

In The Matter Of:

*Massachusetts Environmental Policy Act (MEPA) Office
Re: The Commons at Weiss Farm, Stoneham, EEA # 15444*

*MEPA Site Meeting
January 6, 2016*



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Notes

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EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS
MASSACHUSETTS ENVIRONMENTAL POLICY ACT (MEPA) OFFICE

MEPA Site Meeting Re
EEA# 15444
The Commons at Weiss Farm, Stoneham

Before: Alexander Strysky

Held at:
Stoneham Town Hall
35 Central Street
Stoneham, Massachusetts
Wednesday, January 6, 2016
2:06 p.m.

Alexander K. Loos
Registered Diplomat Reporter

* * * * *

1 So the agenda for the meeting will be that
2 first I'll give a brief overview of the MEPA
3 process; then I'll ask the proponent to give a brief
4 presentation about the project, and then we'll just
5 take questions, or really comments is mostly what I
6 would like to hear. You know, these meetings are
7 really for the benefit of the analysts in that case
8 to get more information about the project that the
9 proponent hasn't provided, to get more information
10 about environmental impacts, about existing
11 conditions and about the concerns of the neighbors
12 or other residents in the town. Okay?

13 So just to start off by saying MEPA is not
14 a permitting process. It's more of a comprehensive
15 review of projects conducted by the Secretary of the
16 Executive Office of Environmental Affairs. It's
17 Matthew Beaton. And the purpose -- the -- MEPA is
18 invoked when a project requires a state agency
19 action -- typically a permit, but it could be state
20 funding as well, or transfer of state property --
21 and it's -- and the project exceeds certain
22 environmental thresholds that are in our
23 regulations. So in this case, the project requires
24 a superseding order of conditions from DEP, and it

1 PROCEEDINGS

2 **MR. STRYSKY:** Good afternoon, everyone.
3 We're just waiting for the recording to get started.

4 **MS. McBRIDE:** George, are you ready for us?
5 Yep.

6 **MR. STRYSKY:** Okay. Good afternoon,
7 everyone. My name is Alex Strysky. I'm from the
8 MEPA office. MEPA stands for Massachusetts
9 Environmental Policy Act, and we're here today
10 regarding the Commons at Weiss Farm project, which
11 I'm sure you're all familiar with, which is
12 undergoing review by the MEPA office.

13 So I just wanted to say that the -- you
14 know, our meetings are typically very informal.
15 It's not a public hearing, so it will be a
16 combination of a public hearing/informal meeting.
17 So we'll try to keep things organized, but I just
18 wanted to let you know that I will not be taking
19 minutes of the meeting, so really the only way to
20 submit comments to us is in writing. I'll get to
21 that later, again. So I'll assume I'll be taking
22 notes of concerns, questions people have, but I just
23 wanted to make you aware that it's not a formal
24 hearing in that sense.

1 exceeds our environmental threshold for new
2 impervious area, greater than five acres of
3 impervious area.

4 So the purpose -- MEPA is not a permitting
5 process, but its purpose is to, again, do a
6 comprehensive review of projects, to provide
7 meaningful opportunities for public review of
8 projects, to help state agencies which do have to
9 issue permits or -- or provide financial assistance,
10 or whatever the state agency action is, and to
11 ensure that feasible measures to avoid damage to the
12 environment are taken and analyzed, typically
13 through an alternatives analysis -- which is a very
14 important part of the MEPA review -- and finally to
15 ensure that unavoidable impacts are minimized and
16 mitigated.

17 So this project, again, was required to
18 file an ENF -- that's Environmental Notification
19 Form -- which is sort of the first step in the MEPA
20 process. It can be also the last step, or it can be
21 the first step followed by environmental impact
22 reports. In this case, the project does not exceed
23 a mandatory threshold requiring an EIR, so the
24 secretary will be reviewing the ENF to determine

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1 whether any further review is warranted through a
2 draft and final environmental impact report.
3 Let's see. So I also meant to say that
4 our -- the scope of our review mirrors the state
5 agency actions. So one other state permit that may
6 be required is an approval from the Housing and
7 Community Development Department that may issue a
8 permit related to an appeal of the Zoning Board of
9 Appeals' review of the comprehensive permit. So
10 since that agency's permit scope is broad, ours is
11 broad as well. So in this case we'll be covering
12 wetlands, storm water, flooding, traffic, all the
13 major concerns I think that we've heard about so
14 far.
15 Okay. The secretary will, again, issue a
16 certificate on January 22nd, and that certificate
17 will determine whether the ENF complies with MEPA in
18 the sense that it has documented environmental
19 impacts, considered alternatives, identified
20 minimization and mitigation measures. It's, again,
21 not an approval. It means if the -- if the
22 secretary's certificate states that it complies with
23 MEPA, then the project can go to state permitting,
24 and the state agencies would either approve or deny

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1 the project on its merits.
2 If the secretary decides on -- in the
3 certificate on January 22nd that it requires further
4 MEPA review, then the certificate would identify a
5 scope of further analysis that's necessary for the
6 proponent to provide in the draft environmental
7 impact report. That then would be subject to
8 another comment period and public review. There
9 would be another certificate on the draft EIR, which
10 would then identify -- you know, review the draft
11 EIR and then it would identify further issues that
12 require analysis in the final impact report.
13 And then that would be followed by
14 public -- once the final EIR is filed, it would be
15 followed by another public comment period and
16 another certificate on the final EIR.
17 Okay. So the certificate on the 22nd will
18 identify which path it goes to, whether it's
19 finished with MEPA, the project is finished with
20 MEPA, or whether it requires further review.
21 And one other -- two other things I wanted
22 to point out is that the comment period is going on
23 until January 12th, so I, unfortunately, don't have
24 a business card. I can provide my e-mail address,

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1 or my mailing address, to anyone who wants to submit
2 comments. We accept comments by fax, by mail, by
3 e-mail, and -- but it should be in by January 12th.
4 After that time, you know, it makes it more
5 difficult to incorporate your comments or concerns
6 into the certificate.
7 I just wanted to now backtrack a little bit
8 and just mention why we're here today, rather than a
9 month ago. According to our deadlines, the -- this
10 meeting was originally scheduled for a month ago.
11 Totally by my oversight, I neglected to notify the
12 town boards and departments, so the proponent was --
13 you know, I mentioned that to the proponent right
14 away, once I realized I hadn't done that when we
15 conducted our site visit.
16 One thing about MEPA is that we cannot
17 extend comment periods on our own. The secretary
18 does not have the -- the ability to do that. It can
19 only be with the consent of the proponent or whether
20 it -- if the proponent requests an extension. So I
21 wanted to thank the proponent for agreeing to
22 actually two extensions of the comment period so
23 that we could have this meeting within the comment
24 period, you know, again based on initially the -- my

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1 failure to notice all the town boards, and then to
2 help schedule this so that people could attend. So
3 I just wanted to acknowledge that.
4 Okay. Are there any questions about how
5 the meeting will go? I'll be happy to answer
6 questions about the MEPA process more generally.
7 You know, there haven't been any final
8 determinations or decisions made on the project, but
9 if there are any questions about the MEPA process.
10 Yes.
11 **MR. EATON:** What is a superseding order of
12 conditions from DEP? What's that all about?
13 **MR. STRYSKY:** Okay. The -- so the question
14 was whether -- what is a superseding order of
15 conditions. And it's -- in this case there was a
16 permit issued by the -- or a denial, I guess, Issued
17 by the Conservation Commission, the Town of Stoneham
18 Conservation Commission, and the process under the
19 Wetlands Protection Act, an appeal -- if the
20 proponent appeals that denial -- which happened in
21 this case -- DEP is the agency that makes a ruling
22 about whether a permit should be issued or not.
23 **MR. EATON:** Do you know what the status of
24 that appeal is?

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1 **MR. STRYSKY:** They cannot finalize their
2 action until MEPA's finished. So if -- you know,
3 again, if there was -- if MEPA is done relatively
4 soon, then they would be progressing along. If MEPA
5 is extended because of an EIR being required, then
6 they would have to wait until that's done. But I
7 don't know if -- how far along they've -- DEP has
8 gotten in the analysis, but I know they cannot issue
9 a decision until after MEPA is finished.

10 Yes.

11 **MS. McBRIDE:** What are the -- do you need
12 name and address for the record?

13 What are the mandatory thresholds that
14 would trigger an EIR?

15 **MR. STRYSKY:** Good question. There are a
16 lot of them. Yeah.

17 The ones that might have been applicable
18 here are, let's see, creation of ten or more acres
19 of impervious area, and this was, you know, greater
20 than five but less than ten.

21 Let's see. There is wetlands impacts, you
22 know, wetlands projects that require wetlands
23 variances, for example, mandatory EIR. An acre or
24 more of BVW, bordering vegetated wetlands, would be

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1 a mandatory EIR threshold.

2 But there are also, you know, others -- and
3 traffic and -- but again, the impact has to be
4 related to the state permit that's needed in terms
5 of it being a mandatory.

6 So anyway, there is no DOT -- there is no
7 permit required in this case from the Department of
8 Transportation for an access onto a state highway.

9 So let's say, just speculatively, if the
10 project had exceeded an EIR threshold for traffic,
11 but there was no permit needed, then that would not
12 serve as a threshold.

13 It does exceed a traffic threshold for an
14 ENF, not an EIR. But, again, you know, typically we
15 wouldn't even look at the transportation impacts
16 except in this case we have broad scope jurisdiction
17 because of the potential appeal to Housing and
18 Community Development.

19 Yes.

20 **MR. WITTEN:** Alex, you are going to hear
21 testimony from me that a categorical threshold is
22 being exceeded --

23 **MR. STRYSKY:** Right.

24 **MR. WITTEN:** -- and that's the construction

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1 of the new dam.

2 **MR. STRYSKY:** I meant to get to that.

3 We do have a very detailed comprehensive
4 letter from the town that makes that argument, that
5 there is a mandatory EIR threshold, also that the
6 secretary should do a discretionary EIR. So that's
7 something we're taking to -- we're considering now.
8 We haven't made a final decision on that. We'll --
9 it's something we definitely will consider. I
10 didn't want to -- since we haven't decided one way
11 or the other, I didn't want to comment on that.

12 Okay. Yes.

13 **MS. HEMINGWAY:** Just wondering how long a
14 process is the EIR, roughly? Any idea?

15 **MR. STRYSKY:** If an EIR were to be
16 required, then it's really driven by the proponent
17 preparing the draft EIR. They have as long as they
18 want, essentially, but once they file with us, then
19 there is 30 -- 30-day public review and then
20 seven-day period after which the secretary has to
21 issue the certificate.

22 So it really depends on how long it takes
23 them to put everything together and file it with us.
24 Any other questions? Okay.

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1 Well, in that case, I'll turn it over to
2 the proponent for a brief -- I've asked them to make
3 it brief. I know, you know, everyone's familiar
4 with the project; and, again, I'm really interested
5 in hearing your concerns and comments.

6 **MR. MAHONEY:** So I know everyone is -- I
7 recognize almost every face in here, so I will keep
8 it brief. And the project has not changed since our
9 last public meeting with the Board of Appeals.

10 But just for those who aren't familiar,
11 just to orient everyone with the site, this is
12 Franklin Street out here. This is the existing
13 Weiss Farm farm buildings here. The project site is
14 shown here in yellow. The Weiss Farm farmhouse will
15 remain. The triangular portion here is -- will be a
16 separate lot. Mrs. Weiss would stay as our closest
17 neighbor. As part of the project, two of the farm
18 buildings, two of -- the barn and an adjacent
19 building would be demolished to allow for the
20 project.

21 **MS. DAY:** Peter, the problem is he can't
22 see.

23 **MR. STRYSKY:** I'm fine.

24 **MR. MAHONEY:** Thank you.

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1 The site's approximately 26 acres. About
2 12 of that is wetland. About ten of that in this
3 central area, which we consider the central
4 development area. That's bounded roughly by a
5 drainage moat that follows this line, which is --
6 has been delineated wetland. And as part of the
7 project, which I'll get to the actual site plan,
8 we've done our best and respected, in almost every
9 instance, the 25-foot no -- no-build line.
10 So this is the proposed site layout.
11 Again, Franklin Street out here; the Weiss Farm
12 residential house here, and that's the triangular
13 lot there. The proposal is 259 apartments,
14 organized throughout, again, the central development
15 area in five smaller townhouse buildings, which are
16 three stories, and then three larger apartment
17 buildings, which are five stories. They've been
18 oriented so as to minimize visual impacts from the
19 public way out on Franklin Street and to push some
20 of the density away from -- away from that area.
21 This line, which you can probably not see
22 very well, is the 25-foot no-build zone. The only
23 portion where we do intrude on that is to propose a
24 pedestrian crossing of the wetland to allow for some

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1 passive recreation space in this area up here, which
2 is upland.
3 We've focused our kind of central usable
4 amenity space in here. The central development
5 area, I believe, ends up being -- roughly half of it
6 ends up being vegetated open space at the end of the
7 project. Approximately almost 80 percent of the
8 entire site would be vegetated space when the
9 project was completed.
10 And I'll just touch on -- briefly on some
11 of the traffic. This shows various intersections up
12 and down Franklin Street where we have proposed --
13 the ones that are circled are proposed as -- all the
14 intersections shown here are intersections that have
15 been studied. Circled intersections show areas
16 where we propose signalization improvements. And
17 then, in addition to that, we've proposed off-site
18 improvements in front of the -- in front of the site
19 entrance, with a left-turn lane shown on Franklin
20 Street here, which would allow for left turn access
21 into the site. And then further down Franklin
22 Street, toward Melrose, we are showing a proposed
23 pedestrian crossing with a HAWK signal, a red light
24 beacon to allow for -- for safe pedestrian access or

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1 cross Franklin Street there.
2 So that's, again, a very brief overview of
3 the project.
4 Thank you. I'll leave these up here.
5 **MR. STRYSKY:** Okay.
6 **MR. MAHONEY:** Thank you.
7 **MR. STRYSKY:** So if there are any
8 questions, maybe some basic questions about the
9 project. Otherwise, you know, if people want to
10 offer testimony, I would appreciate it.
11 Yeah.
12 **MR. WITTEN:** I'll sit at the table,
13 Mr. Strysky.
14 **MR. STRYSKY:** Thank you.
15 **MR. WITTEN:** So thank you, Alex, for being
16 here. My name is Jon Witten, and Barbara Huggins,
17 my law partner, is here. We are representing, in
18 this matter, the Stoneham Board of Selectmen, the
19 Stoneham Board of Appeals, and the Stoneham
20 Conservation Commission.
21 And as you referenced, we submitted a very
22 detailed letter to you before the beginning of the
23 year outlining, particularly from the Conservation
24 Commission's and the Board of Appeal's perspective,

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1 the environmental impacts of this project. Both
2 boards, especially the Conservation Commission, know
3 this site intimately. They've dealt with it
4 through administrative consent orders for years, and
5 the Board of Appeals has been dealing with it
6 intensely since last summer.
7 As you noticed, Alex, the MEPA jurisdiction
8 is broad scope, because a permit is required from
9 DEP, and a SOC, superseding order, and a permit
10 would likely -- very likely be required from the
11 Department of Housing and Community Development, the
12 Housing Appeals Committee. That broad scope
13 jurisdiction, as you acknowledge, really includes
14 everything that's currently before the Board of
15 Appeals, and that's the basis of our comment letter
16 to you.
17 The ENF that you've received incorrectly
18 states that there is no financial assistance from an
19 agency of the Commonwealth. That's just wrong.
20 Mass. Housing issued a project eligibility letter.
21 The Supreme Judicial Court ruled many years ago that
22 that kind of technical assistance constitutes
23 financial assistance. So there is, in fact,
24 financial assistance from the Commonwealth.

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1 The ENF also acknowledges that the land
2 that is the locus is agricultural land and, as such,
3 the proposed project that Mr. Mahoney just presented
4 to you violates the Executive Order 193, the
5 conversion of agricultural land. This land has been
6 agricultural for many, many years. The ENF
7 identifies that at Page 13. And Executive Order 193
8 states quite clearly and unambiguously that state
9 funds and federal grants administered by the state
10 shall not be used to encourage the conversion of
11 agricultural land to other uses when feasible
12 alternatives are available. And as I'm going to
13 talk about in a minute, the applicant has done
14 nothing to provide MEPA with feasible alternatives.

15 As I indicated a few minutes ago during
16 your initial opening of questions, the project does
17 trigger a categorical threshold. It's the
18 requirement of a dam. It's 301 CMR 11.03(3). There
19 is no question about it, during the site visit,
20 people overheard the acknowledgement that a new dam
21 is required. The Conservation Commission identified
22 a new dam is required. There isn't anybody who's
23 been on the site that won't testify that a new dam
24 is required. The Applicant can categorize it all it

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1 wants, but it's a new dam, and it's a categorical
2 EIR. That's spelled out quite explicitly in our
3 comment letter.

4 Even if, assuming -- assuming the secretary
5 could conclude that an EIR wasn't categorically
6 required, we would argue most strongly, based on the
7 history of MEPA, that this is a poster child for
8 failsafe review. And the failsafe review would
9 start really from the beginning, which is the
10 extensive history of noncompliance of the locus --
11 not this Applicant, but of this locus -- with
12 administrative consent orders with penalties dating
13 back to 2006 and 2010. The letter we submitted to
14 your office details this extensively, and I
15 certainly won't bore the audience or you with
16 repeating that, but we would ask that to be taken
17 seriously, as well as the most recent enforcement
18 order from last year issued by the Conservation
19 Commission. Weiss Farm, the current owner, complied
20 with none of the enforcement order requirements from
21 2015 and complied with very few of the 2006 and 2010
22 enforcement orders.

23 And the reason it's a poster child for EIR
24 review is this is precisely what MEPA and an EIR is

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1 to do, is to look holistically at the environmental
2 impacts of a large project, especially where there
3 has been such an extensive ten-year history of
4 noncompliance.

5 The order of conditions that's subject to
6 the SOC before DEP now speaks very, very
7 specifically to the volume of runoff, the storm
8 water impacts of this project. The Applicant,
9 throughout its time with the Board of Appeals and
10 the Conservation Commission, has all but said, "It's
11 not my problem," and this ENF submitted to your
12 office says, "It's not my problem." It is their
13 problem, because it's this site that's generating
14 this impact of flooding and storm water runoff. And
15 again, the comment letter goes through that in some
16 detail.

17 One of the requirements of MEPA, 301 CMR
18 11.01(a) is:

19 "All feasible means to avoid damage to
20 the environment or, to the extent that
21 damage to the environment cannot be
22 avoided, to minimize and mitigate damage
23 shall be done to the maximum extent
24 practicable."

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1 This Applicant proposes nothing. Nothing.
2 And for that reason alone an EIR should be required.

3 The storm water management of this site, of
4 this proposed project, requires DOT participation.
5 And again, another underlying purpose of MEPA, to
6 get state agencies together and solve a problem
7 collectively as opposed to piece by piece, death by
8 a thousand paper cuts without MEPA. And this is an
9 opportunity for DOT to join in with DEP to solve the
10 problems exacerbated by this Applicant's proposal.

11 I think this most striking flaw of the ENF,
12 and maybe the most insulting to our clients, is the
13 fact that there are no meaningful alternatives
14 proposed. In the first application that the
15 developer submitted to MEPA, the Applicant stated
16 this -- this is the entirety of the project
17 alternatives analysis, quote:

18 "Current zoning would allow for
19 single-family residences. However, the
20 developer's experience mainly consists of
21 multifamily development with no recent work
22 in single-family residential development.
23 Further, the developer recognizes the need
24 for affordable housing in suburban towns ...

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1 and the Town of Stoneham has not met the
2 state's minimum threshold for affordable
3 housing."
4 That's it. Putting aside the fact that the
5 Applicant's wrong about Stoneham meeting it's 40(b)
6 quota, the Applicant has provided as a basis for no
7 alternatives that it doesn't do single-family
8 housing.
9 Well, that's not an alternatives analysis.
10 We all know what an alternative analysis is. This
11 Applicant has a very sophisticated firm working for
12 it, AECOM. They know what an alternative analysis
13 is, yet none's been submitted to MEPA. Then, upon
14 reflection, the Applicant decided to submit a
15 subdivision plan that is wholly unbuildable on this
16 property as a feigned alternatives analysis.
17 The purpose of the alternatives analysis,
18 contrary to the Applicant's argument, is not what's
19 good for the developer, but what is good for the
20 land pursuant to the MEPA statute. It's not to
21 examine the most viable or profitable venture for
22 the Applicant, but rather to examine the comparative
23 environmental impacts of the project and alternative
24 uses. The Applicant has failed to do that

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1 miserably. I've never seen, in my entire career in
2 this business, an Applicant who is so fatally flawed
3 in its alternatives analysis. An EIR is required
4 for that reason alone.
5 An EIR is required, Alex, because the
6 project is completely inconsistent with municipal
7 planning. The Town of Stoneham, through work at and
8 by MAPC, issued the Stoneham Strategic Action Plan.
9 This project violates that from beginning to end.
10 The Applicant ignored the plan in its entirety,
11 entirely because the project is so inconsistent with
12 the plan. An EIR should be required pursuant to the
13 MEPA regs to require an alternatives analysis
14 consistent with town plans, regional plans and plans
15 prepared by MAPC.
16 The proposed project is grossly
17 inconsistent with the neighborhood and principles of
18 site planning, and that's detailed in our letter.
19 The proposed project is grossly inconsistent with
20 commonsense traffic mitigation requirements, and the
21 most notable -- and then the letter goes into
22 extraordinary detail -- based on the work of the
23 Board's engineer, Jeff Dirk, who is maybe the
24 foremost traffic engineer in the Commonwealth.

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1 Because of the density of the project,
2 Mr. Dirk has testified that a left-turn lane is
3 required. The Applicant has proposed a left-turn
4 lane, but in proposing the left-turn lane on town
5 property -- which the Applicant has no right to --
6 the Applicant must wipe out perpetually any
7 opportunity for a bike path on Franklin Street.
8 That admission by the Applicant, that requirement to
9 build 259 units, is directly conflicting with the
10 Commonwealth's sustainable development plan,
11 directly conflicting with the MEPA regulations
12 regarding the mixed use of roadways, shared
13 roadways, and directly inconsistent with the Town of
14 Stoneham's long-term plans for a long-term bike path
15 proposal on Franklin Street.
16 Just to restate that, if I could, Alex,
17 this proposal will perpetually remove any
18 opportunity for a bike path on Franklin Street. If
19 this were private property, we would call it a
20 taking. Well, it's public property, and it's still
21 a taking. An EIR should be required to reduce the
22 scope of the development impact, require an
23 alternatives analysis so a left-turn lane wouldn't
24 be required.

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1 Well, Mr. Dirk has already provided that
2 testimony to the Applicant over the past several
3 months. It's 125 units or less based on traffic
4 engineering standards, and at 125 units or less the
5 Applicant would not need to construct a left-turn
6 lane. So MEPA should require an alternatives
7 analysis showing a project that doesn't require a
8 left-turn lane.
9 If MEPA were to not require an EIR -- which
10 we would respectfully suggest it can't, but if it
11 would -- we would say that -- or ask, respectfully,
12 that the ENF be conditioned on requiring -- and the
13 letter goes into this in great detail -- discussion
14 and compliance with storm water management impacts,
15 requirements on wetland impacts, requirements to
16 mitigate the impact on the loss of agricultural land
17 pursuant to Executive Order 193, to revise the
18 project in terms of size and scope based on site
19 planning and design requirements, and to remove the
20 project's requirement, or eradicating the left-turn
21 lane, because requiring the left-turn lane requires
22 removal of the bike path.
23 The purpose of MEPA, Alex -- and, of
24 course, you know this better than anybody in the

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1 room -- is not, as the Applicant would suggest, to
2 facilitate residential construction. The purpose is
3 to, quote:
4 "Provide meaningful opportunities for
5 public review of potential environmental
6 impacts of projects where state action is
7 required using all feasible means to avoid
8 damage to the environment or, to the extent
9 damage cannot be avoided, to minimize and
10 mitigate damage to the environment to the
11 maximum extent practicable."
12 This ENF accomplishes none of that. It's a
13 weak attempt at getting in the system and trying to
14 bypass MEPA review.
15 So on behalf of the Board of Appeals, the
16 Board of Selectmen and the Conservation Commission,
17 Alex, we would urge you to require an EIR, a
18 full-scope EIR for this project.
19 Thank you.
20 **MR. STRYSKY:** Thank you.
21 Would anyone else like to speak?
22 **MR. EATON:** My name is John Eaton of 18
23 Citation Ave. in Stoneham. I have lived here since
24 2003.

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1 I submitted a comment letter on the ENF
2 filed by the proponent. I -- I collected some names
3 of -- signatures from citizens -- by "signatures," I
4 just mean name and address; I didn't get them to
5 sign it -- I feel that probably somewhere between 5-
6 and 600 people by e-mail and by written letter to
7 get their comments on my letter. It was a four-page
8 letter. I didn't have any negative comments
9 whatsoever, and I had -- I collected 264 names,
10 which is a -- about roughly a little less than half
11 of the people that I contacted.
12 Topics that I covered in my letter were
13 inadequate storm water management planning that will
14 likely make the flooding problems worse, potential
15 destruction of remaining wetlands because of
16 building within 100 feet of the wetlands perimeter
17 as laid out in the -- in our -- in our Chapter 11 of
18 our wetlands, local wetlands code. The developer
19 doesn't give a darn about our wetlands code because
20 they say, "Well, we just comply with the state
21 requirements." Well, whoever put that in our
22 provision, put that in our town code, they got that
23 information from someplace; they're not just making
24 it up, and they clearly do have construction within

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1 that -- that 100 feet -- foot perimeter.
2 The -- the potential destruction of our --
3 the unacceptable increase in the traffic congestion
4 and related vehicle emissions is another huge issue.
5 The -- they did have a study. They say that it's
6 just going to increase the traffic 9.7 percent on
7 Franklin Street. Like that's, you know, just not
8 any big deal. Well, there is already too much
9 traffic and congestion on Franklin Street.
10 Franklin Street is a narrow road which
11 serves as an access way for three major highways,
12 and there are a lot of single-family homes, condos,
13 apartments, the high school and all this stuff, and
14 Colonial Park School.
15 And the traffic study, traffic impact and
16 access study that's in the comprehensive permit
17 discusses the levels of service to evaluate traffic
18 flow. You're probably familiar with that, where
19 they have these six lettered rankings. And their
20 own study shows that the -- at the intersection of
21 the -- of the project driveway with Franklin Street
22 is going to be rated at the worst possible
23 designation during the peak hours. And that is the
24 worst, the worst designation.

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1 And the letter from the police
2 department -- from the police department to Robert
3 Saltzman of the Board of Appeals, Chief McIntyre
4 says:
5 "I am" -- I'm quoting here -- "I am
6 concerned that operators attempting to exit
7 the site during these times will begin to
8 experience frustration and take risks in
9 order to merge into traffic, thus
10 increasing the potential for a vehicle
11 crash."
12 And I did get a letter from one -- someone
13 who -- who experienced that very thing. She -- I'm
14 not going to mention her name; I don't want to get
15 her in trouble. But she drove across a curb and
16 across a road -- across her lawn to get out onto the
17 road on Franklin Street. It really is a -- a huge
18 factor.
19 And then, of course, there is the taking of
20 the 100-foot segment of our -- of our bike lane
21 along -- along Franklin Street, which is -- which
22 has already been discussed.
23 And the bottom line is all these things --
24 and the details are in my letter, but all these

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1 things will negatively impact the environment and
2 quality of life in Stoneham, and I don't see
3 anything in the ENF that mitigates these problems.
4 As a matter of fact, they actually make existing
5 problems worse as I -- as I explained, and I think
6 the developer -- the developer ought to -- ought to
7 respond to these specific issues.
8 I received many e-mails and letters from
9 people expressing their dismay about this oversized
10 development at Weiss Farm. I would like to read
11 just one brief letter from a Stoneham resident. She
12 couldn't be here today, but I have her permission to
13 read it.
14 Her name is Marilyn Danico. She is a
15 senior citizen who lives on Carmen Ave. off East
16 Street, north of the Weiss Farm. She moved here
17 from Illinois, and she's raised four children in
18 Stoneham.
19 "December 8th, 2015.
20 "Dear John,
21 "Thank you so much for contacting me
22 regarding the Weiss Farm apartment project.
23 I have lived in the same house in Stoneham
24 for 52 years and am very concerned about

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1 the project, what this project will do to
2 the quality of our town. I would like my
3 name added to your letter.
4 "Sincerely, Marilyn Danico."
5 Now, I really think we should listen to our
6 senior citizens because they have -- they have seen
7 a lot of life, and they know what can happen when a
8 town loses control of -- of development. We're
9 talking about people here, not statistics, and how
10 the environment, quality of life and daily living
11 will be impacted. And I often think that the
12 government doesn't always look at the big picture
13 here.
14 I live in the Colonial Park area where my
15 neighbors will be soon witnessing the construction
16 of two nearby oversized projects: One being the
17 Weiss Farm 40(b), just to the north of us, with its
18 264 apartments and all those parking places and 1700
19 additional vehicle trips. The other project, which
20 is just south of us, is Langwood Commons. That will
21 have 261 apartments and several buildings. And that
22 was another former -- former 40(b), as I understand
23 it. This development, together with that office
24 park of 225,000 square feet and 45 additional daily

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1 vehicle trips, all that is going to require
2 extensive modification to Woodland Road alongside
3 Spot Pond and change that area of the town forever.
4 So I know we're here to discuss the Weiss
5 Farm project, but my broader question, which I would
6 like to hear you answer, is, is there any state
7 government department, such as your agency, that --
8 do they ever stop to look at the big picture to see
9 what's happening to our communities? I mean, we're
10 not the only one. I understand there is a plan to
11 build 53,000 new housing units in the Greater Boston
12 area by 2030.
13 When you look at one project at a time,
14 each individual project has limited impact, but when
15 you see that it's part of a plan to build oversized
16 apartment projects using the coercive power of a
17 40(b) process, it affects real people, their
18 environment, their daily living and their quality of
19 life, and -- and my impression is that the
20 Massachusetts government has -- has forgotten that.
21 Thank you.
22 **MR. STRYSKY:** Anyone else like to make
23 comments?
24 **MS. HEMINGWAY:** My name is Cindy Hemingway.

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1 I live in 14 Fells Road in Stoneham, and I'm a
2 member of the bikeway greenway committee, and I'm
3 very, very concerned when I hear that the bike lane
4 would be eliminated because of the left-hand turn
5 lane. And the reason for this is because we are on
6 the cusp of building a greenway, a bikeway greenway
7 that we've been waiting for 30 years to make happen,
8 and, keeping fingers crossed, we're hoping it's
9 going to happen in the next couple of years.
10 This is going to increase exponentially the
11 bike traffic in this town: Kids, adults, commuting
12 from town to town, whatever. So to eliminate that
13 bike lane to me is a grave, grave error, if that
14 were to happen, because that would put a lot of
15 cyclists who would like to use Franklin Street --
16 Melrose already has part of Franklin Street already
17 painted with lines indicating to drivers that they
18 need to be aware to share Franklin Street with
19 cyclists. They already have the lines painted.
20 They redid the section of Franklin Street in Melrose
21 Highlands area, and these painted lines are ready.
22 And I'm, like, "This is terrific." And then I hear
23 that if this project goes through, that our
24 much-needed bike lane along that stretch of Franklin

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1 Street in Stoneham would be eliminated, and I think
2 that's -- that would be really bad for all -- all
3 cyclists in the total area: Melrose, Stoneham,
4 Wakefield, Reading, all the people that would be
5 coming to Stoneham to use our brand new greenway,
6 this would be bad news.
7 Thank you.
8 **MR. STRYSKY:** Thank you.
9 I'm sorry.
10 **MS. McBRIDE:** Sorry, Marty.
11 **MR. WANTMAN:** Are you up?
12 **MS. McBRIDE:** Ellen McBride, 30 Butler
13 Ave., and I'm co-chair of the Conservation
14 Commission. I just have one question for Peter.
15 In your presentation you said 80 percent of
16 the site would be vegetated after the project is
17 complete.
18 How much of it is vegetated now? I don't
19 know if you have that.
20 **MR. MAHONEY:** I don't have the number.
21 **MS. McBRIDE:** But isn't it true that -- of
22 the 26 acres, how much of it is buildable?
23 **MR. MAHONEY:** Well, about 12 upland acres.
24 **MS. McBRIDE:** So that means how much of it

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1 are you going to build on of the 26 that's there
2 now?
3 **MR. MAHONEY:** The central development area
4 is about ten acres.
5 **MS. McBRIDE:** So that tells me, then, if I
6 can do my math right, 16 of the acres -- my point
7 is, basically, 80 percent of it is -- pretty much
8 already is green. So to make it seem like you're
9 going -- it felt like you were saying, "We're going
10 to convert it to green space," or vegetated, and I
11 just want to make it clear that it is currently
12 wetlands, most of it, and vegetated. So that's all.
13 I just want to say that.
14 **MR. STRYSKY:** Okay. Thanks.
15 **MS. McBRIDE:** Thanks, Peter.
16 **MR. WANTMAN:** May I use the map that he --
17 **MR. STRYSKY:** Sure.
18 **MR. WANTMAN:** I don't know. Either one of
19 these would work.
20 **MS. McBRIDE:** There is an easel back there.
21 **MR. STRYSKY:** Do you want the easel.
22 **MR. WANTMAN:** Can you see, Alex? Is this
23 good for you?
24 **MR. STRYSKY:** Yeah.

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1 **MR. WANTMAN:** This is a wonderful map. I
2 could see from my chair that my property was flooded
3 on a sunny day by looking at this map. It will be
4 difficult for other people to see.
5 This is my property over here, and there is
6 an incursion of water. This is a sunny day. There
7 is not a puddle to be found anywhere, but the
8 abutters to Weiss -- that would be me, or one of the
9 abutters to Weiss is currently experiencing
10 flooding.
11 This is an issue that's been going on --
12 I've only been there for 31 years. I moved there in
13 1984. But documents that were submitted to the
14 Zoning Board of Appeals indicated that this was --
15 this has been an issue since, I believe, 1961.
16 One of the main problems here is this
17 J-hook that I call it was installed allegedly under
18 the direction of the DEP, but I have found no
19 evidence to that effect. And the water used to
20 flow -- well, can I just rearrange this?
21 So now we're looking to the north. This is
22 to the east, and this is to the west. This is fill
23 that went in from the mid '60s to the mid '70s that
24 has made it impossible for Weiss to drain as they

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1 had prior to the mid '50s.
2 In the mid '50s this ditch did not exist,
3 and currently the water from the new development --
4 well, I call it "new." It was 1986 to 1987, the
5 Ellen Road and Tamarock Terrace extension that was
6 cut out of Weiss Farm was designed with the water
7 entering Weiss Farm and flowing west. It cannot
8 leave Weiss Farm. It backs up over here and returns
9 and flows south, floods my property and then creates
10 flooding issues on Sunset Street across the street,
11 as it goes across the street.
12 The documents submitted, the 22 pages by
13 Attorney Witten, was impressive and very inclusive,
14 but I've lived there for 31 years.
15 In the year 2000, the Department of
16 Transportation -- which I never thought would ever
17 have an opportunity to correct the problems that
18 they exacerbated in 2000 -- essentially rebuilt the
19 culvert by the pump house and installed five drains
20 along Franklin Street -- if I can find it; that
21 would be in this area right here -- and they
22 directed the water from the southern lanes of
23 Franklin Street back onto Weiss, and back onto my
24 property.

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1 So that was done in the year 2000. The
2 town engineer has a record of it. The plans were
3 noted, I believe by the town engineer, that an
4 18-inch pipe was supposed to be installed to better
5 drain the water from Weiss so that it could flow off
6 of the property. My last visual observation --
7 which was years ago, but after 2000 -- indicated
8 that there are two 12-inch pipes. There was never
9 change to an 18-inch pipe. And the two 12-inch
10 pipes don't convey water as fast as an 18-inch pipe
11 would be. Consequently, the water backs up on Weiss
12 and causes flooding.

13 Some of the other major problems that have
14 occurred on the property are actually in my -- in my
15 estimation the flooding has been -- gotten worse.
16 This photograph was taken after 2006, because this
17 was installed in 2006, and my flooding, I could stay
18 underwater, or this area of my property would stay
19 underwater 12 to 13 months at a time.

20 During that 2006 executive -- I mean
21 administrative consent order with the DEP, Weiss
22 installed what they call a pump access road right
23 here in this red line over here (indicating). This
24 pump access road was put in the wetlands to the

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1 north side of Franklin Street and forces water to
2 the north and takes away storage capacity,
3 thereby -- thereby worsening the flooding situation.
4 They -- when the pump needs repair, the pump access
5 road is underwater. The pump house was built with a
6 hinged roof. I've seen the pump replaced without
7 the pump access road since I've lived there since
8 1984.

9 Weiss has owned this property I think since
10 about 1928. This is treacherous property, and this
11 is treacherous property, both in the summertime and
12 in the wintertime. I have gone into here
13 inadvertently and been lucky to drag myself back
14 out. It's really -- it's almost like quicksand.
15 It's freetown muck.

16 In this area here, just parallel with my
17 tennis court, in approximately 1994, Weiss
18 transferred material from what they call a berm,
19 which I call a rough fill pile, jammed it into the
20 wetlands. And their lawyer wrote that they were
21 maintaining that material there so that they could
22 clean out the main ditch.

23 The main ditch actually runs over here.
24 It's totally silted over and flows in the wrong

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1 direction, to the north. It was intentioned to flow
2 to the south.

3 I wrote to the Executive Office of
4 Environmental Affairs and, as Weiss had written in
5 2005, this material was placed here in order to
6 support equipment to assist in cleaning out the main
7 ditch. The main ditch was never cleaned out. The
8 material was left there. A commonsense idea would
9 be to use that pad, while it's there, clean out the
10 main ditch -- and I will make note that Cochran
11 supplied to either the Conservation Commission or the
12 Zoning Board of Appeals a document entitled
13 "existing conditions with abutters," and it does not
14 depict the main ditch.

15 Another problem is that this area up here
16 is treacherous and difficult to get to. There is an
17 elevation change in this area here. The wetlands
18 have already been abused. There is a historical
19 dump in this area that nobody has yet to discover,
20 and that's a great reason to trigger an
21 environmental impact review. And there is
22 significant rough fill stretching 110 feet long, and
23 approximately 20 feet long -- 20 feet wide in this
24 area intended to clean out the main ditch.

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1 In 1994, when they aborted -- after they
2 placed the material abutting my property in the
3 wetlands, they aborted the project and cut a
4 right-hand cross ditch into the secondary ditch.

5 Let me see if there is anything else I've
6 written down.

7 A simple thing that hasn't been done is a
8 dye test hasn't been done. That wouldn't cost a lot
9 of money, and it might be indicative as to where the
10 problems might lie.

11 And just a quick second.

12 Concerning, or emphasizing triggering an
13 environmental impact review, which I'm in favor of,
14 which the town and Jon Witten eloquently spoke
15 about, Mr. Witten indicated that the Applicant has
16 often spoke about repairing the weir or repairing
17 the dam.

18 In actuality, on Page 9 of the
19 environmental notification form submitted to you,
20 they indicated they intend to implement improvements
21 to the existing weir, and on Page 18, the Applicant
22 indicates that there will be no alteration to a dam.
23 In my mind the weir is a dam, and both of those
24 cannot be true. If that's not true, then an

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1 environmental impact review has to be triggered.
2 When I wrote to your department, I did not
3 understand the intent of what I was writing about,
4 but I picked up on a lot of the aspects that the
5 town did, and I'm firmly behind further review of
6 this project as the flooding has been continuous and
7 notorious for a good 50 years.
8 Thank you.
9 **MR. STRYSKY:** Thank you.
10 Would anyone else like to make a comment or
11 questions? Anyone else?
12 Okay. Great. Well, in that case, that
13 will conclude the meeting. I would just remind you,
14 if you haven't signed in, to please do so before you
15 leave.
16 I can -- I don't know. Maybe I can e-mail
17 this to you and distribute it, but our decisions are
18 posted on the MEPA website. This one will be,
19 again, issued on the 22nd. So that's a Friday.
20 Either by the 22nd, maybe not until the Monday, the
21 certificate will be posted on -- on the recent
22 decisions page of the MEPA website. So that's how
23 we distribute our notices, our certificates.
24 And again, if you would like to submit

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1 comments, I would again urge you to e-mail, fax,
2 letter. If you would like my contact information,
3 please see me; I'll give it to you. And I believe
4 it might be posted on the town's website as well, as
5 far as the notice for this meeting.
6 So if there are no other questions --
7 **MS. McBRIDE:** I have a process question.
8 **MR. STRYSKY:** Uh-huh.
9 **MS. McBRIDE:** So on the 22nd, if you
10 issue -- say the ENF was enough and it goes back to
11 DEP, will they then have any additional public
12 hearings? Or is it just a matter of waiting for
13 them to make their decision?
14 **MR. STRYSKY:** I think the latter. I'm not
15 sure, though. You probably are in touch with the
16 folks who are doing that process. I would consult
17 with them, but I know they've had their site visit
18 here already, right.
19 **MS. McBRIDE:** Uh-huh. And have you had a
20 site visit?
21 **MR. STRYSKY:** Well, this is it,
22 essentially. Right.
23 **MS. McBRIDE:** So you won't actually walk --
24 MEPA does not walk the property?

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1 **MR. STRYSKY:** Well, we had a site visit.
2 This was the initial one when I didn't notify the
3 town. So I saw the site at that time. So this is,
4 you know, because there wasn't adequate public
5 notice, we're doing it, having this meeting instead.
6 **MS. McBRIDE:** Would there be any benefit to
7 doing it with representatives from the town?
8 **MR. STRYSKY:** Well, I would be happy to go
9 out there. The proponent has indicated that they
10 don't want the public access to the site, so, you
11 know, for that reason I won't -- there is no point
12 to go out there again. If there is something you
13 wanted to point out from the street, I would be
14 happy --
15 **MS. McBRIDE:** So is that normal that the
16 bodies in a town that are hearing the case, for lack
17 of a better word, don't accompany you on --
18 **MR. STRYSKY:** No. Well, our policy is sort
19 of that if, for whatever reason, the proponent
20 doesn't believe it's safe or doesn't want to grant
21 access to the -- they haven't said it's not safe;
22 they just said the owner doesn't want to allow
23 public access.
24 But for whatever reason, our policy is that

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1 if the -- if the public isn't allowed onto the site,
2 then we'll just conduct -- we'll make other
3 arrangements and get with the public. We typically
4 wouldn't go onto the site.
5 **MS. McBRIDE:** So the boards in town would
6 be considered public in your --
7 **MR. STRYSKY:** Yes. Right.
8 **MS. McBRIDE:** Okay.
9 **MR. STRYSKY:** Yep.
10 So I would be happy to stay behind and chat
11 if anyone would like to do that, or we can go out to
12 take a look at certain areas. I didn't expect this
13 to be done during the daylight, either. So...
14 One more question? Yeah.
15 **MR. WANTMAN:** If I could just say one other
16 thing.
17 Concerning opening up the northwesterly
18 ditches that I pointed to, that's in here where the
19 water historically used to flow across here.
20 The map doesn't show it, but the
21 infrastructure and the water capacity exists on
22 Doleful Pond. It would travel to Doleful Pond,
23 which is almost dry, and I understand there used to
24 be fish that lived in there at one time. It's a

1 massive area that would let the water flow by
2 gravity, as it did prior to the alterations that
3 occurred that stopped it from flowing west.

4 Thank you.

5 **MR. STRYSKY:** Okay. Well thank you, again.

6 **MS. McBRIDE:** Thanks for coming.

7 (Whereupon, the meeting was
8 concluded at 3:00 p.m.)
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1 C E R T I F I C A T E

2 I, Alexander K. Loos, Registered Diplomat
3 Reporter, do hereby certify that the foregoing
4 transcript, Volume I, is a true and accurate
5 transcription of my stenographic notes taken on
6 January 6, 2016.
7
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9

10 

11 Alexander K. Loos

12 Registered Diplomat Reporter
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