

**HEARINGS, MEETINGS, LICENSES**

**3-17-14**



A hearing will be held in the Selectmen's Meeting Room at the Town Hall, 10 Nickerson Avenue, Middleborough, MA on Monday, January 27, 2014 at 8:00 PM, for the purpose of discussing an application filed by G.A.F. Engineering, Inc. on behalf of Riverrock Realty Trust, for an Earth Removal Permit for property located 288 Thompson Street, Middleborough, Assessors Map 033, Lots 2968, 2065, 2146 & 1366. The reason for this request is for the construction of a cranberry bog and a water supply/tailwater pond. Anyone desiring to be heard on this matter should appear at the time and place designated.

Stephen J. McKinnon  
Allin Frawley  
Ben Quelle  
Leilani Dalpe  
John M. Knowlton  
BOARD OF SELECTMEN

Publish: January 16, 2014

Payment forthcoming - Advertiser #300074

*Continuation*

## Jacqueline Shanley

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**From:** Robert Mather <RJMather@RJMATHERLAW.COM>  
**Sent:** Wednesday, March 12, 2014 9:48 AM  
**To:** Jacqueline Shanley  
**Cc:** Charles Cristello; Marcus Baptiste  
**Subject:** Earth Removal Permit - Riverrock Realty Trust - Bayside Agricultural Inc.  
**Attachments:** 3057\_001.pdf

Jackie,

Attached please find some materials which I would like to submit to the Board of Selectmen for the continued earth removal hearing on Monday, March 17, 2014. Here is what is included:

1. My cover letter explaining the revisions that we have made and the proposed contingencies.
2. A revised Earth Removal Application showing the applicants to be Riverrock Realty Trust and Bayside Agricultural Inc. Please note that this application is not signed but my clients will bring a fully executed application to the hearing on Monday.
3. Proposed Revisions and Contingencies.

My cover letter refers to revised plans. Right after I send this email to you I will forward a separate email which includes electronic copies of the revised plans. It is my understanding that full-sized original plans have already been delivered to the Town Manager.

The materials attached to this email and the plans will encompass my full submission to the Board.

Please let me know what time the continued hearing is scheduled for on Monday.

If you have any questions please do not hesitate to contact me.

Thank you!

Bob

Robert J. Mather, Esq.

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### STATEMENT OF CONFIDENTIALITY

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# ROBERT J. MATHER & ASSOCIATES

## ATTORNEYS AT LAW

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Susan E. Callan, Esq.

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March 12, 2014

Board of Selectmen  
Town of Middleborough  
10 Nickerson Avenue  
Middleboro, MA 02346

Re: Earth Removal Application - 288 Thompson Street and Off Fuller Street

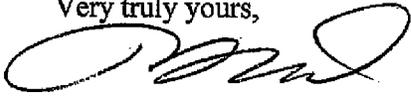
Dear Board Members:

As a result of a meeting with the Middleborough Town Planner, Ruth Geoffroy, and the Town Manager, Charles Cristello, and follow-up conversations, my clients have agreed to make certain revisions to their application and plans. Accordingly, please find the following:

1. A revised set of earth removal plans have been prepared which show the earth removal parcel as one large parcel and which parcel includes the three lots that were previously shown as Form A lots. Because there will no longer be any frontage lots my clients are able to establish and maintain a 100 foot existing treed buffer zone between the portion of the property where the earth removal will be conducted and all abutting properties.
2. The Earth Removal Application has been revised to list Riverrock Realty Trust and Bayside Agricultural Inc. as co-applicants. Attached hereto is a revised application. At the continued earth removal hearing on March 10, 2014 and executed original copy of this application will be submitted.
3. Attached hereto is an outline of revisions to the earth removal project that we propose to make, including placing a deed restriction on the earth removal lot provide that the lot will not be further subdivided into buildable lots and no residential dwelling shall be constructed on the earth removal lot until such time as the earth removal permit and any extensions have expired and the Board has issued a certificate of completion. Please note that the items listed in Paragraph 3a. through 3g are conditions that we propose to be added to the earth removal permit. We request that these conditions be listed in any permit issued by the Board.

We respectfully request that the Board issue an earth removal permit with the plans as revised and including the proposed conditions. If you require any additional information, please do not hesitate to contact me.

Very truly yours,

A handwritten signature in black ink, appearing to read 'R. Mather', written in a cursive style.

Robert J Mather, Esquire

**TOWN OF MIDDLEBOROUGH**  
**EARTH REMOVAL APPLICATION**  
**and renewal form**

**1. General Information**

Name of Applicant: Riverrock Realty Trust and Bayside Agricultural Inc. - Co-Applicants

Address of Applicant: 369 Church Street

Town or City: Raynham, MA 02767

Owner of Property: South Brook Development, Inc., B & T Realty Trust & Bayside Agricultural, Inc.

Location of Property: 288 Thompson Street and Off Fuller Street

Property Assessor's Parcel and Map Numbers:      Map 033                      Parcel 3656  
(NOTE: Lot 3656 has been subdivided  
new Lot No.'s 2968, 2065, 2146)  
Map 033                      Parcel 1366

**2. Permit Status**

New Application or Renewal: New

Request for an Extension of Time for existing permit. \_\_\_\_\_

Existing Permit Number: \_\_\_\_\_

Parcel(s) Acreage: 73.22± Acres

Estimated Number of Cubic Yards to be removed: 743,512 cubic yards

Requested Time Frame of Permit 3 years

Brief Project Description and Reason for Request:

Construction of a cranberry bog and a water supply/tailwater pond.

**3. Project Plan**

Has a Project Plan being submitted with this Application?

**An Application for an Earth Removal Permit will not be accepted by the Board of Selectmen for a public hearing, unless submitted with this application.**

**4. Planning Information**

a. **Proposed Traffic Route from site to unloading of materials.**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

b. Has a plan and Notice of Applicability (NOA) or Intent (NOI) been submitted to the Town of Middleborough's Conservation Commission? \_\_\_\_\_

c. Has Order of Conditions by Conservation Commission been issued: If so what is project number and date of conditions : \_\_\_\_\_

d. Provide a copy of the Order of Conditions so they may be attached to the permit.

e. Is there a Department of Environmental Protection – Water Management Act Registration or Permit for this property? \_\_\_\_\_

Permit No. \_\_\_\_\_ Registration No. \_\_\_\_\_

f. Has a Farm Plan been completed? \_\_\_\_\_ Please provide a copy.

g. Expected Date of Project Completion: \_\_\_\_\_

**5. Engineering General Information**

Engineering Firm Name: \_\_\_\_\_

Engineer's Contact/Name : \_\_\_\_\_

Street: \_\_\_\_\_

Town/City \_\_\_\_\_

Phone Number: \_\_\_\_\_

**7. Financial Obligations**

Do you owe any property taxes, water, sewer or any other financial obligation to the Town of Middleborough that is not current? \_\_\_\_\_ yes                        √   no

**8. Authorization of Applicant**

a. Have you authorized the engineer to speak on your behalf regarding project questions that may come up prior to the public hearing?

  √   yes                      \_\_\_\_\_ no

\_\_\_\_\_  
Signature of Co-Applicant

Printed Name of Applicant  
River Rock Realty Trust  
By: Joseph Arruda, Trustee

Date: March 10, 2014  
Phone Number \_\_\_\_\_

\_\_\_\_\_  
Signature of Owner

Printed Name of Co-Applicant/Owner:  
Bayside Agricultural Inc..  
By: Peter Beaton, President

Date: March 10, 2014  
Phone Number \_\_\_\_\_

\_\_\_\_\_  
Signature of Owner

Printed Name of Owner  
B & T Realty Trust  
By: Timothy S. Hashem, Trustee

Date: March 10, 2014  
Phone Number \_\_\_\_\_

\_\_\_\_\_  
Signature of Owner

Printed Name of Owner:  
Southbrook Development, Inc.  
By: Marcus Baptiste, President

Date: March 10, 2014  
Phone Number \_\_\_\_\_

## **PROPOSED REVISIONS AND CONTINGENCIES**

1. A revised application will be submitted to the Board of Selectmen listing Bayside Agricultural Inc. as co-applicant.
2. The earth removal plan will be revised to show a 100 foot existing treed buffer zone between the portion of the property where the earth removal will be conducted and the abutting properties.
3. The following conditions will be listed in the earth removal permit as issued by the Board of Selectmen:
  - a. This permit is contingent upon the Applicants/Property Owners obtaining approval of the proposed earth removal project and construction of a cranberry bog pursuant to the Massachusetts Natural Heritage & Endangered Species Program (NHESP).
  - b. This permit is contingent upon the Applicants/Property Owners obtaining endorsement by the Middleborough Planning Board of a new Form A Plan configuring the property into one lot as shown on the final plans submitted and approved with this earth removal permit. Prior to the commencement of this permit the title to the earth removal lot will be held by one individual person or entity.
  - c. This permit is contingent upon the property owners placing a deed restriction on the earth removal lot. The deed restriction will provide that the lot will not be further subdivided into buildable lots and no residential dwellings shall be constructed on the earth removal lot until such time as the earth removal permit and any extensions or re-issued permit have expired and the Board of Selectmen has issued a Certificate of Completion that the earth removal project has been properly completed in accordance with the permit conditions, which deed restriction will be in form and substance as approved by the Middleborough Town Counsel. Copies of the deed restriction as recorded at the Plymouth County Registry of Deeds will be delivered to the Board of Selectmen, the Middleborough Town Manager, the Middleborough Building Commissioner, the Middleborough Town Planner and the Middleborough Board of Assessors. At such time as the Board shall issue a Certificate of Completion a copy of such certificate shall be delivered to the Middleborough Building Commissioner and the Middleborough Board of Assessors.
  - d. This permit is contingent upon the maintenance of the existing 100 foot treed buffer zone as shown on the final approved earth removal plan at all times during the pendency of the earth removal permit or any extensions or re-issuances thereof.

- e. The permit is contingent upon the discharge or partial release of an attachment that currently affects a portion of the property that is subject to this permit. A copy of such discharge or partial release shall be delivered to the Board of Selectmen and the Middleborough Town Manager.
- f. Upon the completion of the earth removal permit and the issuance of a Certificate of Completion by the Board of Selectmen the cranberry bog property shall be conveyed to Bayside Agricultural Inc. or its successors in interest to the cranberry property which abuts the earth removal project.
- g. The effective date of the earth removal permit shall be considered to be the date that the last of contingencies a. through e. inclusive have been satisfied and proof of such satisfaction has been delivered to the Board of Selectmen.

# PROPOSED CRANBERRY BOG AND EARTH REMOVAL PERMIT PLAN

288 THOMPSON STREET, MIDDLEBOROUGH, MASSACHUSETTS

APPLICANT:  
RIVERROCK REALTY TRUST  
369 CHURCH STREET  
RAYNHAM, MA 02767



— AERIAL OVERVIEW —  
SCALE: 1" = 400'

OWNERS:  
MAP 033 LOT 2968 AND 2065  
SOUTHBROOK DEVELOPMENT, INC.  
3 CHESTER AVENUE  
BERKLEY, MA 02779

MAP 033 LOT 1366  
BAYSIDE AGRICULTURAL INC.  
2417 CRANBERRY HIGHWAY  
WAREHAM, MA 02571

MAP 033 LOT 2146  
B & T REALTY TRUST  
P.O. BOX 265  
MIDDLEBOROUGH, MA 02346

## SITE DATA

ZONING DISTRICT: RURAL RESIDENTIAL  
WATER RESOURCE PROTECTION DISTRICT: Z4  
NHESP DISTRICT (PH1332)  
ACCESS ROAD: OFF FULLER STREET  
ASSESSOR'S PARCEL NO.: 2968, 2146, 2065 & 1366  
REQUIRED LOT AREA: 80,000 S.F.  
REQUIRED LOT FRONTAGE: 200'  
FRONT SETBACK: 50'  
REAR SETBACK: 10'  
SIDE SETBACK: 10'  
FLOOD INSURANCE RATE MAP: COMMUNITY PANEL #25023CO336J (DATED: JULY 17, 2012)  
ZONE X AREAS OF 0.2% ANNUAL CHANCE FLOOD.  
ZONE A AREAS IN THE 100 YEAR FLOOD (BASE ELEVATION NOT DETERMINED)

**G. A. F. ENGINEERING, INC.**  
PROFESSIONAL ENGINEERS & LAND SURVEYORS  
266 MAIN STREET, WAREHAM, MA 02571  
TEL: (508) 295-6600 FAX: (508) 295-6634  
E-MAIL: gaf.eng@verizon.net

DECEMBER 30, 2013

## PLAN INDEX

SHEET NO.	DESCRIPTION
1	TITLE SHEET
2	BOG DEVELOPMENT PLAN
3	NOTES, LEGEND & DETAILS

DATE, DEC. 30, 2013	REV.	DATE	BY	APPD	DESCRIPTION
1	1	1-27-14	ME	WFM	PER REVIEW ENGINEER COMMENTS
2	2	2-4-14	ME	WFM	GENERAL REVISIONS
3	3	2-17-14	ME	WFM	GENERAL REVISIONS
4	4	3-7-14	ME	WFM	PER TOWN REVIEW COMMENTS
5	5	3-10-14	ME	WFM	GENERAL REVISIONS

APPROVED BY:  
APPROVED BY:

**G. A. F. ENGINEERING, INC.**  
PROFESSIONAL ENGINEERS & LAND SURVEYORS  
266 MAIN STREET - WAREHAM, MA 02571  
TEL: (508) 295-6600 FAX: (508) 295-6634  
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OFFICE: 266 MAIN STREET, WAREHAM, MA 02571  
RAYNHAM, MA 02767

PROPOSED CRANBERRY BOG &  
EARTH REMOVAL PERMIT PLAN  
TITLE SHEET  
288 THOMPSON STREET  
MIDDLEBOROUGH, MA  
PREPARED FOR:  
RIVERROCK REALTY TRUST  
369 CHURCH STREET  
RAYNHAM, MA 02767



