

In The Matter Of:
Town of Stoneham Board of Appeals
Weiss Farm Apartments, LLC, Re 170 Franklin Street

Public Hearing, Volume VIII
October 28, 2015
Comprehensive Permit Request



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Notes

Volume VIII
Pages 8-1 to 8-105
TOWN OF STONEHAM
BOARD OF APPEALS
Public Hearing Re
Comprehensive Permit Request by
Weiss Farm Apartments, LLC
With Regard to 170 Franklin Street
Board Members Present:
Robert Saltzman, Chairman
William Sullivan
Tobin Shulman
R. Michael Dufour
Laurence Rotondi
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,
Esq.) 266 Main Street, Stoneham, MA
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
Wednesday, October 28, 2015
7:30 p.m.
Alexander K. Loos
Registered Diplomat Reporter
* * * * *

1 want to know how much money is left in the money
2 that was appropriated for this alone, which we have
3 no idea. Because I heard that some of the money is
4 going for this land swap, and that money wasn't
5 appropriated -- it was just appropriated for this.
6 So I want to know how much money we spent
7 on all the -- the lawyers and the consultants. If
8 you can get a copy of that for us, just to let us
9 know? Because as a taxpayer, I think we should
10 have -- even though it's not a thing to do with the
11 Board, I think we should have an idea of what we
12 spend and what we --
13 **MR. VERNA:** I can answer that. I got some
14 copies from the treasurer's office.
15 **CHAIRMAN SALTZMAN:** We recognize -- okay.
16 Can you tell us who you are.
17 **MR. VERNA:** Bobby Verna, Tedford Drive, and
18 a Standing Committee member.
19 There is about \$82,000 left out of 250.
20 **MR. ROTONDI:** Did all of the 250 go for
21 this?
22 **MR. VERNA:** No.
23 **MR. ROTONDI:** Because I heard a lot of this
24 has gone to the land swap, and it doesn't have

1 PROCEEDINGS
2 **CHAIRMAN SALTZMAN:** All right, everybody.
3 Good evening. Welcome to the Stoneham Board of
4 Appeals. This is -- wait a minute.
5 Are you ready for us?
6 **VIDEO OPERATOR:** You're good. You're good.
7 **CHAIRMAN SALTZMAN:** We'll try this again.
8 All right. Good evening, everybody, and
9 welcome to the Stoneham Board of Appeals.
10 This is a continuation of an ongoing
11 hearing that we're having with reference to the
12 application for a comprehensive permit for 170
13 Franklin Street, the property known as Weiss Farm.
14 Just before we get started -- I'm sorry.
15 Could everybody who is coming in here,
16 could everybody sign in? Didn't mean to wait until
17 you sat down, but I didn't see you sneak in there.
18 **MR. ROTONDI:** Mr. Chairman, could I have
19 something to say --
20 **CHAIRMAN SALTZMAN:** Sure.
21 **MR. ROTONDI:** -- before we start the
22 meeting?
23 **CHAIRMAN SALTZMAN:** Sure.
24 **MR. ROTONDI:** What I want to ask Cathy is I

1 anything to do with it.
2 **MR. VERNA:** More than -- more than that has
3 gone for the swap, but I don't know everything about
4 it.
5 **CHAIRMAN SALTZMAN:** Okay. Just one quick
6 thing.
7 I just want to call everybody's attention
8 to one detail of great significance. The -- the --
9 the legislation, it was passed at the town
10 meeting -- which created this particular fund, and
11 the Standing Committee -- stated that the funds
12 shall be under the jurisdiction and control of the
13 town selectmen, and selectwoman, as assisted by a
14 standing committee.
15 So I would just say that the -- the request
16 is -- as a taxpayer is absolutely in line, but
17 directing it to the Board of Appeals, we don't
18 have -- we don't have --
19 **MR. ROTONDI:** But shouldn't we know how
20 much we've spent so we know how much we're going to
21 be able to do? I mean --
22 **CHAIRMAN SALTZMAN:** Well, it's -- but
23 it's -- what I'm saying is, it's something that, if
24 you are directing the Board of Appeals, or asking if

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1 the Board of Appeals will inquire of the selectmen,
2 that might be the way to go. But what I'm saying
3 is, you know, that -- that, you know, that --
4 **MR. ROTONDI:** Okay.
5 **CHAIRMAN SALTZMAN:** -- we don't have it
6 under us. We don't have it under us.
7 **MR. ROTONDI:** Should I rephrase it then,
8 ask Cathy to ask the Board of Selectmen how much
9 money that we have we spent towards this 40B?
10 And -- you know -- because you hear a lot of
11 scuttlebut. I know the taxpayers voted for that
12 money for the 40B only.
13 **MS. ROONEY:** I'll look into it.
14 **CHAIRMAN SALTZMAN:** And I would say it
15 should be a matter of public record, so it should be
16 easily ascertained.
17 Yes.
18 **MR. ROTONDI:** Go ahead.
19 **MR. VERNA:** I have a copy of -- I don't
20 have it with me tonight, but I have a copy of all
21 the money spent for counsel and the swap, the
22 alleged swap, whatever that means.
23 **MR. ROTONDI:** Okay. But I'm saying --
24 **CHAIRMAN SALTZMAN:** Would you be kind

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1 enough to provide us with a copy?
2 **MR. VERNA:** Absolutely.
3 **CHAIRMAN SALTZMAN:** Sure.
4 **MR. ROTONDI:** But I'm just trying to say
5 that the money was never raised for the swap. It
6 was just for the 40B.
7 **MR. VERNA:** I brought up that issue, and I
8 was told it is. I'm not a lawyer, so...
9 **MR. ROTONDI:** All right. I just wanted to
10 know. That's all I asked.
11 **CHAIRMAN SALTZMAN:** All right.
12 On that note, seeing the conditions outside
13 tonight, you know, puts -- puts one in mind of,
14 perhaps, a site visit being in order. Not tonight,
15 but it might be something that we want to think
16 about as a board and as a group. I mean, it's
17 something that we -- we should probably, before it
18 gets too nasty out there -- not only tonight --
19 think about perhaps the -- the early part of
20 December when, of course, nobody will have anything
21 else to do, maybe -- maybe think about something
22 possibly toward the end of that first week.
23 I'm just putting that out there. It's
24 something that we ought to think about, and it's

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1 something that, I think that, as part of our due
2 diligence as a board, we ought to be closing in on.
3 All right. There is just one other thing
4 that occurred to me. During the last meeting there
5 was a -- Jeffrey Dirk, the traffic consultant, in
6 answer to a question, as I recall, you know, we
7 have -- we have, I think, a very good faith basis
8 for wondering, Franklin Street, the redesign of
9 Franklin Street may be something that is outside the
10 reach of this particular Board. I'm not convinced
11 that we have the authority to take a public way and
12 redesign it.
13 That said, if the Board decided it wouldn't
14 do that, what the next -- the question that that
15 creates is, if you're not going to have three lanes
16 on Franklin Street, such as would make that
17 left-hand turn easily -- easily accomplished in the
18 afternoon, my recollection of the answer to the
19 question is, "Well, what would" -- "what would that
20 mean for the project?" Jeffrey Dirk said it would
21 mean that the number of units would have to be
22 reduced to between 100 and 125. That was my
23 recollection.
24 Does anybody have a different recollection?

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1 **MR. ENGLER:** No. It's the same.
2 **CHAIRMAN SALTZMAN:** All right. I didn't
3 bring my minutes, but I've -- let's assume that for
4 the instant. That seems to be a fair question.
5 Would there be an objection to providing us
6 with that information, with what would 120 to
7 125 units look like, in the event that the -- the
8 lanes cannot be redrawn on Franklin Street?
9 And I would submit that there would be a
10 host of reasons why that might not happen. Safety,
11 bicycles, the fact that the town is very committed,
12 along with the two adjoining towns, to creating a
13 bikeway, the fact that this connects to the bikeway.
14 There are legitimate questions, and I believe -- and
15 this may be -- be something that we -- we look at.
16 I have some -- some understanding that when
17 there was talk of siting a middle school at the
18 town's property where the high school is located on
19 Franklin Street, across the street from Weiss Farm,
20 that there was a building committee that studied
21 that, and the building committee determined that the
22 traffic was such that they couldn't do widenings of
23 the road; they couldn't sufficiently address the
24 traffic concerns that would be attendant to having a

1 school at that location, and so the town could not
2 site a school on that property because of traffic.
3 I would submit that we may be looking at a
4 very serious issue here, just on the traffic front
5 alone, and I would ask if the -- the Applicant would
6 submit a -- a redesigned project of between 120 and
7 125 units.
8 **MR. ENGLER:** Good evening, Mr. Chairman.
9 Bob Engler of SEB for the Applicant.
10 I haven't spoken to him, because you're
11 just raising the question for the first time, but
12 the way I would look at it is if you impose a
13 condition that we have to get that to work, then we
14 have the obligation to either say, you know, "We
15 accept that condition, and we will get it to
16 work" -- our position may be that you do have the
17 authority to -- to grant that based on the work done
18 by your own traffic consultant and how it would
19 work, and we would participate in that. You know,
20 it may be our position that that's not something
21 someone else has the right to do; you have the right
22 to do. But that's one major condition that we would
23 like to look at, along with anything else you ask
24 for at the time when all the discussion is over, and

1 the issue is how many of these things can you work
2 with or not work with, and we have that very frank
3 discussion. We'll be happy to participate at that
4 point in time.
5 But we would rather stick to the fact that
6 we think that could be done, and we're willing to
7 participate in it. And if it can't be done, we have
8 to -- we have to decide whether, you know, that's a
9 condition that breaks the project or not. But I
10 don't think it helps us to redesign a project and
11 say -- if we felt we could live with 125 units, we
12 would give you that. We don't think we could live
13 with 125 units, so it's not going to get us any
14 further in the discussion other than looking at that
15 condition as -- can we get that condition to work.
16 Because we agree that your consultant has said it's
17 something that should happen, and we would like to
18 participate in having that happen.
19 **CHAIRMAN SALTZMAN:** Well, if it's -- if
20 it's your position that 125 units would not work, is
21 that because 125 would not be economic?
22 **MR. ENGLER:** Well, I could think it's
23 fairly safe to say cutting this by half is not -- is
24 not going to work, so -- but --

1 **CHAIRMAN SALTZMAN:** You know, and just on
2 that front, I mean, I did not anticipate -- I mean,
3 I asked the question. I had no idea what the answer
4 was going to be when Mr. Dirk was speaking, and I
5 hadn't really digested the answer until after I was
6 driving home, and I'm thinking, "Jesus, that's quite
7 a change." And I think that we all -- we're pretty
8 much in the same position. I mean, it wasn't in his
9 report.
10 **MR. ENGLER:** Right.
11 **CHAIRMAN SALTZMAN:** And so I -- you know,
12 and as to, you know, a frank discussion, you know,
13 no time like the present. I mean, if that's what
14 we're looking at, and if that's a -- if that's your
15 response as the Applicant, I would ask, you know, if
16 it's -- if it's not economic, if we could have the
17 pro forma at this point. Because it does seem to be
18 a legitimate time where there should be review,
19 because I think that's going to be an issue.
20 **MR. ENGLER:** Well, if it is, and -- the way
21 the regs read -- and here's counsel over here to
22 speak to that -- but the way we read the regs, the
23 pro forma gets discussed when all substantive
24 matters from other consultants and other areas of

1 expertise get dealt with. After those discussions
2 are over, and the Board has a sense of the Board as
3 to the kind of things they want to impose -- if they
4 deny, that's one thing, but if they want to impose a
5 lot of conditions, put them all on the table. If we
6 say we can't live with some of those, or all of
7 them, you have every right to ask for a pro forma,
8 and we'll look at that. But that's not at the
9 middle of the process. That's when everything else
10 is put on the table.
11 **CHAIRMAN SALTZMAN:** Well, I would just
12 submit that if --
13 **MR. ENGLER:** You're alerting us to the fact
14 early that this may be one of them, and I understand
15 that.
16 **CHAIRMAN SALTZMAN:** I mean, it's -- you
17 know, we were all at the same meeting; we all heard
18 the same thing. It does appear that it's a
19 legitimate issue. And I would just say that, from
20 our end of it, if we're going to get the pro forma,
21 I mean, we're looking at the close of this being
22 January the 15th. And it would just seem to me
23 that, you know, I don't want to get this in my
24 Christmas stocking this year. You know, it's not

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1 something --
2 **MR. ENGLER:** We don't want to give it to
3 you --
4 **CHAIRMAN SALTZMAN:** I know that answer, but
5 I would just say that if it's going to be -- if the
6 applicant is going to -- is going to state that this
7 is uneconomic, it's probably no time like the
8 present to -- to state it, and no better time than
9 now to put us in a posture where we can -- we can
10 know what we're looking at.
11 Mr. Mahoney.
12 **MR. MAHONEY:** Just a few things.
13 Our -- we heard Mr. Dirk. We haven't done
14 our own analysis, so I think it's a bit unfair for
15 us just to accept Mr. Dirk's analysis that the site
16 can only handle 120 units without giving us a chance
17 to have our traffic consultant look at the same
18 question. I mean, I was surprised to hear it.
19 You know, we -- we came to the left-turn
20 lane, you know, as we went through the design
21 process. It was not apparent to us up front that
22 that was going to be absolutely required, so I was
23 surprised that it was 120 units. We didn't go back
24 to study it because I didn't know we were going to

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1 have further discussion about it.
2 **CHAIRMAN SALTZMAN:** Sure. And, you know,
3 the only thing I'm going to say, if we're going to
4 be in a spot where we raise the issue now, and it
5 seems to me it's going to be an issue in connection
6 with this, I would just say, if you need some time
7 and you want to see what the traffic consultant has
8 to say about it, if I were in your spot I would be
9 saying the same thing. The only thing that I would
10 ask in return would be, say if we take -- you know,
11 if we look at this, and by the end of the week you
12 say, "Well, this is" -- "this is going to be an
13 issue," and, you know, it doesn't seem to me that
14 there would be any harm in sending it.
15 But if you're not going to send it,
16 certainly there is no harm in extending us out past
17 the 15th of January so that we would have ample time
18 to study the -- the documents.
19 **MR. ENGLER:** Well, let me just respond that
20 the regulations are very clear:
21 "A board may request to review the pro
22 forma or other financial statements for a
23 project only after the following
24 preconditions have been met:

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1 "Other consultant review has been
2 completed" is number one.
3 **CHAIRMAN SALTZMAN:** Okay.
4 **MR. ENGLER:** So it hasn't been completed.
5 Mr. Houston is here. Our team is here. We're
6 certainly not hiding from it. We'll get to that.
7 **CHAIRMAN SALTZMAN:** Okay. And on that
8 front, we're going to be doing the traffic, what,
9 next time? Or is it the time after? I'm --
10 **MR. MAHONEY:** I don't think we concluded.
11 I know the consultants have been in touch, and I
12 think our goal was to wrap it up as quickly as we
13 can.
14 **CHAIRMAN SALTZMAN:** On the 12th?
15 **MR. MAHONEY:** Yeah. That would be our
16 goal, yeah.
17 **CHAIRMAN SALTZMAN:** Okay. So we can keep
18 in mind -- all right. We can look at that for the
19 12th but that's -- if -- it would seem to me that,
20 you know, I would start thinking about it, because I
21 think it's going to be an issue.
22 **MR. ENGLER:** Fine.
23 **MR. WITTEN:** Mr. Chairman.
24 **CHAIRMAN SALTZMAN:** Yes, Mr. Witten.

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1 **MR. WITTEN:** If I could, I guess two
2 comments.
3 One is Mr. Mahoney's surprised to hear of
4 the left-turn lane. There is no surprise. The
5 left-turn lane was baked into the project because of
6 the density. Mr. Dirk said on at least two
7 occasions, if not three, that the project, as
8 proposed, required, necessitated the left-turn lane.
9 **MR. MAHONEY:** I was surprised to hear that,
10 in his view, the left-turn lane, without it, would
11 result in a 120-unit project.
12 **MR. WITTEN:** So the left-turn lane was part
13 of the 264-unit project. It was necessitated by the
14 density, and Mr. Dirk testified that at 120 or
15 125 units, that would avoid the left-turn lane. So
16 you've had a chance to rebut that.
17 The second comment, Mr. Chairman, is
18 Mr. Engler selectively read a portion of the
19 regulations. The Board has done what the Board
20 needed to do. It asked for a alternative proposal
21 at a density consistent with Mr. Dirk's testimony.
22 The Applicant has said that would render the project
23 uneconomic. The Board is entitled to review the pro
24 forma.

1 There should only be one pro forma, and the
2 one pro forma should have been designed and edited 6
3 to 8 to 12 months ago, so there shouldn't be a
4 moving pro forma. Other people have gotten into a
5 lot of trouble with moving pro formas. So that pro
6 forma exists somewhere in the team's files, and the
7 Board is entitled to it if the Applicant is going to
8 say -- if the Applicant is going to say that
9 125 units renders the project uneconomic.

10 If that's the response, the Board is
11 entitled to a pro forma. The Board does not have to
12 wait until all the consultants' reports are in,
13 because by that time it would be, as the Chairman
14 said, the end of December. So the Board is
15 entitled, based on Mr. Engler's statement, to a
16 review of the pro forma.

17 **MR. ENGLER:** I'm reading the regs. I'm
18 just reading the regs.

19 **MR. WITTEN:** You're reading part of the
20 regs.

21 **MR. ENGLER:** Part of the regs, but that's a
22 very clear part.

23 By the way, the pro forma was turned in as
24 part of the site approval. It's a public document.

1 You have it. Mass. Housing has it. It's in our
2 application. So you're asking to see the pro forma
3 like it's a new document.

4 Mr. Witten has already said it's one pro
5 forma. We are entitled to modify it based on things
6 that we hear here about our project, but basically
7 there is a pro forma in the documents submitted to
8 the town. There it is. You've got it.

9 **MR. WITTEN:** Mr. Chairman, that pro forma
10 that Mr. Engler is referring to has already been
11 discredited by Mass. Housing where the site
12 acquisition value claimed by the Applicant has
13 already been disallowed by Mass. Housing. So one
14 would presume that there is another pro forma,
15 because that pro forma is off by a tune of
16 \$6 million.

17 **CHAIRMAN SALTZMAN:** So there would be an
18 adjusted pro forma --

19 **MR. WITTEN:** One would hope so.

20 **CHAIRMAN SALTZMAN:** -- to say the least.

21 **MR. ENGLER:** Well, with the way it works
22 with Mass. Housing, as Mr. Witten knows, is you turn
23 in a site application before an appraisal is done,
24 and you're estimating what the land value might be

1 as of right. When you get that appraisal done, you
2 can modify the pro forma.

3 We haven't gone to that trouble yet because
4 we don't have to show it until we've really worked
5 through this process. So yeah, there is one number
6 that's not the right number. That's not to say the
7 pro forma can't be looked at.

8 We're happy to talk about it. I'm not
9 trying to make it like we're not, because certainly
10 if we have to rest on the case that it's uneconomic,
11 we will be defending that. So it's not the issue.

12 **CHAIRMAN SALTZMAN:** As much as we're happy
13 talking about it, we would be much happier if it's
14 produced.

15 **MR. MAHONEY:** There was a pro forma in the
16 application. Maybe the first step would be to look
17 at that. I mean, that's the pro forma that we
18 submitted with this application. I don't have it in
19 front of me.

20 **CHAIRMAN SALTZMAN:** It's two years old,
21 right? That one?

22 **MR. MAHONEY:** Yeah.

23 **CHAIRMAN SALTZMAN:** Okay. You would agree
24 that things -- things have changed?

1 **MR. ENGLER:** Yeah. They've gotten more
2 expensive. We could -- when the time comes, we will
3 look at the pro forma that we need to submit to you.
4 You're asking for it now. We'll talk about it. We
5 may get it to you in two days, or we may get it to
6 you after we've had some more discussion, but it
7 will get -- it will be given to you in adequate time
8 to review it with a consultant review and a
9 discussion before the end of the period.

10 **CHAIRMAN SALTZMAN:** Although I would agree
11 in most matters, I -- I would agree that delay is
12 preferable to error. In this case, if there is
13 delay, we will be asking for an extension at the
14 other end. You can talk about it longer if you want
15 to extend the time.

16 **MR. ENGLER:** We don't want to talk about it
17 longer.

18 **CHAIRMAN SALTZMAN:** All right. Well, talk
19 fast.

20 **MR. ENGLER:** We'll come to that. We'll get
21 back to that.

22 **CHAIRMAN SALTZMAN:** All right.

23 So, Mr. Cicutelli, I believe we're going to
24 be talking about storm water management.

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1 **MR. CICATELLI:** Yes, Mr. Chairman. We have
2 Jim White from HW Moore. He's going to just
3 basically present a storm water overview for the
4 Board, and then after that we have Dennis Lowry to
5 basically give a wetland overview and address any
6 questions that the Board may have.
7 **CHAIRMAN SALTZMAN:** Great. Thanks.
8 **MR. WITTEN:** Mr. Chairman, could I just
9 make one comment for the record?
10 **CHAIRMAN SALTZMAN:** If you would.
11 **MR. WITTEN:** The Board is in possession of
12 Attorney Gallogly's response to Mr. Houston's
13 engineering report, just for the record, and I don't
14 know if the Board wanted to discuss that at all
15 or...
16 **MR. CICATELLI:** Jim could discuss that
17 after the overview if you have specific questions,
18 certainly.
19 **CHAIRMAN SALTZMAN:** Sure. It might be
20 encompassed in the questions, sure.
21 **MR. CICATELLI:** Certainly.
22 **MR. WHITE:** Good evening. My name is Jim
23 White. I'm with the engineering firm HW Moore
24 Associates.

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1 And I know at the last hearing I was at, we
2 went over the storm drainage system on the site, and
3 there was several questions the Board had. One
4 question was -- if I can get to the correct slide.
5 One of the questions was about the type of
6 soil that's on the site. We did numerous test pits
7 and borings on the project site, as shown on this
8 plan. All of them indicated a sandy glacial till on
9 the site, with the exceptions of those done on the
10 hill which indicate an underlying bedrock, or rock.
11 We did not find any peat in any of the soil testing
12 we've done -- we did on the project site.
13 **CHAIRMAN SALTZMAN:** What was the date of
14 your most recent test?
15 **MR. WHITE:** We did some in the spring. I
16 think it was April.
17 **CHAIRMAN SALTZMAN:** Okay.
18 **MR. WHITE:** And another question was how
19 many gallons the storm water system holds, total
20 number of gallons, and it's 192,578 gallons. So
21 it's --
22 **MR. ROTONDI:** Would you repeat that?
23 **MR. WHITE:** Let me put my glasses on, make
24 sure I'm reading this correctly.

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1 It's 192,578 gallons, the total volume the
2 system holds, the storm water system holds, and
3 that's our five underground infiltration systems.
4 **CHAIRMAN SALTZMAN:** Okay. And in three
5 sentences or less can you tell us how you reached
6 that number?
7 **MR. WHITE:** Sure. And I would just show
8 you some pictures of -- of what the system looks
9 like.
10 So what the system looks like is these
11 underground chambers. These chambers are about
12 30 inches high, 51 inches wide, and you line these
13 up as shown in the photos. It's a photo below, and
14 that's an artist's rendering. You can see you line
15 them up in rows. You have crushed stone underneath
16 the system, put crushed stone around the system, and
17 you put crushed stone over the system. You surround
18 the whole system with a filter fabric, so none of
19 the sand can get in -- in the system.
20 **CHAIRMAN SALTZMAN:** What would be the
21 density of the stone on top?
22 **MR. WHITE:** The crushed stone, we use
23 porosity. The porosity is 40 percent.
24 **CHAIRMAN SALTZMAN:** I guess, from the top,

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1 from the topsoil to the --
2 **MR. ROTONDI:** Five feet. Five feet down.
3 **MR. WHITE:** The depth varies. Underneath
4 the pavement it's about two to three feet.
5 So we -- these chambers -- I'll go to the
6 next slide. This is one of our systems. It's
7 70 feet long, 35 feet wide. Each one of those
8 rectangles represents one of those sections of pipe
9 that's seven feet long.
10 As you can see, it's all surrounded with
11 crushed stone, and the whole -- all the crushed
12 stone is encased in a geotechnical fabric.
13 To answer your question regarding the
14 volume, we calculate how much volume is in each one
15 of those chambers. We calculate how much volume
16 would be in stone, and then that's our total volume
17 of water that the system holds.
18 **CHAIRMAN SALTZMAN:** And the crushed stone
19 is going to be stone that gets crushed on site?
20 **MR. WHITE:** No. That would be washed
21 crushed stone that we're bringing in from off site.
22 That would be a uniform stone that's been bought,
23 similar to a septic system stone that's been washed
24 and cleaned, so it doesn't have fines in it. We

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1 bring it in from off site.
2 I would like to just briefly go over the
3 storm water. At the last meeting we talked about
4 on-site storm water. I would like at this time to
5 talk about the watershed, because it's a rather
6 unique system out there.
7 As you can see, this is the project site.
8 There is a drainage ditch that runs along the
9 perimeter of the development area. Going back in
10 history, and prior to 1935 -- let's see if I can get
11 to that, that plan. Here it is.
12 Storm water ditches were excavated in the
13 wetland area adjacent and on the Weiss Farm
14 property. If you look at this, this is the Weiss
15 Farm property. These are all, you can see in here,
16 storm water ditches that run through. There is a
17 culvert in this location. The Dunkin' Donuts is now
18 right here. The high school is in this area. But
19 back in 1935, it was mostly undeveloped land.
20 Storm water came off from the north, flowed
21 in this direction in the wetland here, was
22 intercepted by all these ditches and flowed out
23 underneath Franklin Street, which is right here --
24 it says undeveloped land, but it's now the high

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1 school. And from the high school down to Doleful
2 Pond. Doleful Pond is about a thousand feet south
3 of the high school. The town obtained an easement
4 in 1935 from all these landowners to maintain these
5 ditches.
6 You can -- and you can still see the
7 ditches in aerial photos today if you go back and
8 take a look at the aerial photos.
9 **CHAIRMAN SALTZMAN:** Now, Mr. White, is the
10 sketch of the Meeting House Brook, is that in
11 exactly the same spot it was? The brook hasn't
12 changed any -- anything at all during that time?
13 **MR. WHITE:** It's a little hard to see on
14 this, but you can see on the aerial photos where
15 those drainage channels are. There has been some
16 modifications because there has been a little bit of
17 filling in in this area of the drainage channel.
18 The drainage channel used to go straight across
19 here, and now it goes up and around an area that was
20 filled in I believe back in the '70s or '80s. But
21 you can still --
22 **CHAIRMAN SALTZMAN:** That was -- was that
23 the Army Corps of Engineers earlier than that?
24 Could that have been in the '50s?

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1 **MR. WHITE:** I'm not sure. I don't know.
2 **MR. DIAZ:** Okay.
3 **MR. WHITE:** Just based on photos.
4 But we've walked these. You can still see
5 all these drainage channels out here. There is
6 still remnants of the drainage channels in here and
7 water still flows through those channels.
8 Unfortunately, those channels have not been
9 maintained. As any channel, you know, trees fall
10 down, branches fall down, leaves fill up. So not as
11 much water flows out that way now as it used to, and
12 water has to get up to a higher elevation in order
13 to flow out that way.
14 So if you look at old photos of the farm, I
15 mean, this area was a farm field at one time. It's
16 now pretty much under water.
17 The other thing that's happened over the
18 years is you've had all this development upstream of
19 the project site. There has been no -- back in when
20 those areas were developed, there was no storm water
21 management. They just paved and the water just went
22 down. So it's been considerable increase in storm
23 water flowing into this large wetland area.
24 A little bit of history on Franklin Street.

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1 Franklin Street was reconstructed in the early 1950s
2 and a culvert was put in in this location. Weiss
3 Farm found that their fields were flooding in the
4 spring because the culvert wasn't -- was put in too
5 high, so they installed a pump chamber, a pump
6 station, to drain those fields in the spring.
7 And -- and it's not clear if Army Corps or Weiss
8 Farm dug a drainage ditch around the farm area to
9 help drain the land.
10 **CHAIRMAN SALTZMAN:** What about the -- are
11 we looking at the original pump --
12 **MR. WHITE:** The pump?
13 **CHAIRMAN SALTZMAN:** -- in the pump station?
14 **MR. WHITE:** I'm not sure if that's the
15 original from 1950, but the pump station is pretty
16 old. Yeah. We're talking about the same pump
17 that's there.
18 **CHAIRMAN SALTZMAN:** Did you get to take a
19 decent look at it? Could you tell?
20 **MR. WHITE:** Well, the pump's not the same.
21 The pump was replaced a few years ago. I don't know
22 if that shed is still there from back then or not.
23 But in any event, so in order to drain this
24 in the spring -- and if you go back and look at all

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1 historic photos, you always see, as in this one, a
2 dark area where I'm circling. And that's the area
3 near Franklin Street which every spring fills up
4 with water.
5 In 19 -- the early 1960s, over by Sunset
6 Road, a culvert was installed in this area. That
7 culvert is actually higher than the outlet to the
8 Franklin Street culvert, so water has to build up in
9 order to flow out, flow through the Sunset Road
10 culvert.
11 That culvert was also put in very flat,
12 pretty much perfectly flat. The town wrote several
13 letters to the developer asking them to reconstruct
14 the culvert, and that never happened.
15 So we have a culvert that doesn't work too
16 well in this area, an area that floods -- I'm
17 circling -- near Sunset Road, and an area that
18 floods, fills with water on the north side of
19 Franklin road -- Franklin Street.
20 **CHAIRMAN SALTZMAN:** Mr. White, I go back
21 far enough that when I was a child, that in the
22 winter, people would play hockey on Weiss Pond.
23 **MR. WHITE:** Yes.
24 **CHAIRMAN SALTZMAN:** And that -- so what --

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1 one question that I have is, I mean, isn't the
2 purpose of the -- the pump to -- to clear that end
3 of the property? Isn't that --
4 **MR. WHITE:** Okay.
5 **CHAIRMAN SALTZMAN:** What's going on? How
6 come it backs up there in the spring still?
7 **MR. WHITE:** Okay. Well, it's always backed
8 up in the spring because the Sunset Road culvert,
9 water backs up from Sunset Road and actually goes to
10 Franklin Street.
11 The pump station pumps to a trough, almost
12 like a bathtub, and there is a pipe going out under
13 Franklin Street. If the water on the other side of
14 Franklin Street builds up, pumping into that trough
15 doesn't do any good because water just spills out of
16 the trough. So that's why, when you have high water
17 almost every spring, water builds up on the other
18 side of Franklin Street, water can't get through the
19 culvert on Franklin Street, and you've got water
20 ponding.
21 **CHAIRMAN SALTZMAN:** On the -- on the pump,
22 it's measured in, what, gallons per minute?
23 **MR. WHITE:** Yes.
24 **CHAIRMAN SALTZMAN:** How many does this

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1 particular pump --
2 **MR. WHITE:** About 500.
3 **CHAIRMAN SALTZMAN:** About 500?
4 **MR. WHITE:** Yes, 500, 550 gallons per
5 minute.
6 **MR. ROTONDI:** Well, I know one thing, the
7 reason why the water don't drain that well is
8 because it's zero gravity. It's almost flat, that
9 brook, all the way into the culvert.
10 **MR. WHITE:** Yes.
11 **MR. ROTONDI:** Mike Finney owned the
12 property behind there, and the town used to have to
13 dredge that every year to lower it to make the water
14 come down.
15 **MR. WHITE:** Yeah. Yeah.
16 **MR. ROTONDI:** Because it's almost zero --
17 there is zero degrees.
18 **MR. WHITE:** There is no elevation
19 difference, yeah.
20 **MR. ROTONDI:** That's why the water never
21 used to go through the culvert, unless it would
22 build up, and so it builds up all the way by --
23 **MR. WHITE:** So it builds up, right.
24 So once the water goes down on the south

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1 side of Franklin Street, they can turn the pumps on
2 and drain -- drain that area. That's what usually
3 goes on.
4 There used to be an earth dam here which
5 used to sort of force water back the other way. At
6 some point, that earth dam was removed. DEP came
7 in, I think it was 2007 -- I don't know, 2006 -- and
8 asked them to put in a -- a concrete dam. That has
9 been done. And that maintains a certain elevation
10 of water in this area and helps force the water back
11 to where it's supposed to go, back to the other,
12 larger culvert. It also maintains the water
13 elevation in the wetland area.
14 So that's just a brief overview of how the
15 overall water system works in that area.
16 **CHAIRMAN SALTZMAN:** Go ahead.
17 **MR. SULLIVAN:** Looking at your earlier one,
18 you have a culvert -- I don't know if you call it
19 Meeting House something or other?
20 **MR. WHITE:** Meeting House Brook.
21 **MR. SULLIVAN:** It goes northerly?
22 **MR. WHITE:** Yes. In this area.
23 **MR. SULLIVAN:** And where does that go to?
24 You've got the one where the easement, the

1 original easements are shown? One of your earlier
2 ones that it shows the culverts and the people that
3 gave the easements.
4 **MR. WHITE:** Yes. Hold on a second and I'll
5 get to that one.
6 **MR. SULLIVAN:** Right there.
7 So that, it says Meeting House Brook?
8 **MR. WHITE:** Yes. It's North Meeting House
9 Brook.
10 **MR. SULLIVAN:** And where does that come
11 from?
12 **MR. WHITE:** It starts in this wetland area.
13 Spring Lane is here.
14 **MR. SULLIVAN:** Right. And what's that
15 behind the town of Stoneham? I can't read what that
16 says. Something "lateral ditch."
17 **MR. WHITE:** It probably says "lateral
18 ditch" on it.
19 **MR. SULLIVAN:** Now, that lateral ditch runs
20 all behind the Weiss Farm property, is that not
21 correct, and then it runs to the storm drain -- it
22 runs to the ditch, it runs down to Franklin Street.
23 **MR. WHITE:** These are different ditches.
24 These were built in the 1930s.

1 **MR. SULLIVAN:** Yeah.
2 **MR. WHITE:** The big ditches on Weiss Farm
3 property was built in the 1950s.
4 **MR. SULLIVAN:** Right.
5 **MR. WHITE:** So the Weiss Farm ditches
6 have -- like where my pointer is up in this area.
7 **MR. SULLIVAN:** They go into one another,
8 though.
9 There used to be three fingers on the Weiss
10 Farm. There was a ditch that come through --
11 **MR. WHITE:** Okay.
12 **MR. SULLIVAN:** -- and then went over to
13 that preculvert, and then there was three fingers
14 there. And then it ran behind the whole Weiss Farm
15 project, and it was that lateral ditch right there
16 that ran down along -- Spring Lane used to go to the
17 left also. I'm pretty familiar with it. I lived
18 there for 55 years.
19 **MR. WHITE:** Yeah. I saw that in the older
20 photographs that there was --
21 **MR. SULLIVAN:** Right.
22 And I just see this coming up north, the
23 property that I grew up at would be the property of
24 the Manning-Connors, and hence you have Sullivan

1 Circle here thanks to my father.
2 So those -- you're showing a swamp right
3 there. I'm confused where that is.
4 **MR. WHITE:** Okay. You want me to go back
5 to the aerial?
6 **CHAIRMAN SALTZMAN:** The circle there, above
7 the Johnson property?
8 **MR. SULLIVAN:** Yeah.
9 **MR. WHITE:** It shows up -- it shows up on
10 the aerial plan. If I can go back. It's going to
11 take me a second to go back there. I should have
12 put these closer together.
13 The swamp is up in here (indicating).
14 **MR. SULLIVAN:** And it would be --
15 **MR. WHITE:** So the swamp's up here, and
16 this is hard to see, but there is ditches in here;
17 there is ditches across there.
18 **MR. SULLIVAN:** Right.
19 **MR. WHITE:** The main channel comes across
20 here and then down -- there is Dunkin' Donuts in
21 this location, down through this drainage channel,
22 and then it goes underneath the school -- underneath
23 the school, I think the ball field, football field,
24 and down to Doleful Pond.

1 **MR. SULLIVAN:** So there is a swamp to the
2 left of the ditches that's not part of the ones
3 behind all that area? That's one big swamp back
4 there.
5 **MR. WHITE:** Yeah. This whole area that's
6 undeveloped is a -- basically a swamp that I'm
7 outlining.
8 **MR. SULLIVAN:** Now is the water supposed to
9 flow that way from Weiss?
10 **MR. WHITE:** Originally all this water in
11 this area flowed to this culvert. There is some
12 water in this area that likely flowed, you know, in
13 this location. There is a small culvert under
14 Franklin Street by the pump station.
15 **MR. SULLIVAN:** So the water in the north
16 area was flowing southerly, or was it southerly
17 flowing north?
18 **MR. WHITE:** It was all flowing southerly.
19 It was -- the water in this area was flowing through
20 these drainage channels underneath this large
21 culvert at this location. There was lateral ditches
22 in this area which flowed this way into this also.
23 So these ditches accepted the flow coming in from
24 the north. I'm not exactly sure historically what

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1 was happening in this area (indicating). If this
 2 flowed, you know, through Weiss Farm --
 3 **MR. SULLIVAN:** Yep.
 4 **MR. WHITE:** -- to Franklin Street or it
 5 flowed westerly.
 6 **MR. SULLIVAN:** That's where all the woods
 7 are back there?
 8 **MR. WHITE:** Yeah. This is -- this is all
 9 wooded.
 10 **MR. SULLIVAN:** Yeah.
 11 **MR. WHITE:** As I said before, historically
 12 this used to be a farm field back here which is now
 13 under water. And this area here is -- is very, very
 14 wet, which used to be a farm field.
 15 **MR. SULLIVAN:** That's where the three
 16 fingers used to be.
 17 **MR. WHITE:** That's where the three fingers
 18 used to be. That's correct.
 19 **MR. SULLIVAN:** Okay. Thank you.
 20 **CHAIRMAN SALTZMAN:** I have a question
 21 perhaps best answered by one of the gentlemen to
 22 Mr. White's east.
 23 Who is going to have ownership and
 24 management and control of the -- the pump?

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1 **MR. MAHONEY:** The Applicant would.
 2 **CHAIRMAN SALTZMAN:** It would.
 3 **MR. MAHONEY:** It would be part of the
 4 parcel, yes. And I think -- did we submit our
 5 maintenance plan?
 6 We've already submitted, I believe, a
 7 management plan for the pump station. It would be
 8 part of our storm water -- obviously it's a key to
 9 the storm water management of the property, so that
 10 would be part of our storm water management plan.
 11 **CHAIRMAN SALTZMAN:** What's the date of
 12 that, so I'll know it when I see it?
 13 **MR. WHITE:** I believe it was in June of
 14 this year.
 15 **MR. MAHONEY:** We can e-mail you the exact
 16 date so you know the right one.
 17 **CHAIRMAN SALTZMAN:** Sure. Was that
 18 submitted to us, or would it have been submitted to
 19 Conservation?
 20 **MR. WHITE:** Originally submitted to the
 21 Conservation Commission.
 22 **CHAIRMAN SALTZMAN:** Okay.
 23 **MR. LOWRY:** I believe July 9th.
 24 **MR. MAHONEY:** I believe we submitted to the

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1 Board --
 2 **CHAIRMAN SALTZMAN:** Does that refresh your
 3 recollection?
 4 **MR. MAHONEY:** There was a lot of June and
 5 July dates. We will make a point to send the e-mail
 6 tomorrow to confirm.
 7 **CHAIRMAN SALTZMAN:** That's great. Thanks.
 8 **MR. WITTEN:** Mr. Chairman, can I just add?
 9 **CHAIRMAN SALTZMAN:** Yes.
 10 **MR. WITTEN:** Mr. White, I think the Board
 11 should have whatever storm water reports you've
 12 submitted to the ConCom that you want part of the
 13 record here submitted individually.
 14 **MR. WHITE:** I believe we've submitted them
 15 all. I mean, in the past -- what we didn't submit
 16 previously, we've submitted in the past -- within
 17 the past week, so it's part of the response to
 18 Mr. Houston's comments.
 19 **CHAIRMAN SALTZMAN:** I'm sorry.
 20 Mr. White, did you send something during
 21 the past week, you said?
 22 **MR. WHITE:** Well, in response to
 23 Mr. Houston's comments, I believe we submitted
 24 additional information on the watershed.

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1 **CHAIRMAN SALTZMAN:** Okay.
 2 **MR. WHITE:** And the pump station.
 3 **CHAIRMAN SALTZMAN:** Did you submit a
 4 report?
 5 **MR. SHULMAN:** Is it this that's in the
 6 packet --
 7 **MR. WHITE:** Yes.
 8 **MR. SHULMAN:** -- that we just have?
 9 **MR. ROTONDI:** For tonight.
 10 **MR. WITTEN:** Mr. Chairman, I think maybe
 11 just to clarify:
 12 Mr. White, we have -- the Board received a
 13 letter from Rackemann, Sawyer, Brewster with three
 14 attachments -- four attachments, including one page
 15 from your office. So one of those attachments is
 16 the June 10th watershed study.
 17 **MR. WHITE:** Yes.
 18 **MR. WITTEN:** The other is the storm water
 19 management standard calculations from your office,
 20 HW Moore. And then there is a single-page storm
 21 water runoff table, and then there is an O&M
 22 schedule, and then there is the storm water pump
 23 station report. And those were all part of what we
 24 received from Rackemann, Sawyer.

1 **MR. WHITE:** That's correct.
2 **MR. WITTEN:** And all of those reports were
3 done previously for the Con.Com.?
4 **MR. WHITE:** The pump station report and the
5 watershed report were.
6 **CHAIRMAN SALTZMAN:** Mr. White, in
7 connection with the storm water management standard,
8 the date of that is -- it was revised the third week
9 of September.
10 Can you just explain what revisions would
11 be in here that wouldn't have been submitted
12 already?
13 **MR. WHITE:** Well --
14 **CHAIRMAN SALTZMAN:** Are there calculations
15 changed or things of that nature?
16 **MR. WHITE:** Yes. Updated the calculations
17 that were submitted in our April storm water report
18 to increase the amount of recharge in accordance
19 with DEP -- to increase the amount of storm water
20 recharge in accordance with DEP storm water
21 requirements.
22 **MR. WITTEN:** Could I ask, Mr. Chairman?
23 As you know, Mr. White, the Conservation
24 Commission order of conditions is under appeal. Your

1 client has brought an appeal of that.
2 Have -- what is under appeal, those
3 calculations, have those numbers changed? In other
4 words, the superseding order of conditions that
5 you've requested overturning the Conservation
6 Commission's order of conditions, the order of
7 conditions was based on the materials that you
8 submitted as part of the Notice of Intent process.
9 Have the calculations changed since you've
10 taken the appeal to the superseding order?
11 **MR. WHITE:** Yeah. We sent in a response to
12 Mr. Griffin's letter to the DEP.
13 **MR. WITTEN:** Is this after the appeal was
14 taken?
15 **MR. WHITE:** Yes.
16 **MR. WITTEN:** So has the Conservation
17 Commission received these updated calculations?
18 **MR. MAHONEY:** I believe so. I believe they
19 were copied on correspondence to the DEP.
20 **MR. WITTEN:** Mr. White, are there any other
21 updates?
22 **MR. WHITE:** Not that I know of.
23 **MR. WITTEN:** From -- well, they were
24 prepared by your office.

1 **MR. WHITE:** As far as -- no. The DEP, no.
2 **MR. WITTEN:** Thank you.
3 **CHAIRMAN SALTZMAN:** Any -- any other
4 questions from the Board?
5 Very much out of order, but I will take any
6 questions from the public.
7 Ms. McBride from Conservation.
8 **MS. McBRIDE:** Ellen McBride, 30 Butler Ave.
9 And I am speaking as a member of the Conservation
10 Commission.
11 Long time, no see.
12 So I just want to clarify what just -- I
13 just heard. We denied the project partly because of
14 the storm water -- we -- our peer review did not
15 feel the project met storm water requirements, and
16 so now you're saying you've -- I'm going to use the
17 wrong terms -- but changed those calculations to
18 meet what he recommended or -- and I don't remember
19 getting a copy. Maybe Cathy just -- I know Cathy's
20 been extremely busy lately, but can you tell us when
21 you sent the revised storm water calculations to the
22 Conservation Commission?
23 **MR. MAHONEY:** We don't have the exact date.
24 We could follow up with the date.

1 **MS. McBRIDE:** Okay. But can you answer the
2 other question? What were the changes you made and
3 what prompted those changes?
4 **MR. WHITE:** Mr. Griffin came back and noted
5 that we were -- the volume was less than what was
6 required under the -- under the DEP standards.
7 **MS. McBRIDE:** He came back when?
8 **MR. WHITE:** I received a letter from him.
9 I don't know an exact date.
10 **MS. McBRIDE:** I mean, before we denied it
11 or after we denied it?
12 **MR. WHITE:** After you denied -- after you
13 denied, I received a letter from him. And you --
14 you received that letter, also.
15 **MS. McBRIDE:** I'm not quite sure why he
16 would send you a letter after we denied the project.
17 **MR. GALLOGLY:** The letter went to DEP.
18 **MR. MAHONEY:** Just to clarify, he sent the
19 letter to the DEP with a copy to us.
20 **MR. WHITE:** So I responded to that letter.
21 **MS. McBRIDE:** Okay. Got you. All right.
22 But you couldn't respond to his changes
23 when you were before us?
24 **MR. WHITE:** He didn't respond to our

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1 information until afterwards. That was the first
2 time I received that response -- that was the first
3 time I received that response from him.
4 **MS. McBRIDE:** I think I'm confused. We
5 needed more information from you in July.
6 **MR. WHITE:** No --
7 **MS. McBRIDE:** We requested -- let me
8 finish, please.
9 **MR. WHITE:** Okay.
10 **MS. McBRIDE:** We requested more information
11 from you. On July 9th you requested that we close
12 the public hearing, if I'm not mistaken. We offered
13 you a recess so you could think about it because we
14 didn't have all the information we needed, and you
15 came back and said, "No, we still want to close the
16 public hearing," which left us in the hole as far as
17 information, if I'm remembering correctly.
18 **MR. CICATELLI:** Mr. Chairman, this matter
19 is under appeal, and I don't think this is the
20 appropriate forum to discuss the matters before the
21 DEP. Additional information --
22 **MS. McBRIDE:** No. I just want to say
23 Mr. White had said he sent information to the
24 Con.Com., and I don't remember us getting it. So

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1 when you clarified it, Peter, that it went to DEP
2 and not to us, I think that helps. But I just
3 wanted to ask the question: What were the changes?
4 **MR. WHITE:** Okay. I think I answered that.
5 And I think at the hearing you referred to,
6 Mr. Griffin said he hadn't had a chance to look at
7 our information that we had sent to him.
8 **CHAIRMAN SALTZMAN:** Just on that front,
9 Mr. White, can you tell us exactly where we could
10 find the recalculations that you made in this report
11 that you have now submitted, we're seeing now
12 tonight?
13 **MR. WHITE:** I think it's -- it's listed as
14 the DEP standard. It's a -- it's a volume
15 calculation. DEP requires a certain --
16 **MR. SULLIVAN:** Here.
17 **MR. WHITE:** Yes.
18 **CHAIRMAN SALTZMAN:** The storm water
19 management standards, right; is that the one?
20 **MR. WHITE:** Yes. That's the one.
21 **CHAIRMAN SALTZMAN:** What page?
22 **MR. WHITE:** The first page shows the volume
23 we're providing meets the volume required under DEP
24 for storm water recharge at the bottom of the page.

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1 **CHAIRMAN SALTZMAN:** Okay. And just so that
2 I understand this, in the body of this, this has
3 been recalculated.
4 Has there been any change in the storm
5 water management that gets us these numbers as
6 opposed to any earlier numbers?
7 **MR. WHITE:** We -- we changed one invert
8 elevation on the plan. I think we have a sketch in
9 the back of that showing one elevation changing in a
10 pipe.
11 **CHAIRMAN SALTZMAN:** Okay.
12 **MR. WHITE:** And that brought us to the
13 correct volume.
14 **CHAIRMAN SALTZMAN:** What page would that be
15 on?
16 **MR. WHITE:** The last page.
17 **CHAIRMAN SALTZMAN:** Okay.
18 **MR. WITTEN:** So, Mr. White, on the HydroCAD
19 graphs, there were no -- no other changes, no
20 changes at all?
21 **MR. WHITE:** No. We changed one invert of a
22 pipe, so we provide the new HydroCAD calculations to
23 show we changed the invert of the pipe, and there
24 was no adverse impacts in the storm water.

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1 **MR. WITTEN:** So the -- so, Mr. Chairman,
2 could I just maybe ask for clarification?
3 **CHAIRMAN SALTZMAN:** Sure.
4 **MR. WITTEN,** so Mr. White, the cover sheet
5 we're looking at, storm water management standards,
6 first page -- do you have a copy?
7 **MR. WHITE:** No, I don't.
8 **MR. SHULMAN:** Beat me to you.
9 **MR. WITTEN:** So the first page is Standard
10 Number 3?
11 **MR. WHITE:** Yes.
12 **MR. WITTEN:** And it has a revision date of
13 9/21/15?
14 **MR. WHITE:** Yes.
15 **MR. WITTEN:** Could you identify for the
16 Board what has changed on that first page?
17 **MR. WHITE:** What changed is -- is -- we
18 have -- at the bottom of the page we have
19 infiltration systems A, B, C, D and E. Those
20 numbers were updated, and especially with -- some of
21 them were updated by a few CFS; some were -- some
22 didn't change at all.
23 The major change was infiltration system E
24 where we changed an invert elevation of the outlet

1 pipe by a few inches, and that gave us the required
2 amount of volume that the DEP requires for storm
3 water recharge.

4 **MR. WITTEN:** And then on the second page,
5 are there any changes?

6 **MR. WHITE:** The second page --

7 **MR. GALLOGLY:** Excuse me, Jim. I think
8 this is part of the superseding order request and
9 it's not germane to what the Board's discussing
10 right now.

11 **MR. WITTEN:** Well, Mr. Chairman, this is an
12 attachment to Attorney Gallogly's response --

13 **MR. GALLOGLY:** Gallogly, by the way.

14 **MR. WITTEN:** -- Gallogly's response to
15 Mr. Houston's engineering report.

16 So you've submitted it as part of the
17 record, and Mr. White's just discussed it in front
18 of the Board, and he has revision dates on it which
19 postdate the Con.Com.'s order of conditions
20 discussion.

21 And I think the Board's entitled to a fair
22 question, which is what in this package is different
23 from what the Con.Com. reviewed?

24 **MR. WHITE:** Sure.

1 So if you look at the next page, that's --
2 it's a summary for infiltration system A, and it
3 goes through a calculation of how we arrived at the
4 volume for infiltration system A. And then we have
5 the next page.

6 **MR. WITTEN:** Are there changes on the
7 second page from what was submitted to the Con.Com.?

8 **MR. WHITE:** I would have to look and see
9 what was submitted. I believe -- I have to see what
10 was submitted to the Con.Com. because it's the
11 April 6th report.

12 **MR. WITTEN:** Well, Mr. Chairman, not to
13 make Mr. White painfully go through every page here,
14 but I think the Board is entitled to know --
15 Mr. Houston, who is reviewing this on behalf of the
16 Board, is entitled to know what in Rackemann,
17 Sawyer's submission is different from what is on
18 file with DEP and is subject to the superseding
19 order.

20 **MR. WHITE:** This is what's on file with
21 DEP.

22 **MR. WITTEN:** But the Conservation --

23 **CHAIRMAN SALTZMAN:** Would it make some
24 sense here for a -- for an additional copy to be

1 submitted just indicating where the changes are?

2 **MR. WHITE:** Sure. That would make it much
3 easier.

4 **CHAIRMAN SALTZMAN:** Would that do the trick
5 so that everybody knows what we started with and
6 where we are now?

7 **MR. WHITE:** Yes. That would really be
8 helpful.

9 **CHAIRMAN SALTZMAN:** If that could be done
10 at the earliest possible time.

11 **MR. WHITE:** There is not much changes
12 except we changed one pipe by a few inches.

13 **CHAIRMAN SALTZMAN:** Sure. And emphasize
14 what happened on the last page as well.

15 **MR. WHITE:** Sure.

16 **CHAIRMAN SALTZMAN:** Okay. And if you could
17 just have -- just to make it a little easier on
18 everybody, if there could just be a reference on the
19 first -- just attach a sheet indicating where they
20 are.

21 All right?

22 **MR. WHITE:** Sure.

23 **CHAIRMAN SALTZMAN:** As well.

24 **MR. WHITE:** Okay.

1 **CHAIRMAN SALTZMAN:** All right.

2 **MR. WHITE:** We'll make it simple.

3 **CHAIRMAN SALTZMAN:** All right.
4 Yes.

5 **MR. VERNA:** One question.

6 **CHAIRMAN SALTZMAN:** Sure.

7 **MR. VERNA:** You people -- Bobby Verna,
8 Tedford Drive.

9 Are you people aware of the high water
10 tables in some of the developments -- specifically
11 Tedford Drive, Sparhawk and Citation -- because all
12 the homes down there were built as splits, and they
13 couldn't build garrisons because of the high water
14 table.

15 Are you people aware of this?

16 **MR. WHITE:** Yes. We -- we installed
17 numerous test wells throughout the project site.

18 **MR. VERNA:** Yeah.

19 **MR. WHITE:** We monitored the ground water
20 and determined what the seasonal high ground water
21 is in the area. So we're well aware of what the --

22 **MR. VERNA:** So there shouldn't be any
23 problems as a result of your building?

24 **MR. WHITE:** Yeah. That's correct.

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1 **MR. VERNA:** They said that about the Big
2 Dig, too, but -- okay.
3 **CHAIRMAN SALTZMAN:** Sure.
4 **MR. WANTMAN:** Martin Wantman, 20 Gerald
5 Road; long-time abutter to the property.
6 The earthen check dam that was mentioned
7 was last used in 2004. It was located just north of
8 my property. And it worked absolutely, as the
9 material was placed into the ditch, and stopped the
10 water from coming from the north to the south so
11 that the pump could catch up with the amount of
12 water that was coming from the north, and it could
13 be pumped across Sunset Street.
14 The question is, considering that most of
15 the people who have been on the site visit and the
16 Conservation, and Corcoran has acknowledged that the
17 concrete check dam -- or weir, as it is sometimes
18 called -- that is in essentially a similar location,
19 just maybe 20 or 30 feet north of where the earthen
20 check dam used to be, is leaking, and the flooding
21 incidents have been severe and repetitive when we're
22 not in a time of drought.
23 Would you consider reinstalling an earthen
24 check dam that really took minutes to maintain and

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1 worked absolutely instead of the concrete weir that
2 has failed since day one and is still failing?
3 **CHAIRMAN SALTZMAN:** Thank you.
4 **MR. WHITE:** The concrete dam was put in per
5 a consent decree order with DEP. Sorry. We plan
6 on -- it is correct there is a leak in the dam right
7 now. Also the dam has settled. We propose on
8 correcting that leak and resetting the concrete
9 blocks to -- to the correct elevation to bring it up
10 to where -- you know, make it work the way it's
11 supposed to be working.
12 **CHAIRMAN SALTZMAN:** So the -- the earlier
13 solution that -- that Mr. Wantman referred to, has
14 that been something considered and rejected? Or is
15 that something that's still a possibility?
16 **MR. WHITE:** I think it works the same. It
17 stops water. It forces water to go through the --
18 the westerly culvert rather than down toward the
19 Weiss Farm pump house. They both work the same. If
20 the check dam is operating properly, if it's at the
21 right elevation, if it's not leaking, it will work
22 exactly the same as an earth dam would work. You
23 know, one's concrete; one's earth, basically.
24 **CHAIRMAN SALTZMAN:** Is the problem the fact

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1 that the pumping station doesn't always pump out
2 500 gallons a minute? Is that part of the problem
3 here?
4 **MR. WHITE:** No. I -- I mean, there is a
5 couple of problems, I think. One is the check dam
6 isn't working properly, so more water is going down
7 there than it should.
8 The Sunset Road culvert, as I mentioned, I
9 think that needs to be cleaned out. I did talk to
10 the public works director. He didn't think it would
11 help, but I really think that would help. The
12 sediment downstream of the Franklin Street culvert
13 should be cleaned out.
14 The Meeting House Brook stream, we walked
15 that site -- and we include pictures of it in the
16 report -- there are branches and trees falling down
17 blocking flow. If those branches and trees were
18 cleaned out, that would certainly help the drainage
19 in this area.
20 **CHAIRMAN SALTZMAN:** But I'm -- just back to
21 the pump. What sort of repair is that in right now?
22 Does it need work?
23 **MR. WHITE:** The pump is -- right now it
24 needs work in that it's not -- I mean, you know,

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1 some rusty stuff, and the controls are hard to get
2 to. So we've proposed on putting new controls in,
3 making it more accessible. It's working, but it
4 doesn't work when the Sunset Road culvert backs up,
5 and there is nothing you can do about that. You
6 can't -- if you pump over the road, all you're going
7 to do is flood those people down by Sunset Road. So
8 when Sunset Road culvert backs up, the culvert that
9 was put in very high and flat, the pump is just
10 turned off because it doesn't do -- it doesn't work.
11 It doesn't do any good --
12 **CHAIRMAN SALTZMAN:** What about -- now you
13 said something a minute ago about it being
14 accessible or inaccessible.
15 What's the story there?
16 **MR. WHITE:** The controls. Only that you
17 have to kind of step over -- you know, it's old.
18 The thing's old. So what -- normally what you do is
19 put the controls in the place right now, they're in
20 the building and you have to kind of step on the
21 weir and go in there. It's a lot easier for someone
22 if they're outside of the building on a panel board.
23 If they had, you know, an alarm light, it had -- you
24 know, it had modern controls.

1 The controls on the pump are not modern.
2 They're sort of -- you know, there is an on-and-off
3 switch. There is floats, so it does turn on and off
4 with the water height, but it's -- it's not to
5 today's standards. So we would want to update that.
6 **CHAIRMAN SALTZMAN:** If we went down there
7 now --
8 **MR. WHITE:** Yes.
9 **CHAIRMAN SALTZMAN:** I mean, maybe not now.
10 **MR. WHITE:** Yes.
11 **CHAIRMAN SALTZMAN:** But earlier in the day
12 before it started raining, would the pump station be
13 dry? Would it be something we could work on if
14 there was something that needed fixing?
15 **MR. WHITE:** Oh, yes. Yes.
16 **CHAIRMAN SALTZMAN:** It's not flooded?
17 **MR. WHITE:** No. No. The pump house
18 wouldn't be flooded right now.
19 **CHAIRMAN SALTZMAN:** Mr. Wantman, one other
20 question, and then we're going to move on, I think.
21 **MR. WANTMAN:** This is actually a very
22 important question that I forgot.
23 Would you happen to have a pictorial of the
24 1946 drawing of Weiss Farm that you had with the

1 ditches, the original ditches?
2 **MR. WHITE:** The 1935?
3 **MR. WANTMAN:** 1946. It was Weiss Farm.
4 **MR. WHITE:** I don't have it.
5 **MR. WANTMAN:** The point that I'm going to
6 make is that the main ditch, the ditch that was
7 installed prior to the changes that were done in the
8 1950s, the main ditch was actually gifted away by
9 Weiss in 1964 to the then synagogue, which is now
10 a --
11 **CHAIRMAN SALTZMAN:** Teachable Moments.
12 **MR. WANTMAN:** -- school.
13 **CHAIRMAN SALTZMAN:** Yeah.
14 **MR. WANTMAN:** That main ditch, in your
15 depiction of conditions of abutters, is not in
16 existence. And the water used to flow past my
17 tennis court, going south to that main ditch, and
18 then take a right-hand turn to go to the pump. And
19 now it flows from the pump area towards my property,
20 and takes a right-hand turn and goes around the
21 corner.
22 So my suggestion would be to urge you to
23 contact the owner of the school and see if you can
24 arrange to clean out the main ditch going from the

1 north to the south abutting Gerald Road.
2 **CHAIRMAN SALTZMAN:** All right. Maybe we
3 might be wise to take a five-minute break --
4 **MR. CICAPELLI:** Sure, Mr. Chairman.
5 **CHAIRMAN SALTZMAN:** -- just resume in a
6 minute.
7 (Recess)
8 **CHAIRMAN SALTZMAN:** All right. We'll come
9 to order now and resume.
10 Mr. Cicatelli.
11 **MR. CICAPELLI:** Mr. Chairman, if you like,
12 we could have Dennis Lowry just give a wetland
13 overview.
14 **CHAIRMAN SALTZMAN:** Great.
15 **MR. CICAPELLI:** Which sort of might tie in
16 to what we were just discussing.
17 **CHAIRMAN SALTZMAN:** Welcome to the Board of
18 Appeals, Mr. Lowry.
19 **MR. LOWRY:** Thank you very much.
20 For the record, my name is Dennis Lowry.
21 I'm a wetland ecologist with AE Com out of
22 Chelmsford, Massachusetts. I've been a practicing
23 wetland ecologist for over 30 years. I've got a
24 bachelor of science in biology from Tufts University

1 and a master of science in wetland ecology from
2 University of Rhode Island.
3 So what I would like to offer is my
4 perspective and my experience on the site relative
5 to wetlands, a lot of which you've already been
6 discussing here this evening, which obviously are
7 closely related to the drainage conditions.
8 I'll call your attention to the plan up on
9 the board here with Franklin Street --
10 **CHAIRMAN SALTZMAN:** Mr. Lowry, if you could
11 speak slow. We're just grasping this an inch at a
12 time.
13 **MR. LOWRY:** I thought you wanted to get out
14 of here quick.
15 **MR. ROTONDI:** No. That's tomorrow night.
16 **MR. LOWRY:** So the right of the site -- of
17 the slide is Franklin Street. The wetlands on this
18 slide are defined in the red line here.
19 And when I use the term "wetland," I will
20 speak broadly. Under the Massachusetts Wetlands
21 Protection Act wetlands are defined as a series of
22 resource areas, one of which is bordering vegetated
23 wetlands, which most of these wetlands in the
24 northern part and the eastern part of the site are.

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1 There are also resource areas called land subject to
2 flooding, which is a floodplain, land under water
3 and bank, which are related to streams.
4 The limit of resource areas on this site
5 had been defined in a -- in a issuance of an Order
6 of Resource Area Delineation by the Conservation
7 Commission back in February of 2012. So essentially
8 in late 2011, the Commission started the review of
9 an Abbreviated Notice of Resource Area Delineation
10 which defined the resources on the site. The
11 Conservation Commission hired a peer review, a
12 professional wetlands scientist at the time, to help
13 them review those designations. And ultimately, in
14 February of 2012, they issued a -- what's called an
15 ORAD, an Order of Resource Area Delineation, which
16 documented the limits of the resource areas by and
17 large.
18 The exception to that was they did not
19 define the limit of bordering lands subject to
20 flooding or the 100-year floodplain, and they left
21 that open.
22 So when we started this project, we --
23 those determinations were still valid. They were
24 still legally binding in terms of the limit of

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1 resource areas on the site. And so those resource
2 area delineations and extent have been held forward
3 in terms of the design of this project and in
4 looking at compliance with the Wetlands Protection
5 Act.
6 We did go forward, at the request of the
7 Conservation Commission, to define the limit of
8 floodplain on the site, or the bordering land
9 subject to flooding. And in a case like this, where
10 there is no defined floodplain from FEMA, the
11 Massachusetts regulations tell you to look at the
12 maximum lateral extent of flooding on the site from
13 observed conditions.
14 So that was used in this case. It was
15 defined at elevation 163.6 and plotted on the plan.
16 And it roughly follows the wetland line, especially
17 in the southeast part of the site. The wetland
18 limit generally runs from about elevation 163 up to
19 about elevation 165 in various portions of the site.
20 So if you look at the general gradients
21 here, the swamp in -- in the northern part of the
22 site is about at elevation 162. The culvert under
23 Franklin Street at the pump station that Mr. White
24 has talked about is at about 160.7, I believe, 1 --

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1 160.1, but it's defined by actually the -- the
2 elevation of the culvert further downstream, which
3 is 160.7.
4 So as we've talked about, it's a very flat
5 gradient through here. And so there is only two
6 feet of pitch or so from the northern swamp area
7 down to the culvert under here, and that western
8 culvert over by the high school is about at that
9 same elevation of just over 160.
10 So it's a very flat, gentle gradient. It's
11 an area of high ground water. Ground water tables
12 are about those same elevations, 160 to 162, and
13 that's why there are wetlands on the site. That's
14 why there are streams that try and drain from the
15 site because it's a high ground water table, and
16 that's what gives rise to wetland conditions.
17 The ditches that were dug going back into
18 the 1930s or so, the ones we saw relative to Meeting
19 House Brook, those are shown up in this portion of
20 the slide. And then in the 1950s, when the Corps of
21 Engineers dug the big ditch around, you know, in the
22 western, the northern and eastern parts of the site,
23 all of those are attempts to try to help drainage
24 get off of the site a little bit more expeditiously

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1 than they would with just vegetated wetland. They
2 work only so much because the gradients are so flat.
3 So basically the water stage needs to build up
4 before it can start to flow off the site.
5 The pump station down here really only
6 operates when the water tables get above the invert
7 elevation of the culvert. So it really only starts
8 to work above, say, 161, and it's -- it's -- it was
9 really put in to try and drain this water down when
10 it gets up to about 162 1/2 down to that elevation
11 of 161 1/2. So it really only works in a limited
12 area.
13 Other than that, you still have high ground
14 water table; you have wetlands, bordering vegetated
15 wetlands; you have the floodplain, and these areas
16 are protected because they are wetland resource
17 areas under the protection of the Massachusetts
18 Wetlands Protection Act.
19 In our design of this project, we looked at
20 the local standard in terms of setbacks from those
21 resource areas, and the local bylaw says they are
22 looking for a 25-foot setback from the limits of the
23 wetlands, and that's defined by this green line
24 here, which is just up gradient of the red line. So

1 this project proposes no activities within any
2 wetland resource area, including the floodplain,
3 nothing within bordering vegetated wetlands, nothing
4 within the defined streams or banks, and nothing
5 within the 25-foot setback from those resource
6 areas.

7 So there are no performance standards for
8 work within buffer zone, which essentially this is
9 what's considered a buffer zone project.

10 So we are fully in compliance with all
11 performance standards, all requirements of the
12 Wetlands Protection Act. And as Mr. White has
13 defined and explained, the storm water management
14 system -- which becomes the focus of a project which
15 is in the buffer zone -- is fully compliant with
16 the -- with the Massachusetts storm water standards,
17 and basically those standards are looking at the --
18 at the peak rate and the quality of storm water
19 runoff from a site. It wants to make sure that
20 you're not increasing the peak rate, and you're not
21 aggravating the quality of the water running off the
22 site under the proposed development conditions.

23 And, in our view, the storm water
24 management design has fully complied with those

1 standards, and that's under review by the DEP right
2 now. There has been, obviously, about six or seven
3 months of back and forth between Mr. White's firm
4 and the peer reviewer for the Conservation Commission
5 over some of the details of that storm water plan,
6 but we are very confident that it is in compliance
7 with the storm water standards and that that will be
8 upheld through the review with the DEP.

9 So that's a quick overview.

10 **CHAIRMAN SALTZMAN:** On the other side of
11 Franklin Street --

12 **MR. LOWRY:** Yeah.

13 **CHAIRMAN SALTZMAN:** -- is that the -- is
14 that also a resource area?

15 **MR. LOWRY:** Yes, it is. Absolutely.

16 **CHAIRMAN SALTZMAN:** So -- so it would be
17 necessary not just to protect the wetland on the
18 site but also this other resource area?

19 **MR. LOWRY:** Yes.

20 **CHAIRMAN SALTZMAN:** So is it not a problem
21 now -- and certainly it's my understanding that
22 there was a DEP order, a consent decree that was
23 entered into in 2005 or 2006.

24 **MR. LOWRY:** There were two separate ones,

1 yes, sir.

2 **CHAIRMAN SALTZMAN:** Right. And the 2006
3 did -- it's my understanding -- and I'll, for the
4 moment, defer to you until I can get my hands on a
5 report -- but it's my understanding that the --
6 the -- the owner entered into that and was found in
7 2011 to be in noncompliance with that 2006 consent
8 decree.

9 Is that fair to say?

10 **MR. LOWRY:** It's been many months since
11 I've looked at the consent decree, so I think that
12 that's not inconsistent with my recollection of
13 that.

14 **CHAIRMAN SALTZMAN:** Okay. And part of the
15 reason for these consent decrees is the protection
16 of the wetlands. Obviously DEP is -- is involved in
17 that, and they're the ones that entered into these
18 consent decrees.

19 So we've got the 2011, and I'm -- I believe
20 that the -- the owner is not in compliance with the
21 2011 decree. Is that -- is that your recollection
22 as well?

23 **MR. LOWRY:** Well, let me put it this way:
24 I haven't seen any recent activity from

1 DEP, you know, in a number of years relative to
2 those consent decrees. So I'm not sure at this
3 point, you know, what -- I think there were issues
4 relative to erosion from the site into resource
5 areas, so kind of going at water quality within the
6 wetlands. That was a focus of DEP's actions.

7 But I -- but I -- again, I haven't looked
8 at them for some time.

9 **CHAIRMAN SALTZMAN:** Let me ask you this:

10 Is there any evidence since 2011 on that
11 site that the current owner did anything in response
12 to what appears to be further conditions added to
13 the 2006 decree? I mean, there is no major change
14 to the property? There is no -- there is nothing
15 that would suggest the water is moving in any
16 different direction?

17 **MR. LOWRY:** Correct.

18 **CHAIRMAN SALTZMAN:** If anything, it seems
19 to be more water, not less.

20 I'm just trying to cut to the chase here if
21 I could. We have two existing consent decrees, one
22 that merged into the next, and we appeared to be in
23 noncompliance with the Wetlands Act going back
24 approximately nine or ten years.

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1 **MR. LOWRY:** I mean, I guess I'm not
2 prepared to say one way or the other on the facts of
3 that matter in terms of the compliance with the
4 Wetlands Protection Act.
5 I mean, this is an agricultural activity.
6 There are agricultural exemptions, so it gets fairly
7 complicated in terms of compliance or noncompliance.
8 **CHAIRMAN SALTZMAN:** And I would submit that
9 that's very true. And notwithstanding the fact that
10 there is a fair amount of slack being cut to farms,
11 we still have two consent decrees, one more
12 stringent than the previous, and we don't seem to
13 see any evidence at all of compliance with either
14 one of them. And I would just submit that the
15 wetlands -- you know, you come to a situation where
16 the wetlands seem to be suffering, and I don't know
17 that there is anything -- and what I'm hearing --
18 Go ahead.
19 **MR. LOWRY:** Yeah.
20 **CHAIRMAN SALTZMAN:** I see the smile.
21 **MR. LOWRY:** First of all, in terms of
22 activities, I mean, the current owner has been
23 replacing hay bales and erosion control measures
24 around the limits of the wetlands in the year and a

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1 half since I've been looking at the site, so there
2 have been activities that have been done by the
3 current owner that are a reflection of the
4 requirements of those consent orders, those consent
5 decrees.
6 And I would -- I would also say, from my
7 perspective as a wetland ecologist, the wetlands on
8 this site are extremely healthy. They're very
9 vigorous. They're prolific. You know, there is no
10 lack of hydrology to drive good wetland conditions
11 on this site, which is really what -- what drives
12 wetlands.
13 I mean, if you look at the wetland down in
14 the southeast corner, it's a very productive shallow
15 marsh community. It's a highly valuable wetland.
16 It's doing what it's supposed to do in an area that
17 has a high ground water table, that's subject to
18 flooding, and it's doing all the things that
19 wetlands are protected -- protected to do under the
20 Wetlands Protection Act.
21 **CHAIRMAN SALTZMAN:** Now -- but one of the
22 issues obviously during the course of the last
23 several years, you've heard people get up and say
24 that the water is -- has altered its course and

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1 instead of heading downstream, it's heading into
2 people's basements.
3 I heard Mr. Wantman. I don't see that
4 there is any reason to doubt what he's saying. I'm
5 just asking that's -- that's certainly not an
6 intended result here, correct?
7 **MR. LOWRY:** From my perspective, looking at
8 the record of this landscape since the 1930s, and
9 looking at what was done in Meeting House Brook area
10 in terms of ditches back at that time and done by
11 the Corps of Engineers in the 1950s, this area has
12 had similar drainage issues since that time. I
13 mean, it's a high ground water table area, and when
14 you build in close proximity to those high ground
15 water tables or areas which are subject to flooding,
16 you have associated issues with development in those
17 areas.
18 And that's why this particular project is
19 not doing that. It's completely out of those flood
20 prone areas; it's completely out of the wetlands;
21 it's above the ground water table. So it's designed
22 appropriately, and I would submit that if most of
23 the other development in the area had been designed
24 similarly, then you wouldn't have these kind of

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1 conflicts between drainage, flooding, high ground
2 water table and development.
3 **CHAIRMAN SALTZMAN:** It's never good to be
4 last. It's never good to be last.
5 **MR. LOWRY:** Right.
6 But all you can do is design to the
7 required standards, which is what this project is
8 doing. And it's also made commitments to -- to
9 assist in some of the -- quote, unquote --
10 "problems." And, again, I look at this as a wetland
11 ecologist, and I say this is no more of a problem
12 than building in the flood plain of the Merrimack
13 River is a problem. I mean, if you build in those
14 flood prone areas, then you're going to have
15 problems. But if you don't, if you design your
16 project appropriately in the uplands and out of the
17 flood plain, then you don't have those problems.
18 And so as part of the review with the
19 Conservation Commission, commitments were made as
20 part of -- contingent upon approval under the
21 Wetlands Protection Act -- by the Applicant to make
22 sure that the pump station works, to make sure that
23 the weir is reconstructed to a state of
24 functionality that would allow a little better

1 operation of the -- of the pumping down of that
2 southeast corner.
3 We can't pump it down completely, because
4 that's a violation of the Wetlands Protection Act as
5 well. You've got to find a balance between
6 addressing those drainage issues and maintaining
7 wetlands in an unaltered state in terms of the
8 Wetlands Protection Act. So you've got kind of
9 competing interests there.
10 But again, this project is fully compliant
11 with the Wetlands Protection Act and I think has
12 gone beyond the required standards in terms of
13 looking at issues associated with the pump station,
14 and the weir, and also providing a monetary donation
15 to -- to work on some of the ditches in the area
16 to -- to kind of remove vegetation so that they can
17 operate a little bit more efficiently.
18 **MR. WITTEN:** Mr. Chairman.
19 **CHAIRMAN SALTZMAN:** Sure.
20 **MR. WITTEN:** Could I just maybe add a
21 couple of things to the record:
22 The Conservation Commission obviously
23 disagreed with Mr. Lowry, and now it's up to DEP to
24 determine, and perhaps the courts, as to whether

1 this project complies with the Wetlands Protection
2 Act.
3 I think the second comment is Mr. Lowry
4 referred to the local bylaw, compliance with the
5 local bylaw. But the record's clear that the
6 Applicant refused to file under the local bylaw.
7 The Conservation Commission issued a denial under
8 the local bylaw, so at least, as we sit here today,
9 there is no compliance with the local bylaw.
10 That decision to deny under the bylaw was
11 not appealed by the Applicant, so that decision has
12 been recorded.
13 **MR. LOWRY:** I think the point is, is we've
14 made sure that things are pulled back from the edge
15 of the wetlands by the 25-foot, which is the
16 local -- locally desired setback distance, and that
17 was the intent of doing that.
18 **MR. WITTEN:** And then the third thing,
19 Mr. Chairman, just in response to Mr. Lowry's
20 comments, is with regard to the consent orders, the
21 Conservation Commission issued an enforcement order
22 with a compliance date of September 30th, 2015. The
23 landowner has appealed the Conservation Commission's
24 decision, and the Conservation Commission has filed a

1 counterclaim seeking enforcement.
2 So that matter will be adjudicated by
3 another body in another forum.
4 **CHAIRMAN SALTZMAN:** So that's a live
5 question.
6 **MR. WITTEN:** But that is very much a live
7 question as to whether or not the enforcement order
8 issued by your Conservation Commission is going to be
9 complied with. Because the Con.Com. concluded that
10 there wasn't compliance with the consent order and
11 that there wasn't compliance with the Wetlands
12 Protection Act local bylaw.
13 So that matter is -- is teed up now in
14 superior court.
15 **CHAIRMAN SALTZMAN:** Thank you.
16 **MR. GALLOGLY:** Mr. Chairman, can I just
17 respond.
18 We're not the landowner. The enforcement
19 order was issued against the landowner.
20 **MR. WITTEN:** I believe I said that, and if
21 I didn't, then I stand corrected. It's against
22 Weiss Farm, Inc.
23 **MR. GALLOGLY:** I just want to point out
24 that we did not apply for the order of conditions

1 under the local bylaw. We were denied. I've never
2 seen a situation where an applicant who doesn't file
3 an application can be denied.
4 **MR. WITTEN:** Well, you know, it's
5 interesting, Mr. Chairman, because the Applicant
6 doesn't want to revisit what happened in the
7 Con.Com., but the Applicant's revisiting what
8 happened at the Con.Com.
9 The application --
10 **MR. GALLOGLY:** I was just responding to
11 your statement.
12 **MR. WITTEN:** The application, during the
13 public hearing process, was clear that there was an
14 application under the bylaw, and the Commission
15 denied under the bylaw. So that matter, unappealed,
16 has been resolved, and it has been resolved in that
17 the Conservation Commission denied under the local
18 wetlands bylaw.
19 **CHAIRMAN SALTZMAN:** Mr. Shulman, did you
20 have a question?
21 **MR. SHULMAN:** Yeah. It feels like a small
22 question in the context of the discussion.
23 **CHAIRMAN SALTZMAN:** No. No. No.
24 **MR. SHULMAN:** But there is 100-foot buffer

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1 zone from the wetland, which is in -- nine
2 o'clock -- which is indicated on the plan. My
3 experience has been that the 100-foot buffer,
4 although not as strict as the 25-foot no-build
5 buffer, is still a relevant buffer. And the
6 project, as proposed, seems to fill the majority of
7 that buffer with parking.

8 Could you speak to the approach of the
9 project in -- in essentially filling that buffer
10 zone? Or do you not view that buffer zone to be a
11 relevant one?

12 **MR. LOWRY:** Well, it's obviously a
13 jurisdictional area. It is not a resource area.
14 There are no performance standards in the
15 regulations that tell you what you can and can't do
16 within the buffer zone. The buffer zone is -- when
17 you're proposing work within it, you need to notify
18 the Conservation Commission and take appropriate
19 measures to make sure that the actual resource areas
20 are not impacted. But it's not at all uncommon to
21 have work go forward in the buffer zone, and it is
22 not uncommon also to have some reasonable setback,
23 such as 25 feet from the limit of the wetland, to
24 make sure that the wetland is not actually altered

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1 by those activities in the buffer zone.

2 But there is no prohibition to work within
3 the buffer zone nor strict performance standards
4 which regulate that work.

5 **CHAIRMAN SALTZMAN:** Is there anyplace where
6 it's advised that, you know, the -- you get the
7 25 feet setback, the next 75 feet almost all the way
8 around it are parking?

9 **MR. LOWRY:** Again, you have to look at the
10 specifics of the buffer zone under -- in terms of
11 existing conditions, what happens in those buffer
12 zones now and what's going to happen there under the
13 post-development condition.

14 And in my experience, looking at the storm
15 water management standards here, and some of the
16 other landscaping and so forth, the things that are
17 happening within this buffer zone are such that it
18 will maintain the integrity and the functions of the
19 wetland, and that's what the buffer zone is there
20 for. We're going to make sure that -- that recharge
21 is accommodated within the uplands, and recharge is
22 distributed among the site around the buffer zone.
23 We're going to make sure water quality is treated in
24 terms of anything coming from the site that moves

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1 through the buffer zone to the wetlands.

2 So, in my experience, there is nothing
3 happening within those buffer zones that's going to
4 be -- adversely affect the wetlands that it's --
5 that it's -- that it borders on.

6 **MR. SHULMAN:** So maybe you can just speak
7 to that a little bit more, then, and explain how --
8 I mean, cars are dirty. They leak oil. They have
9 heavy metals from their brakes. There is various
10 things that are -- pollutants that are bad for
11 wetlands, as far as I understand it. Rain falls,
12 washes that on to pavement, and eventually it sheet
13 flows off the pavement and down through that 25-foot
14 buffer and into the resource area, presumably.

15 Can you respond to that how --

16 **MR. LOWRY:** Sure.

17 As Jim has mentioned, the storm water
18 management system was designed really for two
19 primary purposes: One is to make sure that the peak
20 rate of runoff does not change pre to post; and
21 secondly, to address water quality issues, to make
22 sure that water quality is treated in a treatment
23 train as it runs off of the paved surfaces and areas
24 that cars are parking in and off of roof tops. And

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1 so as it moves through the storm water management
2 system, those pollutants are attenuated by various
3 measures. There is direct settling. There is --
4 there is filtration through soil. There is
5 biochemical activities. And so it's very well
6 established at this point in time that those storm
7 water management measures that are part of the storm
8 water system attenuate those pollutants and protect
9 the receiving resource areas -- whether they be
10 wetlands, or streams, or the ground water system --
11 and that's how the whole system is designed to make
12 sure that it does work appropriately.

13 **MR. SHULMAN:** So water that falls and hits
14 the paved areas all in that 100-foot buffer zone,
15 that all gets treated?

16 **MR. LOWRY:** Correct. That is correct.

17 **CHAIRMAN SALTZMAN:** Any other questions?
18 Mr. Sullivan.

19 **MR. SULLIVAN:** Sure. Would now be the time
20 to bring up snow? How would they remove ice and
21 such? That would be in that 100-foot zone also.
22 Would it relate to that?

23 **MR. LOWRY:** I don't recall. We had a snow
24 removal plan. It's basically you're required to

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1 have a snow removal plan, and I don't recall the
2 details of it at this point.
3 Do you recall, Jim?
4 **MR. WHITE:** As part of our storm runoff
5 analysis and operation and maintenance plan, there
6 was a snow storage plan in that package which
7 indicated locations where snow could be stockpiled
8 on site, or piled on site.
9 **MR. SHULMAN:** Can you just describe that to
10 us? Where is the snow stockpile? Could you just
11 show us on the --
12 **MR. SULLIVAN:** I can't find it amongst
13 my -- my weekly reading list. It's very hard to do
14 this and run a business at the same time.
15 **MR. WHITE:** It's in that April storm water
16 report, which is very, very thick. And it may be
17 better just to bring a plan next time rather than
18 try to point out locations.
19 **MR. SULLIVAN:** Yeah. If you could.
20 **MR. WHITE:** I think that would work better.
21 **MR. SULLIVAN:** And the other concern I have
22 is, you know, deicing materials -- salt, sand and
23 such -- I know I see in a lot of areas I'm going
24 through maybe a reservoir area and there is all

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1 sorts of signage about no salt or sand being in use.
2 So I would like that also addressed.
3 **MR. WHITE:** Okay.
4 **MR. SULLIVAN:** Thank you.
5 **MR. WHITE:** Sure.
6 **CHAIRMAN SALTZMAN:** Any other questions
7 from the Board?
8 Mr. Houston.
9 **MR. HOUSTON:** Yes, Mr. Chairman.
10 **CHAIRMAN SALTZMAN:** Would -- please.
11 You've heard considerable testimony tonight
12 in connection with the wetlands area. I know you've
13 had opportunity to study it.
14 Can you offer the Board some guidance as to
15 where our inquiry should go at this point.
16 **MR. HOUSTON:** Certainly, Mr. Chairman.
17 We did review the storm water, the overall
18 site layout, its impact to the wetlands, et cetera,
19 as part of our original review.
20 Earlier this week we received the
21 supplemental filings that have been discussed in
22 terms of the area-wide drainage study, the study of
23 the pump station, some additional infiltration
24 calculations, indicating compliance with Standard 3,

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1 et cetera. We have gone through those
2 superficially. We need to do some additional
3 analysis.
4 I think my comment would be that many of
5 the responses to the issues regarding wetlands and
6 regarding storm water were qualitative in nature.
7 And I did speak to Jim earlier this evening about
8 maybe getting together because, by way of example,
9 we raised concerns about fill impacting the
10 infiltration facilities.
11 We received written responses saying,
12 "Well, in this area the fill is granular; it's okay
13 to leave. In this area, it isn't." But there was
14 no technical backup to that. So we have the -- the
15 answers in words, but I think we need to delve into
16 them to get a quantitative basis for -- for those
17 responses.
18 I guess with respect to the big issues of
19 storm water management, I think we initially raised
20 the issue that the design point selected for the
21 calculations is not correct. It should, in fact, be
22 a point that reflects the overall hydrology of the
23 area, and that includes the adjacent wetland. It's
24 a requirement of standard engineering practice to

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1 not only model a site in isolation, but to model
2 typically off-site areas that flow onto the site or
3 whatever.
4 In this instance, we have a very large area
5 of relatively level, for lack of a better term,
6 ponded water that surrounds the site that will
7 affect and impact the site, and we don't really know
8 what the controls are there. I know that the
9 area-wide drainage study estimated total flows into
10 that wetland area, but doesn't really tell us what
11 happens now or what happens post development
12 quantitatively. I think we need to expand the
13 drainage calculations to include the upland areas
14 that intimately affect the hydrology, surface water
15 and ground water of the site.
16 I think our comments and concerns about the
17 pump station remain fundamentally unanswered. Jim
18 did a credible engineering evaluation of the pumps
19 and the function of the station now, but I think our
20 recommendations for alternating pumps and for
21 standby power remain in place. And in order to
22 design an upgraded station, you really need to know
23 the water coming into it, which is, again, why you
24 need to expand the drainage calculations.

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1 From the area-wide drainage study that was
2 submitted I learned, in fact, that there are two
3 outlets to this larger wetlands system, and one
4 functions dominant at one time and it sort of shifts
5 back and forth, so I think it's necessary to
6 evaluate that and determine its impact on the
7 project.

8 With respect to the wetland issues that we
9 heard about, I concur with Mr. Shulman's concerns.
10 It's correct that there is no quantitative limit on
11 the alteration of buffer zone in terms of the
12 5000 square feet we often hear with respect to
13 alteration of wetland itself, but I think it is
14 unusual to have a project which so extensively
15 alters buffer zone.

16 The reason the buffer zone exists is that
17 activities within the buffer zone have a high
18 potential to alter the wetlands themselves. If you
19 have a very significant portion of the buffer zone
20 altered, not so much for storm water management
21 facilities -- and you see that quite a bit -- but
22 for parking and other hard site improvements, I
23 think there is just an inherent potential for that
24 work to -- to impact the wetland.

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1 I guess the way I phrased my comment may
2 have been unfortunate, because I suggested the
3 solution was to seek input from the Conservation
4 Commission, and the Rackemann letter responds, "Well,
5 that's in appeal," et cetera. So that is true. So
6 I guess I would rephrase it and just raise the
7 concern about the potential impact on the wetlands
8 due to the extensive alterations of the buffer zone.

9 Less is more in this case, to quote Le
10 Corbusier, the architect. So if we could alter less
11 of the buffer zone, that would be highly beneficial.
12 If that's not within -- consistent with maintaining
13 the program, well, we'll have to look at the issue
14 at that point.

15 So...

16 **CHAIRMAN SALTZMAN:** Does the -- does the
17 pump station itself make this a somewhat unusual
18 site, the way that -- you know, the way the water
19 seems to congregate on one end of the place, that
20 the fact that you've got flooding off site next to
21 the -- in the adjoining areas, you've got -- you
22 know, and then you've got flooding further down
23 the -- on the other side of Franklin Street. It's
24 almost like you're stuck having to pick your poison.

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1 Where is it going to go? It's not going to stay
2 here.

3 **MR. HOUSTON:** Well, that's another reason,
4 of course, to analyze it.

5 It's pretty unusual to pump storm water in
6 any instance. I mean, you see it in very urban
7 situations like Storrow Drive where it's halfway
8 under the river level. They pump storm water there.
9 But it's pretty unusual to have it in a suburban
10 situation.

11 I don't know, looking back, what led to the
12 design considerations of what inverts place the
13 culvert at and things like that, but it is kind of
14 complicated because I've gone out there, oh, maybe a
15 month or a month and a half ago. It wasn't a
16 particularly rainy time, and yet the pump was going
17 full force, and it wasn't functioning properly. It
18 was spilling over the sides, et cetera.

19 So, you know, it's a pretty complex
20 situation. I know they turn it off in the winter.
21 They turn it off when the water level reaches a
22 certain point. But, you know, I think we need to
23 understand that in additional detail, and I think we
24 need a more reliable pump.

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1 I mean, if you have a -- a septic system
2 for a house, it has dual pumps that alternate. So I
3 think if you've got a 550-gallon pump, you would
4 probably want pumps that alternate, among other
5 reasons, if one of them does break, the other one
6 kicks in and allows the storm water to be pumped
7 until that pump -- excuse me -- can be replaced.

8 So I think some of our concerns about storm
9 water were answered, particularly the impacts of
10 fill on certain of the systems, but again there is
11 no quantitative basis for it. I think our
12 fundamental concerns about the nature of the storm
13 water modeling, even though, as the Applicant made
14 the point, the volumes do balance from the site, I
15 still don't think that's how you analyze this
16 particular area. It's a complex area. We have to
17 understand it because it impacts the project.

18 **CHAIRMAN SALTZMAN:** On the issue of
19 replacing the pump and having a backup pump, is --
20 is cost a significant factor on that? I mean, I
21 don't think this pump that's in there right now
22 seems to owe anybody anything. Right? It's more
23 than --

24 **MR. HOUSTON:** Although I think Mr. White

1 said it's been replaced a few years ago, but the one
2 that was in there since 1950 to 2000-something
3 certainly didn't owe anyone anything.
4 But yeah, I mean, at some point a pump is
5 going to break, so I think the idea of an
6 alternating pump, you know, it helps the wear of the
7 system, extends the life, and provides that safety
8 backup in case you need to pump when one of the
9 pumps malfunctions. That's just a standard
10 engineering approach to any type of pumping
11 facility, and certainly one of this magnitude, so...
12 **CHAIRMAN SALTZMAN:** And it would be backed
13 up by a generator?
14 **MR. HOUSTON:** Yes. Yes.
15 **CHAIRMAN SALTZMAN:** Questions from the
16 Board?
17 **MR. SULLIVAN:** I think they -- I think
18 they're pumping their sewage there; isn't that
19 correct?
20 **MR. HOUSTON:** From the proposed project?
21 **CHAIRMAN SALTZMAN:** That's a happy thought.
22 **MR. SULLIVAN:** Yes.
23 Isn't that what's proposed?
24 **MR. HOUSTON:** I don't recall, exactly.

1 **MR. WHITE:** Yes, that's correct.
2 **MR. SULLIVAN:** And last time we were going
3 to -- that was one of the questions you were going
4 to get back to me on was the type of generation.
5 You said you were -- possibly could use natural gas,
6 and we were going to get a size of a generator that
7 would be required, whether it was natural gas. If
8 it was a standard diesel generator, what would be
9 the number of gallons. And I would hate to see
10 diesel in a wetland area.
11 **MR. WHITE:** I assume at this time, as long
12 as regulations don't change, that we'd be using
13 natural gas as our source of power for the
14 generator.
15 **MR. SULLIVAN:** I'm not positive, but I'm
16 pretty sure that's up to the local jurisdiction,
17 correct? Whether or not they accept a natural gas
18 or the diesel.
19 **MR. WHITE:** That's correct.
20 **MR. SULLIVAN:** Because I know some don't.
21 And then I don't think, if it was proposed
22 and everything went through, that I would hope that
23 the generator would be of sufficient size to also
24 make sure that in a power outage that those pumps

1 would be able to operate.
2 **MR. WHITE:** That's correct. The generator
3 would be sized for the pumps to operate, so there
4 would be no stoppage in pumping.
5 Oh, I'm sorry. Are we going back to storm
6 water or are we going to sewage?
7 **MR. CICALTELLI:** Are you referring to the
8 pumping station?
9 **MR. SULLIVAN:** Both. What I was bringing
10 up was that the -- you are pumping -- proposing to
11 pump the sewer, correct?
12 **MR. WHITE:** That's correct.
13 **MR. SULLIVAN:** That's waste?
14 **MR. WHITE:** That's waste, right.
15 **MR. SULLIVAN:** Correct?
16 So the conversation that we have when you
17 were going to propose it to pump the waste, there
18 was a conversation of a standby generator to make
19 sure that waste could always be pumped.
20 My comment is, if there is a standby
21 generator there, I'm concerned about if it's diesel
22 in a wetland area. And I also want to know how much
23 fuel it would carry. I know that the natural gas is
24 another option that's available, and like I just

1 stated, I believe that's up to the local
2 jurisdiction as to whether or not they find it, you
3 know, sufficient for that use.
4 And I said I would just hope that if you
5 have to put a generator in there, that it would be
6 of sufficient size to carry any pumping that would
7 be required for storm water management.
8 **MR. WHITE:** Okay.
9 **MR. SULLIVAN:** That was more of a
10 suggestion, because I knew we had already talked
11 about having a generator there, so --
12 **MR. WHITE:** Okay.
13 **MR. SULLIVAN:** -- if it's sized
14 accordingly, it shouldn't be an issue, and I'm sure
15 that wouldn't be an issue, either.
16 **MR. WHITE:** That's a good point.
17 **MR. SULLIVAN:** That's all.
18 **CHAIRMAN SALTZMAN:** Any other questions?
19 Sure.
20 **MS. McBRIDE:** Hi. Ellen McBride, 30 Butler
21 Ave.
22 I just wanted to make a few clarifications
23 for the record of points that have come up during
24 tonight.

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1 One is I think, Dennis, you referenced Army
2 Corps of Engineers digging the ditches. And I know
3 in a letter I think Peter, you presented it months
4 ago, that, in fact, it was rumored, or -- no one's
5 ever been able to clarify that.
6 I, myself, contacted Army Corps of
7 Engineers. They have no records whatsoever that
8 they dug the ditches. So I just want -- no one
9 knows who dug them. I just don't people to think it
10 was Army Corps.
11 And then when you say you're out of the
12 25-foot no-disturb zone everywhere on the project,
13 if I'm remembering, on the northeast section of the
14 project, isn't there a bridge that goes over to
15 three acres of upland?
16 **MR. WHITE:** There is an existing little
17 concrete bridge in that location.
18 **MS. McBRIDE:** Right. So that's in the
19 25-foot no-disturb zone, right?
20 **MR. WHITE:** That's an existing bridge.
21 **MS. McBRIDE:** Right. But aren't you
22 planning on fixing it?
23 **MR. GALLOGLY:** Not unless you allow us to
24 do that.

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1 **MS. McBRIDE:** But the part of the project
2 is not 25-foot no-disturb zone.
3 **MR. GALLOGLY:** No. That's not -- that's
4 not part --
5 **MS. McBRIDE:** In your -- in one of the
6 parts of your project you talk about:
7 "And a lovely bridge that leads to
8 three acres of upland."
9 So it kind of is in your project, so I'm
10 just --
11 **MR. GALLOGLY:** In its existing condition.
12 **MS. McBRIDE:** I agree.
13 But I'm just saying, you say the whole
14 project is outside the 25-foot, and it's not.
15 You're not -- I'm not saying you're altering it; I'm
16 just saying it's part of the project.
17 And the hay bales you talked about that
18 Mrs. Weiss and Weiss Farm have been very good about
19 replacing all along, they only replaced them after
20 we did a site walk and we asked them to replace
21 them, because all the hay bales that had been put in
22 2012 were all degraded. So we asked them to put
23 them in. And they weren't put in, and we asked them
24 again, and then they were put in.

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1 And I think, Mr. White, you said the pump
2 was replaced a few years ago. Do you know when it
3 was replaced?
4 **MR. WHITE:** In my pump report it has in
5 there when it was replaced, the exact year.
6 **MS. McBRIDE:** Okay.
7 **MR. WHITE:** I don't know off the top of my
8 head.
9 **MS. McBRIDE:** Like after 2010? Or after
10 2000? I don't want to put you on the spot, but --
11 **MR. WHITE:** I would have to look at my
12 report.
13 **MS. McBRIDE:** That's fine.
14 **MR. WHITE:** But I believe it was after
15 2000.
16 **MS. McBRIDE:** And Dennis, you referenced
17 that this was agricultural land, and it's not.
18 Donna lost her agriculture license years ago, and
19 that was a long contentious fight with the town. So
20 it's not agricultural land. She doesn't get any
21 benefits of agricultural --
22 **MR. LOWRY:** I was basing my statement on
23 the definition of "agriculture" under the Wetlands
24 Protection Act --

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1 **MS. McBRIDE:** Okay.
2 **MR. LOWRY:** -- and the guidance that's
3 provided by the DEP.
4 **MS. McBRIDE:** Okay. I wanted to make it
5 clear that it's not a farm any longer.
6 **CHAIRMAN SALTZMAN:** That's a question that
7 we're not going to resolve among ourselves tonight.
8 **MS. McBRIDE:** I know. And then one more
9 point.
10 And I think last meeting we talked about
11 nobody had the numbers of what is -- I don't know
12 what the right terms are -- but when you talked
13 about removing two levels, that would drop it down
14 20 feet. If you removed all five, it would drop it
15 down 50 feet, and what was the before and after of
16 ground level.
17 I think you have that information tonight,
18 so maybe you can revisit that question.
19 **CHAIRMAN SALTZMAN:** Okay.
20 **MS. McBRIDE:** If you want to. Thanks.
21 **CHAIRMAN SALTZMAN:** Mr. Houston, just very
22 quickly.
23 **MR. HOUSTON:** I just wanted to follow up on
24 the comment that was made about the Corps of

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1 Engineers ditch and potential easements.
2 That was one of our comments and a concern,
3 because it would be, in my judgment, highly unusual
4 for the Corps of Engineers to have constructed
5 something and not maintained some kind of rights to
6 go in and maintain it.
7 In response to that, I believe the
8 Rackemann letter said something like there is no
9 evidence of an easement or whatever, but I do think
10 it's important that there be a detailed title search
11 of that particular issue. Because if the Corps has
12 any rights in that, and if the applicant can't touch
13 it or discharge into it without a Corps permit, it
14 really sort of leaves us up in the air.
15 So I didn't -- I couldn't determine from
16 the response whether there had been a detailed
17 evaluation of that issue or not. So...
18 **CHAIRMAN SALTZMAN:** Is there a response?
19 **MR. MAHONEY:** We've done extensive title
20 research on the site and have not found anything
21 that would indicate the Corps has any rights on the
22 site. I think the -- the historic, anecdotal
23 information was that this was a Corps project, but
24 we have not -- we don't have any -- there is no

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1 easements, as far as our title research, have turned
2 up, and we've done extensive research.
3 **CHAIRMAN SALTZMAN:** I always thought the
4 Army Corps of Engineers wrecked a site and ran. But
5 hey, I don't know.
6 At this time perhaps it might be wise to
7 entertain a motion?
8 Yes, sir.
9 **MR. BENNETT:** Arthur Bennett, 7 Sunset
10 Road, Stoneham.
11 I live adjacent to the brook on Sunset
12 Road. When there is several inches of rain, my
13 property is like a swimming pool. This development
14 will impact more flooding on my property, especially
15 in the basement. The water in the brook now is
16 practically stagnated.
17 **CHAIRMAN SALTZMAN:** Thank you.
18 Anybody else?
19 **MR. ROTONDI:** I would like to make a motion
20 to adjourn.
21 **MR. WITTEN:** Mr. Chairman, can I just ask
22 one question before the Board votes on that.
23 Last week I asked Mr. Mahoney about the
24 MEPA status, so I just wanted to ask that question

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1 again tonight.
2 **MR. MAHONEY:** We have not filed. We plan
3 to file, I would guess, within the next week.
4 **MR. WITTEN:** Within the next week?
5 Prior to the next meeting?
6 **CHAIRMAN SALTZMAN:** We're meeting again in
7 two weeks.
8 **MR. MAHONEY:** Yes.
9 **CHAIRMAN SALTZMAN:** You've got all the time
10 in the world.
11 **MR. MAHONEY:** Prior to the next meeting.
12 That's the plan.
13 **MR. WITTEN:** Thank you, Mr. Mahoney.
14 And the second question, Mr. Chairman, is
15 just some clarification, maybe it's from Mr. Engler,
16 as to whether or not -- or Attorney Cicutelli -- is
17 the Board going to see a plan for 120, 125 units?
18 **MR. ENGLER:** The Board will see a pro
19 forma. And if you hire a consultant of financial
20 expertise to look at the pro forma and you ask that
21 consultant what would happen if it were 125 units,
22 that's something that that consultant can look at,
23 make a comment on, and we can respond to it.
24 So we plan on giving you a pro forma very

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1 shortly.
2 **MR. WITTEN:** So I appreciate that,
3 Mr. Engler. But my question is, is --
4 **MR. ENGLER:** No, we won't be doing a
5 modified plan. We have -- we're living with the
6 plan we've submitted.
7 **MR. WITTEN:** And when would the Board
8 expect the pro forma?
9 **MR. ENGLER:** Oh, I would say ten days.
10 Before the next meeting.
11 **MR. WITTEN:** Before the next meeting?
12 Because, Mr. Chairman, taking --
13 **MR. ENGLER:** No?
14 Before not the next meeting, but the
15 meeting after that, we'll have it.
16 **MR. SULLIVAN:** The 18th of November
17 meeting, sir?
18 **CHAIRMAN SALTZMAN:** The meeting on the
19 12th?
20 **MR. CICATELLI:** The 12th and the 18th,
21 Mr. Chairman.
22 **CHAIRMAN SALTZMAN:** We're counting ten days
23 from today.
24 **MR. ENGLER:** Well, I said that. I work for

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1 my client, who said it would be a little longer.
2 **CHAIRMAN SALTZMAN:** Don't be shy,
3 Mr. Engler. It's the first we've seen of that.
4 **MR. ENGLER:** Very shy.
5 You will have it, though, before.
6 **CHAIRMAN SALTZMAN:** Fair enough.
7 **MR. WITTEN:** Thank you, Mr. Chairman.
8 And I'll have a recommendation to take
9 Mr. Engler up on that offer, and I'll have the
10 recommendation to the Board for a pro forma
11 consultant review.
12 And then my last question, if I could,
13 Mr. Chairman, is:
14 Mr. White, do you have any written
15 submissions other than the updated reports, any
16 testimony, any report other than the Rackemann,
17 Sawyer letter which I think you are referenced at
18 least by implication on? Do you have any comments
19 to Mr. Houston's report?
20 **MR. WHITE:** No.
21 **MR. WITTEN:** Written comments?
22 **MR. WHITE:** They're included in our
23 attorney's letter, our responses.
24 **MR. WITTEN:** Your attorney's letter is

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1 signed by -- by your attorney.
2 Are they your comments?
3 **MR. WHITE:** I helped craft those comments.
4 **MR. MAHONEY:** Mr. Chairman, could I just --
5 **MR. WITTEN:** Did you craft -- could I just
6 finish, Mr. Mahoney?
7 Did you craft all of the comments? Some of
8 the comments?
9 **MR. CICATELLI:** Mr. Chairman, it's --
10 **MR. MAHONEY:** The comments from Mr. Houston
11 were obviously multidisciplinary, and we had, you
12 know, input from many, many team members and --
13 **MR. WITTEN:** Mr. Chairman, just for the
14 record, the Board --
15 **CHAIRMAN SALTZMAN:** I think the question
16 is, the -- if there could be some indication as to
17 whose comments --
18 **MR. MAHONEY:** We could do that.
19 **CHAIRMAN SALTZMAN:** -- that would be --
20 **MR. MAHONEY:** We will do that.
21 **CHAIRMAN SALTZMAN:** That would be most
22 helpful.
23 **MR. WHITE:** I responded to those comments
24 that dealt with the civil engineering aspects of the

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1 project.
2 **CHAIRMAN SALTZMAN:** Sure. If we could just
3 know who said what, that would be somewhat helpful.
4 And on that happy note, Mr. Rotondi, do you
5 have a motion?
6 **MR. ROTONDI:** I would like to make a motion
7 to adjourn.
8 **MR. SULLIVAN:** Time and place?
9 **MR. WITTEN:** To continue.
10 No, not to adjourn. To continue.
11 **MR. SULLIVAN:** Continue.
12 **MR. ROTONDI:** To continue to November --
13 **MR. SULLIVAN:** November 12th, 7:30 p.m. in
14 this room, and I would second that.
15 **CHAIRMAN SALTZMAN:** All right.
16 All those in favor.
17 (Chorus of ayes)
18 **CHAIRMAN SALTZMAN:** All right.
19 **MR. CICATELLI:** Mr. Chairman, that would be
20 traffic that evening would be the plan?
21 **CHAIRMAN SALTZMAN:** Traffic and more water,
22 I suppose.
23 **MR. MAHONEY:** More water, you suppose.
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1 (Whereupon, the hearing was
2 continued at 9:27 p.m.)
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1 C E R T I F I C A T E
2 I, Alexander K. Loos, Registered Diplomate
3 Reporter, do hereby certify that the foregoing
4 transcript, Volume VIII, is a true and accurate
5 transcription of my stenographic notes taken on
6 October 28, 2015.

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11 Alexander K. Loos
12 Registered Diplomate Reporter

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