



City of Peabody Conservation Commission

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

MINUTES

FEBRUARY 21, 2018
DEPARTMENT OF PUBLIC SERVICES
50 FARM AVENUE

MEMBERS PRESENT

Chairman Michael Rizzo
Vice Chairman Bruce Comak
Stewart Lazares
Travis Wojcik
Craig Welton
Melissa Feld

MEMBERS ABSENT

Gerry Kruczkowski
Bryan Howcroft

Also Present: City Councillor Thomas Rossignol; City Councillor Ryan Melville; City Councillor Anne Manning-Martin; Ward 1 City Councillor Jon Turco; Ward 2 City Councillor Peter McGinn; Lucia DeINegro, Conservation Agent

CHAIRMAN MICHAEL RIZZO CALLED THE MEETING TO ORDER at 7:06 pm

PROPOSED NEXT MEETING DATES- March 14 and April 11, 2018
DPS- 50 Farm Avenue

****Please note meeting location has changed-** The Commission will meet at the Department of Public Services located at 50 Farm Avenue, Peabody MA until further notice.

DISCUSSION ITEMS

1. Request for Discussion made by Brendan Callahan (City of Peabody-Assistant Director of Planning) regarding DEP File No. 55-808 Crystal Lake Dredging Project.

Present: Melissa Coady (Tighe & Bond)

MS COADY: I am here on the behalf of the city of Peabody. Brendan is on vacation. This is a project you are all probably familiar with, it is related to the Crystal Lake dredging project and associated park improvements. The city has designed to remove some of the dead and dying trees upgradient of the pond off Lowell Street. Basically, all uplands. There is some work in riverfront and land subject to flooding but no vegetated wetlands or land under water. This is basically to continue the vegetation management along Lowell Street to improve the (inaudible) of the pond from the dredging operation. We are hoping that the commission approve this as part of the ongoing Order of Conditions that is valid through September of this year. Attached to this memo is a sketch of where the work is proposed.

Discussion ensued regarding similar work on the Elginwood side. Work on the Elginwood side could not be done under the current Order of Conditions.

Motion to accept memorandum from Tighe & Bond dated 2/5/2018 from Melissa Coady and Daniel Butrick regarding Lowell Street vegetation management as made by Mr. Lazares. Seconded by Mr. Welton. Adopted unanimously.

Item 2 and 3 discussed together

2. Request made by Christopher Ryan from Meridian Associates for a discussion regarding the Conservancy District and the proposed project located at 795 Jubilee Drive.

AMENDMENT TO AN ORDER OF CONDITIONS

3. A Public Hearing for an Amendment to an issued Order of Conditions requested by Christopher Ryan (Meridian Associates Inc.) for Kevin Lucey (property owner). There was an Order of Conditions with a DEP file No. 55-844 issued on September 28, 2017. The proposed amendment relocates a portion of the retaining wall that was within the limits of the Conservancy District. The property is known as 0 Farm Avenue and 0 Fifth Street (R), Map 90, Lots 14 & 15, Peabody, MA.

Present for item 2& 3: Chris Ryan (Meridian Associates), Glen Cote (Civil & Environmental Consulting Inc.), John Keilty (legal counsel) and Kevin Lucey (proponent).

MR RYAN: When I had submitted the cover letter for this hearing tonight I had asked to discuss the potential clean-up of the no disturb zone not the Conservancy District.

MS DELNEGRO: It says it right here "Conservancy District". Does that not say the Conservancy District? That is next. It is two different things. The request for discussion under the Conservancy District is one thing and the Amendment is a public hearing. This is a discussion item. You do need the commission's approval of the Conservancy District (CD) line, don't you? Isn't that what city council is looking for?

MR RYAN: Yes. We are moving the wall outside of the CD. Yes. We are filing for the amendment because of the CD.

MS DELNEGRO: I put it on the agenda as two different things because they are two different things. One you want to talk about the CD. The next one is amending the file. We can talk about it together. It is two separate things in my opinion.

MR RYAN: The CD on our property is highlighted in yellow. It runs along elevation 98.2. In the town regulations they call out elevation 99.0 that is from the USGS datum. I conferred with Will Paulitz, the city engineer, converting it to the NAVD datum which is more commonly used now. It is elevation 98.2. What the applicant did was he went back to his potential tenants, Expeditors, because this was going to be an issue. We were able to revise the layout of the pavement and the retaining wall to push it outside of the CD. As a result, there won't be any structures inside the CD. There won't be any grading that can impede the flow of water. That is also called out in the regulations. The only disturbance would be temporary disturbance during construction. We are not proposing any changes to the grades within the CD. All the proposed grade changes will fall outside and uphill of the CD. The plan referenced in the Order had to be modified so that is why we need and Amended Order. The plans that are referenced are no longer correct. The end result basically is that we are pushing the limit of work away from the No Disturb Zone. We have modified the limit of erosion control to push it up away, further away, from the No Disturb Zone. After I submitted the plans for this hearing the city engineer had reached out to me again and had requested some other minor changes. Mainly having to do with one of the drainage infiltration facilities. That is why I had submitted a few plans with the highlights in red. You can see which sheets had to be changed as a result and what the changes were.

MR RIZZO: And what was that change?

MR RYAN: On sheet three we just added in a table. The minimum distance from the residential district. It also called out the one-hundred-foot-wide road layout for Jubilee Drive. We added a couple of dimensions from the opposite right of way line. At the edge of our parking to give you a sort of sense the distances (inaudible).

ATTY KEILTY: That was a request from the Building Commissioner. That was more of a zoning issue than conservation issue. Are we in the public hearing right now or are we in the discussion?

MR RIZZO: Discussion I think.

MR RYAN: The CD that is basically the gist of why we are making the change. We are no longer doing any permanent encroachment in the CD.

ATTY KEILTY: That is why we filed for the Amendment. We have a whole new set of plans that show us outside the CD.

Discussion ensued regarding the dates of the updated plans and the recently revised sheets to the plans.

MR RYAN: This piece of the wall bumped out like this and there was an encroachment into the CD. We talked to Expeditors we were able to change the use of this dock. The trucks that are going to be parking here are the shorter trucks. They don't need to swing as wide of a radius. We were able to push that wall back completely out of the CD. That is what the encroachment was. We are moving it out of the CD.

Discussion ensued.

MS DELNEGRO: The amendment request was made on 12/13/2017. I am really confused now because my latest plans are 1/12/2018. We have a million plans. This is extremely difficult for the

commission. When you filed on 12/13 there was a set of plans. I am looking and there have been two sets of plans now?

MR RYAN: I think we originally filed in December. That meeting I think it was cancelled. We were able to submit updated plans based on the ongoing review from Will Paulitz. We wanted you to have the latest plans at the time.

MS DELNEGRO: It is a good thing you were not at that meeting then.

Discussion ensued regarding the revised plans and what has been updated. The commission should have received the correct revised documents.

MR RYAN: The change here is that the CD elevation kind of runs along like this (points to plan). Previously the wall bumped out and encroached into that. (inaudible too many people speaking at once). There will be no permanent disturbance within the CD either by structure or by grade. What we are doing is going to be uphill of the CD elevation. Temporarily they are going to have to walk around in it while they are constructing the wall. We are not changing the grades it is going to stay as it is when it is done.

MR WOJCIK: Is there going to be machinery on the CD side during construction? The wall is right up against (cut off)

ATTY KEILTY: That is what the discussion was originally wanting to be about. If we want to open that subject now? That goes to the issue of clean up.

MR RYAN: When they are building the wall, we left some room between the erosion control and here. Any disturbance is going to be temporary construction disturbance. The grade is going to stay basically as it is. It may get tromped on a little bit but we are not proposing any raising or lowering of the existing grades. The regulation does not allow you to change the grade to impede or encourage the flow into and out of the CD.

MR RIZZ: Why are your BMPs following (cut off).

MR RYAN: I didn't want to continue it all the way down here because I didn't want to disturb any of this. I wanted to give them enough room so they could get into and out and do their work. Most of the work is probably going to be done from this side during the wall construction. I have run this by the site contractor (Masterson out of Danvers) and they didn't see any issue with it. We are leaving enough room to at a minimum keep the twenty-five (25) foot No Disturb Zone (NDZ) and then push it up where we can away from the NDZ. It is going to be a little tight in there during construction but they should have enough room on the other side of the wall to maneuver and do what they have to do.

MR RIZZO: What kind of wall is that?

MR RYAN: In your latest set, it is going to be a Shea block wall. A large heavy gravity block wall. The actual design for the wall is going to be done probably by, if they go with Shea, they have their own PE structural on staff to create the wall of how many blocks they need of each size and that sort of thing. When I spoke to the people at Shea, I believe one of the questions you had was about a guard rail. You can integrate a metal guardrail into these walls. What they do is they top block instead of gradually going to smaller and smaller blocks you will get to the top and you have a guardrail. They have an extra-large size block that sticks out under the pavement. You need the weight of that block. Each one of those blocks is about 2,500 pounds (twenty-five hundred) and they are about five (5) feet wide. They are able to insert the metal guardrail and they use rebar to go down one or two blocks deep. In addition, they have epoxy adhesives they

use to give it extra strength. When I was speaking with the people from Shea that was my main concern. We need to be able to have a guardrail onto this wall. According to them they are able to do it. It is not very uncommon they have done it plenty of times. It is just a matter of specking out the proper blocks and the installation process.

MR COMAK: Are we in the discussion?

MR RYAN: I guess we are in the discussion because we are still talking about the wall. We can end the discussion.

MR COMAK: We have a lot of people here and we need to open it to the public. Let's get out of the discussion and go to the public hearing. What I want to know about the discussion is you said you are going to have to do some work in the CD to remove some hazardous material?

MR RYAN: That is a public hearing item now.

MS DELNEGRO: It is not Jubilee Drive though. They named it 795 Jubilee and it is not. It is 0 Fifth Street Rear and 0 Farm Avenue. 795 Jubilee is what the developer decided to name it himself. It does not have an address number. One hundred percent it does not have a number.

MR WOJCIK: Through the chair, how far back will you be tilling up the land and the grade to build the retaining wall? On the near side where the parking lot will be.

MR RIZZO: That is where the activity will be taking place. You should be excavating from there and pulling it back.

MR RYAN: All the construction activity is here. Is that what you are asking?

MR RIZZO: You can almost pull those BMPs haybales (or whatever you are using) in a little bit because those walls only go about twelve (12) inches into the ground. They are not going to be deep.

MR RYAN: Right they are not going to be creating a massive trench. They will trench down below the top and subsoil to the parent material but that is it. As far as the other side they really do not need to trench beyond the wall; maybe six or eight inches.

MR RIZZO: We are going to move to item 3 under the amendment to an Order of Conditions.

ATTY KEILTY: By way of background, the reason why we are here for this amendment is because the neighbors and councillors that are here this evening expressed some considerable concern about whether or not we were in the conservancy elevation. We rechecked all our grades. Looked at all the instruments as Christopher has said this evening. We did have a meeting with Expeditors and they agreed we could modify our site plan such that we are completely out of the conservancy elevation. Other changes that have been made have been in response to Will Paulitz's reviews. The desire to resize or reutilize some of our detention facilities such that we would be able to say that there is not only no increase in runoff but there is actually a decrease. We changed the inverts on some of those storage facilities. Those were all in response to questions that were expressed by city council and by neighbors as well. There is a concern that if we build this are we going to be impacting the downtown? We readdressed our storage areas so we can say no we made an improvement.

MR RYAN: Like we already discussed we are pulling the wall back out of the CD. There will be no permanent disturbance in the CD. The other changes to those three pages that were marked up

that we submitted; As Mr Keilty said Mr. Paulitz had some additional little comments and tweaks that he wanted me to make to sign off on the design. There are only three sheets that were affected. Sheet 3 the layout plan we added one item into the development data chart. Basically, acknowledging the width of the right of way on Jubilee Drive. It is a one-hundred-foot-wide layout.

ATTY KEILTY: That is a zoning issue not a CD issue.

MR RYAN: Correct because it can't be within one hundred feet of a residential district. The residential overlay district starts on the other side of the right of way. On sheet five, which is the site utility plan, the only thing he had me change oh I'm sorry. Some of his comments had to do with the proposed infiltration system number three. He asked me to try to raise the outlets but raise the inlets slightly in order to gain a little bit more capacity inside the system. These systems were designed well in excess of the DEP stormwater standards in terms of water quality standards and recharge peak rate attenuation and peak volume attenuation. The standard actually only asks for peak rate but Mr. Paulitz (the city) asked for peak volumes as well. In the drainage report we had added sort of a column on our storm results to sort of show a percentage of decrease on every one of the storms. The decreases ranged anywhere from twenty to sixty percent decrease depending on the design storm. As Mr Keilty said a couple of the city council members had expressed or asked if it was possible to move the outlets to hold back a little more because of the concern of downtown flooding. I can safely say and Will Paulitz agrees that the systems are designed well in excess of the standard. We are decreasing downstream flooding greatly. If you just left this parcel alone and had a hundred-year storm event what we are doing here is we are decreasing it twenty to fifty (20-50) percent depending on the storm event. There is a definite decrease. The standard only requires that you match what is existing or decrease. I had to tweak some of the drainage reach tables because I had to as a result of his desire to raise that inlet I had to change some of the pipe slopes coming in to gain a little bit of elevation while still being able to maintain adequate cover over the structures and pipes to make sure the whole thing worked. That is the change on that. As a result of that the detail for system number 3 the inlet (inaudible). That is sheet number eight out of ten. Upper left-hand corner detail begins with the inverts from system three.

MR RIZZO: Do you know what the net change is in that invert?

MR RYAN: I think I was able to raise it up about six tenths (6/10ths). It was tough because he also wanted me to leave a little bit of extra capacity at the top of the system and didn't want it to be completely maxed out. At some point I couldn't really go any higher. I couldn't drop the system down or anything because I wanted to maintain my four (4) foot clearance from groundwater. I didn't want to make it too shallow because there are going to be trucks parked over that particular system. In the rear that is where the trailer storage is. These changes were made into the HydroCad computations and the drainage report. Which he has a copy of and Lucia asked for a hardcopy. That is basically the plan changes. That is what the new design is proposing. Everything is out of the CD. We tweaked the drainage system to make it a little more efficient and it will hold back more water in a storm event.

MR LAZARES: I have one question. Looking at the cross section it looks like they are arched to let the water go in and drain down?

MR RYAN: An arched shape is good when you have weight on top. They will come in at a higher inlet. Then fill up and infiltrate into the ground.

MR LAZARES: What is the ground made of? Is it porous?

MR RYAN: Yes, it is mostly sand. All the tests showed that it is mostly sand. It has a good infiltration rate. It is actually an old gravel pit. The groundwater is very deep. We were actually able to drop the site. This is sort of a combination detail. In one system you have headers. In another system, number three, you are going to have pipes coming in. They all have (inaudible) pipes coming in and out. This is system number two that is under the loading dock. This system is comprised of six (6) foot diameter corrugated pipe that is perforated before (inaudible). It can hold a tremendous amount of water. It is also very strong because trucks are going to be parking on top of that system.

MR LAZARES: Thanks.

ATTY KEILTY: In the Order that you already issued we spoke to the issue of our cleanup. Our hazmat cleanup. We have a provision in it number forty-four (44) that says any debris of dumped material placed in the resource area shall be removed by the applicant. There is material that needs to be removed. What we didn't want to do was to have there be any confusion about "is this going to be done by hand or is this going to be done by a small machine?" If it needs to be by hand we are happy to do that but there are certain things that cannot be removed by hand. If we could have a little more clarity in the amended Order that we could use small equipment then we can take more.

MR COMAK: What is out there?

MR RIZZO: Do you know the proximity of where the material is on the site?

MR RYAN: As part of the cleanup there are areas of soil that are going to be removed offsite because they exceed certain levels of contaminants. What I was looking for is a little more clarity. Also, there is debris that has just been dumped there.

MR RIZZO: Where is the debris on the plan? Is it in the CD?

MR RYAN: It is everywhere. Oh yeah there is stuff in the wetlands and there is stuff in the No Disturb Zone (NDZ). If you don't want us to take anything in the NDZ we can by hand pick up everything up to that point. If you didn't want us to disturb that at all it would have to remain. Unless we can just walk in and whatever we can carry out by hand we could remove that and clean that up. But if there is a fifty-gallon drum three quarters buried into the dirt inside the wetland you are going to need a machine to take that out.

MR COMAK: What is in there? Just visually.

MR COTE: I am Glen Cote from Civil Environmental Consultants. We have been performing all the environmental aspects of the project. Basically, there is a big embankment in the back. This is an old pig farm. What they did was basically push all the debris, literally trash, glass, pottery it is all mushed in and comingled in with the soil and it goes down the embankment. That is basically the kind of debris that is there. Glass bottles, some discarded parts like metal. It is all hidden underneath leaves and stuff. There is some debris back there. This is within the twenty-five (25) foot NDZ. What we would like is some clarification about the debris and dumped material.

ATTY KEILTY: Everything that is on the site where we are developing it; that is not a problem. We will remove all that. That will all be done as part of our contingency plan.

MR RIZZO: I don't know if I want you to go start digging in the CD. Unless it was something that is really dangerous or needs to come out like a drum of something. Broken pottery and those

types of things that will work back into nature. Unless you can pick it out by hand. I don't like the idea of having equipment going in there.

MS DELNEGRO: I was out there and it looks like you could probably rake a lot of it.

MR COTE: There is a lot. It is not like there are a couple of chunks here and there. That is why getting clarification if we can basically use an excavator to scrape it up or whatever you want.

MR COMAK: Wait a minute. Before you start on the site. There is slope right now correct?

MR COTE: Yes. It is a pretty drastic slope. Three to one and a two to one.

MS DELNEGRO: It is pretty drastic. I almost feel down it.

MR RYAN: We just want clarification. Personally, I do not want to put an operator at risk. Or dig up the resource area unless it is absolutely necessary. Pottery and broken glass. As far as I am concerned just leave it there. Condition forty-four seems a little open-ended.

MR COMAK: Can an excavator reach down to the bottom of the slope or not?

MR RYAN: Probably not but if you stay outside the NDZ you are not going to be able to reach and do anything.

MR COMAK: I think it is pretty easy to clarify myself. If there is a major thing like a half a car, throw a chain around it, grab it with the excavator and pull it up the slope. Other than that, I agree with Mike. We should see what other members of the board think. I don't think we should start tearing up a vegetated slope.

MR RYAN: We can use hand tools and carry out what we can.

MR COMAK: Unless there is something major there.

MR RYAN: Prior to the commencement of any construction it is in the Order that the erosion control measures must be in place. We have to give forty-eight (48) hours notice before any construction starts. That would certainly be a good time. We can go out and do a site walk.

MR RIZZO: I would like to get out there and concur that we are not going to go in there and start digging. Maybe at that point we can make a judgement call as to what level of involvement you will need to clean up.

Discussion ensued regarding the debris on site. The commission asked for a week notice about the erosion controls being installed. After the erosion controls are installed the commission will conduct a site visit. The item was open to the public for comments.

Thomas Butler, 440 Jubilee Drive

MR BUTLER: I brought some things about the CD. While I am waiting for this thing to heat up (projector) what I'll do is I'll slide this here. There is a packet for each of you. It is on the CD. I brought the first chart up and it is the charter of the conservation commission. We were in a discussion about whether or not the conservation commission had any discretion over the conservancy. There were people in city hall who said it didn't belong to the conservation commission. As you can see right here it says wetlands so it does belong to you. I just wanted to bring that up. The first slide as we go forward A for the wetlands conservancy use regulations in which they talk about a map called wetlands conservancy as you can see right here. If you go down to the area that we are talking about here is Goldthwaite Brook. Specifically, upstream

spillway (inaudible). There is a question as to what can be done in the CD. “No new buildings or structures” you can put agricultural. There was even discussion if the conservation commission even had any power at all but you do. You can prevent people from building there. You can put an agricultural use, plants, wildlife you know some (inaudible). You can do that you can allow it in that district. The question would be where is the wetlands conservancy map? We haven’t seen one. So here is one right here. This map was done as you can see in 2016. It is a relatively new map. Here is the area. There is the fish plant. They caught a little of the conservancy. Here is ninety-nine (99) feet. Here is the spillway that they talk about. As you can see all this area. I want to talk about how they reached that ninety-nine (99) feet. What they should use tonight is just a raw ninety-nine feet. That is not how they do this map. They do it through interpolation. What they do is relative distance from points upstream and heights and they plot points as you can see. Interpolation is the plotting of points through function. So, there is a point. There is a point. All along the way there are points. Here there is a point. That is how they made this map out. I also have a 1980 map and that hasn’t changed at all since that time. What’s really interesting is as I zero in here is they also have property lines. We begin to see the property line of this particular property. You can see the dog lay. Here’s the property line along here. There’s the fish plant so pay attention to this triangle because that triangle becomes huge. That triangle right here where my finger is that is very big. What they told you tonight is that the conservancy is way down here based on ninety-nine (99) feet. It is not done that way. Besides by the way if they shot craps to make this map it doesn’t matter. It is the map. The wetlands conservancy map. That is the city of Peabody’s Wetland Conservancy Map. What I want to show you next is their property. Again, I want you to pay attention to this little area right in here. You saw it before and it came down right around here someplace. There is the area that I want you to pay attention to. They have a gravel stockpile in their construction plan here. They are going to put it right in the wetlands conservancy. So, let’s take a look at what the map looks like. There it is. The wetlands conservancy in their map. I think there is two ways. I took that point right here and I simply mirrored the wetlands conservancy plan and their plan over each other. That is one way I did it. You can see this caught about twenty (20) feet of the building. This whole back area they are going to do storage. They told us tonight that way down here is the CD. But in fact, and they are right about the ninety-nine (99) feet. But they didn’t use the wetland conservancy map they in fact created their own wetlands conservancy map to justify their project.

MR RYAN: Actually no. We followed the elevation.

MR BUTLER: But they didn’t use the wetlands conservancy map.

MR COMAK: I don’t think that matters. I understand exactly where you are coming from but if it goes by elevation (cut off)

MR BUTLER: But the wetlands conservancy is not just elevation. It does interpolation through relative distance from waterway upper end and I’ll bring that screen back. It shows you how they do it. It is not just for elevation. That is why they have all of those points. Those guys in 2016 weren’t out to lunch they knew what they were doing. In fact, in 1980 they knew what they were doing. That land has been filled. How they created this map it doesn’t really matter. What really matters is that is our map. That is the city of Peabody’s wetlands conservancy map.

MR COMAK: So, you are telling me that the engineered plan that they gave us is wrong?

MR BUTLER: I am telling you that they did not use the wetland conservancy map. That is what I am saying because if you did you would have what I have. That is our map just like a zoning map. You can’t ignore the zoning. Now they did not show us a wetlands conservancy map. They showed us ninety-nine (99) feet. It is what they didn’t tell us. Let me finish I have one more thing. I have two more things. I did this two ways to make sure I was right. The other way I did it was I took their...the only thing about this is their picture on the front cover. It is a little askew to

the left. I took the fish plant in the conservancy and I mirrored the two of those. I didn't use the property lines I used the fish plant. And it came out the same. I wanted to make sure I was right. It is the same. When you use the city of Peabody's wetlands conservancy there are buildings in it. I want to do one last thing before I...I am sorry. It doesn't matter. I want to do just one more thing. Mr. Chairman I wanted to play this if you don't mind (plays recording from the Commission's September 2017 hearing. It is a quote from the Chairman on tape.) "I have all the confidence that it will be done correctly. You have a big site here and you have used up every bit of it. I would like to see a smaller building." okay you asked for a smaller building. You were right. They should have been smaller. They should have listened to you. And they did not. They came in here with the exact same size building they had in September when they came before you the first time. You asked them for a smaller building. You got rushed like we got to go right now. You said let's wait and see. And you were right. You were pressured. And here we are the second time around and I think the residents deserve a little better than this. A professional engineering firm did not consult the wetlands conservancy map. A bunch of neighbors did. They came in here and they ignored you in September and I think they are ignoring us again. The question I have is with the neighbors is who is controlling what?

MR COMAK: Let me address one thing through the chair. You are telling me that Meridian Engineering, a highly respected engineering company that does work everywhere, created their own map that has nothing to do with the CD?

MR BUTLER: I don't have the answer to that question. All I can say to you is what I did do. I gave you the wetland conservancy map from the city of Peabody. I showed you that even if you didn't put a building on it you have the map. You see the property lines. You see where I have it. So, I can tell you what I did do.

MR COMAK: Okay. What is the CD based on? It is based on elevation correct?

MR RYAN: Yes.

MR COMAK: That is what I always thought it was.

MR RYAN: Will Paulitz (city engineer) concurs. It is just like when you have a flood map. Flood maps are based on elevations. The flood maps are done at a large scale. When you actually go in and survey a parcel it might vary from what is shown on the map. The general trend of the conservancy map is correct. On our property it shows where we surveyed it. That site has been that way for a long time as far as I know. I know it was used in the past as a gravel pit. I am not really sure how many years ago that was. We go in and we survey it. It states an elevation. There is actually a description not just the map. There is a description of it and it gives an elevation. So, we went by that elevation. We had it converted from the USGS data into the NAVD. Will Paulitz concurred and that is where we showed it. We revised our design to stay out of it.

Beth Prideaux, Jubilee Drive

MS PRIDEAUX: When they were here in September they didn't even say "boo" about the CD. They didn't say they were in it. They didn't say they were out of it. They didn't even acknowledge the CD. So, I do question their ability.

MR RIZZO: The interesting part is that the conservancy map is a line that is picking a given elevation roughly (cut off).

MR BUTLER: Based on distance from upper stream end. There are two things here (reading for city's zoning ordinance) "upper stream ends" you notice the water goes up the thing moves out. So, it is not just pure elevation. I did a lot of research on that. I understand what they did. I am not casting any aspersions on them. I am just saying that when you do interpolation based on ends

and elevation points. You plot points through interpolation. It is a different map. Regardless of how the map is made it is the map. It's our map. There is no disputing that.

MR COMAK: That might be true but I don't know.

MR RYAN: Maps that are done on this scale are approximations. That is why they call out the elevations. That way when you get into the nitty gritty on a micro scale you can say "it is this elevation."

MR RIZZO: The interesting part is the map identifies an elevation or at least it is drawn here at elevation ninety-nine (99) and in fact it is really ninety-eight (98).

MR RYAN: Ninety-nine (99) is correct for the USGS datum. NAVD is eighty-two hundredths or lower. We just did point eight.

MR RIZZO: Which is about ten (10) inches. Which isn't very much considering the horizontal distance between the line and that elevation. It is interesting that it can be that far away.

MR RYAN: It is relatively speaking a very minor incursion but we pulled it out because of the concern that was raised. We did have the building commissioner write a letter to the effect that he felt that this fell under what he called a water control structure. Since the wall is integral to the large infiltration system behind it. We didn't want to have that as an issue. We just pulled it all out so that way it is not an issue.

MR RIZZO: My feeling on this is if the grades are correct and ninety-eight-two (98.2) is the line that you are holding as the conservancy line then I would concur with your plan. I would concur with your finding. The discrepancy is the difference between what this map shows and (cut off).

MR RYAN: Right. I have personally been involved with dozens of projects where we have shown approximate flood lines from a flood map. Then we would show the actual surveyed flood line. It is never exactly the same. I have never encountered that once. These maps are generally correct. They do it on such a huge scale. Like when they do soil maps and flood maps. It is generally correct but when you get out and survey an actual parcel you may have variations.

MR COMAK: How do they do a large-scale map?

MR RYAN: A lot of times they can use photogrammetry. They will actually fly it sometimes on large parcels that we have done; let's say we have a two-hundred-acre site. To survey that conventionally would take months. What you do is set control points. They fly at a certain altitude and they have these really high-powered cameras. In the old days they would have a stereoscopic view. They can actually see the variations and they go in and they trace contour elevations. These days now they are doing it more with LIDAR (Light Detection and Ranging) the optical scanning. They can actually do it with drones. They can fly a drone over it. It will get you to a millimeter of accuracy. That is a 2016 map. They did have LIDAR but whether or not it was used to make that map.

MS DELNEGRO: I believe it was based off the 1980 map.

MR RYAN: Okay then they probably would have flown it. That would be my guess. You could fly it in a couple days and in a few weeks, you could have a topo map of the entire city.

MR RIZZO: My feeling is that the elevation should control. I believe that the map can be wrong.

MR Butler: But Mr. Chairman it is our map.

MR RIZZO: Let me finish. My initial response is the elevation should control. The ninety-eight - point two should control. What I don't know is which one is binding. Which one we have to go by. Do we go by the elevation or do we ignore the elevation and go by this line? If in fact the line where you are showing it is.

MR BUTLER: It is not just elevations. They refer to a map. In the ordinance it says you have to refer to the wetland conservancy map.

MR RIZZO: I think the map is an overview that shows you where the CD is and it gives you a boundary of where it is. It is not accurate.

MR BUTLER: We can't change that here. That has to be adjudicated at the city council.

MR RIZZO: I can't disagree with you on that. I don't really have the answer to your question.

MR RYAN: Flood maps and maps like this; if you were actually to lay those lines out on the ground you would see the elevation go up and down and up and down. That is just not the way flooding happens. Water seeks its own level. It is supposed to be following an elevation.

MR BUTLER: Mr Chairman there has been fill on this land. Can I ask you a question? I have an article from Houston. Where people filled their way out of the maps. Can I just go in and fill my way into freedom? We know from the last meeting that there was also a discussion from the agent. She went back there. There is tons of fill. It is interesting that the fill increases as you go back. They are dumping for whatever reason. You can't legally fill your way out of it. That is why I bring that up. Everyone has testified that there is fill back there. Maybe the map really is accurate and over time people have filled themselves out of it. Once it has been proven that it is in the conservancy we have no power here other than to say (inaudible). We can't do anything.

MR COMAK: Here is the question. Can they develop inside the CD?

MR RIZZO: No.

MS DELNEGRO: Well they have an Order of Conditions from you guys saying that they can. We have that whole legal side of it. When they came to us in September the CD wasn't on the plan.

CLLR MANNING-MARTIN: So, you didn't know that you were agreeing to that? So that should be null and void.

ATTY KEILTY: It was never appealed.

MR COMAK: Right now, we still don't know if this building is in the CD. We don't know if there is any work in the CD period. The dilemma here is how do we determine the real CD. I don't care and I don't mean any disrespect. I don't care what the map shows. Just what he said. You are doing such a huge scale it will never line up. It just won't. Even if it is untouched virgin land it wouldn't line up. On the other hand, you say this is filled. Okay well when was it filled? There is a lot of stuff around Peabody that was filled fifty (50) years ago.

MR BUTLER: When we did Latitudes though. We had to abide by the conservancy and there is language in there a codicil put in there so we could build. That was what was done. You can see it in there. From culvert one to Pine Street is allowed to be built. We obeyed it there. Why didn't they say back then oh no you don't understand that map is silly putty. They obeyed the map. And therefore, they went back to the council. Which by the way they can do. As I resident I am saying do it right. Go back to the council and fix it.

CLLR MANNING-MARTIN: If I could. At the council meeting it was clear and this just jogged my memory. It was clear at that time that the appearance was that the conservation commission gave them a pass to what was before the council. In discussion it became clear to me and to others that that didn't happen. What you had agreed upon was not what was before us. Which is becoming more clear tonight. What came before you is not what was apparently being proposed as having (inaudible). I just think that we should all step back and take a look.

MR RIZZO: We want to make it right. I am sure you folks want it right. None of us want to build where we shouldn't be building. How do we determine where this line is? If it is by elevation then I know where it is (cut off).

Frederick Marzano, 420 Jubilee Drive

MR MARZANO: Mr Chairman if I may. You claim that a reputable engineering firm yet they are admitting to contaminants on the site. What contaminants are we talking about? Are they hazardous if they get in the air to the neighborhood? Are they deadly? They can't answer that. They don't know what is there!

MR COTE: Yes, we do. Of course, we do.

MR MARZANO: They asked what was there and all you came up with was (interrupted).

MR COTE: We have done an extensive (cut off).

MR MARZANO: May I talk please? I didn't get a chance. My second concern is drainage pipes clog, pumps fail. Ask Houston. Ask New Orleans and most recently ask Boston. The whole waterfront flooded. There wasn't even a twenty-year storm! It was just a normal rainfall. They are going to stand before you and tell you that the rainwater that goes into that brook is actually going to decrease. How? If there is a failure anywhere in their drainage system that is not a decrease. You are clearcutting eleven acres. That water is going to go downstream. Those poor people that live downstream including the councillor who is in favor of this project. If you approve this project. If this starts flooding in biblical proportions when it goes downtown you have to live with that! There's no going back saying oh you got to get rid of this project. It is a done deal! So, keep that in mind when you decide what you are going to decide about what is on that land and what is going to come off that land during a storm. That is all I have to say. Thank you.

MR COMAK: As far as what we have to determine right now; if we are going to go by the elevation. Then what you said is clear cut. How do we determine where the CD line was or is in a tighter spot?

MR RIZZO: We must comfortably know where that line is. Or how the line is defined. By elevation I am good. If the pink line on the plan means that is where it is regardless of the elevation or in conjunction with the elevation based on some other parameters than we need to know where that line is and how it affects this project.

MR BUTLER: Mr Chairman what they did at Latitudes is precedent. They accepted the conservancy and went back to the council and said can we move. Not move the conservancy but allow through language of the council to put it in there. That way they acknowledge the map. Once you go down the road of saying elevation you open up a whole can of worms.

MR COMAK: How do they determine the map that is what I want to know.

ATTY KEILTY: I did that amendment (Latitudes). That was an amendment to the numbers that are contained in the zoning ordinance.

MR COMAK: How did they make the map? What did they make the map with?

ATTY KEILTY: Horsley Whitten? I don't know.

MR BUTLER: But he acknowledged the map. That is what is interesting. I hate it when we acknowledge it over here in West Peabody but not over here.

ATTY KEILTY: But we changed the elevations through an amendment through the zoning ordinance. In which we were able to prove that as you cross over route 1 the elevations were wrong.

MR BUTLER: Mr. chairman I didn't read that in the ordinance. I simply read that between these two points you could build. There was no discussion about elevation. That is how I read that. There is no change in elevation. Simply they just plotted it in there. You can not ignore the map. I think it is our map.

Russell Donovan, 12 Quail Road

MR DONOVAN: I have a couple of concerns here first. First of all, the initial Order of Conditions set forth by the conservation commission was in error. Because they were intruding into the CD. That time it was not brought up. I wrote a letter to the building inspector about my concerns regarding the CD. That is when I think Mr Ryan here wrote a letter back to the building commissioner saying, "while proposing a small intrusion into the district (CD) will have no negative effect on the overall flood storage capacity of these adjacent lands." He went on to say, "section 8.4b2 states that filling, dumping, excavation, removal or transfer of any earth material which will restrict or increase flood water flows or reduce the flood water storage capacity is not allowed." That is not true. "Shall not be permitted." "Shall be prohibited" is the verbiage in the zoning. Not about being allowed. Shall be prohibited. It is a play on words. The term he also mentions in the limits of the district of the retaining wall. He said and I will read "portion of a block retaining wall it is our opinion that objects such as ancillary buildings, foundations walls and roofed structures or buildings are what is commonly meant by a structure." He goes on to say his proposal "these structures are designed to control the rate and volume of runoff waters." So, he is using the word structures for that retaining wall. The other concern I have back in 2012 the then city government went to rewrite the flood boundary district maps and the conservancy district in order to be in compliance with FEMA. In there we have a flood boundary map by FIRM by FEMA which is an overlay district of the conservancy district. I can't tell you here and now they are exactly the same again they are only addressing what you bring up. My question to the conservation commission is what's the difference between a flood plain boundary map on the FEMA map and the city CD because under the 2012 notoriety. I will just find it in a minute. Karen Sawyer wrote "the state is requiring that we adopt updated flood plain ordinance language by July 1, 2012 in order to remain in compliance with the national flood insurance program. You will also note that this proposed amendment is initially submitted as part of a technical corrections to the zoning ordinance. The state is urging us to file this individual amendment separately in order to meet the deadline for approval." Again, we are only doing what they want you to hear. I would like to know the flood plain map of FEMA. How does that lay over the property in question? There is no elevation on this map. You can't use those Order of Conditions as a prerequisite for the new amendment. You have several zoning issues here. Flood plain which we have flood insurance for. You have a conservancy map. They admitted to filling over the years. So, the elevations are a moot point because they have been filling it in. We have structures that are being proposed and elevations and a fourteen (14) foot retaining wall. Which will (inaudible) headlights to the other side of Cedar Pond Condominiums. I am sure they are going to look forward to that. And it is an intrusion into a residential area. No buffer.

MR MARZANO: And all this investigative work is done by residents. Not a reputable engineering firm or the city of Peabody. I have to get out of here. I am disgusted. Have a good night. Thank you. (expletives deleted).

MR BUTLER: In the original Order of Conditions form number five which deals with local ordinance regulations. Did they say no or did they say yes? So, in other words that first form if they wrote no and they had to change it to yes. How did they write that? That is a specific question asking are you violating a local ordinance?

MS DELNEGRO: Form 5. I fill out Form 5. That is the Order of Conditions (OoC). If there is an error on the form that would be me. The NOI is what the applicant fills out. Are you saying there is an error on the OoC?

MR BUTLER: There is an error because you would have checked no in the ordinance. Now they have come back and said yes.

MS DELNEGRO: I always check Chapter 32. Right here Chapter 32 see page 9a for local conditions and a detail of approved plans and documents. Filings under Municipal Bylaws and Ordinance it is checked yes. We have a local ordinance.

MR BUTLER: It asks the question is the local ordinance violated?

MS DELNEGRO: The local ordinance that I use is Chapter 32. It is not the CD. I was told by Kevin Goggin and I don't know how many people know how long ago that was; maybe three building commissioners ago. It was before we even used the term building commissioner. He told me I am not allowed to read into that ordinance the CD.

MR COMAK: How do we determine where the CD line is actually?

MR RIZZO: My opinion is by elevation.

ATTY KEILTY: I think it is true with the flood plain. We have notes regarding the flood plain. That is done by interpolation as well. The protected elevation is 98.2

MR RIZZO: The CD is separate from the flood boundaries.

MR DONOVAN: We don't know the elevation for the flood plain. They didn't delineate it on their map.

MR RYAN: That is because our work is outside the flood plain.

MR DONOVAN: My flood plain it isn't.

Discussion ensued (numerous people speaking at once).

MR RIZZO: The elevations on the plans in my opinion follow the ordinance.

ATTY KEILTY: That is a zoning issue. Although it is jurisdictional here.

MR RIZZO: My feeling is that the elevation is what controls. It is well over thirty feet from the flood plain.

Discussion ensued (numerous people speaking at once).

MR COMAK: According to what they are showing us on an engineered plan it is out of the CD.

MR WOJCIK: I am going by the regulations and not the map.

MR DONOVAN: Can you answer the flood plain issue? What the elevation is for that?

MR RIZZO: It doesn't apply.

MR DONOVAN: It does because (inaudible).

ATTY KEILTY: We identified the zone we are in. We are in Zone X.

MS DELNEGRO: Zone X doesn't require flood insurance.

MR WOJCIK: The FEMA map is separate from wetlands conservancy district map. It says that in the first line of the regulations.

MR DONOVAN: We do have a flood plain boundary map in the city of Peabody. And here it is.

MR RIZZO: We obviously have an OoC on a project here that we approved. I don't know what to do.

CLLR MANNING-MARTIN: Weren't those set under different pretenses?

MR RIZZO: There really isn't anything in the OoC that affects what is happening on these plans. The plans are recognizing that by elevation the CD has been impacted by a piece of this wall. They have come to us to move the wall to get out of the CD based on those elevations. I would concur with that change to this plan under our OoC. The fact that it has been brought to us tonight that the map says CD is in a different location than the elevations that appear on this plan. I don't know how to answer that.

CLLR MANNING-MARTIN: I am a simple person. I am a simple councillor. I look at lines. We draw lines and it makes our lives easier so that we don't get into discrepancies. This is a clear line. That is why we draw lines. This is a Conservancy *District* (CD). So, throughout the night when I heard it was kind of interchangeable for someone to say CD and then someone say conservancy elevation. The attorney would say conservancy elevation. While the rest of us would be saying CD. That is kind of the layperson's world we live in with districts and lines. You have been interrupted all night long so if I could just finish. The other thing is I guess I don't understand how a vendor for a petitioner could come in. And you get paid to tell us. It might be their expertise. It might be accurate. How can they come in and tell us as a city and a board what the elevation is? That I don't understand.

MR COMAK: This has come before us a lot of times. If you are questioning the engineer that has to sign those plans. They are going to put their reputation on the line. Basically, you are saying that the guy is paying him to write whatever he wants.

CLLR MANNING-MARTIN: That is not what I am saying. I am saying who is to rebut it? If they come in and say oh well he is an engineer he did this plan. We should say well how can we question him. That doesn't make any sense to me because what is our rebuttal as a city?

MR RIZZO: He is a professional engineer. Again, I will repeat myself again, my opinion is, it is the elevation that matters. Not the map. The map is a district. When a project comes before any of our boards there are these overlays that allow us to make the right decisions or to be aware of certain things that are happening in those areas. The CD line says well wait a minute someone

wants to build over here. There is a conservancy line over here. We have to be careful with this. Make sure we don't go inside this line. The line says it is at 98.2. That is how I word this. Zoning is different. Zoning maps are very clear. They use property lines and things like that to divide. This is done by elevation, runoff and flood storage. It is not that accurate. My opinion is although this line shows that it falls somewhere else if the elevations on the plan are correct. That is what it says here. I think the elevation is what is controlling. I would like to see a smaller project. I would like to see a smaller building.

CLLR MANNING-MARTIN: You led off this whole thing with this is colossal and they should downsize it. The weight of your opinion wasn't really taken into consideration. Had it been we probably wouldn't be here tonight. I appreciate all your time and I have learned a lot. I will use it tomorrow night. I have learned a lot and I thank you all very much.

MR COMAK: They surveyed the site. We have to rely on those elevations. If you hire another engineer to survey the site you are probably going to come up with the same elevations. What is that going to prove?

ATTY KEILTY: Our engineers have reviewed everything as well.

CLLR MANNING-MARTIN: To me I guess before I put my name on something that is going to affect a lot of people. It is a seven-acre project. What is that seven football fields? I would probably want to prove it. I would probably ask my city to prove it. That's all.

MR RIZZO: The simplest way to do this is to reduce the size of the project. Unfortunately, what we have now is an Order of Conditions in place. I don't know what my rights are to ask if they can make it a little smaller or move this in further.

MR RYAN: Our entire site design was peer reviewed by the city engineer William Paultiz. He was on site when we did the soil testing for these drainage systems. He is familiar with the site. We have been going back and forth for months making all the requests to change things he required. We changed the configuration of the entryways. We've changed around the buildings. We have done extensive modifications based on his peer review and his professional expertise. As far as our survey is concerned if someone wants to question whether or not we know what we are doing I guess there is nothing I can do.

MR RIZZO: We wouldn't do that.

CLLR MANNING-MARTIN: That is not what I am doing sir. I just want a (inaudible) opinion. On something on project this colossal in a CD or abutting. Downtown flooding and a neighborhood and the entire city at large. That's all. I'd like to get a second opinion.

MR RYAN: That is why everything has been peer reviewed. We have actually overdesigned the drainage system beyond what we are required to do to address that very concern. As far as the survey goes all I can speak to is my head of survey who has been doing this for thirty plus years and has done thousands of these surveys. He is a professional meticulous guy. He doubles and triple checks everything on these plans.

MR RIZZO: I respect the engineer's capability, his stamp and his professionalism. I am not going to sit here tonight and question their engineering abilities.

MR BUTLER: Neither will I sir but what I do question is why does the city of Peabody have a zoning map. And that is what that is it is a zoning map. Why do we have a zoning map that we are going to chuck out the window.

MR RIZZO: I think not all maps are as accurate as we like to think they (interrupted).

MR BUTLER: But can you decide that here tonight? That is all I am saying. For anyone to sit here and (inaudible). Well wait a minute. It is our map.

Ann Quinn, Lynnfield Street

MS QUINN: I have some concern about the downstream flooding. What I have heard is I think that we have a conservancy map. In one case you paid attention to it and now in another case you are not. Either we have a map or we don't. I am hearing that?

MR RIZZO: We have a map.

MS QUINN: In one case you paid attention to it I guess Latitudes. And now you are saying oh no. So, we have a map or we don't. That's all.

CLLR TURCO: I want to make a point. It kind of goes along with what everybody has said. Bruce, I entirely agree with you. Sometimes we need to rely on experts and we need to have trust in the experts. When this first came out and I met with the residents; There were questions as to why the numbers were different from the city of Peabody map. As opposed to what Meridian had. I raised that question with Will Paultiz. I said I really don't care what the vendor says. I care what the city of Peabody says. Will Paulitz entirely concurred at a council meeting with me. I need to rely on those people. That is basically what I did. I want to make that point.

MR LAZARES: Is there a way to prove the location of the conservancy map related to (interrupted)

MR RIZZO: Not tonight.

MR LAZARES: But there is a way to do it? Should we go back to Will and ask him for his opinion. That is what I think we should do to get another look at it. I think the residents have done a great job at presenting a case. I haven't heard anybody addressing the concern, which is my concern, about downstream flooding or any flooding other than one gentleman who said if all systems fail and there is an astronomical flood we are in trouble. We are in trouble anyways if that is the case. I think you have done an excellent job designing a way to keep the water on the property. I don't know what else we could ask of you.

MR RYAN: If I may really quickly. Any drainage system on any commercial property in the entire country if it is not maintained it will fail with time. The whole point of these systems and the way that they are designed is so that they can be easily maintained. That is why we submitted an Operation and Maintenance Plan for the site. There are specific directions on how to clean these things to make sure they are running properly. We are not using anything on this site that is not used on every other commercial site of this size. There is nothing exotic.

MR LAZARES: What I am saying is if there is a catastrophe and a huge rainstorm that overruns your system it is going to fail anyways.

MR RYAN: This system is designed to take a one hundred (100) year storm event. you are right. If the great flood comes you are going to have bigger problem other than whether or not our site floods. You made the comment that nobody has talked about downstream flooding. That is the whole point of the design of our system. We are going to be reducing flooding from our property. That is all we can do.

MR LAZARES: Are you reducing by your site the total amount of water going downstream?

MR RYAN: Yes. We addressed both rate of water. How fast the rate it comes out. Also, the total volume of water that comes off the site. We are holding back a tremendous amount of water.

MR LAZARES: So you are doing what the city has asked you to do in preventing to the best of your ability your site from creating downstream flooding?

MR RYAN: Yes.

ATTY KEILTY: Yes.

MR BUTLER: Mr Chairman the point of the wetlands conservancy district if you read the prelude to it this is exactly what it is designed to do. That is the purpose of the wetlands conservancy.

MR LAZARES: I think we have to go back to a city engineer like Will and say do they line up? Which way do we go? I am not qualified to answer that.

MR RYAN: As far as the elevation I talked it over with Will. I said look your regulations say it is this. Do you agree that it is this? He said yes that is it.

MR RIZZO: Maybe the city solicitor can weigh in on what is the legal order of information. The map or the elevation? Or maybe a combination of the two or if one fails then the other falls in place. Maybe the city solicitor can rule on that as a legal matter. I know when you have plans and you have lines on a plan sometimes the lines may be wrong. What matters is what is in the contract and what is written in the specifications. This is what is written. It says elevation.

MR WELTON: Elevation I agree with how everything is mapped out and plotted out. I think you did a great job illustrating everything that you have done. I also understand this gentleman's concern where it refers back to the map. I think even the ambiguity in the conservation regulations (inaudible) generally shown in the accompanying zone. I think that just puts us in a situation where it is difficult for us to make the determination. Do we look at this map or that map?

MR LAZARES: Through the chair. If I remember correctly on Latitudes you proved that the elevation that was called out was arbitrary.

MR KEILTY: Then we went to the city council and amended that ordinance providing new elevations. Then we came here.

MR LAZARES: Now we are saying the map is correct. It is just that we are getting an overlay. There is something different about your site plan versus (inaudible).

ATTY KEILTY: When you look at this ordinance and applied it to Latitudes the Latitude provision was upstream of first railroad culvert above route 1. We changed that. We were able to prove that this was wrong. I am going to tell you when this was drafted it was drafted at the Proctor House by Alan (inaudible). That is the truth.

MR BUTLER: I read that and you put a codicil in there without elevations. That is fine. I am not questioning the legality of it. You simply just said between these two points we are going to allow a building. That is fine. (inaudible) When I read the ordinance it simply says between these two points however you can build something. You didn't say the elevation was wrong. In fact, if I go back up to the elevations they are the same. What you did was you simply created a codicil. Which is fine. But that is not what was done in terms you didn't say the elevation was wrong. You simply said we can build here. And the council approved that. If you read it there is no mention of elevations.

KEILTY: I thought we amended the numbers.

Discussion ensued.

KEILTY: So, we accept what is here for tonight's hearing. When you apply that language from the upgradient of the river or whatever we say that the elevation comes out to be ninety-eight point two (98.2). So, we honor 98.2. We protect it and pull out of it. This plan is a much improved plan. If we need a decision from the city solicitor saying what controls. We probably can get that but not tonight. We hoped to be here last month. These issues might have been vetted before the city council's hearing which is scheduled for tomorrow.

MR RYAN: So, the concern is what governs in the conservancy district?

Discussion ensued.

MR RIZZO: If it is by elevation then I know where the line is supposed to be. I need to know that number one where is the conservancy map line? I don't see it on here as it applies to this property. You did a great job and a great presentation. I thank you. Is what he showed us tonight correct too? Is that line exactly where you showed us? I'd like to see somebody put that line on this plan.

MR RYAN: You just said the conservancy line is not shown on this plan but it is shown. Elevation 98.2.

MR RIZZO: I read it that way. I am saying if that map could be put on here by you. That line so you can say this map shows a line here that a conservancy district. However, the district is defined by this and the city solicitor says this is what governs. Then I think we can make a good decision. I don't think anybody wants to build in the conservancy district.

MR COMAK: That is right. Exactly.

MR DONOVAN: It is the responsibility of the building commissioner to make that decision not the conservation commission. In the ordinance it does say the building inspector.

MR COMAK: Okay well maybe the building inspector has to make the call. Somebody has to make the call.

ATTY KEILTY: The building commissioner approved our other plan. He viewed the wall as a water control device. None the less we said we are going to honor the elevation and go back to the ConComm with a better plan. Which brings us here.

MR BUTLER: Mr. Chairman I disagree with the building inspector issue. You have the power to it's in the ordinance. It says the conservation commission can allow certain things within the conservancy. Therefore, I would disagree the building inspector is irrelevant. You have the power to say you can put in an agricultural land in there if you want.

MR RIZZO: As a member of the conservation commission my discomfort in ending this discussion for the evening is picking one over the other. My engineering hat is telling me that it is the elevation. If one rules over the other and the line is here then our project is not in compliance.

MR BUTLER: Mr. Chair one more thing. If there is a zoning violation they can not get a special permit. State law will not allow it.

MR RIZZO: We can not discuss zoning in this forum. I think I have my answer. I need to see the conservancy map line drawn on this plan. By line not by elevation. Then we can ask for a legal ruling.

Discussion ensued.

MR DONOVAN: One more point. You are still avoiding the flood plain boundary district. It is another overlay district.

MR RIZZO: It is far away from this.

MR DONOVAN: Not according to FIRM.

Discussion ensued.

CLLR MCGINN: Mr. Chair I want to address one of the points that Mr. Lazares brought up about the stormwater management. I brought that issue up as well as with some other councillors. At the meeting Mr. Paulitz did a number of calculations which I asked him to document. And I know Lucia got a copy of this. it reflects what was indicated here by the engineer. The percentage improvement in terms of rate and volume. The range of the percentages that I see on this November memo from Will Paulitz were in the range of 25-85% improvement. What was quoted tonight is 20-60% improvement. Although it was indicated that the design improved in terms of the site's ability to hold water. Based on what I am looking at it went down. My request would be if there could be a verification of the before and after.

MR RYAN: You are right I didn't have the drainage report. I was just trying to recall. If it was not the exact accurate number I apologize. If you read the drainage calculations those are obviously the calcs.

CLLR MCGINN: I am just going by what I hear tonight. I am asking the commission if they would take the steps in getting the calculations so that we know definitively that this design represents an improvement.

Discussion ensued. The commission asked the engineer for before and after calculations in layman's terms on a simple sheet. They also need clarification regarding the controlling factor in the conservancy ordinance (map or elevation). The engineer will reach out to the city engineer and ask him to verify the calculations. Attorney Keilty will contact the city solicitor in regard to the interpretation of the conservancy district.

Motion to continue as made by Ms. Feld. Seconded by Mr. Welton. Adopted unanimously.

CERTIFICATE OF COMPLIANCE

4. A request for a FULL Certificate of Compliance made by Attorney John R Keilty on DEP file No. 55-583. The property is known as 51 Jubilee Drive, Map 81, lot 3, Peabody MA.

Motion to continue made by Mr. Rizzo. Seconded by Mr. Welton. Adopted unanimously.

5. A request for a PARTIAL Certificate of Compliance made by Chris Ryan Meridian Associates for Kelly Auto Group on DEP file No. 55-835. The property is known as 74R Andover Street, Map 28, lot 2A, Peabody MA.

Present: Chris Ryan (Meridian Associates)

Discussion ensued.

Motion to issue a Partial Certificate of Compliance with the following conditions 1) O&M Plan is in perpetuity, 2) No car washing on premises is in perpetuity, 3) No Snow storage signs to remain on site in perpetuity as made by Mr. Lazares. Seconded by Ms. Feld. Adopted unanimously.

6. A request for a PARTIAL Certificate of Compliance made by Curtis Young of Wetlands Preservation Inc. for Group 1 Automotive Inc. on DEP file No. 55-832. The property is known as 0 Willowdale Avenue, Map 39, lots 29 and 23, Peabody MA.

Present: Joseph Orzel (WPI)

Motion to issue a Partial Certificate of Compliance with the following condition 1) The O&M Plan and the LTPPP are both in perpetuity as made by Mr. Lazares. Seconded by Ms. Feld. Adopted unanimously.

7. A request for a FULL Certificate of Compliance made by David Kelly (Kelly Engineering Group Inc.) for Centercorp Retail Properties (Richard Newburg) and Nicholas Decoulos on DEP File No. 316-43 (the Order of Conditions was issued on 1/10/1979. The property is known as 250 Andover Street, Map 30, lot 13, Peabody MA.

Motion to continue as made by Mr. Rizzo. Seconded by Mr. Wojcik. Adopted unanimously.

REQUEST FOR DETERMINATION OF APPLICABILITY

8. A Public Hearing on a Request for Determination of Applicability submitted by Oak Consulting Group for the property owner 17 Centennial Drive, LLC. The proposed work consists of the demolition of the existing building. The property is known as 17 Centennial Drive, Map 82, Lot 003, Peabody MA.

Summary: The applicant requested a continuance.

Motion to continue the item as made by Mr. Wojcik. Seconded by Ms. Feld. Adopted unanimously.

ENFORCEMENT ORDER

9. A continued Enforcement Order issued to Carpenter & Costin, Cedar Pond Village Condominiums and Crowninshield Management for the property known as 1200 Salem Street, Lynnfield MA. The mailing address is Lynnfield however the actual location of the violation is in Peabody located behind the townhouses along Brookside Path (map 98, Lot 500T). The violation is the removal of 35+ mature trees as well as vegetation along a portion of Goldthwaite Brook. All work was done in close proximity to or on said bank of brook. A valid Order of Conditions has never been issued for said work.

ITEM CONTINUED UNTIL SPRING OF 2018

APPROVAL OF MINUTES

10. MINUTES- November 8, 2017

Motion to approve the minutes as made by Mr. Comak. Seconded by Mr. Lazares. Adopted unanimously.

SUBCOMMITTEE REPORTS

- **Land Acquisition Committee- Chairman Rizzo**
- **Flood Mitigation- New commissioner to be appointed by Chairman**

Chairman Rizzo appointed Commissioner Stewart Lazares.

OTHER

- **Any other matter presented to the commission at this time.**

The commission will use the podium at all future meetings. Only people at the podium can talk to the commission. Any resident wishing to speak at the hearing must state their name and address.

- **Adjournment**

Motion to adjourn as made by Ms. Feld. Seconded by Mr. Comak. Adopted unanimously.

The meeting adjourned at 10:00 pm

Respectfully submitted-

Chairman Michael Rizzo