

**Rochester Conservation Commission
August 18, 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: 858 7406 2892. Chairman Conway called the meeting to order at 7:02 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 272-0256 A Request for a Certificate of Compliance was made by Brian Grady on behalf of Decas Cranberry Company, for work completed on Mary's Pond Road, Map 10, Lot 2.

Brian Grady of GAF Engineering was present. Chairman Conway noted the applicant submitted Requests for two different Certificates of Compliance, commented that the Commission will review one at a time.

Mr. Grady reported that the agricultural project began in 1997 for the construction and reconstruction of cranberry bogs and reservoir. The Order of Conditions expired before the project was completed. A partial Certificate of Compliance was issued by the Commission. A subsequent NOI was filed to revise and complete the same project. Mr. Grady stated he was seeking a complete certificate to be issued.

Chairman Conway stated as part of the filing the plan must be stamped by a professional engineer, landscape architect or professional surveyor. He added that the Commission needs a written statement verifying substantial compliance with the Order of Conditions, and he did not see the required documentation. Mr. Grady responded that he certified in the cover letter which was stamped by a professional engineer. Chairman Conway reiterated he wanted a written statement from a professional indicating substantial compliance. Mr. Grady responded that he will provide it.

Agent Farinon provided a summary of the project, and read a sentence from the cover letter and questioned whether it met the requirements. She noted the letter was not stamped by a professional engineer. Agent Farinon reported there is an aerial photo that shows the existing conditions with an overlay of where cranberry bogs were proposed to be located. Vice Chairman Gagne shared his screen showing the aerial photo. Agent Farinon reviewed the plan and noted that much of the activity is outside the buffer zone to the bordering vegetated wetland and would have been exempt. She stated the system has been in operation for about 15 years.

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Mr. Grady asked if it would be sufficient if Mr. Madden stamped and signed the cover letter. Chairman Conway suggested the applicant provide a statement consistent with the documentation. Mr. Grady requested a continuance to September 15, 2020.

A motion to continue the Public Hearing to September 15, 2020 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).**

DEP SE 272-0387 A Request for a Certificate of Compliance was made by Brian Grady on behalf of Decas Cranberry Company, for work completed on Mary's Pond Road, Map 10, Lot 2.

Mr. Grady stated that this request had the same issues and requested a continuance. Chairman Conway asked Mr. Grady if he would come back with a statement signed by a Professional Engineer and Mr. Grady responded yes.

A motion to continue the Public Hearing to September 15, 2020 was made by Vice Chairman Gagne and seconded by Member Thompson. Vice Chairman Gagne abstained because his vote could not be heard. **The motion passed in a roll call vote of 5 in favor, 0 opposed, 1 abstained (5-0-1).**

Public Hearings

DEP SE# 272-0596 A Notice of Intent filed by Featherbed Lane South Solar, LLC, Beals and Thomas, Inc., 144 Turnpike Road, Southborough, MA 01772, for property located at 0 Featherbed Lane, designated as Lot 24 on Rochester Assessors Map 46. The applicant proposes to install an approximate 2.5 MW DC ground-mounted photovoltaic solar array on an estimated 59-acre property at 0 Featherbed Lane. The project involves work within the 100 Foot Buffer Zone to a bordering vegetated wetland and is located within the Estimated and Priority Habitat for Rare and Endangered Species. The proposed work includes converting a tract of forested upland to install the array, access road, equipment pad, and stormwater management features. The applicant's representative is Eric Las of Beals and Thomas, Inc., 144 Turnpike Road, Southborough, MA 01772. The property owner of record is Judith DuPont, 123 Rounseville Road, Rochester, MA 02770.

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

Eric Las, P.E. and Principal, of Beals and Thomas, Inc. shared his screen showing an aerial view and the plan set. He reported the site was located at the southern end of Featherbed Lane and an ORAD was issued in November 2019 approving the wetland delineation. He stated a technical review committee meeting took place in February 2020. Mr. Las explained they applied to the Planning Board and were going through peer review. The plans submitted to the Conservation Commission with the NOI application were dated July 8, 2020.

Mr. Las described the proposed project and reviewed the pages in the plan set. The area with the array covers 11-acres of the 59-acre site and is a 2.5MW DC array. There is no work proposed within the 25 Foot No Disturb Zone; however, work is proposed within the 100 Foot Buffer Zone. Featherbed Lane will be extended, and they will put in a new gravel access road. The site drains from west to east. They will have two BMPs to serve as a sedimentation control barrier including a

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silt fence and a staked compost filter sock. They are proposing temporary use of stump grindings to help buffer runoff and reduce scour. Stormwater runoff will go into one stormwater basin for settling. There is a perimeter access road and electrical equipment will be in the western portion of the site. The array will be a traditional ground mount system and will face south. The work in the 100 Foot Buffer Zone includes the basin, a portion of the array, grading, and tree clearing. Plantings are proposed at the entrance of the site. The plans also include BMPs for check dams, silt control and other measures to control runoff during construction. Mr. Las concluded that the permit plans are close to construction level plans.

Member Thompson asked Mr. Las if he had an overlay of the 100 Foot Buffer Zone and the proposed work. Mr. Las responded that he could have it for the next presentation. Member Gerrior asked the acreage of the site. Mr. Las responded that the overall site is 59-acres with 10.8-acres of tree clearing and 10-acres of array area. Member Gerrior asked what acreage would make the project not financially viable. Mr. Las responded that the project is an appropriate size for financial viability. He noted that the large setback requirement helps with visual screening but puts the array closer to the wetlands. He stated they were trying to balance all concerns. Member Gerrior asked if a specific location could be rounded out to add more solar panels. Mr. Las responded that they intend to stay out of the 25 Foot No Disturb Zone. Member Gerrior asked about the steep grade on the east side of the basin. Mr. Las explained they have to maintain a 3-foot offset to groundwater for the functioning of the basin and they are slightly under it with the design. Member Gerrior asked to verify that the basin must be in its location and the eastern slope of the basin so steep, and Mr. Las responded yes. Member Gerrior asked if there were any new or interesting techniques they were using on this project. Mr. Las noted they added battery storage to align better with peak demand and they added panels in the basin to use the space effectively. Member Gerrior asked about using an oval shaped area for the basin to provide more space for panels. Mr. Las responded that the soil in the specific area was not suitable for recharge.

Member Payne asked about the panels in the basin. Mr. Las explained the panels will be in the basin bottom and not on side slopes. He added that the panels would not interfere with the functioning of the basin. Member Payne asked if they are proposing addition or removal of soils. Mr. Las responded no. He noted the new racking arrays can accommodate differences in slope.

Chairman Conway asked why the information about stormwater was left blank in the NOI forms. Mr. Las responded that he did not think it was intentional and noted they included a stormwater management report. Chairman Conway stated he had not received the stormwater report. Mr. Las mentioned that a new set of plans were submitted to the Commission dated August 12, 2020. He noted they have a full set of stormwater calculations and would make sure Agent Farinon has it. Chairman Conway stated that the plans were not consistent with the Town's Wetlands By-Law and suggested reviewing the By-Law to ensure the plans are consistent with the requirements.

Agent Farinon asked about tightening up an area in the southerly portion of the site labeled zone of selected clearing. Mr. Las stated the southern portions of the array will have production loss and noted it is a balance. He reported they will be selectively clearing outside the fence and would prefer to have more trees removed. Agent Farinon asked if they were planning to only cut trees over 40 feet in the area labeled zone of selective clearing, and asked if the trees have been marked. Mr. Las responded that they were not marked. He added that a 40-foot tree in the area close to the array would have to be cut. Agent Farinon asked to verify that they will clear cut an area in the north that

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will serve as a construction laydown area. Mr. Las responded yes and noted they would restore the vegetation in the area post construction. Agent Farinon explained that it can get confusing when there are multiple plan set submittals. She noted the Commission did not have a peer review consultant and it will take some time to solicit proposals and get someone on board. Agent Farinon recommended October 6, 2020 for a continuance. Mr. Las suggested soliciting quotes from larger firms with more capacity. He asked Joe Harrison for input and Mr. Harrison agreed with continuing to October 6, 2020.

Agent Farinon asked if the Commission should request a peer review consulting fee and suggested \$5,000.00. Chairman Conway responded that they will discuss it later in the meeting.

A motion to continue the Public Hearing until October 6, 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).**

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

(Continued from August 4, 2020) DEP SE# 272-0590 A 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 representative is Steve Kohm 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 Steve Kohm of Prime Engineering, Inc. were present. Mr. Carey provided an update on the review by the Planning Board. He stated that Ken Motta of Field Engineering, the Planning Board's peer reviewer, submitted a letter indicating that his comments were addressed to his satisfaction. The Planning Board also approved their waiver requests, as well as the decommissioning bond and stormwater maintenance bond. The Public Hearing was closed, and the Town Planner is drafting a decision.

Chairman Conway reported the Commission received two transmittals on this project last week with information sent to both Tanya Ventura, Board Administrator, and directly via e-mail from the engineer to Members. Chairman Conway stated the information needs to go through the Board Administrator or Agent Farinon. Both Mr. Kohm and Mr. Carey apologized for emailing Commission Members directly.

Mr. Kohm shared his screen showing an aerial view and the plan set. He reviewed some of the comments from Mr. Motta, the Planning Board's peer reviewer. He also reported the changes that resulted from the process with the Commission.

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Member Payne asked how they will maintain the vegetation under the panels as well as the areas that were cut but not stumped. Mr. Kohm responded that the areas cleared but not stumped will be allowed to grow back and will be maintained. They will allow brush to grow, but not trees. Under and between the solar arrays, they will mow twice annually. Chairman Conway asked when they would receive information on the 1.02 infiltration rate in the basin. Mr. Kohm stated that to satisfy the volume requirements, he worked with Mr. Motta to model the 1.02 rate in the basin and the infiltration trench. Mr. Kohm added that he had worked with Mr. Nover on a drawdown analysis and Mr. Nover was comfortable with the rate. Chairman Conway asked if Mr. Nover put it in writing. Agent Farinon responded no and added that Mr. Nover signed off on the plans. Mr. Nover who was present, explained that Mr. Kohm did not include infiltration in the basins which is a conservative approach. He did not object to the approach. He added that he was satisfied with the response from the applicant.

Agent Farinon reviewed some of the changes that were made to the plans. She recommended closing the Public Hearing and issuing a positive Order of Conditions with the stipulation that a preconstruction meeting take place on site and inspection of the erosion control barriers installation, and the limit of work staking.

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

***(Continued from July 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.

Phil Cordeiro of Allen & Major Associates, Inc. reported the hearing was re-advertised since they had five continuances. He stated that Mr. Nover issued a letter on July 31, 2020 indicating he was satisfied that the plans meet stormwater guidelines and the Wetlands Protection Act. Mr. Cordeiro stated they provided final plans and he was looking to close the Public Hearing.

Member Payne asked if the waiver request needed from Planning Board was approved. Mr. Cordeiro responded no. He explained the waiver request related to the minimum separation from groundwater in the stormwater basin. He added that the Planning Board would not issue any approvals until the peer review is completed. Mr. Cordeiro stated he was confident he would receive the waiver. Chairman Conway stated he would like to wait for the Planning Board before proceeding. Mr. Cordeiro commented that if the waiver request were not granted, they would need to go through a significant redesign and come back to the Commission.

Mr. Nover stated he was satisfied with the project overall and the revised mounding calculations. He noted he recommended that more documentation be submitted for the calculations. He explained that the first time GeoHydroCycle did the calculations, they included a letter signed by the president.

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In the second submittal, they did not submit that letter. Chairman Conway asked Agent Farinon if she received the calculations. Agent Farinon responded that she did not receive them to her knowledge, but had been on vacation the week before. Mr. Cordeiro stated the calculations have been submitted to the Commission as attachments to a response to comments letter.

Agent Farinon reported there was discussion about the Planning Board ground water separation waiver on the first site visit, and that the Town Planner and Field Engineering expressed concern about granting a waiver. Agent Farinon suggested not voting to close the public hearing until the issue was resolved with the Planning Board, as the design could potentially change significantly. She also noted there were other outstanding issues. Mr. Cordeiro commented that the other issues fall outside the jurisdiction of the Conservation Commission. He reiterated that the project meets stormwater standards and the Wetlands Protection Act. He added that the Planning Board had issued the same waiver to other applicants since the site visit. Vice Chairman Gagne suggested it was the applicant's decision whether to move forward. Chairman Conway stated they should wait for the Planning Board and then review. Discussion ensued about the timing of a continuance.

A motion to continue the Public Hearing to September 15, 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).**

Commission Business

For Signature

Minutes

A motion to accept the minutes from August 4, 2020 was made by Member Thompson and seconded by Member Bourque. **The motion passed in a roll call vote of 6 in favor, 0 opposed, 0 abstained (6-0-0).**

New Business

Review Old Middleboro Road Draft Conservation Restriction from the Buzzards Bay Coalition to the Rochester Land Trust Inc. – 221-Acres, Discuss Signature of Municipal Certification Form

Member Gerrior asked if he needed to recuse because he is an abutter, but stated that he would not be recusing.

Agent Farinon explained the procedure for approving the Conservation Restriction (CR) includes recommendation from the Commission. Allen Decker of the Buzzard's Bay Coalition explained the CR will be on 221 acres with the solar on 38 acres. He stated the property is entirely mapped for rare species and it is a critical natural landscape that protects a tributary of the Sippican River. The holder of the CR will be the Rochester Land Trust. Mr. Decker was seeking the Commission's support by voting and signing the municipal certification form. Mr. Decker noted he deleted a reference to a baseline documentation report on the municipal certification based on input from Agent Farinon. The report was not prepared yet but will be prepared before the CR is placed on the

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property. He concluded that he was hoping to get the Commission's support that night. Matt Monteiro of the Rochester Land Trust stated the Board of Directors had voted to hold the CR.

Member Bourque mentioned two typos in the municipal certification regarding the street and town name. Member Thompson stated a concern about signing an incomplete document that has legal bearing. Mr. Decker responded that it is not a legal document; it is a statement of support. Member Payne asked if the statement about the baseline documentation report would be removed. Mr. Decker responded that it had been removed and sent to Agent Farinon. Member Payne asked who would prepare the report; Mr. Decker responded that the Coalition will prepare it. In response to a question from Member Payne, Mr. Decker stated that by signing the certification, the Commission was indicating support of the conservation values being protected. Chairman Conway asked what would happen if the Rochester Land Trust is dissolved. Mr. Decker explained the process is spelled out in the CR. Chairman Conway stated he wanted to see the final version of the municipal certification before signing off.

Agent Farinon recommended appointing Chairman Conway to be the signatory if the Commission voted to approve. Member Bourque asked if other Members' names would be listed. Mr. Decker read the attestation out loud which indicated the Chairman would sign to certify that a majority of the Members voted that the CR is in the public interest. Agent Farinon suggested the Commission vote to authorize the Chairman to review the final version.

A motion was made by Member Payne to have the chairman sign the municipal certification once he has verified the requested changes, and seconded by Member Gerrior. Chairman Conway was opposed. **The motion passed in a roll call vote of 5 in favor, 1 opposed, 0 abstained (5-1-0).**

Confirm member availability for future site visits and meetings

All Members present verified they were available to attend the September 1, meeting.

Discussion

There was discussion about the efforts to find a replacement for Mr. Nover. Agent Farinon stated she will distribute a draft Request for Qualifications (RFQ) for review and comment by Members.

Agent Farinon recommended that the Commission request a \$5,000 peer review consulting fee for the Featherbed Lane South project, but noted the Commission may need to vote on it in an open hearing for the project. Chairman Conway saw no problem with voting on the peer review fee. He asked Agent Farinon if the amount of work was more than usual. Agent Farinon responded yes, but due to the unknowns with the peer reviewer additional funding may be required.

A motion requesting \$5,000.00 requested by Agent Farinon was made by Member Thompson and seconded by Member Bourque. Vice Chairman Gagne recused himself. **The motion passed in a roll call vote of 5 in favor, 0 opposed, 0 abstained (5-0-0).**

There was further discussion about the process of finding a peer reviewer. Vice Chairman Gagne suggested posting the request for qualifications through Commbuys.

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Member Thompson provided an update about Hartley Pond. He reported that staff from the Division of Fisheries and Wildlife had been on site doing work. Agent Farinon stated she would reach out to Jason Zimmer for more information.

Adjournment

The meeting adjourned at 9:35 p.m. on a motion made by Member Thompson and seconded by Member Bourque. Vice Chairman Gagne was opposed. **The motion passed in a roll call vote of 5 in favor, 1 opposed, 0 abstained (5-1-0).**

Marissa Perez-Dormitzer, Recording Secretary

Michael Conway, Chairman