

Volume I
Pages 1 to 91

TOWN OF STONEHAM
CONSERVATION COMMISSION

Public Hearing Re
Notice of Intent by
Weiss Farm Apartments, LLC
With Regard to 170 Franklin Street

Commission Members Present:

Ellen McBride, Co-Chairman
Robert Parsons, Co-Chairman
Megan Day
Rachel Rennard
Norman L'Esperance
Eric Buckley

Catherine Rooney, Secretary

Huggins & Witten, LLC (by Jonathan Witten, Esq.)
156 Duck Hill Road, Duxbury, MA 02332,
jon@hugginsandwitten.com, 781.934.0084,
for the Board.

Cicatelli & Cicatelli (by Steven L. Cicatelli,
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02180-3502, scicatelli@cicatelli.com,
781.438.4060 - and -

Rackemann, Sawyer & Brewster (by Richard
Gallogly, Esq.) 160 Federal Street, Boston,
MA 02110, rgallogly@rackemann.com,
617.542.2300 for the Applicant.

Held at:

Stoneham Town Hall
35 Central Street
Stoneham, Massachusetts
Tuesday, January 6, 2015
7:04 p.m.

Carol H. Kusinitz
Registered Professional Reporter

1 P R O C E E D I N G S

2 MS. McBRIDE: Okay. I'm going to open the
3 public hearing. It is January 6, 2015, 7:00 p.m.
4 We are in the Stoneham Town Hall Auditorium, and
5 this is the Stoneham Conservation Commission.

6 The first item on the agenda is the Fallon
7 Road Bridge construction. Is there anybody here for
8 that? (No response) Well, that's good, because
9 we're going to continue it.

10 At the last meeting there was a discussion
11 between the two attorneys, our Town Counsel, Bill
12 Solomon, and the Applicant's attorney, Jim Juliano,
13 Jr. They knew that they might not have an answer to
14 a question that was asked by tonight, and in fact
15 they don't. The question is, is the application
16 premature.

17 So both attorneys agreed to continue it.
18 So we're going to continue it until our next
19 meeting, which we might as well decide now.

20 Normally we go in three-week spurts, but
21 Chairman Mr. Parsons won't be available in three
22 weeks on the 27th.

23 MS. DAY: Anything good?

24 MS. McBRIDE: Florida. Disneyland.

1 MS. DAY: Not so fun.

2 MS. McBRIDE: Spoken like a mother.

3 So the week prior, the 20th, would be the
4 Tuesday. Does that work for everybody?

5 MR. PARSONS: Actually, no, I can't do the
6 20th. The 22nd I could do.

7 MS. McBRIDE: Are you sure?

8 MR. PARSONS: Yes.

9 MS. McBRIDE: So the 22nd? Is everybody
10 good with that?

11 MS. RENNARD: I might not be able to make
12 the 22nd.

13 MS. McBRIDE: Okay. So we'll continue the
14 Fallon Road Bridge construction public hearing to
15 January 22nd at 7:00 p.m. -- sorry. I'll take a
16 motion to continue the public hearing.

17 MR. PARSONS: I make a motion that we
18 continue the Fallon Road Bridge construction project
19 to Thursday, January 22nd, at 7:00 p.m.

20 MR. L'ESPERANCE: Second.

21 MS. McBRIDE: All in favor? (Unanimous
22 chorus of ayes)

23 More than likely we'll be downstairs in the
24 banquet hall where we usually are.

1 So in light of that, our next item on the
2 agenda is Weiss Farm Apartments, and that is
3 publicly advertised for 8:00 p.m., so we can't start
4 early. So we're going to take a recess until about
5 five minutes of eight.

6 (Recess)

7 MS. McBRIDE: Thanks for coming. We opened
8 the meeting at 7:00. We had one item that was
9 continued, and this wasn't on the schedule -- it was
10 advertised for 8:00 p.m., so we had to wait. Thanks
11 for your patience.

12 Next item on the agenda is the Weiss Farms
13 Apartments LLC. Just as a prelude to this, I just
14 want to --

15 FROM THE AUDIENCE: We can't hear you.

16 MS. McBRIDE: I can only talk so loud.
17 Move forward. It's a big room and a hard room to
18 hear in. I'm sorry. I know. It's a bad room.

19 Again, thank you all for coming. I'm sorry
20 the acoustics in this room aren't great. I'll do
21 the best I can, but let me know -- don't, please,
22 yell out, but raise your hand if you can't hear me.
23 I'll do my best. We'll all do our best.

24 We will ask that when it does open up to

1 the public, that you come to the front. We don't
2 have mikes, but our stenographer needs to be able to
3 hear you, and she does have a mike on her laptop as
4 a back-up. So when you do want to ask questions.

5 The way we run our meetings -- I don't
6 think most of you have ever been to a Conservation
7 Commission meeting, but the way we run our meetings
8 is we're very by the book. We talk to the
9 Applicant. The Applicant talks to us. We ask all
10 our questions. They answer them.

11 And at that point we will open it up to
12 public questions. We ask that you raise your hand,
13 be identified by us, come up, state your name and
14 address for the record, and then ask your question.

15 The Stoneham Conservation Commission's
16 jurisdiction is wetlands, stormwater management.
17 That's it. We are not going to have any
18 conversations about traffic, height of buildings,
19 color of buildings, density of project. It's not
20 our jurisdiction. It's a waste of your time, their
21 time, our time. We all want to get home at some
22 point tonight.

23 So I hope that's clear. We're not trying
24 to be rude. We're just trying to be honest about

1 how we proceed.

2 I'm just trying to -- we have a few
3 checklists... The Notice of Intent was filed by the
4 Applicant, and one of the things is, we usually do a
5 couple of little checklists.

6 We have your letter saying that abutters
7 were notified. We have the green cards back. We
8 don't have a DEP number, though.

9 MR. LOWRY: That is correct. With the
10 holiday season, I think DEP has been a little bit
11 slow in terms of issuing DEP file numbers. So we
12 have not --

13 MS. McBRIDE: But you have filed?

14 MR. LOWRY: Yes.

15 MS. McBRIDE: Do you know what date you
16 have filed with the DEP?

17 MR. LOWRY: It believe it was -- I don't
18 have the exact date.

19 MR. GALLOGLY: December 17th.

20 MS. McBRIDE: 17th? The same date you filed
21 with us?

22 MR. LOWRY: Right.

23 MS. McBRIDE: Okay.

24 I feel like I'm forgetting something

1 already.

2 So before we get into the throes of the
3 Notice of Intent, we'd like to hear from Jon Witten,
4 who is the attorney that the Town of Stoneham hired
5 as an advisor on this project.

6 MR. WITTEN: Thank you. Good evening,
7 Members of the Commission. My name is Jon Witten.
8 I've been hired by the Town to assist in the review
9 of this project.

10 And, Madam Chairperson, I think the first
11 order of business would be to ask Attorney Cicatelli
12 whether he is willing to pay for the cost of the
13 stenographer. It's the same stenographer that has
14 been used in the Board of Appeals hearing.

15 MS. McBRIDE: I think you had agreed to
16 that at one point, but we want to make sure.

17 MR. CICATELLI: Yes.

18 MS. McBRIDE: And then I think we also want
19 to make sure that you have agreed to pay for the
20 Conservation peer engineer, who is Bob Griffin. I
21 know you agreed for the Zoning Board of Appeals, but
22 should we ask him to do anything, we just wanted to
23 make sure --

24 MR. CICATELLI: We think that might be a

1 good suggestion, given his familiarity with the
2 local resource area, and also he's been retained by
3 the Board of Appeals.

4 MS. McBRIDE: Okay.

5 MR. WITTEN: So the main comment to the
6 Conservation Commission members regarding the
7 Application that's before you is, unless Attorney
8 Cicatelli tells us otherwise, my understanding is
9 that this is under the Act only and not the Stoneham
10 wetland bylaw. Is that correct?

11 MR. CICATELLI: No, that is not correct.

12 MR. WITTEN: So is the Application that
13 you've submitted tonight pursuant to the local
14 bylaw?

15 MR. CICATELLI: And the Act, yes. To my
16 knowledge, there is not an application requirement
17 nor is there an application form for Chapter 11 of
18 the local bylaw.

19 MR. WITTEN: So is the Commission being
20 asked to review the NOI that you filed under both
21 the State Act and Chapter 11, the local bylaw?

22 MR. CICATELLI: Under the State Act. Yes.

23 MR. WITTEN: Well, Madam Chairperson, if
24 that's the representation, then I am comfortable

1 with that representation, that the Applicant has
2 filed under the bylaw and under the State Act. I
3 just want to make sure --

4 MS. McBRIDE: I'm not sure that that's what
5 you just said.

6 MR. GALLOGLY: We filed under the State
7 Act. We did not file under the local bylaw. There
8 is no application form under the local bylaw to
9 file.

10 MR. WITTEN: Well, the fact that there is
11 no application form is true, but there is a
12 requirement to file pursuant to the bylaw.

13 MR. CICATELLI: No, no. This is where we
14 disagree, Attorney Witten.

15 MR. GALLOGLY: We filed a Comprehensive
16 Permit, which covers all local --

17 MR. WITTEN: So, to the Commission, the
18 Applicant's position is that, by filing for a
19 Comprehensive Permit, they don't have to file under
20 the bylaw, and, respectfully, that's incorrect.

21 There is an Application for a Comprehensive
22 Permit that is now before the Housing Appeals
23 Committee, and what's before the Housing Appeals
24 Committee is whether or not the Town of Stoneham is

1 consistent with local needs.

2 The Board of Appeals has not granted a
3 waiver from the local bylaw. The Board of Appeals
4 can't grant a waiver from the local bylaw while the
5 hearing is suspended.

6 The Application that's before you tonight
7 is required to conform with the local bylaw. Your
8 bylaw makes it quite clear that any attempt to fill,
9 dredge or otherwise deal with the wetland resource
10 requires a filing pursuant to the bylaw.

11 So my read -- and I think now I understand.
12 My read of this Application is it's pursuant to the
13 Act only, and the Applicant's position is they don't
14 have to file under the bylaw. I respectfully
15 disagree. That's incorrect. They must file under
16 the bylaw.

17 So the Commission's position tonight should
18 be, in my opinion, to listen to the Application
19 under the Act, open the public hearing as you have,
20 and allow the Applicant a continuation date, during
21 which time they will file under the bylaw. If they
22 choose not to file under the bylaw, then the
23 Commission has to make a decision as to whether you
24 have a complete or incomplete Application. My

1 opinion would be that it would be an incomplete
2 Application.

3 But the Applicant certainly has the right
4 to move forward with the public hearing tonight
5 under the Act, as long as the record is clear that
6 the Commission will require, if you do, a filing
7 under the bylaw, and if there is no filing under the
8 bylaw, the Commission would be forced to deny the
9 Application. DEP, of course, must respect a
10 commission's denial for an incomplete application.

11 The second comment, Members of the
12 Commission, is that 310 CMR 10.05 makes it quite
13 clear, and I'm sure the consultants for the
14 Applicant know this, that a filing under the
15 Wetlands Protection Act should not be the first
16 filing where there are a series of permits required.
17 And the regulations call out specifically that,
18 where it's a Comprehensive Permit Application, it's
19 considered already applied for where there is an
20 appeal to the Housing Appeals Committee.

21 In this case, the appeal to the Housing
22 Appeals Committee is the Town's appeal, not the
23 Applicant's. So under 10.05, this Application is
24 ahead of the curve. It should have waited until

1 after there was a Comprehensive Permit decision from
2 The Board of Appeals.

3 That being said, because of the risk of
4 constructive approval, my advice to the Commission
5 would be to entertain the Application tonight, pick
6 a date certain to continue it to, during which time
7 the Applicant will have the chance to file under the
8 local bylaw.

9 MR. PARSONS: Thank you.

10 MS. McBRIDE: Thanks.

11 MR. CICATELLI: Madam Chairman, The Board
12 of Appeals --

13 MS. McBRIDE: Can I ask you a favor? Speak
14 loudly.

15 MR. CICATELLI: Madam Chairman, I'm Steven
16 Cicatelli, representing the Applicant.

17 The Board of Appeals has accepted our
18 Application and did deem it complete. So our
19 position is that an application has been filed with
20 the Town. So, again, we disagree on a few points
21 here.

22 MR. WITTEN: Well, I would only say to the
23 Commission, it's not -- no one is contesting that
24 the Application was deemed complete. I was there

1 that evening. That's not what the regulations say.
2 The regulations say that a permit was issued or
3 denied.

4 Again, under the Wetlands Protection Act
5 regulations, sequencing is very important. The
6 Commission members know that better than anyone.
7 This Application for an NOI shouldn't be leading the
8 curve; it should be at the end of the process.

9 But that being as it is, the hearing is
10 tonight. It's been advertised. My advice for the
11 Commission is to continue with the hearing, as long
12 as the record reflects that there is an instant
13 violation of Section 310 CMR 10.05 because of the
14 sequencing under the regulation.

15 MR. GALLOGLY: We respectfully disagree
16 with your interpretation of the regulation. We can
17 go on, make our presentation this evening.

18 MR. WITTEN: I agree.

19 MS. McBRIDE: Why don't you do that.

20 MR. CICATELLI: Thank you.

21 Madam Chairman, good evening, Members of
22 the Commission. For the record, Steven Cicatelli,
23 representing Weiss Farms Apartments, LLC, the
24 Applicant, in the Notice of Intent which is the

1 subject of this evening's public hearing.

2 With me this evening are Richard Gallogly
3 of Rackemann, Sawyer & Brewster, my co-counsel on
4 the project; Peter Mahoney of Weiss Farms
5 Apartments, LLC; Dennis Lowry of AECOM Engineering;
6 and Jim White of H.W. Moore, our civil engineer on
7 the project.

8 What I would like to do, Madam Chairman,
9 with your permission, is give a brief history of the
10 project and then turn the matter over to Peter
11 Mahoney to give a short PowerPoint presentation.
12 This will probably be the first at an actual public
13 hearing.

14 Then Dennis is going to discuss the wetland
15 delineation, the resource areas. And then Jim will
16 review the Notice of Intent with you and of course
17 answer any questions that you may have.

18 I did want to make one correction, if I
19 may, Madam Chairman. On Page 3 of the Notice of
20 Intent, Section B.f.6, the question that is posed in
21 the application is, "Was the lot where the activity
22 is proposed created prior to August 1, 1996?"

23 MS. McBRIDE: Can I just ask you to repeat
24 the page number.

1 MR. CICATELLI: Page 3.

2 MS. McBRIDE: Of 8?

3 MR. CICATELLI: Yes. Right before Item 3,
4 you see there's a Subsection 6.

5 MS. McBRIDE: Yes.

6 MR. CICATELLI: "Was the lot where the
7 activity is proposed created prior to August 1,
8 1996?" We inadvertently checked off, "Yes."

9 I submitted to Cathy, the Clerk, to the
10 Commission, a copy of the recorded ANR plan that was
11 endorsed by the Planning Board and recorded with the
12 Middlesex South Registry of Deeds actually in
13 December of 2013, and it created two lots.

14 We're basically the larger lot, Lot 2,
15 which is the subject of this Notice of Intent, the
16 40B Application. The seller of the property, Ms.
17 Weiss, will be retaining title to her dwelling and
18 the land around it. So we just want to correct
19 that. That is actually the plan, and of course it
20 was -- the lot was technically created after the '96
21 date.

22 In terms of the project, my client has
23 filed an Application pursuant to Mass. General Laws
24 Chapter 40B with The Board of Appeals. It is, as

1 Attorney Witten has alluded to, the subject of some
2 interlocutory appeals at this point. The Board of
3 Appeals did, however, in their September 17, 2014,
4 meeting, accept the Application and deem it
5 complete.

6 At this point, what we're proposing, and
7 Peter will get into it in a little more detail, is
8 basically 264 units of rental housing. There would
9 be a clubhouse. There would be some driveways, some
10 additional planting of trees, et cetera. The work
11 that's proposed would not be within the No-Build
12 Zone, and again, Dennis and Jim will get into that
13 in more detail.

14 At this point, I would like to just turn
15 the matter over to Peter, and we can continue with
16 the PowerPoint. And, again, if there are any
17 questions along the way, please feel free to
18 interrupt.

19 MS. McBRIDE: Let me interrupt for one
20 second. Can I just please ask everybody in the
21 audience to check your phones and make sure they're
22 all off. Thank you.

23 FROM THE AUDIENCE: Is there a microphone
24 so everyone can hear --

1 MS. McBRIDE: There is not.

2 FROM THE AUDIENCE: We can't hear anything.

3 FROM THE AUDIENCE: This is a public
4 hearing.

5 (Many voices from the audience talking at
6 once)

7 MS. McBRIDE: Excuse me. Excuse me.
8 Excuse me. We said at the beginning, one at a time,
9 raise your hand. There will be no yelling out, or
10 you will leave this room.

11 I heard what you've had to say. We're
12 doing the best we can. It's a big room. We
13 anticipated a crowd, so that's why they moved it to
14 this room.

15 I'm sorry. We're doing the best we can.
16 We'll keep being attentive to raising our voices --

17 FROM THE AUDIENCE: I understand that, but
18 when he stands up, we can hear him. We would
19 appreciate having them stand.

20 MS. McBRIDE: Okay. Sure.

21 Can I ask you folks to stand up. Okay.

22 FROM THE AUDIENCE: Thank you.

23 MS. McBRIDE: But seriously, we're going to
24 run this orderly. Got it?

1 FROM THE AUDIENCE: I suggest to postpone
2 the meeting to a later date, because we can't
3 understand. So when you have a sound system
4 available --

5 MS. McBRIDE: Move your chair up closer.
6 Come on up front.

7 FROM THE AUDIENCE: We can't hear from
8 here.

9 (Many voices from the audience talking at
10 once)

11 FROM THE AUDIENCE: I suggest you postpone
12 this meeting to a later date --

13 MS. McBRIDE: We're not going to.

14 FROM THE AUDIENCE: Well then, why is --

15 MS. McBRIDE: We're going to try our best
16 to speak loudly, and we'll go from there. So if you
17 want to sit right up front, go right ahead.

18 FROM THE AUDIENCE: But not everybody can
19 sit up front.

20 FROM THE AUDIENCE: How can we do that
21 without --

22 (Many voices from the audience talking at
23 once)

24 MS. McBRIDE: This is just a presentation.

1 Everybody have a seat. We're going to ask everybody
2 to speak loudly. We're going to do our best.

3 Can you all hear me back there?

4 If one more person just yells out, I'm
5 going to ask you to leave the room, and I mean it.

6 Okay?

7 FROM THE AUDIENCE: No.

8 MS. McBRIDE: Go ahead.

9 MR. MAHONEY: Thank you, Members of the
10 Board. For the record, Peter Mahoney with John
11 Corcoran and Company. If it's all right, I'll walk
12 over to the screen to point to the slides.

13 Tonight we would like to give you a brief
14 overview of the project. As Steven said, I'll talk
15 briefly about the site layout, just to try to
16 familiarize everyone with the project. Then our
17 consultants will speak to some more overview of the
18 design and engineering of the site and wetlands and
19 how it will affect drainage.

20 We know there's going to be a long peer
21 review, and we've gone into great detail with all
22 the Application materials, but tonight our goal is
23 to familiarize you with our proposal.

24 So I'll start with some aerials of the

1 site. You can see the laser pointer a little bit.
2 This will orient you. Franklin Street is up here,
3 the High School across the street here, and Gerald
4 Road, which you're familiar with on recent matters,
5 right down here.

6 The site boundary is shown in yellow here.
7 This triangular portion at the front of the site
8 here that Steven alluded to, that's Mrs. Weiss's
9 home. That is not part of the project. The house
10 will stay. It's not part of the development project
11 we're proposing.

12 The site in total is 26 acres. The
13 majority of the development activity that's proposed
14 is focused in what we're calling the central
15 development area, which is this area in the middle
16 of the site. That area is about 14 acres.

17 That area is bounded by a drainage moat,
18 which roughly follows the wetland delineation line,
19 again shown in red here. Everything outside of that
20 red line, with the exception of a small area, which
21 I'll touch on in a second, remains untouched.
22 That's 12 acres that remains open space. We have no
23 proposed development activities there. That will be
24 open space forever.

1 The one exception is this area at the top
2 right corner here, the northeast corner of the site,
3 which we are proposing for walkways and open space.
4 That would involve the only work within the 25-foot
5 No-Build Zone. It would be to improve the existing
6 pedestrian bridge there to allow for pedestrians to
7 access that space. There would be some paths and
8 passive open space as we're proposing it.

9 This is our proposed site plan. Again, to
10 orient you, this is Franklin Street here. Gerald
11 Road is up here. The High School is down here.

12 Our proposed entrance is off of Franklin
13 Street, west of the existing entrance, right here.
14 We're proposing a series of small-in-size townhouse
15 buildings at the entrance and then along the drive
16 as you enter here. Then there are three larger
17 apartment buildings, which are pushed towards the
18 back of the site, and a community building,
19 clubhouse, here.

20 Parking is predominantly provided through
21 surface parking. There is a small garage in the
22 ground floor of the rear building here and then a
23 small detached garage here. We are handling trash
24 and recycling along with a maintenance building in

1 the back here.

2 The project, we've arranged the site plan
3 so we've created a central landscaped open space
4 with some more active outdoor recreation features
5 which we think are really going to be a nice
6 feature.

7 Finally, I just wanted to mention that we
8 are committed to green building. We built, we
9 think, the first large multi-family LEED-certified
10 building in New England. We have since built 600
11 more units, and we plan to do the same thing here.
12 That's another thing we're doing.

13 So I'll turn it over to Dennis to talk
14 about the wetlands.

15 MR. LOWRY: Good evening. My name is
16 Dennis Lowry. I'm a wetland ecologist with AECOM
17 Environment out of Chelmsford, Massachusetts. I have
18 a Bachelor of Science degree from Tufts University
19 and a Master of Science in wetland ecology from the
20 University of Rhode Island. I've been doing
21 consulting wetland ecology in southern New England
22 for over 30 years.

23 What I would like to do briefly tonight is
24 to describe for you the extent of the wetland

1 resource areas on this site. And I use the term
2 "wetland resource areas" consistent with the
3 Massachusetts Wetlands Protection Act and its
4 associated regulation, 30 CMR 10.00.

5 In those regulations, they define wetlands
6 as a series of different types of wetland resource
7 areas that include things such as Bordering
8 Vegetated Wetlands, Bordering Land Subject to
9 Flooding, Floodplain, Isolated Land Subject to
10 Flooding, Banks, Intermittent Streams, Perennial
11 Streams. It's just a fairly complex set of
12 regulations, with very specific definitions to
13 define resource areas. And then it goes on to say
14 what performance standards would dictate the work
15 that has to be done with respect to those resource
16 areas to be in compliance with those regulations.

17 So I don't want to get too far into the
18 details of that. The Commission is familiar with
19 that. But as I make reference to some of those
20 wetland resource areas, I want you to realize that
21 those are specific due to the regulations of the
22 Massachusetts Wetlands Protection Act.

23 In this particular case, Peter has already
24 indicated that we have a series of wetlands that run

1 around the periphery of the site, from the west up
2 to the north and then down to the southeast portion
3 of the site.

4 This is largely a vegetated wetland, which
5 is comprised of bordering vegetated wetlands as
6 defined by those regulations that I referred to.

7 Back in 2011, the fall of 2011, this
8 Commission underwent a review process of the extent
9 and type of wetland resource areas on this site. A
10 filing was made to this Commission called an
11 Abbreviated Notice of Resource Area Delineation. An
12 approximately three-month review went forward where
13 the Commission retained the services of a
14 professional wetland scientist to review the
15 designation and extent of wetland resource area
16 types on the site.

17 So that resulted, in February of 2012, with
18 the issuance of an Order of Resource Area
19 Delineation which documented and defined the
20 jurisdictional status of wetland resources areas on
21 the site to a large extent. It defined the limits
22 of bordering vegetated wetlands on the site, which
23 have been carried forward on the current Notice of
24 Intent plan. So it's shown in this blue line here

1 and runs, as I described, around the periphery of
2 the proposed development area on the site.

3 It also described a ditch that's on the
4 site that was constructed back in the 1950s which
5 runs pretty much along the edge of that wetland area
6 as an intermittent stream, as opposed to a perennial
7 stream, which is one that flows year round. It was
8 defined in that ORAD as an intermittent stream.

9 What it also stated was that that ORAD did
10 not define the limits of Bordering Land Subject to
11 Flooding, and this is all a product of that
12 three-month review that went forward on the ANRAD
13 that was filed in October of 2011.

14 So those jurisdictional boundaries have
15 been retained for this Notice of Intent filing, and
16 those are set boundaries relative to those specific
17 resource areas.

18 And we have designed this site in
19 compliance with all regulatory requirements for
20 those resources areas. As Peter mentioned, there is
21 in fact no work proposed in any of the resource
22 areas. There is a Buffer Zone bordering the
23 vegetated wetland, and that proceeds laterally from
24 the limits of the bordering vegetated wetlands or

1 the bank, whichever is further outward from the
2 delineation.

3 There are no specific performance standards
4 for what can be done within that 100-foot Buffer
5 Zone, but it is an area where activities that are
6 proposed are within or subject to review by this
7 Commission.

8 One particular point relative to the Buffer
9 Zone is that there is a 25-foot zone commonly
10 referred to as a No-Disturb Zone. There are no
11 activities proposed, as Peter had mentioned, within
12 that 25-foot zone outside of the wetland boundary.
13 The only exception to that is for the existing
14 pathway that goes across the ditch.

15 There's a bridge that crosses the ditch up
16 in the northeast corner of the site. The pathway
17 that leads across that 25-foot zone right in here
18 will be improved for site stability purposes with a
19 gravel covering. It currently is dirt, and the
20 desire is to have that be a more stable surface in
21 the form of a gravel or stone covering.

22 So there is no other activity proposed
23 within that 25-foot setback from the vegetated
24 wetlands. You can see this red line or line that

1 I'm tracing with the laser pointer here follows that
2 25-foot zone, and you can see that there is nothing
3 proposed within that 25-foot distance around the
4 edge of the wetland.

5 Relative to -- I mentioned the Bordering
6 Land Subject to Flooding or the Floodplain. The
7 regulations point to the use of FEMA flood insurance
8 rate map information for the determination of the
9 extent of the 100-year floodplain on the site. FEMA
10 flood insurance rate mapping for this site shows no
11 such 100-year floodplain. However, there is another
12 provision in the regulations that allows one to look
13 for the maximum extent of observed flooding on the
14 site to also define the limits of Bordering Land
15 Subject to Flooding.

16 That has been done in this case, using an
17 elevation that was documented and surveyed on the
18 site of approximately 163.65, I think, is the
19 elevation. And that is shown on the site plans -- I
20 don't think I can quite point it out on the site on
21 this slide, but in the Notice of Intent that's been
22 submitted, we have defined -- we have shown that
23 elevation and indicated in the Application that that
24 would serve as the limit of Bordering Land Subject

1 to Flooding on the site, and documented that there
2 are no activities proposed within that limit of
3 Bordering Land Subject to Flooding. We consider it
4 a very conservative estimate of the extent of
5 Bordering Land Subject to Flooding on the site.

6 Jim White, from H.W. Moore, will describe
7 some of the engineering aspects of the site,
8 particularly stormwater management, which, as the
9 Commission Chair has indicated, is the subject of
10 their jurisdiction. I'll just simply mention that
11 the stormwater management program for this project
12 has been designed in full compliance with the
13 Massachusetts DEP stormwater standards. It will
14 involve regulation of the rate and the volume of
15 discharge from the site. It will ensure that
16 groundwater is recharged on the site to the
17 groundwater system in a manner consistent with the
18 current conditions on the site. So there will be no
19 loss of groundwater recharge, and that will have the
20 function of maintaining base flow and contributing
21 to the wetland conditions on the site and the
22 ecology of the wetlands.

23 So a great deal of attention has been
24 applied to the stormwater management system to

1 ensure that it addresses both quality and quantity
2 of runoff from the site.

3 And the other important part of the
4 proposed project is to ensure that sediment erosion
5 control measures are implemented during
6 construction. So the Notice of Intent has a
7 sediment erosion control plan prepared to ensure
8 that, during construction, the ability to retain
9 sediment on the site within the construction zone
10 will not be compromised, and therefore there will be
11 no indirect impact to the adjacent wetland system.

12 With that, I'll turn it over to Jim White
13 from H.W. Moore for some of the more civil
14 engineering components of it

15 MR. WHITE: Good evening. My name is Jim
16 White. I'm with H.W. Moore of Boston.

17 THE STENOGRAPHER: Sir, if you could come a
18 little bit closer to me for hearing.

19 MR. WHITE: I have been a professional
20 civil engineer in Massachusetts for the past 30
21 years, specializing in site development and
22 stormwater management.

23 The first step in looking at stormwater
24 from a site like this is to look at existing

1 conditions of topography and soil type. On this
2 particular site --

3 MS. McBRIDE: Excuse me, sir. Can I ask
4 you to speak up -- we know it's hard -- if you
5 wouldn't mind. Thank you.

6 MR. WHITE: On this particular site,
7 stormwater runs onto the wetland on three sides
8 under existing conditions. We also look at soil
9 types. Soil is important. Some soils are more
10 permeable than other soils.

11 Most of the development area soil
12 conditions is miscellaneous fill, ranging from about
13 a foot to 3 feet overlying sand, glacial outwash
14 sand underneath. The glacial outwash sand is at
15 least 25 feet deep, based on borings that have been
16 conducted at the site.

17 So based on that information, we determined
18 what the existing stormwater flow off the site is,
19 and we have certain stormwater rates for the 2-year
20 through 100-year storm events.

21 We then look at the proposed development.
22 The proposed development consists of new impervious
23 area, new building area, new pavement area. In
24 impervious areas, water cannot get through to the

1 underlying soil. Therefore, water will run off the
2 site unless we provide means for it to enter the
3 ground.

4 On this particular project, we're proposing
5 four stormwater infiltration systems, underground
6 infiltration systems, one stormwater water quality
7 basin. Stormwater from the pavement areas will flow
8 into catch basins with deep sumps with hoods. Water
9 will then flow to the water quality device to
10 further treat and remove suspended solids from the
11 water. It will then go to an infiltration system,
12 where a certain amount of water will go into the
13 ground. During larger rainfall events, stormwater
14 will flow out at a lower rate and discharge toward
15 the wetland area. There are five discharge points.

16 Based on calculations that we've done in
17 conformance with DEP regulations, we've reduced the
18 stormwater flow from the 2- to the 100-year storm
19 events on this project. Stormwater runoff is almost
20 half the 2-year storm event. It still leaves an
21 awful lot of stormwater on site in basins,
22 infiltration systems, and almost 14,000 cubic feet
23 of water that will be infiltrated back into the
24 ground, which exceeds the amount recommended by DEP,

1 the minimum requirement from DEP.

2 Therefore, we meet the DEP stormwater
3 requirement for peak flow reduction and for water
4 quality. Water quality, we're going to remove about
5 96 percent total suspended solids. The DEP requires
6 an 80 percent total solids removal. We comply with
7 the DEP requirement of water back into the ground,
8 and there will be no loss in groundwater recharge
9 based on this project.

10 As Dennis mentioned, we'll be providing a
11 stormwater sediment erosion control plan as part of
12 this project to make sure that we don't have
13 sediment or materials washing into the wetlands
14 during construction and after construction. All our
15 work is set 25 feet back from the wetland area, the
16 no-build area, 25 feet back, providing sedimentation
17 controls at the limit of work.

18 I feel that we've met all the DEP
19 stormwater requirements, the ten standards that we
20 meet. We've gone over the major ones with you, and
21 we've met all standards that the DEP proposes.
22 Thank you.

23 MR. PARSONS: Thank you. A question, if
24 you don't mind. I haven't reviewed the stormwater

1 runoff analysis in any detail at this point. We
2 will, through a consultant. Peer review will review
3 the stormwater standards.

4 I'll stand up. What I just said is, I
5 haven't reviewed the stormwater runoff analysis yet
6 myself. We have a consultant do that review to make
7 sure that it's in compliance.

8 One of the questions regarding the
9 recharge: How deep was groundwater when you did
10 your test pits? You say you did test pits. Do you
11 recall what the depth from surface to groundwater
12 was?

13 MR. WHITE: I think I wrote it down.

14 MR. PARSONS: If you don't have the answer
15 now, it will come out through the review process,
16 but I was curious --

17 MR. WHITE: I believe it's about 3 or 4
18 feet down. What we're doing is taking that hill
19 down, and we balanced the site so that we're not
20 going to be taking truckloads of materials off site.
21 We're going to, like, take the hill down and spread
22 it out. So we're going to change the elevation of
23 the site that's about 165 elevation up to about 171
24 to 172. And that provides --

1 MR. PARSONS: You'll get your 2 feet
2 separation --

3 MR. WHITE: Right.

4 MR. PARSONS: Okay. The requirement is you
5 have to have 2 feet of separation between the
6 recharge and seasonal high groundwater. So my
7 question was, do they have that separation, and by
8 filling on the site, they will obtain it, through
9 the analysis. But, again, we'll be doing a peer
10 review of this analysis as well. Thank you.

11 MR. L'ESPERANCE: What about getting the
12 water off the site? There's a pump station there
13 now.

14 MS. McBRIDE: Norm, can you speak up,
15 please.

16 MR. L'ESPERANCE: There's a pump station
17 there now, but it doesn't seem to do the job. So my
18 feeling is, no matter how good this is, if the water
19 can't get off the site, it's not going to do
20 anything.

21 MR. WHITE: I'll address that. The project
22 site is going to be raised about 5 to 6 feet above
23 existing ground. Water flows off the site. Water
24 right now goes through a drainage ditch, which I

1 believe the Army Corps of Engineers built about
2 1950. That drainage ditch runs around the site,
3 over to a pump station by Franklin Street, a
4 relatively small pump station for stormwater.

5 This pump station lifts the water up, pumps
6 it through a culvert in Franklin Street, and water
7 continues flowing on the other side of Franklin
8 Street. All the water eventually gets pumped on the
9 other side of Franklin Street. The question is,
10 what happens to the water that doesn't get out?

11 The area adjacent to the pump station is a
12 very good-sized wetland area, and that area acts
13 like a detention basin, a large volume of water
14 going to the detention basin. So it fills up the
15 basin with a large volume that maintains a certain
16 elevation, and then that water comes out slowly and
17 leaves slowly.

18 So what we're doing is not changing any of
19 the way it functions today. We're not filling the
20 floodplain area. We're not touching that floodplain
21 area. We're not changing how things happen at that
22 pump area today. We're not increasing the rate of
23 flow toward that pump. We're actually decreasing
24 the rate of flow toward that pump.

1 So the intention is not to change the
2 existing conditions, the existing conditions the way
3 they are, and that's how they will be maintained.

4 MS. McBRIDE: Any other questions? (No
5 response) I think we're good.

6 Is your presentation over?

7 MR. CICATELLI: We're all set.

8 MS. McBRIDE: So just to make a point of
9 clarification for folks here, we will hire Bob
10 Griffin, who is our peer reviewer, who will take --
11 he's an expert at this, as is this gentleman. And
12 he will take all of their proposed plans and measure
13 them and weigh them and do everything he has to do
14 to make sure that everything that they have to meet,
15 according to DEP -- and, again, our responsibility
16 is jurisdictional. We have rules that we have to
17 follow.

18 So Bob will make sure that they meet the
19 muster, and if they don't, there'll be a
20 back-and-forth about, "Well, we think you need to do
21 this," "Okay, we'll do this," "No, we won't do
22 this," or whatever.

23 So I don't want you to think that that's
24 the end of it and, okay, good. We will have our

1 peer reviewer look at it. There will be other
2 meetings where we will come back and we will have
3 back-and-forth conversations.

4 This was the first meeting. This was a
5 preliminary meeting for the Conservation Commission
6 so the Applicant can make their presentation. We
7 will now go to our peer reviewer, have him review it
8 or his team review it, and meet back at another --
9 the next meeting.

10 I think in the meantime, Jon and Steven
11 might have some conversations about the difference
12 of opinion that they have, and we'll figure out
13 that, not tonight, I don't think.

14 MR. WITTEN: Well, the only thing I would
15 say, Madam Chairperson, is I think the Commission
16 should give guidance to the Applicant as to whether
17 you're going to require a filing under the bylaw.
18 And with all due respect to Steven, it's not my
19 opinion; it's your regulations, and their obligation
20 is to comply with the regulations.

21 So where things stand today, the bylaw is
22 in full force and effect. I don't think there is a
23 dispute that there is a waiver from The Board of
24 Appeals. There isn't. We know that. So --

1 MS. McBRIDE: You agree to that, right,
2 there's no waiver?

3 MR. GALLOGLY: A waiver of what?

4 MS. McBRIDE: The bylaw.

5 MR. GALLOGLY: We didn't waive the bylaw.

6 MS. McBRIDE: Correct. So we agree.

7 MR. WITTEN: So with no waiver of the local
8 wetlands bylaw, the bylaw is in effect. So the
9 Applicant has not filed under the bylaw, and I think
10 the Commission at least should have on the record
11 from the Applicant whether or not they're going to
12 file under the bylaw. If the answer is no, then the
13 Commission will have that answer; if the answer is
14 yes, then a date certain by which time the Applicant
15 will file under the bylaw.

16 And the reason why that's important is that
17 Mr. Lowry's presentation, the engineer's
18 presentation all relate to the Act. When Bob
19 Griffin is reviewing this, he needs to know, am I
20 reviewing this pursuant to the bylaw or the Act?

21 And it's not just the 25-foot No-Touch Zone
22 that's relevant; it's your Buffer Zone. So much of
23 this project is in the Buffer Zone, and the bylaw
24 provides great credibility to the Buffer Zone, much

1 more so than the Act.

2 So I think it's important from tonight on
3 to be clear from the Applicant where do we stand.
4 Are we going to get an application under the bylaw,
5 yes or no, and if the answer is yes, when do we
6 expect it.

7 MR. CICATELLI: The way I read the bylaw,
8 again, there really aren't any --

9 MS. McBRIDE: Could you speak up, please.

10 MR. CICATELLI: Madam Chairman, the way I
11 read the bylaw, there really aren't any regulations
12 within the bylaw. They indicate that the
13 Commission, in an appropriate case, may accept the
14 application plans under the bylaw basically as being
15 filed under the Wetlands Protection Act.

16 So I find it odd that this is the first
17 time that I believe the Commission is requiring a
18 separate application under the local bylaw. Again,
19 my understanding is the fact that my client has
20 filed a 40B application, he should not be held to a
21 different or a higher standard than a like
22 application.

23 If Attorney Witten is suggesting that there
24 should be a separate application, again, the form

1 doesn't exist, because you've never required it.
2 And also, in terms of fees, there isn't a fee
3 schedule. This Commission has typically accepted
4 the filing of a Notice of Intent as sufficient under
5 this bylaw. So maybe the question is, is the
6 Commission changing their mind at this point, or is
7 our Notice of Intent sufficient.

8 In terms of the local bylaw, Chapter 11,
9 expanding on the Wetlands Protection Act outside of
10 the 25-Foot No-Disturb Zone, I don't really think
11 that it does, with all due respect. And as we've
12 indicated, we're basically staying out of it, with
13 the exception of one area where we feel we're doing
14 improvements.

15 So, again, we're not agreeing on this. I
16 don't see that we're going to have an agreement.
17 But I would probably put it to the Commission: Are
18 you going to require a separate application? It
19 seems like this is obstructionist in nature.

20 MR. WITTEN: I take great offense at the
21 suggestion that it's obstructionist. I have not
22 said a separate application. You have said you're
23 not filing under the bylaw.

24 The bylaw could be coterminous with the

1 Act. There is no question about that. You and your
2 brother have suggested you are not filing under the
3 bylaw, and that is what we have heard.

4 The Commission is not asking for a separate
5 form. The Commission is not asking for a separate
6 application. The Commission is asking whether you
7 are submitting to jurisdiction under the bylaw, and
8 your answer has been no.

9 My question is, will you submit for
10 jurisdiction under the bylaw? I'm assuming the
11 answer is no. So we are not treating you any
12 differently than anybody else in the Town of
13 Stoneham. There is no obstructionism by requiring
14 compliance with what Town Meeting adopted as a
15 bylaw. And the question to the Applicant is whether
16 you will file under the bylaw, yes or no.

17 MR. GALLOGLY: We will take your comments
18 under advisement, and we will reply to the
19 Conservation Commission prior to the next public
20 hearing.

21 MR. WITTEN: Thank you.

22 MS. McBRIDE: Okay. We're going to open it
23 up to the public, but I'm going to tell you, we're
24 going to be orderly.

1 MR. PARSONS: We might want to -- if you
2 have a question, it would be beneficial for
3 everybody to hear it if maybe you came over here and
4 stood up.

5 MS. McBRIDE: You're going to get
6 recognized first, John.

7 MR. EATON: John Eaton, 18 Citation Ave.,
8 Stoneham.

9 This should be a simple question, but I'll
10 ask it and you can tell me. Our Town bylaws say
11 there's a 25-Foot No-Disturb Zone where "no person
12 shall remove, fill, dredge, alter or build upon
13 within the strip." And your Notice of Intent says
14 that all work for the project's construction will be
15 set back at least 25 feet from the wetlands.

16 Where I'm having a problem is verifying
17 that in your engineering schematic, okay? I'm not
18 an engineer. I'm just a country boy trying to
19 understand all this stuff, okay?

20 I draw your attention to the schematic
21 engineering plans in Sheet C3 in the index of your
22 drawings. C3 is the Site Grading and Drainage Plan.
23 The scale stated in the drawing is 1 inch to 40
24 feet. Several of your drawings use that scale.

1 So using a scale of 1 inch to 40 feet, the
2 25-foot No-Disturb Zone translates to 5/8ths of an
3 inch, right? Simple mathematics. There's a thin
4 line around the perimeter identified on the drawing
5 as the limit of the wetlands. My understanding is
6 that the 25-Foot No-Disturb Zone is measured from
7 that wetlands limit line straight towards the
8 project area, and arrows in your drawing seem to
9 show that.

10 So I took a simple compass, and I had 5/8
11 of an inch and measured towards the project, and I
12 find construction within the 25-Foot No-Disturb
13 Zone: a seven-car garage, maintenance building,
14 among other things. So that seems to conflict with
15 your statement that all construction will be set
16 back at least 25 feet from the wetlands limit.

17 So where am I wrong about that?

18 MR. WHITE: 1 inch and 40 feet is not the
19 same as 5/8 of an inch.

20 MR. EATON: 40 feet is --

21 MR. WHITE: I have a scale, if you'd like.

22 MR. EATON: I have a scale too.

23 MR. WHITE: This scale is a 40 scale, if
24 you want to measure it.

1 MR. EATON: Whatever 40 feet is, 25 feet is
2 going to be less on --

3 MR. WHITE: We actually had a computer
4 offset the wetland line 25 feet. It's probably more
5 clear on Sheet C2.

6 MR. PARSONS: I guess what I'd suggest
7 relative to this is that we confirm that 25-Foot
8 No-Disturb Zone through our peer review, and
9 certainly you can do that ahead of time as well.
10 But I think it should be documented that we will
11 confirm that, just so that there is no hang-up here
12 anyway. The point is well taken.

13 MR. EATON: Could I show you after the
14 meeting just how I arrived at my analysis?

15 MR. PARSONS: Absolutely.

16 MR. EATON: Okay. Fine. All right. I'll
17 move along.

18 MS. McBRIDE: Hey, wait a minute. There's
19 lots of people waiting here.

20 MR. EATON: This is important stuff. I'll
21 try to be quick.

22 MS. McBRIDE: Take your time.

23 MR. EATON: The Massachusetts Wetlands
24 Protection Act specifies a 100-foot Buffer Zone.

1 The project includes construction work within the
2 100-Foot Buffer Zone. As to that construction, does
3 it include any part of the three 62-foot apartment
4 buildings? Can you give me a yes or no on that?

5 MR. LOWRY: I believe not. There's a
6 portion of one townhouse within that 100-foot Buffer
7 Zone, I believe.

8 MR. EATON: Okay. Thank you. What about
9 the three 62-foot apartment buildings?

10 MR. LOWRY: No.

11 MR. EATON: What about the maintenance
12 building?

13 MR. LOWRY: Yes.

14 MR. EATON: What about the seven-car
15 garage?

16 MR. LOWRY: Yes.

17 MR. EATON: What about the 438 car parking
18 lot?

19 MR. WHITE: Some of the parking is within
20 100 feet.

21 MR. EATON: Thank you. And the clubhouse?

22 MR. WHITE: No.

23 MR. EATON: All right. Now, of all the
24 construction, what specific construction is closest

1 to the wetlands perimeter?

2 MR. LOWRY: I would say portions of the
3 parking lot would be probably the most notable
4 portion of the project in proximity to the wetlands.

5 MR. EATON: How close in feet?

6 MR. LOWRY: Well, outside of 25 feet. I
7 think it probably comes close to that 25-foot
8 setback. I can't tell you without --

9 MR. EATON: Approximately 25, maybe 30
10 feet?

11 MR. LOWRY: Correct.

12 MR. EATON: And the next item in, can you
13 estimate what it would be and how far?

14 MR. LOWRY: Well, stormwater management
15 areas are probably in proximity to that 25-foot
16 setback as well.

17 MR. EATON: Okay. Now, I guess this
18 question is really for the Stoneham Conservation
19 Commission. We've heard that some of this
20 construction is within the 100-foot Buffer Zone, and
21 I'm wondering if it's wise to put such major
22 construction like this so close to what is left of
23 the Town's precious wetlands. Doesn't this just
24 invite possible future adverse impact over time to

1 the wetlands?

2 Our bylaws specifically address this issue.
3 Page 11S of our -- 7 of our bylaws talks about
4 activities taking place within 100 feet of the
5 wetlands, which is what the developer proposes to
6 do. And I think that should be a major concern
7 about this project. I'd like to take 15 seconds
8 just to read that particular section.

9 "Lands within 200 feet of rivers, ponds and
10 lakes, and lands within 100 feet of other resource
11 areas are presumed important to the protection of
12 these resources, because activities undertaken in
13 close proximity to resource areas have a high
14 likelihood of adverse impact upon the wetland or
15 other resource, either immediately or as a
16 consequence of construction or over time, as a
17 consequence of daily operation or existence of these
18 activities. These adverse impacts from construction
19 and use can include, without limitation, erosion,
20 siltation, loss of groundwater recharge, poor water
21 quality, loss of wildlife habitat," et cetera, et
22 cetera, et cetera.

23 So it looks to me, from what I've read so
24 far, that this construction could, over time,

1 according to what I just read, have adverse impact
2 over our wetlands, and this should be of major
3 concern.

4 This is a massive project of eleven
5 buildings, 264 apartments, 438 parking places. And
6 given that this project intrudes on the state
7 100-foot wetlands Buffer Zone, don't you agree that
8 this project is indeed way too big for Stoneham and
9 especially way too big for the particular location
10 in this particular area of Town? Thank you.

11 (Applause)

12 MS. McBRIDE: Just so you know, John --
13 thank you for your attention; I appreciate it --
14 this is all the kind of thing that Bob Griffin will
15 address. And we, as a Commission, acting as the
16 local agent for DEP, have jurisdiction within 100
17 feet.

18 But I just want to make sure -- you and I
19 had a conversation about this tonight. It doesn't
20 mean they can't build it. It just means we get to
21 decide if they do or not. So the No-Disturb Zone is
22 kind of a stronger delineation, the local bylaw.

23 Marty, you had your hand up.

24 MR. WANTMAN: My name is Marty Wantman. I

1 live at 20 Gerald Road. I've been living there
2 since 1984.

3 I'm going to read you something that's
4 listed in the storm runoff analysis on Page 4,
5 submitted by you people. It says, "The adjacent
6 property on the east side of the site recently filed
7 a Notice of Intent which established the flood
8 elevation at 164.5" -- that would be the project
9 datum -- "based on observations and photographs."
10 That would be my property, and I paid to have those
11 elevations taken.

12 It then continues, "We have converted this
13 elevation to 163.65 NAD 88, which is the datum used
14 on our submitted drawings. There will be no
15 displacement of flood storage volume as a result of
16 this project."

17 I'm going to have three questions. So I'd
18 like an explanation on that. If we all know that
19 the elevation is 164.5 and it's a flat property,
20 you're going with a flood elevation that's almost a
21 full foot lower than what is occurring currently.
22 And you can verify that by taking photographs or you
23 can look at the pump house, and we have elevations
24 on the pump house and the concrete trough that it

1 sits on.

2 The second question. I went to the
3 Department of the Army, the Corps of Engineers, back
4 in 2006, being an Army veteran, and the United
5 States Army Corps of Engineers basically stated to
6 me, and I submitted it to the Conservation
7 Commission today, that they have never done any work
8 in the Town of Stoneham. So why do you continue to
9 use the Army Corps of Engineers as an enabler or as
10 a designer for the failed system on Weiss Farm?

11 And on that, I would ask you, what occurred
12 before the Army Corps of Engineers got there? How
13 did the property drain prior to the alleged
14 involvement of the Army Corps of Engineers? And why
15 would you continue utilizing a pump system that's
16 failed, as the pump is off. The pump access road is
17 under water. It's in violation of the DEP order as
18 we stand today. The flood will be there tomorrow.
19 My property is flooded today. And it's an
20 inadequate way to handle the drainage on the
21 property as it stands.

22 Let me see if I have a third question or if
23 I combined them all. Excuse me.

24 So basically we have the Army Corps of

1 Engineers never has been on the project. Why would
2 you say that they have been? Never been on Weiss
3 Farm, rather.

4 MS. McBRIDE: Just to clarify that, Marty,
5 my understanding from Dan Towse, who we all know and
6 respect, and Bob Griffin is that the Army Corps of
7 Engineers dug that ditch. So it could be that
8 that's wrong, but they both lived in town in the
9 '50s.

10 MR. WANTMAN: I was told by the Army Corps
11 of Engineers that it might have been men dressed in
12 Army uniforms, but the Army Corps of Engineers does
13 not work on private property.

14 MS. McBRIDE: That's a moot point.

15 MR. WANTMAN: Well, that's my question.
16 Why are they utilizing the Army Corps of Engineers?
17 Because I know that there was no north/south ditch
18 adjacent to Gerald Road until the '50s and that it's
19 unlikely that the Army Corps of Engineers took the
20 ditch, which ran through the middle of Weiss Farms'
21 property, and brought it over to the perimeter --
22 highly unlikely -- and then installed an inadequate
23 pump.

24 The pump is not being run. The pump is

1 off.

2 MS. McBRIDE: Marty, we're off subject.
3 You're off our jurisdiction.

4 MR. WANTMAN: That's stormwater management,
5 isn't it?

6 MR. PARSONS: These questions are duly
7 noted. I think you should continue with your
8 questions. We'll address them.

9 MR. WANTMAN: Those are the three basic
10 questions. The pump is not being run. The system
11 is inadequate as it is. The system has been changed
12 over the course of years. That's basically it.

13 Oh, one other thing. There is one other
14 thing that should be noted. I'm going to give the
15 answer to one of these questions. Prior to the
16 1950s, Weiss used to drain to the northwest.
17 They're now draining to the southeast. And it's my
18 opinion that the North Meeting House drainage
19 system, which used to be the way that Weiss drained,
20 should be considered as a way to drain this
21 property, as it will drain by gravity, no need for
22 the pump, and it will greatly alleviate the flooding
23 conditions. So that would be my suggestion.

24 MS. McBRIDE: How about if we do this: We

1 can talk to Bob Griffin about your concerns --
2 you've met with Bob a bunch; he knows your property
3 and he knows Weiss -- and just find out about -- the
4 North Meeting stream, whatever, that's a question
5 that has come up before us with relevance to your
6 property in the past too. So I think that's a good
7 question, and we can ask him.

8 MR. WANTMAN: I think it would be a good
9 idea for the developer to do that. It would save
10 them a lot of money over the --

11 MS. McBRIDE: If our peer engineer suggests
12 it, then we'll wind up doing it.

13 Can you answer any of Mr. Wantman's
14 questions?

15 MR. WHITE: I'd like to answer the datum
16 question. The submission datum is different. It
17 was not NAD 88. They used a benchmark of an
18 inverted sewer manhole to create the datum, the
19 elevation they used on the site. We used, on our
20 project, NAD 88. We had a surveyor go out there and
21 measure that invert and convert it to NAD 88.

22 So the elevation they used for flood is
23 exactly the same as the elevation that was used in
24 the --

1 MR. MAHONEY: It's a conversion.

2 MR. WHITE: It's just a conversion between
3 the two data.

4 MS. McBRIDE: So two different versions
5 of --

6 MR. WHITE: Yes. It's a .8, .9 foot
7 difference.

8 MR. PARSONS: There's a multiple vertical
9 datums that are used to assess vertical points,
10 elevations. The response was, there was a different
11 datum -- there are two different datums being
12 discussed here, which is why the numbers aren't
13 exact. The elevation is the same, but it's just put
14 in different terms. That's all.

15 Again, and I hate to keep on saying this,
16 this is going to come out through the peer review
17 and all the drainage calcs and all that. But that's
18 the truth. The concerns that have been raised on
19 both accounts here will be addressed through the
20 peer review, and there will be back and forth.
21 Again, I hate to keep on saying that, but it will.

22 MS. SARNO: I'm Paula Sarno. I live at 6
23 Ellen Road in Stoneham.

24 I have two questions. One is, I'm a little

1 bit confused on how you're addressing on-site and
2 off-site soil erosion with three large buildings of
3 that size going into the property, and your
4 allegation is that you're only using 14 acres out of
5 the 26.

6 And the second is, regarding the stormwater
7 basins that you're stating that you're going to be
8 putting in, who is going to maintain them? Is it
9 the responsibility of the DPW here, or is it the
10 responsibility of the building? Because in the
11 past, the stormwater basin that is pre-existing was
12 maintained, apparently, by Mrs. Weiss. Then it was
13 stopped. And I live right near there, and we have
14 had severe water problems as a result of it.

15 MR. CICATELLI: The property will be
16 maintained by my client. This is a rental
17 situation, so any structures constructed on the
18 property relative to drainage, stormwater
19 management, must be maintained by the property
20 owner, not the Town of Stoneham.

21 MS. SARNO: What about on-site and off-site
22 soil erosion? I didn't understand the presentation
23 that was made regarding how this was being
24 addressed. Because I've got a problem with three,

1 five-story buildings. Where is the soil going to go
2 when those buildings are built?

3 MS. McBRIDE: Are you asking about how are
4 they going to get the soil off the property?

5 MS. SARNO: Well, once you build something,
6 you're going to have erosion, correct, even after
7 the building is in existence?

8 MR. CICATELLI: No.

9 MS. SARNO: How is that going to be
10 addressed?

11 MR. CICATELLI: I don't believe so.
12 What --

13 MS. SARNO: What I've been reading on
14 different things is, there's an issue regarding
15 on-site and off-site soil erosion on any
16 construction that is adjacent to wetlands.

17 MS. McBRIDE: During construction?

18 MR. PARSONS: I think before and after. I
19 think it's a fair point. I know that during
20 construction, you're going to have controls in
21 place, hay bales, silt fence, things of that nature.
22 After the fact, I assume that whatever landscaping
23 plans are in place or proposed, that landscaping and
24 some of the finished treatments that the Applicant

1 is proposing will, long term, stabilize soil erosion
2 from the site. I'm guessing, again --

3 MS. SARNO: That's going to be addressed,
4 then?

5 MR. PARSONS: Yes. Yes.

6 MR. MAHONEY: That's the proposal. So the
7 erosion controls during construction stay in place
8 until things stabilize, and then, you know, we have
9 a long-term maintenance plan to maintain those
10 areas.

11 MS. McBRIDE: And that's standard with any
12 project in a wetland. So I think for a lot of you,
13 this is the first time you've experienced a project
14 with wetlands. Come to our meetings. We meet every
15 three weeks. You'll learn a lot.

16 This isn't our first project. So, you
17 know, you've got to trust us that we're going to do
18 the best job we can for all of you.

19 MR. PUSTELL: My name is John Pustell. I
20 live at 198 Franklin Street in Stoneham, just down
21 the street from the project.

22 My first question for you all is in the
23 25-foot No-Disturb Zone, will you be doing any
24 planting? Will there being any landscaping, any

1 grass? Will you be changing that in any way?

2 MR. CICATELLI: Not in the No-Disturb Zone.

3 MR. WHITE: Right now we're not proposing
4 any work. We can certainly discuss with the
5 Commission if they would like us to plant trees.
6 Most of that area is disturbed now. It's lawn.
7 It's been disturbed through the work that's been
8 done on the farm.

9 It might be beneficial to add some
10 vegetation in that area. Right now we're respecting
11 the no-build, under the local bylaw. But if the
12 Commission wishes, we can certainly discuss adding
13 trees or vegetation or do something like that to
14 improve the area.

15 MR. PUSTELL: So to the extent that you're
16 putting parking lots right up to the edge of that
17 25-foot No-Disturb, how do you back your backhoe up
18 and not disturb?

19 MR. WHITE: Our parking lots don't go the
20 25 feet. They're back --

21 MR. PUSTELL: We heard that they are right
22 at the edge of the 25-foot zone.

23 MR. WHITE: They're not 25 feet. We have a
24 distance between the parking and the 25-foot

1 No-Build for sedimentation controls. It was
2 designed to allow a distance there, a setback to
3 allow work, you know, either sloping or a wall or --
4 and the sedimentation controls be constructed.

5 MR. PUSTELL: I haven't looked, but I would
6 ask that the Conservation Commission check that out.

7 My only experience with any Conservation
8 Commission prior to this was in Andover, where my
9 parents were, actually adding a subdivision to their
10 property. And the Conservation Commission there
11 felt very strongly that the 25-foot No-Disturb Zone
12 truly had to be non-disturbed and couldn't be
13 touched. Additionally, they felt quite free to deal
14 with anything within the 100-foot area and required
15 significant modification and reduction in size, to
16 the extent that it cost us about \$300,000 worth of
17 value in the type of property that we could build.
18 But it was the right thing to do, and I would urge
19 you to take a similar mind-set and feel free to flex
20 your muscles, because you have them. (Applause)

21 MR. SULLIVAN: Good evening. Jim Sullivan,
22 6 Sunset Road.

23 Madam Chairman, Members of the Commission.
24 Mr. Mahoney, always a pleasure to see you.

1 I guess the purpose of my rising tonight is
2 just to -- I live at 6 Sunset Road, and I've said
3 this before: I'm the de facto pumping station for
4 the Town right now. I have a sump in my basement.
5 During most of the major rain storms, the water does
6 get past the pumping station, under Franklin Street,
7 and then goes behind Sunset Road.

8 There is one individual, Arthur Bennett,
9 his backyard actually floods to the point where the
10 water comes up within a couple of feet of Sunset
11 Road. You could actually put a diving board
12 probably right in his backyard and have a pretty
13 good swim.

14 So I guess I would ask that the Board, in
15 addition to doing peer reviews and things like that
16 -- I apologize, the Commission -- in addition to
17 doing peer reviews, I would hope that you would walk
18 through this area and see the impacts that we have
19 now.

20 It's hard for me; I don't have all the
21 advanced degrees that the gentlemen do -- maybe I'll
22 go to night school -- but I think that it's hard to
23 believe that an area that is largely vegetated now
24 and is able to absorb a great deal of water while

1 also shedding water is -- that the ability isn't
2 going to be impacted by the fact that you're now
3 going to have hard surfaces, parking lots, roofs,
4 sidewalks.

5 I also have a concern that they're going to
6 sand and salt these parking lots, and that water
7 they're talking about is certainly -- they're not
8 going to be able to stop it or mitigate it
9 completely.

10 So I would hope that, as you're doing the
11 peer review, that you also have an opportunity to
12 walk down and see what's going on and really measure
13 the impact that way as well.

14 MS. McBRIDE: Thank you.

15 MR. SULLIVAN: Thank you very much.

16 (Applause)

17 MR. PARSONS: I guess, just in regards to
18 the last comment, what's typical as part of this
19 process is that we do one or multiple site
20 inspections, which are open to the public as well,
21 so that we can physically see what the site is --
22 what it looks like, one, and how it responds --
23 doing it during a wet weather event might be a good
24 idea as well, to look at the impacts. That will be

1 part of the plan.

2 MS. PECORARO: My name is Mary Pecoraro. I
3 live at 5 Walsh Avenue. I've lived there for 37
4 years. I have a couple of questions.

5 MS. McBRIDE: Can I just ask, is Walsh Ave.
6 after Ellen?

7 MS. PECORARO: Yes, and --

8 MS. McBRIDE: So it's Gerald, Ellen, Walsh?

9 MS. PECORARO: Right. And so I've walked
10 my children in strollers and looked at the horses at
11 Weiss Farm. I go back and forth on Franklin Street,
12 as everybody else in the neighborhood does, multiple
13 times during the week.

14 I notice, when I drive by the farm in the
15 last couple of years, there are hay bales that are
16 already in place. There hasn't been any
17 construction, but to me it seems that the wetlands
18 have been pushed back with these hay bales.

19 I'm wondering, as part of my question, is
20 that something that had to have a permit to do that,
21 to change the topography of the land?

22 There was a former horse corral right
23 between the barn as you're heading towards the high
24 school on the Franklin Street side that was flooded

1 all the time. The horses couldn't be left there,
2 because their feed would be wet.

3 Now that land seems to have been regraded,
4 and there are pine trees growing there. It looks
5 like a little Christmas tree farm. And we all know
6 that trees need water. So I'm wondering if that was
7 part of the permit, to lessen the water and --
8 especially with hay bales that have been there for
9 two or three years, it's almost as if they were put
10 there to prepare the land or push back the wetlands.

11 MS. McBRIDE: Actually I can answer that.
12 They were put there to delineate the wetlands
13 when --

14 MR. PARSONS: The hay bales?

15 MS. McBRIDE: Yes -- the siltation fences.
16 We did have hay bales installed when mulch came in.

17 FROM THE AUDIENCE: Could you speak up,
18 please.

19 MS. McBRIDE: I have a big mouth too, so
20 it's surprising to me that you can't hear me.

21 I think it was 2011, 2012, when Donna first
22 came to us to ask for the ANRAD, which is -- she
23 wanted us to delineate the wetlands. And I'm sure
24 she had plans down the road. That's what happened.

1 So the peer reviewer who's going to do this
2 project was the peer reviewer at the time, and we
3 walked it, and we had it all marked out. And we had
4 one section -- and I might be wrong, but if I
5 remember correctly, we asked them to put hay bales
6 in because of the mounds of mulch. We didn't want
7 runoff into the mounds of mulch. And the siltation
8 fences would be put at the 25-foot No-Disturb Zone.

9 MS. PECORARO: So what we're seeing now is
10 what was put in --

11 MS. McBRIDE: I don't want to swear by it,
12 but that's my memory of it.

13 MS. DAY: The trees were to satisfy an
14 agricultural requirement, I believe.

15 MS. McBRIDE: I don't know about trees up
16 in the grove.

17 MS. PECORARO: As you look -- there's
18 Donna's house and then her driveway and where the
19 trucks are parked --

20 MS. McBRIDE: Oh. On the right --

21 MS. PECORARO: And then as you continue,
22 house, trucks, and then pine trees, right next to
23 the sidewalk.

24 MS. DAY: Christmas trees.

1 MS. McBRIDE: At one point she was growing
2 Christmas trees.

3 MS. PECORARO: And as I said, that was an
4 area -- they used to keep horses there. It used to
5 be flooded. It used to be wet, bad for horses'
6 hooves.

7 And then my other point or question is,
8 when you see the drawings that indicate open space,
9 I think people think open space, that's going to be
10 a park or a place where you can have a walking trail
11 or whatever. Isn't that more of a floodplain, the
12 swamps, the intermittent streams, that kind of -- I
13 mean, that would be area that people actually
14 couldn't use as open space, because it's wet. It's
15 a swamp. It's got things growing in it.

16 MS. McBRIDE: All to be determined by the
17 peer reviewer.

18 MS. PECORARO: I'm just throwing that out.
19 I think it's disingenuous to say it's open space
20 when it's a swamp. (Applause)

21 MS. McBRIDE: I'm going to clarify that.
22 Swamps are open space; they're just not recreational
23 space.

24 MS. PECORARO: Thank you. That be would a

1 better --

2 MS. McBRIDE: People don't like swamps,
3 they didn't use to, so they filled them. And now
4 everybody, all of a sudden, loves them again.

5 MS. PECORARO: Well, "recreation space"
6 would be a better term.

7 MR. PARSONS: It's conservation land.

8 MR. MAHONEY: May I just clarify? We're
9 not trying to be disingenuous here. We did
10 classify -- we have active recreation areas in the
11 middle of the site, where we have some planned
12 landscaping and barbecue areas and things like that,
13 as well as a path that's in the upland area on the
14 other side of the moat. Then we have this vast
15 wetland area that's the undisturbed area.

16 MS. PECORARO: That's a better term.

17 MS. McBRIDE: Anybody else? Hold on,
18 Marty. This gentleman hasn't asked one yet.

19 MR. TRAMONTOZZI: I'll defer to the good
20 gentleman.

21 MS. McBRIDE: Pertinent to our
22 jurisdiction.

23 MR. WANTMAN: I was going to answer her
24 questions.

1 MS. McBRIDE: That's okay.

2 MR. WANTMAN: The hay bales were put there
3 after a sedimentation sock was there that was put
4 there in approximately 2006 when there was a major
5 reconstruction of Weiss Farm. If you live on Walsh
6 Ave., you had to have seen the trucks bringing in
7 stone. They brought in 192,000 --

8 MS. McBRIDE: Okay. We got your answer.
9 Not pertinent to our jurisdiction.

10 MR. WANTMAN: So the property has been
11 reconfigured in 2006.

12 MS. McBRIDE: Okay.

13 MR. WANTMAN: There's one other thing that
14 I have a real problem with. The wetlands that we
15 all say are so important on Weiss Farms have already
16 been disturbed significantly. I have observed, I
17 will tell you, 100 tons of concrete and rubble
18 jammed into the wetlands abutting my property, 9
19 feet from my property line, extending 110 feet long.

20 You cannot see the rubble unless the flood
21 is gone. If the flood is gone, you will see the
22 rubble. If there is a flood, you can't see what
23 they did.

24 There's also a major dump to the north in

1 the wetlands that was put there from the
2 construction debris and fires and trucks that failed
3 over the course of the years. Nobody has walked the
4 entire property yet. I hope some day somebody does,
5 because the wetlands have been disturbed and should
6 be returned to the way that they were.

7 MS. McBRIDE: Go ahead, sir.

8 MR. TRAMONTOZZI: Good evening, everybody,
9 and thank you for the opportunity to come forward.

10 My name is John Tramontozzi. I'm a
11 resident at 794 Franklin Street in Melrose. With me
12 this evening is Andrew Street. He's with the
13 Planning Office of the City of Melrose. I'm also
14 the Ward 1 Alderman in Melrose. Ward 1 is that
15 section of Melrose that borders with Stoneham and
16 Wakefield, the Highlands.

17 MS. McBRIDE: Is an Alderman the same as a
18 Selectman in this Town?

19 MR. TRAMONTOZZI: Yes. Exactly. And we
20 have --

21 MS. McBRIDE: Which is better?

22 MR. TRAMONTOZZI: No comment on that.

23 You have a wonderful town. I lived in
24 Stoneham for five years in the late '80s on Lincoln

1 Street, in '89, for five years. My family started
2 growing. I have four daughters. I needed a bigger
3 place. I had just a small Dutch colonial.

4 I ended up moving down the hill, down
5 Franklin Street, over the border into Melrose into
6 an old Victorian. But I know Stoneham well, and I
7 still have friends, and we come to visit Stoneham
8 quite often.

9 The reason I am here is on behalf of the
10 residents of Melrose, specifically Ward 1, who
11 border with Stoneham who also are concerned about
12 specifically the drainage and runoff. I know
13 there's been some discussions about the flow of the
14 water.

15 We're downstream from you guys and
16 experiencing -- and the fear is a continuation, if
17 it's not properly designed, this project -- in the
18 opinion of many members of even our community, it's
19 just too big, and we're going to have a stormwater
20 infiltration overflow problem that to this day
21 continues. The water seems to flow down to the Ell
22 Pond area and, again, specifically in our community.

23 If I could have Mr. Street come forward as
24 well to address on behalf of the Mayor. He's an

1 engineer, and so I defer to him, at least for
2 purposes of those engineering issues. If I could
3 have your indulgence.

4 MR. STREET: My name's Andy Street. I'm
5 the City Engineer in Melrose.

6 In 2011, the Mayor's office, with myself,
7 Director of Public Works, Planning Office, we
8 drafted a letter that went to the Board of Selectmen
9 with a number of concerns. Traffic and things like
10 that aren't part of this hearing, per se, but the
11 main one that we just want to reiterate tonight is
12 about drainage.

13 I know there are standards I'm sure they've
14 made every attempt to meet, but this area is
15 tributary to the -- it's in the same watershed that
16 goes to Ell Pond. And Ell Pond is subject because
17 we've had contamination-type things in the past, and
18 we just wanted to make sure that we reiterate our
19 concerns, that we hope this gets the full review and
20 all steps are taken to make sure that the water is
21 controlled, both in the amount of runoff, but also
22 in the quality of the water that comes off.

23 So we, real briefly, just wanted to make
24 sure that we made our voices heard and that we're

1 still very interested in this project. It's very
2 close by and can have some serious impacts on
3 Melrose as well.

4 MS. McBRIDE: Can you leave a copy of that?

5 MR. STREET: This is the only one I
6 brought. Is there a way I can email it or
7 something?

8 MR. PARSONS: Send it to our office. If
9 you can send it to our Conservation Commission
10 office, that would be great.

11 MR. STREET: Okay.

12 MR. TRAMONTOZZI: I appreciate the
13 Conservation Commission's willingness to hear from
14 us, and we know you'll do the right thing.

15 MR. PARSONS: Thank you for your input. We
16 appreciate it. (Applause)

17 MR. WEBBER: I just came to watch. I'm
18 Scott Webber, 7 Nina Street. I was a Captain in the
19 Fire Department for 32 years.

20 The gentleman that rose from Sunset Road,
21 over my career, I was down on Sunset Road pumping.
22 Do we know where Weiss drains to? Does it go to
23 Doleful eventually? Because over my years of being
24 there, I remember responding to apartments across

1 the street, and on an extremely rainy night, the
2 water was infringing a good foot to two feet into
3 their parking lot. So it goes over the other side
4 of Franklin Street.

5 And it concerned me when they said they're
6 going to just not change it; it's just going to stay
7 the same. Where's that water going to go?

8 MS. McBRIDE: As far as we understand,
9 there is, on the other side of Franklin -- I know
10 Marty's going to get up and correct me -- but on the
11 other side of Franklin it does drain out. And there
12 has been decade-long discussion about that section
13 being cleaned out, who's responsible. It's Weiss,
14 but it's not Donna Weiss. It's the Weiss Trust out
15 of New York. We can't get jurisdiction to go in
16 there and clean it.

17 So there are a whole bunch of questions
18 that I can assure you we are going to answer during
19 this process.

20 MR. WEBBER: Does it eventually go to
21 Doleful?

22 MS. McBRIDE: That, I don't know.

23 MR. WEBBER: I remember it was --

24 MS. McBRIDE: I only know Bob Conway

1 denies he --

2 MR. WEBBER: The third house on the right,
3 I remember going to. I think the woman was a
4 teacher at the time. She was flooded. Her whole
5 backyard --

6 MS. McBRIDE: The second house on the right
7 on Sunset, actually -- they took the house down and
8 moved it --

9 MR. WEBBER: After the turn, the second
10 house on the right. And the water was up to her
11 backyard.

12 MS. McBRIDE: Thank you.

13 MS. SENA: I'm actually a Melrose resident.
14 Rose Sena, 97 Walton Park in Melrose.

15 I've lived on Walton Park in Melrose, which
16 is in the Highlands. My street is in kind of like I
17 would call a valley. In back of me is a hill,
18 Rockland Street, and up from my house is another big
19 hill. And then on South Ave., we have another
20 elevation, and so forth and so on.

21 And what has been happening -- and I've
22 been living in that house for over 40 years -- the
23 runoff that we get on Walton Park from all these
24 locations starts in Stoneham. Perkins Street is

1 right in back, practically, of my house. That's
2 Stoneham. Whip Hill is Stoneham, has tremendous
3 wetlands, tremendous mountains, hills.

4 And as a Melrose resident, I hope that the
5 Conservation Commission, as part of your peer
6 review, you have to look at the topography of the
7 Melrose Highlands area. We have cellars that flood.
8 We had an occasion a few summers back where, because
9 of the tremendous flow coming underground,
10 underground pipes, that actually caused a
11 neighbor -- the force of the water went through an
12 addition of her house. That was the first thing.
13 Then a few days later, another big storm -- this was
14 in June -- the same thing happens. It not only went
15 through this opening, but lifted up her cellar
16 floor.

17 At the time, Stoneham was doing a lot of
18 building in back of us. Whether that had anything
19 to do with it, I have no idea. But we do get runoff
20 in which the water just comes like a waterfall. It
21 comes down on all the streets, goes through, across
22 the street, my neighbor's house. It actually takes
23 sand and rocks and everything else. And that's been
24 around for quite a few years.

1 The City of Melrose did work. It stopped.
2 Well, the last storm we had and a few storms before
3 that, and I don't know what caused it to happen
4 again, but the same thing happened. It goes down
5 into the ditch, and everything goes with it.

6 So I hope -- and that's why I came -- that
7 you will take the Highlands problems into
8 consideration. We have underground streams all over
9 the Highlands area. I'm sure Stoneham has
10 underground streams all around that area. So then
11 you're going to start building.

12 I'm not an engineer. I just see what
13 happens on a daily basis. So I'm hoping that you do
14 the right thing. (Applause)

15 MS. McBRIDE: Thank you.

16 MS. MEDEIROS: I'm Monica Medeiros, 3 Bay
17 State Road, Melrose, Alderman-At-Large.

18 MS. McATEER-MARGOLIS: And I'm also
19 Alderman-At-Large Mary Beth McAteer-Margolis, 22
20 Stowcroft Road in Melrose. Monica and I are also
21 both residents of Ward 2. So even though you've
22 been hearing tonight about how --

23 MS. McBRIDE: Can you describe, where is
24 Ward 2?

1 MS. McATEER-MARGOLIS: Ward 2 is, if you
2 continue up Franklin Street to Main street, it goes
3 basically that east side of Main Street, but it also
4 goes down to where the new Whole Foods is and the
5 Towers complex.

6 And if I may, Alderman, when I was on the
7 School Committee, I was very involved in the
8 building of the new middle school. And I don't know
9 if many of you recall or if you gentlemen are
10 familiar with our middle school, which is on the
11 Lynn Fells Parkway, but it has always been an area
12 that was very problematic, with horrible, horrible
13 flooding.

14 That project was able to go forward because
15 of very careful planning and consideration from our
16 Conservation Commission, from the MWRA, from DCR.
17 Stoneham, of course, collaborated. We have another
18 school that we also rebuilt at the same time, which
19 is in Ward 1, the Roosevelt School. That school is
20 in a basin near where Ms. Sena lives, and that basin
21 was called Crystal Lake.

22 So that school was in fact designed so that
23 that area could continue to act as a basin, as you
24 have perhaps suggested parts of your area may do as

1 well.

2 My concern is your impact on your Buffer
3 Zones and talking about the parking lots and the
4 storage buildings and such. I just am hopeful that,
5 as a Commission -- and I thank you all for your
6 work -- that, you know, you will really hold these
7 people to the letter of your law. And if in some
8 way Melrose can assist you, I'm sure that there are
9 many residents and officials in Melrose who would be
10 happy to share their --

11 MS. McBRIDE: Resources?

12 MS. McATEER-MARGOLIS: -- resources,
13 information, experience more or less, too.

14 MS. MEDEIROS: On that -- so I am an
15 Alderman-At-Large, but just prior to this, I served
16 three terms as the Ward Alderman for Ward 2. And
17 prior to me coming on, I actually saw -- we had kind
18 of an area where we've had significant flooding in
19 the residences in that area. And I actually
20 witnessed my neighbors being taken out by boat.

21 This was very, very significant, and it's
22 something that the City of Melrose took a real
23 commitment to investing in and finding ways to
24 mitigate and reduce those flooding and drainage

1 issues that we have. And as a result, we've spent
2 millions of dollars. Just the one project for kind
3 of that ward alone was \$6 million dollars.

4 What Alderman McAteer-Margolis also
5 referred to is what is the Lynn Fells Parkway. In
6 addition, we did a great work on Ell Pond, installed
7 a gate, spent millions of dollars all around that
8 area, in the Towers, to improve our flooding, our
9 drainage and our stormwater management.

10 We really have invested a lot. The
11 individuals and households in the community have
12 invested their tax dollars into these projects. And
13 when we see this proposed construction to happen so
14 close to the 25-foot No-Touch Zone and within the
15 100-foot zone of the wetlands, it's very concerning
16 to us.

17 And knowing that, you know, we are
18 downstream of that, that it will probably have a
19 direct impact on -- the city line might be, you
20 know, here between these two houses, but when it
21 comes to waterways, we know that there aren't any
22 delineations of, Here is the border. It goes.

23 So we really ask you to take that into
24 consideration, especially when we're adding so many

1 more impervious surfaces, the proposal, within the
2 100-foot Buffer Zone. I don't think that makes
3 sense. I feel like that's too close and will have
4 an adverse impact on our residents there.

5 So we ask you to really take that into
6 consideration. Thank you. (Applause)

7 MS. McATEER-MARGOLIS: I did want to ask
8 you about, in terms of after this project is
9 completed in whatever fashion it is -- and
10 hopefully, as Alderman Medeiros says, Melrose is not
11 going to have a severe impact or setback in our work
12 because of how it goes forward -- do you, as a
13 Conservation Commission, take into consideration,
14 like, the maintenance of the things like the brooks
15 and the culverts that this groundwater or water
16 that's pumped out is feeding into? Do you have it
17 within your authority to say who has to maintain
18 those and how they have to be maintained?

19 MS. McBRIDE: On public roads, the Town
20 would, but on private roads we do. There's a
21 project on the other side of Town that went through
22 where the homeowners are responsible, but we get to
23 monitor it and ask them to check in with us. So we
24 can impose the same sort of restrictions.

1 MS. McATEER-MARGOLIS: I mean, we have seen
2 that in another contiguous community where we have
3 had impact and backing up on the other side of Ward
4 2, because that community has not completely
5 addressed -- has a large development also where it
6 is the developer's responsibility, and they don't
7 always address the culverts.

8 MS. McBRIDE: And I think we have had
9 conversation lately with -- there are so many
10 developments, and everyone looks at each one as an
11 individual development rather than look at all of
12 them and the cumulative effect they all have on the
13 overall town. So, yes.

14 MS. McATEER-MARGOLIS: So we appreciate
15 your taking a role in that.

16 MS. McBRIDE: Thank you. (Applause)

17 MR. BOUSSY: Tom Boussy, 19 Ellen Road.

18 To answer your question, Selectmen are way
19 more important than Aldermen. (Laughter)

20 We did have a meeting earlier tonight, and
21 this probably has been brought up -- I'm sure it
22 has -- but I just wanted some answers.

23 On Franklin Street, obviously with the pump
24 issue we were just talking about, we seem to have a

1 10-year storm every month now. And every time we
2 have one of these storms, Franklin Street gets
3 completely flooded out. Just in September I had to
4 turn around, but most people were driving through
5 the Dunkin' Donuts, over the grass, into the Kinder
6 Care parking lot, just to get through there.

7 We've seen the house on Sunset Road with
8 the -- it's like a swamp. The foundation really
9 cracked under the weight of the house. They tore it
10 down. We see Sunset constantly flooding out.

11 The last storm we had, there's a condo
12 complex right across the street. There's, like, six
13 condos within a building. All six parking spaces
14 were flooded out. And they were parked on Franklin
15 Street for two nights. With no overnight parking,
16 they were getting tickets. I believe it froze
17 before it was able to dissipate.

18 And you may have answered the question; I
19 apologize, I wasn't here. What plan is in place to
20 deal with this flooding issue that we're already
21 seeing? Thank you.

22 MR. CICATELLI: As the Member had
23 mentioned, that's really part of the peer review.
24 Mr. Griffin is going to look at that. I think there

1 are other flooding issues, other areas of Town,
2 other areas on Franklin Street which are the Town's
3 responsibility and really are not affected by this
4 site. So we sort of have to differentiate between
5 various flooding issues that we have in the Town.

6 But the peer review will review what we're
7 doing on site to ensure that we're not increasing
8 rate of flow of stormwater runoff. And that's
9 really what we do relative to this site. There are
10 other areas in Town where the Town has
11 responsibility.

12 MS. McBRIDE: Just so everyone knows, I
13 don't know if -- we assume you know this, but any
14 project that comes before Conservation cannot make
15 the existing flooding or water or runoff worse. By
16 law, they're not allowed to do that. So they have
17 to build infiltration systems or retention basins or
18 whatever to let the water go back slowly. It's
19 law -- I don't know if it's law, but it's
20 regulations, and we adhere to it and they adhere to
21 it.

22 So I absolutely hear people saying, "All
23 this building, there's going to be more water." But
24 the responsibility of the Applicant is that there

1 cannot be more water in the flood, so they have to
2 create retention basins. They have to create
3 infiltration.

4 But we hear everything you guys are saying.
5 We will, not to be specific, but hold their feet to
6 the fire and make sure that the best possible
7 project is presented, if it gets to that point,
8 whatever happens.

9 MS. DAY: Just very quickly, I'm stuck on
10 the bylaw. What does it mean, taking it under
11 advisement? I mean, the five years I've been on the
12 Commission, we've never had an Applicant just ignore
13 a bylaw. And I understand you're waiting for the
14 permit. Is that what's happening?

15 MR. CICATELLI: I think what Attorney
16 Gallogly is saying is that, had Attorney Witten let
17 us know of this concern earlier, we may have been
18 prepared this evening to answer the question.

19 We are not. So we don't want to ignore it,
20 we want to respond, but he wants to research it and
21 get back to you at the next meeting.

22 MS. DAY: So we'll know at the next
23 meeting? Is that fair to ask?

24 MR. CICATELLI: Yes.

1 MS. DAY: Okay. Thank you.

2 MS. McBRIDE: Anybody else?

3 MS. O'NEILL: Ann Marie O'Neill, 118
4 McArthur Road. I'm also one of the Selectmen here
5 in Town.

6 I just have a question. I know you said
7 that the project can't make it worse. But what's
8 your gauge? What are you measuring that against?

9 MS. McBRIDE: Existing or --

10 MS. O'NEILL: I mean, you have 100-year
11 storms, there are ebbs and flows. It's not like
12 you're filling a beaker and measuring it. It's
13 quite different from year to year.

14 And then the second thing is, I just don't
15 think you need an advanced degree in engineering to
16 realize that if you put that kind of weight on a
17 property that currently is mostly vacant, it's going
18 to push the water table down and drive everything
19 up. So I just wanted to make that comment. Thank
20 you. (Applause)

21 MS. McBRIDE: Yes, sir.

22 MR. WEBBER: One more point about water.

23 MS. McBRIDE: Can you identify yourself
24 again.

1 MR. WEBBER: Scott Webber. Worked for the
2 Fire Department.

3 This has nothing to do with this, but
4 there's water all around Weiss Farm. There are
5 water problems on Landis Road, Spring Lane, Spring
6 Street, named for a reason. We had gushers coming
7 out of people's basements, pumping them out when we
8 used to pump them out. I remember Galella's Lane
9 and they put Brook Meadows in there, and now there's
10 three buildings there.

11 You just brought up the point about the
12 pressure. There was a point in time after five or
13 six years that they vacated the first floor, and
14 they had to redo, because it was sinking, even
15 though they put pylons in there.

16 So there's just concern that there's got to
17 be marsh or swampy stuff over there. It's all in
18 there.

19 MS. McBRIDE: You did borings. Can you
20 answer that question?

21 MR. MAHONEY: We've done borings, and the
22 soils are generally fairly suitable for buildings.
23 And where they're not, we will improve the soils.

24 MR. WEBBER: Okay. I'm just letting you

1 know --

2 MS. McBRIDE: I can just tell you that when
3 Dan Towse, who I think most of you remember Dan was
4 on the Commission for years and lived in town most
5 of his 89 years, used to call it "the swamp." He
6 said, "When we were kids, we called it 'the swamp.'"

7 It's not specific in this project, but it's
8 a message to all of us that what we once considered
9 something we didn't want, a bunch of water, now
10 we're recognizing the importance of it, all of us,
11 which is why the Wetlands Protection Act went into
12 place, which is why towns like Stoneham have an even
13 tougher bylaw.

14 But we also still have to work with each
15 other and do the best we can for everybody involved.
16 Hopefully we'll come up with --

17 MR. WEBBER: I understand. They have a
18 substantial investment, but it would be nice to make
19 it a little smaller and not infringe so much on
20 everything. And then I think people would be a
21 little happier.

22 MS. McBRIDE: Do you? (Laughter)

23 Yes, sir.

24 MR. SCIPPA: Pasquale Scippa, 28 Fieldstone

1 Drive. Talking about investment, that made me just
2 flip off my seat here.

3 Number one, the bottom line is Weiss Farm
4 is a hole in the ground. Water is collecting there
5 as we speak.

6 When we start building at Weiss Farm, the
7 water is going to go some place else. What's it
8 going to be? It's going to be these people's houses
9 are going to get flooded. They're going to lose
10 their investment, not you guys. You guys are going
11 to make the money. They're going to lose the money
12 on their investment. That's it. (Applause)

13 MS. McBRIDE: Anybody else have a question?
14 I understand a lot of you have opinions and comments
15 and you want to make them, and I get that, but we're
16 going to hold it to questions.

17 MR. WANTMAN: I may have already said this,
18 there is in place a DEP Administrative Consent Order
19 that does not allow the flooding that is existing
20 today. If I'm reading the Administrative Consent
21 Order correctly -- and of course it's 16 pages and
22 I'm not a lawyer and I'm not an engineer -- this
23 Administrative Consent Order runs with the land,
24 which indicates that the new owners are going to

1 have to comply with the Administrative Consent
2 Order.

3 So if there is enforcement -- and I gave a
4 copy and the Conservation Commission has a copy of
5 this DEP enforcement order -- then the new owners
6 are going to have to either continue to violate the
7 DEP order, or they're going to have to rectify the
8 situation.

9 And that would be my primary question. As
10 I have been unsuccessful in getting the DEP to
11 enforce their Administrative Consent Order, who,
12 then, enforces it? Does the Conservation
13 Commission?

14 MS. McBRIDE: I don't know. That's a good
15 question. I don't know the answer to that. But we
16 can look into it. We can ask Mr. Witten to look
17 into it.

18 MR. PARSONS: I think along those lines, I
19 think Ellen had made the point earlier that the
20 Conservation Commission is essentially an extension
21 of Mass. DEP. We coordinate with them frequently on
22 all projects. We'll get opinions from them.

23 If there's an existing regulatory driver on
24 the site, we'd be interested in understanding what

1 it is and how DEP would view that. And if it's our
2 jurisdiction, then we'll take it on. If it's Mass.
3 DEP who needs to step in and -- just so everybody
4 knows, we get a copy of the NOI filing. Mass. DEP
5 does as well. So they received all these documents.

6 And we have reached out to Mass. DEP on
7 other projects, and we will on this one as well. So
8 it's a point that we will follow up for sure.

9 MS. McBRIDE: All right. Seeing no other
10 hands, I will -- does anybody on the Board have any
11 questions? (No response)

12 Mr. Witten, do you have any final comments?

13 MR. WITTEN: No.

14 MS. McBRIDE: So I'll take a motion that we
15 continue Weiss Farms until our next meeting, which I
16 think we scheduled earlier for January 22nd,
17 assuming you want to come back?

18 MR. GALLOGLY: Yes, that's fine.

19 MR. PARSONS: I'll make a motion that we
20 continue the public hearing to Thursday --

21 MS. McBRIDE: (To the audience) We're not
22 through with our meeting. Could you leave quietly.

23 MR. PARSONS: I make a motion we continue
24 the public hearing to Thursday, January 22nd. Why

1 don't we say 7:00 p.m. There's probably going to be
2 one before you guys, but it should go quickly.

3 MS. McBRIDE: Hey. We're still conducting
4 a meeting. Please leave. This woman is trying to
5 take minutes. Everybody else either sit down or
6 leave.

7 (Discussion off the record)

8 MR. PARSONS: I make a motion that we
9 continue the public hearing for Weiss Farm
10 Apartments to Thursday, February 5th, at 7:00 p.m.

11 MS. McBRIDE: At a place to be determined.

12 MR. PARSONS: Yes.

13 MS. McBRIDE: Second?

14 MR. L'ESPERANCE: Second.

15 MS. McBRIDE: All those in favor?

16 (Unanimous chorus of ayes)

17 MR. PARSONS: I make a motion to adjourn
18 the public hearing of today's date, January 6th.

19 MS. McBRIDE: Second?

20 MR. L'ESPERANCE: Second.

21 MS. McBRIDE: All those in favor?

22 (Unanimous chorus of ayes)

23 (Whereupon the meeting was
24 adjourned at 9:47 p.m.)

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C E R T I F I C A T E

I, Carol H. Kusnitz, Registered Professional Reporter, do hereby certify that the foregoing transcript, Volume I, is a true and accurate transcription of my stenographic notes taken on January 6, 2015.

Carol H. Kusnitz

Carol H. Kusnitz
Registered Professional Reporter

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