



City of Peabody Conservation Commission

City Hall • 24 Lowell Street • Peabody, Massachusetts 01960 • Tel. 978-538-5782

MINUTES

SEPTEMBER 14, 2022

YouTube link: <https://www.youtube.com/watch?v=bcuccYWMZD0>

At this time the Peabody Conservation Commission will continue to meet via the Zoom platform until July 15, 2022 “Remote participation is allowed in accordance with Section 26 of Chapter 22 of the Acts of 2022 signed into law by Governor Baker on February 12, 2022, suspending certain provisions of the Open Meeting Law, G.L. c. 30A, Section 18.”, In the event that we are unable to do so on matters not requiring a public hearing, we will post on the City of Peabody’s website an audio or video recording, transcript, or other comprehensive recording as soon as possible after the meeting.

MEMBERS PRESENT

Chairman Stewart Lazares
Vice Chairman Michael Rizzo
Sec. Michael Vivaldi
Arthur Athas
Amanda Green
Bruce Comak
Alt. Ritamarie Cavicchio (left at 9:00pm)

MEMBERS ABSENT

Travis Wojcik
1 alternate member opening
(forward resume to mayor’s office
if interested in being appointed)

Also Present: Lucia DelNegro, Conservation Agent

CHAIRMAN LAZARES CALLED THE MEETING TO ORDER at 7:00 PM

Alternate commissioner Cavicchio had voting rights in the absence of Mr. Wojcik.

TREES and OTHER ITEMS

●**TREES**-None at this time

●**SOLitude**- Narrative on DEP File No. 55-901 for mechanical harvesting/hydro-raking at Elginwood Pond to start in the fall of 2022.

Present: Dominic Meringolo- SOLitude

Summary: Per special conditions on DEP File No. 55-901 SOLitude submitted a narrative for work specifically located at Elginwood Pond in the fall. Work is to start around October 24 and continue for at least twenty-four days. **Discussion ensued.** There were no members of the public that wished to speak. No motion was necessary as the project was voted on under a NOI 55-901 and an Order of Conditions already exists.

EXTENSION REQUESTS

1. Request for an Extension Permit on DEP File No. 55-829. The request is being made by SOLitude on behalf of Cedar Pond Village Condominiums. The project is aquatic maintenance and ecological restoration at waterbodies located at the condominium complex. The Order expires on August 17, 2022.

Present: Dominic Meringolo- SOLitude

Motion to extend one year (extended until 8.17.2023) as made by Mr. Rizzo. Seconded by Mr. Vivaldi. Adopted unanimously 7-0.

2. Request for an Extension Permit on DEP File No. 55-839. The request is being made by SOLitude on behalf of Huntington Woods Condominiums. The project is aquatic maintenance and ecological restoration at waterbodies located at the condominium complex. The Order expires on August 22, 2022.

Present: Dominic Meringolo- SOLitude

Motion to extend one year (extended until 8.22.2023) as made by Mr. Rizzo. Seconded by Mr. Vivaldi. Adopted unanimously 7-0.

ABBREVIATED NOTICE OF RESOURCE AREA DELINEATION

3. A continued Public Hearing on an Abbreviated Notice of Resource Area Delineation submitted by LEC Environmental Consultants, Inc. (Richard Kirby) for Osborne Hills Realty Trust (Paul DiBiase-Trustee).The applicant is seeking confirmation for the extent and location of wetland resource areas that may be subject to jurisdiction under the Massachusetts Wetland Protection Act and the City of Peabody Wetlands Ordinance within and surrounding the property known as 0 Sherwood Avenue, 7 Home Street and 47 Home Street, Map 110, Lot 2x; Map 104, Lot 1; Map 111, Lot 1, Peabody MA.

Motion to continue as made by Ms. Green. Seconded by Mr. Athas. Adopted unanimously 7-0.

ENFORCEMENT ORDERS

4. A continued Enforcement Order (EO) issued to the Salem Country Club and Dan Mayer (Mayer Tree)- for the following activities: Removal of living trees/grinding/grubbing stumps in buffer zone/in close proximity to jurisdictional resource areas and depositing woodchips in buffer zones and along local riverfront woods. The property address is known as 133 Forest Street, Peabody MA.

Present: Michael DeRosa- DeRosa Environmental Consulting, Inc. (DECI)

Summary: Mr. DeRosa gave an update on the progress of the violation at this point. The consultant mentioned that an amended very specific EO should be drafted in the near future. It should be completed for ratification and discussion at the October 12 hearing. DECI will be at the country club for future follow up site visits. They are in the process of quantifying canopy loss. **Discussion continued** regarding the amended Action Items and how the commission would like to proceed. The commission asked staff to reach out to the city solicitor to find out if an Executive Session would be appropriate. Currently commission members did not wish to share their thoughts regarding any amended action items. **Discussion ensued** regarding a revised amended EO.

Motion to continue as made by Mr. Rizzo. Seconded by Mr. Vivaldi. Adopted unanimously 7-0.

5. A continued Enforcement Order issued to Pedro Polini for work located at 60 Warren Street Extension. The property owner has done various projects in riverfront without a permit from the commission. The most egregious issue is the failing retaining wall, and the stormwater drainage pipes into Proctor Brook.

Motion to Amend the EO with new action items (remove fence posts and stockpiles of debris and ladders from city owned property by 10.31.22) as made by Mr. Rizzo. Seconded by Mr. Vivaldi. Adopted unanimously 7-0.

Staff will reach out to other city departments to find out if a “no trespass” sign can be erected on city property to remind the abutter.

CERTIFICATES OF COMPLIANCE

6. A continued request for a FULL Certificate of Compliance as made by Frederick Hostrop (Neptune Engineering) on behalf 160 Main Street Realty LLC (Nikolay Polinovskiy) for DEP File No. 55-793. The project was the redevelopment of a previously degraded site for commercial and residential use. The address is known as 166 Main Street, Map 086, Lot 150B, Peabody MA. Partial CC has been issued. Item will remain on agenda until a Full CC can be requested.

Continued until the October 2022 hearing at a previous meeting- NO MOTION NEEDED
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7. A request for a FULL Certificate of Compliance as made Anthony Capachietti (Hayes Engineering) on behalf of Farm Avenue Two Lots, LLC for DEP File No. 55-836. The project was the filling of wetlands to construct a 24' wide paved access drive with wetlands replication. The address is known as 0 Farm Avenue and 0 Forest Street a/k/a as 27R Farm Avenue, Map 69, Lot 5A and 12, Peabody MA.

Present: Anthony Capachietti- Hayes Engineering

Motion to issue a Full Certificate of Compliance with the following condition: LTO&M Plan is in perpetuity specifically "Invasive Species Removal" portion as made by Mr. Comak. Seconded by Mr. Athas. Adopted unanimously 7-0.

The CC will be held until a revised O&M is submitted and approved for said invasives.

8. A request for a FULL Certificate of Compliance as made by Mel Higgin (Weston & Sampson) on behalf of the Salem Country Club (Peter Fischl) for DEP File No. 55-845. The project was proposed parking lot improvements and buffer zone restoration. The address is known as 133 Forest Street, Map 59, Lot 81X (portion), Peabody MA.

Present: Mel Higgins (Weston & Sampson)

Discussion ensued.

Motion to continue as made by Mr. Athas. Seconded by Mr. Vivaldi. Adopted unanimously 7-0.

9. A request for a PARTIAL Certificate of Compliance as made by Attorney Timothy Doyle on behalf of David Middleton Trustee for DEP File No. 55-179. The project was the construction of a roadway and underground utilities. The original address is known as 200 Lynnfield St, Map ?, Lot ?, Peabody MA. The attorney is asking for a partial release on #2 Hathaway Avenue only for an upcoming sale.

Present: Attorney Timothy Doyle

Motion to issue a Partial Certificate of Compliance releasing #2 Hathaway Avenue only as made by Mr. Rizzo. Seconded by Mr. Vivaldi. Adopted unanimously 7-0.

10. A request for a PARTIAL Certificate of Compliance as made by Attorney Timothy Doyle on behalf of David Middleton Trustee for DEP File No. 55-176. The project was the construction of a roadway and underground utilities outside buffer zones. The original address is known as 200 Lynnfield St, Map ?, Lot ?, Peabody MA. The attorney is asking for a partial release on #2 Hathaway Avenue only for an upcoming sale.

Present: Attorney Timothy Doyle

Motion to issue a Partial Certificate of Compliance releasing #2 Hathaway Avenue only as made by Mr. Rizzo. Seconded by Mr. Vivaldi. Adopted unanimously 7-0.

11. A request for a PARTIAL Certificate of Compliance as made by Attorney Timothy Doyle on behalf of David Middleton Trustee for DEP File No. 55-234. The project was the construction of a residential subdivision and appurtenant roadways within the buffer zone. The original address is known as 200 Lynnfield St, Map 107, Lots 109, 192, 207 & 208, Peabody MA. The attorney is asking for a partial release on #2 Hathaway Avenue only for an upcoming sale.

Present: Attorney Timothy Doyle

Motion to issue a Partial Certificate of Compliance releasing #2 Hathaway Avenue only as made by Mr. Rizzo. Seconded by Mr. Vivaldi. Adopted unanimously 7-0.

NOTICES OF INTENT

12. A continued Public Hearing on a Notice of Intent submitted by Hancock Associates for Michael Larkin (40 Oak Street Development LLC). The proposed work is site improvements and redevelopment which includes a 40B housing project, paved vehicular and pedestrian access, landscaped areas, connections to municipal utility services and a stormwater management system. The property is known as 40 Oak Street, Map 95, Lot 89X, Peabody MA.

Present: Joseph Peznola and David White (Hancock Associates-engineers), Devon Morse (Hancock Associates-wetland scientist), Michael Larkin (applicant/owner)

Summary: Mr. Peznola gave a brief update on revisions and where the project stands now. The project has been reviewed by peer review and DPS. The phantom pipe has been located and was blocked. Originally the consultant and property owner stated on numerous accounts that the pipe did not exist. Someone placed a boulder in front of the pipe underground. There was also a root mass growing into the pipe in another location. The plans will be revised to replace the pipe with a riser as requested by DPS and Engineering. **Discussion ensued** regarding the original purpose of the pipe. Dewatering plans have been submitted for review. A Tick Grid for floodwater compensation has also been submitted for review, the landscape plan and flood response plan with proposed signs plan have also been revised for review. Mr. Peznola stated the basin in the back was created as a surcharge area for flood water as requested by the city and ZBA.

MR RIZZO: I have some questions about how you meet the compensatory flood storage. Can you show us and explain on the plan using the cut and fill with the engineered drawings and explain that? I am having trouble understanding how you meet the flood plain requirements (performance standards- BLSF). In particular, explaining it so you could show us how you meet at each individual one-foot increment. Explain the flood storage with regard to meeting flood storage for elevation 21.37 and 21.60.

MR WHITE: (Inaudible) This volume is correct. We have more cuts than fill.

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MR RIZZO: Am I correct in saying that you are not meeting the flood storage requirements between 21.37 and 21.60?

MR PEZNOLA: What we are saying is the flooding on the site; you have to understand the nature of the flooding in this area. It is backwater flooding from down in the influence of the rivers and where the river comes out. So, it is backwater flooding. The flooding on this site begins with the connectivity and the drainage system between those rivers and the municipal drainage system. The municipal drainage system is under capacity. So, it surcharges which is why the Elks parking lot floods when it rains. During storm events because the rainfall that falls on the site is happening faster than that backwater flood would come that volume at the lower reach that puddle if you will, is not available for flood storage. It has been surcharged. It is as if it was filled with dirt rather than filled with water. What we could have done in that instance is have that parking lot stay at those elevations. What would have happened in that instance is we would have had the same nuisance flooding that happens in the parking lot all the time because the municipal system which runs through the site is under capacity and it backs up. There was a desire by the ZBA and Mr. Paulitz to not have that situation. That volume that the puddle was calculated and we actually are replacing that volume underground. We have a very large underground system. If this was a vacant wooded site; engineers have to design underground detention systems. You have seen that. This looks like one of those underground systems. We are talking about a fully paved site that we are taking pavement away. We are reducing the amount of impervious. That underground system is not to compensate for our development. It is to replace that puddle that currently happens at the surface and just move it underground. What that does is it allows the surcharge to continue to happen because if we were just to fix the pipe and open the pipes to have sufficient capacity in the municipal system it would send water downstream and adversely impact other people. It is almost as if the existing site is a detention basin, but we need it to continue being a detention basin. There was a desire for that not manifest itself as a big puddle in the middle of the parking. Now it is a big puddle underground. That equal amount of volume goes from above ground to below ground. It is our assertion at those lower reaches during the beginnings of a storm the system is surcharged and that flood capacity, that flood storage is not available to the site. Therefore, it doesn't have to be compensated. It is not that we are not compensating at the lower reaches. It is as if that flood plain volume (mumbles) the flood volume does not exist at those lower reaches because of the connectivity between the under capacity municipal system and the desire to continue to have the municipal system function as it does. We can't just fix the pipe and open it up because we adversely impact downgradient. Now what happens, is that surcharging because we do change the grades in the parking lot, to not have the puddle, to not have the nuisance flooding that surcharging now happens underground. The system is still backing up, but it is not backing up into the parking lot. It is backing up into this underground cavern that we are creating.

MS DELNEGRO: You are still saying you are technically not meeting the performance standards for BLSF for elevations 21.37 to 21.60. I do not know of an exemption. Can you point that out for us?

MR PEZNOLA: We are not saying that.

MS DELNEGRO: You just said that you are basically putting it underground. That is not really meeting the performance standards.

MR PEZNOLA: We are saying that the lower reach flood volume does not exist. Because there is connection to the municipal system which is surcharging.

MS DELNEGRO: The way you are explaining it to me, for me, it sounds like you are not meeting the Bordering Land Subject to Flooding (BLSF) performance standards for those two elevations (21.37 and 22.60). I didn't really get to hear you explain it was inaudible.

Discussion ensued. The applicant believes they are exempt from the performance standards for the lower reaches mentioned above. Staff asked for the exemption in the regulations, but the applicant was unable to point out literature that would state they are exempt from meeting the performance standards. He stated it had to do with the surcharging of the municipal system.

MR PEZNOLA: It is simple whether or not you don't agree with it is not the point. The point is the system is surcharging so the volume is not there. Therefore, it doesn't have to be compensated.

MS DELNEGRO: Can you point that out in the Regulations? I scoured the regulations, and I cannot find that exemption. You wrote it to me (cut off).

MR PEZNOLA: It is not an exemption. It is just an existing situation. It has to do with what is happening with the municipal system. It also has to do with the request from the city engineer. If the city engineer did not say "take that puddle and put it underground" then we still wouldn't have to compensate for it because it would be a puddle above ground. What we are contending, and we did calculations, to show the surcharging that happens way before the 100-year storm. That has that volume occupied. Therefore, doesn't have to be compensated. There is another similar phenomenon that happens on flood plain sites. If you have a backwater flood plain that has to crest to saddle to get onto your site and that saddle is at elevations higher than portions of your site, then the lower reaches are not flood plain because the flood water cannot get there. Here it is sort of a similar situation. We have a surcharge system, and the flood waters cannot occupy that area/that volume because it is already occupied. Where you have an interconnection between a system surcharging at smaller storms and the ground. The volume the flood plain. Then you have to consider that. We submitted the calculations to Ms. Bernardo. She went through them. She concurred that yes that was the situation. We consulted with Mr. Paultiz with regards to ok it is not acceptable to continue to have this large puddle. Therefore, this is the way we would like to handle it. We were tracking and understanding the performance standards of 310CMR10.57 and understanding that we could never represent to the commission that we didn't meet the performance standards. I am saying we are meeting the standards. Whatever solution we came up with we would have to report to you that we are meeting the standard. The fact that we were dealing with that surcharging in the existing condition and the occupation of that lower reach volume by surcharge water and the fact that we are just moving that surcharge water from the surface to underground storage, at an expense to the

applicant, then that does not require us to compensate for that volume. We start at the surcharged elevation and work up to the elevation 27.

Discussion ensued regarding the underground storage. They increased the number of underground chambers until the surcharge was controlled.

MR RIZZO: This is a site that is continually, year after year floods (cut off).

Discussion ensued. Mr. Peznola stated they are controlling the 100 storms but are not doing anything about the 100-year flood. The commission is concerned about placing housing in an area that will flood in the future. **Discussion continued.**

MR RIZZO: I am having so much trouble approving a project that has so much negative and dangerous potentials. One night we spent an hour talking about how the fire department is going to come and rescue everybody through one of these major storms. What are we doing here in the city? This is crazy.

Discussion ensued. Mr. Peznola feels the commission can vote favorably on the project. He feels the performance are being met. Ms. DelNegro stated after listening to the conversation she still feels the project does not meet the performance standards set forth in 310CMR10.57. The item was open to members of the public to speak.

Wayne Lozzi (consultant for abutter) Attorney Sam Vitali

MR LOZZI: We represent a direct abutter. We have been sitting here listening to the Hancock representative show his NOLA. I just want to make some quick points. The commission has been asking great questions. In regard to elevations 21.37 to 21.60, Mr. Peznola is mixing it up. He is creating his own exemption. I am sorry and with all due respect Mr. Peznola, it is an exemption that does not exist under the regulations. He is mixing up for the underground mitigation system for the stormwater he is not meeting the performance standards for Flood. It is very simple, under 10.57(4) where there are performance standards "compensatory storage shall be provided for all flood storage volumes that will be lost as a result of the proposed project." Just because he is providing some kind of culvert underground stormwater system to mitigate the puddling that occurs on that site. Which we have to keep in mind; it isn't there 365 days a year. There are times of drought where it is not there. So that is why the regulations do not have an exemption for providing compensatory storage. He is using that as an excuse not to provide compensatory flood storage. That is one main point. The other main point that I think your Agent Lucia brought up is that the peer review never looked at the cut and fill tables. The work that Mr. Peznola did which frankly is lacking. Even as a layperson the commission should be able to look at this table and you should be able to see where the cut is pretty obvious (the existing building) but where is the fill? If you pull up that other diagram where he shows the cut and fill it doesn't even show for the handicap ramp out front. That is going to be cut/filling some flood plain out there. The table should reflect where the cut is going to take place. In other words, he is not showing all the fill. It should be foot by foot, incrementally. The regulations are very clear on that. Frankly, what I think Mr. Peznola is doing here is he is creating an (inaudible). He is telling you he is well decorated, but I am telling you he has no cloths. This thing is

not meeting the performance standards very clearly. I think if in doubt you could at least ask for the peer review.

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Discussion ensued. The abutter is hoping that the peer review can confirm the performance standards are being met. **Discussion ensued** regarding the flood signs (number and locations).

Motion to continue as made by Mr. Comak. Seconded by Mr. Rizzo. Adopted unanimously 6-0.

13. A Public Hearing on a Notice of Intent submitted by Williams & Sparages, LLC. (Thorsen Akerley) for Wee Three Realty Trust (Albert Mantyla III-Trustee). The proposed work is the construction of a single-family home and associated appurtenances within riverfront and BVW buffer zone. The property is known as 211 Lynnfield Street, Map 100, Lot 106D, Peabody MA.

Present: Thorson Akerley (W&S) and Albert Mantyla III (owner)

Summary: Mr. Akerley gave a brief presentation about the proposed project.

Discussion ensued regarding the proposed construction of a single-family home on an existing lot and all related work. They are proposing a riverfront enhancement area along the brook. All machinery and stockpiles will be removed from site. The vice chairman asked for a revised plan showing which trees will be retained. There were no members of the public that wished to speak. The plan will be revised to show the trees to be retained.

Motion to close the public hearing as made by Mr. Vivaldi. Seconded by Mr. Athas. Adopted unanimously 6-0.

Motion to issue a Standard Order of Conditions 1-50 adding the following special conditions: **51)** Riverfront Enhancement Plantings must be installed prior to requesting a partial or full Certificate of Compliance. A Partial Certificate of Compliance WILL NOT be voted on/released/issued until the riverfront enhancement plantings have been installed per plan. A Full Certificate of Compliance will not be voted on/released/issued until the vegetation along the riverfront is healthy and at least 70% of what was planted per the approved plan (see approved plan labeled "proposed buffer zone enhancement plantings); **52)** There will be no future stockpiling of equipment or any other items in the riverfront/flood zone. All material in the riverfront/flood zone shall be removed from the riverfront/flood zone immediately upon work commencement or as soon as practicable (ex- piles of boulders, stones, staging equipment, piping, woodchipper, trailer etc. as shown on plan). As discussed on site with owner and consultant. This condition is in perpetuity; **53)** All trees shown as to be retained must not be removed under this Order. Any future trees to be removed must be removed under the local commission's Tree Protocol; **54)** The crushed stone area shown to the rear of the lot MUST be removed and revegetated. Erosion controls should be installed along the work area before any groundwork commences. A partial or Full Certificate cannot be voted on/issued or released until this work has been completed and the area is revegetated as made by Mr. Rizzo. Seconded by Mr. Comak. Adopted unanimously 6-0.

14. A continued Public Hearing on a Notice of Intent submitted by Hancock Associates. The property owner is John Babiarz and the applicant is Pioneer Charter School of Science II. The proposed work is the redevelopment of the site into an elementary and middle school. The property is known as 67 Pulaski Street and 0 Margin St, Map 42, Lots 1&2 , Peabody MA.

Present: Joseph Peznola and Devon Morse (Hancock Associates)

Summary: A brief update was given, and a continuance was requested.

Motion to continue as made by Mr. Rizzo. Seconded by Mr. Vivaldi. Adopted unanimously 6-0.

15. A continued Public Hearing on a Notice of Intent submitted by William Manuell (Wetlands & Land Management, Inc.) for Regency Realty Trust-Alfred Dimambro (Trustee). The proposed project is the construction of two buildings and site improvements paving, utilities etc. in riverfront to the North River. The property is known as 11-13 Wallis Street, Map 85, Lot 41A, Peabody MA.

Summary: The item has been on the agenda since 4.21.2021 (17 months). Legal counsel was asked to have someone present at the hearing for discussion of the numerous continuances. No one was present at the hearing. The commission felt they could vote to deny the project after allowing continuances for 17 months. **Discussion ensued.**

Motion to deny the project for the following reasons: The item has been on the agenda since April 21, 2021. The Commission has been asking for information for the last year. The Peabody Conservation Commission has allowed numerous continuances. Reasons to deny the project in accordance with Wetlands Protection Act: **310CMR10.05(6)(c)**; Failure to meet Performance Standard-**310CMR10.57** BLSF – Project is located in Flood Zone A and applicant did not provide plans showing adequate compensatory flood storage **310CMR10.57 (4)(a)1**.

Reasons to deny this project in accordance with City Ordinance **Chapter 32** Wetlands and River Protection Regulations: **Chapter 32 § 33** No Disturb Zone Presumption, **Chapter 32 § 22** Denial of Permit **§A, §D, §E**; **Chapter 32 § 35** Rivers and Streams-**§A**; **Chapter 32 § 54**.

The Commission also made this motion based upon the need to:

1. Protect occupants of the floodplain.
2. Protect landowners/buildings upstream and downstream flooding caused by floodplain development; and
3. Protection of the entire community from unwise choices of land development that may require public expenditures for public works or disaster relief.

As made by Mr. Rizzo. Seconded by Mr. Comak. Adopted unanimously 6-0.

Discussion ensued regarding violations on said parcel. Vice Chairman Rizzo stated he has been by the property recently and feels that further stockpiling and other violations are actively occurring. **Discussion ensued** regarding issuing an Enforcement Order. Mr. Rizzo also felt that there is at least three feet of fill placed in FEMA Flood Plain. There is a concern about contamination as well. **Discussion ensued** regarding action items. Remove stockpiles, cease and desist from bringing in further material onto the site, remove outdoor equipment unless they can prove they have all the appropriate permits in place.

Motion to issue an Enforcement Order to curb future illegal activity as discussed and made by Mr. Rizzo. Seconded by Mr. Athas. Adopted unanimously 6-0.

16. A continued Public Hearing on a Notice of Intent submitted by GZA GeoEnvironmental, Inc. (Dan Nitzsche) for Emmanuel and Rose Papanickolas (owners) and JD Raymond Transport, Inc. (Will Boyle-applicant). The proposed work is the construction of a stormwater infiltration basin partially within the buffer zone to a wetland resource. The property is known as 25 Farm Avenue, Map 69, Lot 006 and 007, Peabody MA.

Present: Attorney Kimberly Kroha (legal counsel)

Motion to continue as made by Mr. Athas. Seconded by Mr. Comak. Adopted unanimously 6-0.

17. A Public Hearing on a Notice of Intent submitted by Hayes Engineering, Inc. (Anthony Capachietti) for The Residences at Farm Avenue. The proposed work is the construction of a multi-family residential building with associated driveways, parking, access, and utilities within buffer to BVW and IVW. The property is known as 27R Farm Avenue and 0 Forest Street, Map 69, Lots 5A and 12, Peabody MA.

Present: Attorney Panos (legal counsel) and Anthony Capachietti (Hayes Engineering)

The item will be taken off the agenda. DEP will be taking over as requested by the applicant. No motion was made.

(Mr. Vivaldi left the meeting at 10:30 pm)

18. A Public Hearing on a Notice of Intent submitted by Hayes Engineering, Inc. (Anthony Capachietti) for Cy Tenney Residences, LLC (Arthur Pimental). The proposed work is the construction of a multi-family residential building with associated driveways, parking, access and utilities within buffer to BVW and IVW. The property is known as 190R Newbury Street, Map 35, Lot 38A, Peabody MA.

Present: Anthony Capachietti (Hayes Engineering) and Attorney Keilty (legal counsel)

Summary: Mr. Capachietti gave a brief update on where the project stands and some of the revisions made thus far. At this time DPS/engineering has not signed off on the

plans. The commission felt it was premature to vote on the project without the final plans before them. There is currently an issue with a city easement that runs through the
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property. The project is now proposed as residential condominiums. **Discussion ensued.**

Motion to continue as made by Mr. Rizzo. Seconded by Mr. Athas. Adopted unanimously 5-0.

REQUESTS FOR DETERMINATIONS OF APPLICABILITY

19. A continued Public Hearing on a Request for Determination of Applicability submitted by Baker, Braverman & Barbadoro, PC (Kimberly Kroha, Esquire) for JD Raymond, Inc (abutter). The property owner is The Residences at Farm Avenue, LLC. The proposed work is a 6-story 40B apartment building with 116 residential units and parking on the ground floor. The property is known as 27R Farm Avenue, Map 69, Lots 005A and 12, Peabody MA.

Present: Attorney Kimberly Kroha

Discussion ensued. Attorney Kroha requested a continuance until DEP accepts the NOI heard earlier this evening.

Motion to continue as made by Mr. Athas. Seconded by Ms. Green. Adopted unanimously 5-0.

OTHER ITEMS

- **MINUTES- April 13, May 11, June 15 and July 13, 2022, meetings remotely held**

Motion to accept as made by Mr. Rizzo. Seconded by Mr. Athas. Adopted unanimously 5-0.

- **Adjournment**

Motion to close the public hearing as made by Mr. Rizzo Seconded by Mr. Athas. Adopted unanimously 5-0.

The meeting adjourned at 11:01.

Respectfully submitted, (To be signed electronically)

Chairman Stewart Lazares