

**Rochester Conservation Commission  
September 1, 2020**

**Present:** Michael Conway, Chairman  
Léna Bourque  
Christopher Gerrior  
Maggie Payne  
Kevin Thompson

**Absent:** Daniel Gagne, Vice Chairman

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: 836 7252 3390. 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 3 minutes were allowed for public comment. Chairman Conway stated that votes would be taken by roll call.

**Public Meetings**

**A Request for Determination of Applicability filed by applicant Braley Hill North Solar, LLC, P.O. Box 1320, Portsmouth, NH 03801 for proposed work at 0 Braley Hill Road, Rochester, MA 02770 designated as Lots 32 and 36 on Rochester Assessors Map 48.** The applicant proposes construction of a 9.5 MW DC photovoltaic ground-mounted solar array including cutting of trees, grading, construction of perimeter access road, stormwater collection system, and installation of racking equipment. All proposed work is outside of the 100 Foot Buffer Zone to a bordering vegetated wetland delineation verified under an Order of Resource Area Delineation approved under DEP SE 272-574. The subject property is owned by Lisa Holden, Trustee, P.O. Box 388, Rochester, MA 02770 and Leslie Boness, 41 Green Acres Road, Hartford, ME 04220. The applicant's representative is Eric Las of Beals and Thomas, 144 Turnpike Road, Suite 210, Southborough, MA 01772.

Eric Las, P.E. and Principal of Beals and Thomas, Inc. shared his screen showing an exhibit plan. He explained that the wetland resource area is along the eastern side of the site and the wetland line was reviewed in November 2019. The project includes two parcels of approximately 100 acres in total. He noted the project was redesigned to stay out of the 100 Foot Buffer Zone of any wetland resource areas, and that they received a final decision from the Planning Board. Mr. Las described the stormwater system and noted it was peer reviewed to ensure water would not go into the public way. He stated the distance from the limit of clearing to the bordering vegetated wetland is 100.5 feet at its closest point. Mr. Las explained they were clearing to the south of the array for shading impacts. He stated they would seek conservation management approval from the Natural Heritage & Endangered Species Program and will go through the MESA process. The site includes rare species habitat. They received approval from the Mattapoissett River Valley Water District Commission.

Member Thompson asked what kind of trees were located close to the 100 Foot Buffer Zone and noted a concern about large trees causing damage. Mr. Las stated there are some white pines, and added that a certified forester did an evaluation of the site and that the trees tend to have a smaller

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caliper. He stated that typically they plan for a 75-foot tree fall hazard. However, with the largest DBH being 25 inches he said he was not concerned.

Member Gerrior asked how many acres were being cleared, and Mr. Las responded 40 acres. Member Gerrior asked if battery storage is planned: Mr. Las responded yes and noted it would be located at the front of the site off the access road. Member Gerrior asked if there is a standard amount of battery storage allowed on site. Mr. Las responded that he was not aware of a standard and noted the battery storage is 1,000 feet from the wetlands. Member Gerrior asked about the plan for the trees. Mr. Las explained they intend to clear the site and what happens to the timber would be up to the contractor. He added that the timber value was assessed at \$22,000. Member Gerrior asked if they would chip the wood. Mr. Las stated they will create some wood chip berms to break up stormwater to reduce erosion. He said there was a notation on the plan that any onsite material cannot remain afterwards.

Member Payne commented that they have fairly steep slopes and asked if there would be grading. Mr. Las stated they do not have slopes over 25% and that there is minimal grading. Member Payne asked about a rectangular hatched area on the plan. Mr. Las stated it is a temporary lay down area that would be revegetated post construction. Chairman Conway asked who signed the application on behalf of the applicant: Mr. Las responded that it was likely one of two people from Sunraise.

Agent Farinon asked if they proposed siltation and erosion control barriers on the plan. Mr. Las explained they would have a silt fence and a compost filter sock. He stated that within the array they would have temporary wood chip berms as well as stone check dams. Agent Farinon suggested that the limit of clearing be staked in the field with the snow fence. She noted that if they end up having tree clearing or siltation into the 100 Foot Buffer Zone, the Commission could assert jurisdiction and an after the fact filing would be required. Agent Farinon recommended that the Commission issue a negative Determination of Applicability. Chairman Conway asked if she had any conditions. Agent Farinon suggested a condition that the limit of clearing be staked in the field for review by the Commission or its agent in advance of any construction activity.

Member Gerrior asked about the Commission getting involved even though the Commission does not have jurisdiction. Agent Farinon responded that something would have to happen for the Commission to assert jurisdiction. Member Gerrior asked about walking the property and whether the Planning Board had visited the site. Tanya Ventura, Board Administrator, stated the Planning Board had already walked the site and issued a decision.

A motion for a negative Determination of Applicability 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).**

**Public Hearings**

**A Notice of Intent filed by Snipatuit Road Solar, LLC, P.O. Box 1320, Portsmouth, NH 03801, for property on 0 Snipatuit Road, designated as Lots 26, 27 on Rochester Assessors Map 46 and Lots 1, 4, 9, and 9A on Rochester Assessors Map 47. The applicant proposes tree clearing, grading, construction of a perimeter access roadway, stormwater collection system and installation of portions of a 4.8 MW DC ground- mounted solar photovoltaic array within the 100-foot Buffer**

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Zone to Bordering Vegetated Wetlands. Proposed work is located within Estimated and Priority Habitat for Rare and Endangered Species, and is located within the Mattapoissett River Valley Watershed. A certified vernal pool is located within the central wetland to the south of the existing access drive and another two certified vernal pools are located on the west side of the property. The applicant's representative is Beals and Thomas, 144 Turnpike Road, Southborough, MA 01772. The property owners of record are Kevin J. and Cassandra A. Cassidy, 529 Snipatuit Road, Rochester, MA, 02770, Aquidneck Nominee Trust, ET AL, Lisa Holden, Trustee, P.O Box 388, Rochester, MA 02770 and Rochester Realty Trust, P.O. Box 388, Rochester, MA 02770.

Eric Las, P.E. and Principal, of Beals and Thomas, Inc. reported they had incorporated the comments from the tech review meeting in February. He shared his screen showing an exhibit overview. He stated there is bordering vegetated wetland on the east and it wraps around on the west side. The wetland boundary was reviewed by the Commission with an ORAD issued in November 2019. Mr. Las explained the solar array would cover two lots with just under a MW on the Cassidy property and 4MW on Lisa Holden's property. There will be a 200 feet separation between the two portions of the array. He noted the project is under Planning Board peer review.

Mr. Las stated the project is set back significantly from the road. They will use an existing cart path to access the site. He explained the cart path had been used by fire apparatus in a brush fire a few years ago. He reported that they do not intend to widen the road given all the vehicles that have traversed it and the proximity to the resource area. He explained there is a 350 foot section that borders the resource area. The average width of the road is 12 feet. Within the array, there would be a 16 foot-wide perimeter road. Mr. Las noted they have four infiltration basins proposed around the perimeter of the site with the stormwater flowing in a few different directions. He stated they have stayed out of the 25 feet no touch zone but do have work in the 100 Foot Buffer Zone.

Member Bourque asked Agent Farinon if she had walked the site. Agent Farinon responded she had been on the site in the past, but John Rockwell reviewed the wetland delineation. Member Bourque asked if the road would be the same as Old Middleboro Road with wetlands along side and Agent Farinon responded yes. Member Thompson stated he was concerned how much cutting and grading they plan to do. He noted the fencing is up to the 100 Foot Buffer Zone. Mr. Las stated he can provide cross sections on subsequent revisions. He noted they had been planning to have solar panels in the 200 feet zone in between the lots. However, Town Counsel had stated it would not be allowed under the Town's Zoning By-Law. Mr. Las commented that they were confident in their sedimentation controls and BMPs. Member Thompson mentioned that 12 feet can be narrow for construction equipment and he said they do not want vehicles going off the road into the swamp.

Member Gerrior asked if they sought a variance or waiver for the setback requirement. Mr. Las responded that they were advised it would not be approved and they did not submit a request. Chairman Conway stated that once they have a DEP file number, he would like to see it included on all the documents. He noted that a Cassidy family member had not signed the application. He also asked if the abutters were notified and if the applicant provided proof of notification. Caroline Booth of Beals and Thomas, Inc. responded that the information was submitted to Agent Farinon.

Agent Farinon reported she had several concerns. She stated the plans show no improvement in the 350 feet of access road due to its proximity to the 25 Foot No Disturb Zone. She mentioned that she was unsure if they received confirmation from the Planning Board that they would accept a 12 feet

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wide road. She noted the cart path crosses a perennial stream and asked Mr. Las to discuss the integrity of the culvert in the stream. Mr. Las explained it had been in place for several years and that the perennial stream was dry at the moment. He noted that if the Commission went on a site visit soon, members could view the culvert clearly. He explained the culvert would be temporarily metal plated to allow access to the site. Agent Farinon stated the time frame for clearing, grading and installation would be months and she was unsure if steel plating was appropriate. She suggested they provide a cross section with the existing roadway and erosion control measures. She also suggested they mark the trees they intend to take limbs from so it can be viewed in the field. Agent Farinon stated the 100-foot Planning Board setback requirement from the property line was severely constricting the ability to do a more beneficial layout. She suggested that they go through the process to request a variance from the Zoning Board of Appeals.

Mr. Las stated they were told by Town Counsel in a public forum that it would not be allowed. He said he can discuss it with the applicant. Agent Farinon suggested revisiting it since the project was more conceptual when it was discussed at the tech review meeting. Agent Farinon asked Mr. Las to show the location of the certified vernal pools and he showed them on a diagram.

Chairman Conway asked if the applicant was seeking a continuance. Mr. Las responded that they were requesting a continuance until the Commission could engage a peer review consultant and they would have time to respond to one round of peer review comments. Agent Farinon suggested continuing to the October 20, 2020 meeting.

Chairman Conway mentioned there was vague language in a specific section of the long-term pollution prevention plan. He suggested making the language clearer.

A motion to continue the Public Hearing to October 20, 2020 was made by Member Gerrior and seconded by Member Thompson. Member Bourque asked if the Commission had the right to visit the site before the next hearing. Agent Farinon responded that the design might change as a result of peer review by the Planning Board and the Commission, which would impact staking limits. Member Bourque stated her concern is the road going into the site. **The motion passed in a roll call vote of 5 in favor, 0 opposed, 0 abstained (5-0-0).**

**Commission Business**

**For Signature**

**Minutes**

A motion to accept the minutes from the previous meeting was made by Member Thompson and seconded by Member Bourque. **The motion passed in a roll call vote of 5 in favor, 0 opposed, 0 abstained (5-0-0).**

**Voucher**

Agent Farinon stated there was a voucher for W.B. Mason for Office Supplies (Invoice# 211413297) for \$91.29.

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A motion to accept the voucher and allow the Chairman to sign on the Commission's behalf was made by Member Thompson and seconded by Member Bourque. **The motion passed in a roll call vote of 5 in favor, 0 opposed, 0 abstained (5-0-0).**

**New Business**

**Discuss Request for Qualifications (RFQ) for Peer Review Engineering Consultant**

Agent Farinon reported that she distributed a draft Request for Qualifications (RFQ) and received comments from several Members and reviewed the document with Town Counsel Bailey. Agent Farinon reviewed some of the specific changes suggested by Chairman Conway, Vice Chairman Gagne, and Town Counsel Bailey. There was discussion about whether proposals would be submitted electronically or as paper copies. Agent Farinon stated she would make the deadline later than originally proposed based on a comment from Vice Chairman Gagne. She added that they would need to discuss a process for reviewing the proposals. Agent Farinon asked if she should make the changes and resend the document and Chairman Conway responded yes.

**Discuss Purchase of Lap Top Computers for Board Administrator and Conservation Agent**

Agent Farinon explained she put the item on the agenda because she thought they would need to use funds from the Notice of Intent account to purchase laptops. However, she was informed that funds in the Town's COVID-19 account could be used since the laptops would be used for remote work. Member Thompson offered technical support to help select the laptops.

**Discuss Correspondence**

Agent Farinon reported there was correspondence from Jason Zimmer in Member's packets of information about three areas along the Mattapoissett River where beavers have built dams. She noted that it is not clear if the low water level experienced by growers is due to the drought, the beaver dams, or water being held upgradient by cranberry growers. She stated that Jason Zimmer provided information about the process if someone makes a request to trap beaver. She noted it requires a permit from the Board of Health. Agent Farinon added that if someone comes forward to discuss removal of the dam, David Watling, Rochester's Herring Warden, has the power to regulate it.

On a separate note, she reported Mr. Zimmer said he could work on improving some of the trails at the Wildlife Management Area off Hartley Road.

**Confirm member availability for future site visits and meetings**

All Members present verified they were available to attend the next meeting.

**Adjournment**

The meeting adjourned at 8:35 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).**