester Assessors Map 23. The Notice of Intent was filed in response to an Enforcement Order issued on February 18, 2020 for illegal cutting of vegetation within a pond and 25 Foot No Disturb Zone. The project includes restoration of approximately 3,069 square feet of Bordering Vegetated Wetland and 553 square feet of 25 Foot No Disturb Zone that were impacted and are proposed to be restored. The applicant's representative is Christopher Sanderson of Merrill Engineers and Land Surveyors, 26 Union Street, Plymouth, MA 02360.

Cameron Larson of Environmental Consulting & Restoration (ECR) was present representing the applicant. Chairman Conway noted that Christopher Sanderson was indicated as the representative. Mr. Larson explained that ECR completed the restoration plan and he had confirmed with Agent Farinon that he would be presenting on behalf of Mr. Oliver.

Mr. Larson reported the Notice of Intent was filed in response to an Enforcement Order. He explained the property contains a small pond to the north with an associated bordering vegetated wetland. Mr. Oliver had completed unauthorized cutting in the buffer zone of bordering vegetated wetland that impacted 3,000 square feet of bordering vegetated wetlands, 550 square feet of Buffer Zone and 160 trees and shrubs were cleared.

Mr. Larson shared his screen with a photo of the site that shows the disturbed area with a view of pond. He noted there is some new stump sprout growth. Mr. Larson stated that ECR designed a plan to restore the impacted buffer zone and bordering vegetated wetlands. The plan incorporates native plants and managing stump sprouts. Mr. Larson noted the vegetation that was cut is piled in some areas in the bordering vegetated wetland. ECR proposes to remove some of the vegetation and leave some in place to enhance wildlife habitat features. They will hand pull invasive plants such as bittersweet. Mr. Larson stated they are proposing two years of monitoring and reporting and seek the establishment of 75% of the plantings and will replant until they reach it.

Agent Farinon noted Mr. Larson referred to the plan as revegetation when it more a replication plan. She stated they are proposing more diverse trees such as swamp tupelo saplings and white oak rather than the monoculture red maple canopy that was there. Agent Farinon recommended that the tree canopy near the pond be immediately reestablished to ensure shading and wildlife habitat along the pond's edge. She concluded that it is a good plan.

Member Gerrior suggested not putting in white pines and mentioned eastern cedar as an alternative.

A motion to approve the package as presented was made by Member Gerrior and seconded by Member Thompson. **The motion passed in a roll call vote of 5 in favor, 0 opposed, 0 abstained (5-0-0).**

Agent Farinon asked if the Commission would like Member Gerrior's suggestion to eliminate white pine included in the Order. Chairman Conway noted it was not part of the motion and suggested including a cover letter.

A motion to request Agent Farinon to send a cover letter along with the Order of Conditions stipulating that eastern red cedar be planted in place of eastern white pine was made by Chairman Conway and seconded by Member Thompson. **The motion passed in a roll call vote of 5 in favor, 0 opposed, 0 abstained (5-0-0).**

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Commission Business

For Signature

Minutes

A motion to accept the minutes of June 16, 2020 was made by Vice Chairman Gagne and seconded by Member Gerrior. **The motion passed in a roll call vote of 5 in favor, 0 opposed, 0 abstained (5-0-0).**

Mullin Rule Affidavit

Chairman Conway asked if Member Thompson signed the Mullin Rule Affidavits for DEP#272-0591/ Eldredge Bogs and DEP# 272-0590/139 Sarah Sherman Road. Agent Farinon responded yes.

Vouchers

The following vouchers were included in the meeting agenda for approval:

Bay Net Web Services/Monthly Hosting Fee (July-Sept. 2020): \$60.00, W.B. Mason Invoice #211413297/Office Supplies: \$91.29, Henry Nover Invoice/DEP#272-0590 Sarah Sherman Rd/Services 5/20/20-6/24/20: \$1,000.00, MACC Membership Annual Dues Fiscal Year 2021: \$674.00

A motion to accept the vouchers was made by Member Payne and seconded by Member Gerrior. **The motion passed in a roll call vote of 5 in favor, 0 opposed, 0 abstained (5-0-0).**

New Business

Discuss Correspondence

Agent Farinon presented a letter from Richard Rheaume of Prime Engineering regarding Trailside Estates that indicated they believe the work should not require a new review by the Commission. She reviewed the letter and provided comments. Chairman Conway noted the letter mentions a Notice of Intent and asked to confirm if it was 14 years ago. Agent Farinon responded yes. Chairman Conway mentioned the Order of Conditions expired and they did not ask for a continuance. Agent Farinon clarified that they had requested and received an Extension Permits which expired in 2016. She added that regulations have changed since they initially filed with the Commission.

Town Counsel Bailey stated the Commission should not entertain a discussion until a new filing is submitted. Agent Farinon noted that since the site was mostly developed, they need to submit a new as built plan and not re-submit the 2006 original design plans. Vice Chairman Gagne agreed. Agent Farinon suggested responding with a letter rebutting the inaccuracies in their letter. Chairman Conway requested that the letter be drafted and presented to the Commission at the next meeting. Agent Farinon stated she will prepare a draft for the Commission's review.

Confirm member availability for future site visits and meetings

All members present confirmed they could attend the next meeting on July 21, 2020.

Adjournment

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The meeting adjourned at 8:38 p.m. on a motion made by Member Thompson and seconded by Member Gerrior. **The motion passed in a roll call vote of 5 in favor, 0 opposed, 0 abstained (5-0-0).**

Marissa Perez-Dormitzer, Recording Secretary

Michael Conway, Chairman