



City of Peabody
Conservation Commission

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

MINUTES

JANUARY 16, 2019
DEPARTMENT OF PUBLIC SERVICES
50 FARM AVENUE

MEMBERS PRESENT

Chairman Michael Rizzo
Bryan Howcroft
Craig Welton
Travis Wojcik
Stewart Lazares

MEMBERS ABSENT

Vice Chairman Bruce Comak
Melissa Feld, Secretary

Also Present: Lucia DelNegro, Conservation Agent; Brendan Callahan, Assistant Director of Planning; Ward 5 City Councillor Joel Saslaw

CHAIRMAN RIZZO CALLED THE MEETING TO ORDER at 7:07 pm

PROPOSED NEXT MEETING DATES- February 20, 2019 AND March 13, 2019
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.**

[Items 1 and 2 were discussed together]

VIOLATION ORDER

1. A continued Violation Order issued to Emmanuel Papanickolas for DEP File No. 55-822. The property location is 25 Farm Avenue. The alleged violation is adding fill and an crushed aggregate pad in the location of a proposed stormwater basin as approved by the commission under DEP file no. 55-822.

Present: Attorney John Harding (Lewis, Brisbois & Smith LLP), members of the Papanickolas family & Christopher Mello ELSAI

ATTY HARDING: I am here on behalf of the petitioner. Since you recall we were last here in connection with both that item and the related Notice of Intent that has been filed for the 25 Farm Avenue property. At the last meeting you will recall that Mr. Mello discussed a proposed conceptual site plan to address the stormwater and runoff issues that are a concern. On December seventeenth he submitted a more detailed plan to the commission and I understand that has been circulated. Also, this week in response to a request from the commission, he submitted an operational and stormwater management report. I understand you haven't had a chance to review that yet. Mr. Mello is here to address both of those points, any concerns, questions or issues with respect to the revised site plan, the operational report to see if we can move forward on closure to these issues. Tonight Mr. Papanickolas is here, Crystal and other members of the family. Also Mr. Mello is here to address any of the specifics on the revised site plan as well as the operational report. Also, at the last meeting the commission had requested that an inspection be done on the culvert of the JD Raymond driveway. Mr. Raymond is here and can report on that. His environmental consultant Ann Marton is here as well. Whatever order the commission would like to take up these issues. These are the folks that are prepared to answer any questions.

MR RIZZO: Why don't we begin with item number one.

ATTY HARDING: I think Mr. Papanickolas is going to address that.

Discussion ensued about which parcel to discuss first. There is ongoing confusion about which lots they were discussing because it is one large lot used by several different contractors (JD Raymond site, JunkHaul site, mulch pile area and the old area of Lobel Landscaping that was taken over by a trucking company.)

ATTY PAPANICKOLAS: Good evening. In regard to the Jalbert lot. At this moment in time I would like to address this at a later time. As I understand it, the Jalbert lot has been approved in the past. I also understand that there was some discussion about a retention area. I would like to address that later tonight. Right now, I am thinking of blocking it off and putting beef all over the place because of the interference that has been injected into this property. At this time, I would like to defer discussion on this issue because we haven't made final decisions.

MR RIZZO: There is work taking place on that site now? Correct?

ATTY HARDING: No. Mr. Karamas was retained but there was an issue about trying to get a permit to start the work because at the time he was going to start the work not all of the tenants' subject to the building commissioner's order had to cease and desist using the premises had yet vacated. So, I was told they can't get a permit until that happens. It did happen. So there has been compliance with building commissioner's order. No indication from the building commissioner that there is any remaining issue. At that time, we were getting into the holidays. I

think what Mr. Papanickolas is trying to articulate, is that my understanding is that the retention basin was predicated upon a certain use of that portion of the property. There is some thought or discussion going on about perhaps not using it in that way. Which would either obviate the need for a detention basin or may result in a need to redesign what would need to go in there. Essentially what Mr. Papanickolas would like is to have this matter left open so that he can make a final determination on that issue and come back to the commission with an appropriate plan based upon the potential change on how that lot will be used. Essentially all he is asking is that that matter be left open. There has been change in thinking as to what the best commercial use is for that specific portion of the property. So that would affect what is or is not needed for a retention basin and would like an opportunity to present that to you at the next hearing.

MR RIZZO: It is not a very big site. I can't imagine what the change in use could be that still wouldn't require the need for the detention basin to bring that site to a developable site.

ATTY HARDING: My understanding is that the retention basin is tied to the aggregate pad? That may not be part of the new plan. I think what we are suggesting is that the commission defer action on that item. Let us come back to you at the next meeting and say either "there is not a change in use and we are going forward with the retention basin and update you on the progress that has been made" or come back with an alternative proposal. A lot of this has to do with trying to come up with a solution that addresses the commission's interest, concerns and issues without taking up so much of the property that it becomes not commercially reasonable to find a tenant to use it. That is the dilemma. How much land the retention basin takes up of this particular portion of the property. We are trying to come up with a potential alternative solution which could include a different use of the property for agriculture or other types of uses that would not have the same stormwater concerns or the need for a stormwater retention basin. Or it may be appropriate for it to be smaller. We are going to work with an environmental consultant on that issue to see what the best resolution would be. We are not ducking it. We are not trying to put it off but there has been a change just in terms of the business purpose for that piece of the overall property that has caused this interruption in the progress.

MR RIZZO: Would that result in the withdrawal of the current Order of Conditions (DEP file No. 55-822)? You would start over again?

ATTY HARDING: I think that is where we are heading that is why we are asking to defer because the client isn't prepared to propose a final solution to that issue based on the existing Order of Conditions.

MR WOJCIK: Through the chair, this has been going on for many months. There have been numerous times that we have deferred action on it. If we are to defer action again I would greatly appreciate 1, 2 and 3 alternatives being presented to us. We need to do something about this shortly. The longer that this goes on; the longer that the NOI after it will keep going on as well. We are not going to be voting on the other NOI. I see it as simple as that.

MR RIZZO: Some of our thoughts this evening were that we really want to see that get done under the Order of Conditions that we have. Then we could move on to the other site. It seems sort of strategic that now you are asking us to put that aside and address the other site. That is not where we want to go tonight. We were hoping that we could get that site done.

ATTNY HARDING: I understand but unfortunately, I don't think we are in a position tonight to do that. To the extent that it has impacts on other things that are pending it has those impacts and we understand. We understand your thinking on this.

MR RIZZO: You understand now if we continue this item it could be different on how we look at the next site this evening?

ATTY HARDING: Yes.

MR RIZZO: We can't make Mr. Papanickolas develop the site. If he decides he doesn't want to do it anymore this is America and he can do that.

MR CALLAHAN: He should make a request for a Certificate of Compliance. If the work was not completed in accordance with the Order of Conditions.

Discussion ensued regarding the property owner wanting to change the use of his property. The commission reminded the property owner and his attorney that DEP has put them on alert for his property located at 25 Farm Avenue. The property owner wanted to continue the Violation Order (55-822) until he decides what his future plans will be for the portion of the site. Commissioner Lazares asked what the property looked like today presently. Mr. Papanickolas responded that it is in "its natural vegetative state." However, the property is not in its natural vegetative state.

MR RIZZO: No. It is dirt and it has been graded and material has been brought on to the site. It is not natural. The site has been altered. The area around the perimeter is natural. The site itself where the gravel is not; that was brought there. Maybe in connection with the permit. It was graded and spread out. The detention pond that was in the permit, the NOI and the Order of Conditions was not constructed. Now the site is occupied, and DEP is involved. The site is not natural. It has been changed. Construction has started.

Discussion ensued. Work has been done in reference to DEP 55-822. The work that has been done is not in compliance with the Order. The tenant has vacated the portion of the property according to Crystal Papanickolas.

MR WOJCIK: Thought the chair, I just brought up the Violation Order dated August 2018. It states that you need to remove the fill, construct the approved basin and have it inspected by city staff. I don't think that is changing whether the use of the property changes. The fill would need to be removed regardless. There needs to be things done. We can't just leave it as is. As the chairman stated, construction has started. The site has been altered.

MR HOWCROFT: Are we allowed to hold off on making a decision with item #2 until item #1 is addressed?

MR CALLAHAN: You can do whatever you want to do with item #2. I know we were all hoping to get item #1 into compliance prior to making a decision on # 2. You could give them an Order even without compliance. But you also have the right to hold back from issuing an Order of Conditions because of that. You are not obligated to give an Order of Conditions. The other one is still out of compliance.

Discussion ensued. The item was open to members of the public. The commission asked the public to only discuss item #1 at this point. Item #2 will be discussed later in the meeting.

Attorney Jason Panos (legal counsel for abutter Mr. Weiss)

ATTY PANOS: I pointed this out in my letter of January 15 to the commission in point of clarification, your ordinance section 32:21 allows that *"the commission may have the right to refuse to issue an Order of Conditions if a previous Order of Conditions on the same property or on contiguous property under the same affiliated ownership that has not been complied with or has not received a Certificate of Compliance"*. Under your own ordinance you are certainly in a position to decide not necessarily to issue an OoC on agenda item #2 until the violation which is still outstanding and will be outstanding regardless of the change in use is resolved. This is more a point of information, through the chair and attorney Harding and whomever else wants to

answer this, my question, isn't this a site of an active Junk Hauling operation? Isn't Junk Haul an active tenant on this lot and operating there? Or is it in fact vacant? I don't think that was the site subject to the cease and desist that was issued by the building commissioner. The Junk Haul was not subject to that cease and desist. As a matter of fact, I believe the use is allowed by right. Are they occupying and operating out of that space or is it in fact vacant? By clarification we are talking about the site subject to the Violation Order. Which is adjacent to the site subject to the portion of 25 Farm Avenue that is subject to agenda item #2 the NOI that has been before you for a couple of months. Again, is it vacant? Or is there activity taking place or isn't there? Again, through the chair.

MR RIZZO: Can you answer that question?

ATY HARDING: What we are thinking, given the outstanding issues with item #1 and with #2 that we have a discussion to the extent that the commission wants to for #2. Also hear from Mr. Raymond about the culvert issue that was brought up at the last hearing and his consultant as well, Ms. Marton. We would like to package item #1 and item #2 in a way that they can be considered together at the next meeting and avoid the dilemma that we unfortunately have seemed to have created for the commission. It wasn't our intent to make this hard or more difficult for anyone. If the commission's view is that one and two basically go together and be decided at the same time then our recommendation would be to have a discussion of what the submittals have been on item #2. To hear from Ms. Marton and Mr. Raymond on the culvert issue. And then to come back at the next hearing date in a way that those two items can be packaged together and fully resolved as a package by the commission and not have any loose ends. That would be our practical suggestion for how to proceed tonight and toward a resolution.

ATTY PANOS: That is all well and good. That is basically what you said earlier in your presentation. I asked a simple question. Is there or is there not activity going on that portion of the site subject to the Violation Order? There either is or there isn't.

ATTY HARDING: I think there is some uncertainty. Junk Haul is operating. They are doing that as a right. They are fully in compliance. They are not subject to any order from the building commissioner. The Violation Order pertains to that particular piece that Junk Haul is on is the question mark.

ATTY PANOS: My understanding by way of point of information, please correct me if I am wrong, is that the initial violation that brought rise to where we are today. That brought rise to that NOI. That brought rise to the issuance of an after the fact Order of Conditions. Was that that very activity was going on that portion of the site. That is what caused you to have to come for an after the fact NOI filing. That is my understanding. If that is not right, please correct me for the record.

CRYSTAL PAPANICKOLAS: If I may speak on the matter. It is my understanding that Jessie Jalbert has a fenced in portion. He was given a special permit and is allowed to operate out of that fenced in area. The Order of Conditions to my understanding goes along with Mr. Jalbert's fenced in area. There was an additional tenant there that was operating without a special permit. He has since vacated pursuant to Mr. Talarico's cease and desist order. Those were considered two separate rental lots. They were not considered one as Mr. Panos is suggesting.

MR RIZZO: Can I ask a question? The site that has some drainage structures on it. Is this the same site?

Discussion ensued. The site with the drainage structures on it (but not in use) is Junk Haul (Jalbert's). The Junk Haul site also has an Order of Conditions for a detention basin to be constructed and is the property that the Violation Order has been issued on. The site has had

some excavating done, and drainage structures are presently located on the site, but the basin has not been constructed yet. The Violation Order was issued to bring this site and DEP file no. 55-822 into compliance with the existing Order of Conditions for that portion of 25 Farm Avenue. There was another tenant on a separate portion of 25 Farm Avenue (trucking company) that did not have a special permit to conduct business. The trucking company has vacated the site, but Junk Haul is still using the site as they have a Special Permit. However, Junk Haul is not in compliance with the Order of Conditions (detention basin needs to be constructed). The property that had the trucking company on it is presently before the commission as item #2 for an Order of Conditions. Junk Haul is presently occupying the fenced in portion of the lot as construction is ongoing. **Discussion ensued.**

MR RIZZO: There has been some construction work done on that site (in reference to item #1). There are drainage structures on that site. I saw a pipe, a trench and stone on the backside.

MR CALLAHAN: It looks like Karamas started some work (on the detention basin per DEP File No. 55-822).

MR RIZZO: Is that the property that you are talking about wanting to continue on? You are out there doing work and now you are saying you want to continue this matter? What are you building then? What is actually being built on this site if you are changing your mind?

MS PAPANICKOLAS: To be honest I haven't seen it recently.

Discussion ensued regarding the construction on site. The commission was confused that work has started regarding the detention basin, but Mr. Papanickolas stated he wanted to change the use and layout of the site. The commission reminded the property owner that if he wanted to change his plans he would most likely need to file a new NOI for a different project. He would first need to request a Certificate of Compliance stating work never commenced or work was never finished. Given the nature of the site presently it would be difficult to issue a Certificate of Compliance on an unstable site. Discussion ensued regarding a future potential use of the site and possible permitting.

MR PAPANICKOLAS: We want to maximize the use of the land and the property. It has been in the family since 1922. Okay. Farm Avenue was merely a fire road in the middle of the woods. It wasn't what it is today. There was never an abuse of that property. We want to maximize the use which is what I told you. In my judgement, we are going to be bringing in some cattle as well. And hogs. I want to see how that is going to dovetail.

Discussion ensued. Attorney Harding stated all work on this site will stop until his client figures out what he wants to do. He also stated his clients had no clue that Mr. Karamas started work already. The commission was wondering if they planned to bring additional fill on site as it appears that some of the drainage structures need at least eighteen (18) inches of fill on top of them.

MR RIZZO: I don't know what he is building. You folks don't know what he is building. The last thing I want to see is if there is a drainage structure out there. The frame and grate has been set in concrete it is graded and it is done professionally. And it is about eighteen (18) inches higher than existing ground. I better not see eighteen (18) inches of fill brought into that site. I want to make that clear. We want to work with you. We want this work to get done but please do not do anymore activity on that site until you have decided what you are doing. You should make sure you know what Mr. Karamas is building. If that is who will be doing the work.

ATTNY HARDING: We can submit something that indicates what has been done so that there is clarity. To the extent that he has done some work we will make a submission on what he has

done so far so that the commission understands what has happened in the past, what is out there and (inaudible) into a comprehensive plan but at least give you a status on what has transpired.

MR RIZZO: Can we say that no more work will take place until certainly you know what is going on and you notify us, and you come to the next meeting?

ATTNY HARDING: Yes.

The commission requested the following at the next meeting: alternatives for the use of the property, timelines for whatever work needs to be done, a list of all work that has been done to date, photos of what has been done and no future activities shall take place until after the February meeting.

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

NOTICE OF INTENT

2. A continued Public Hearing on a Notice of Intent submitted by Emmanuel Papanickolas. This is an “after the fact” filing. The property owner is requesting the commission to allow existing filled pad to remain in buffer zone. No stormwater components are proposed at this time. The property is known as 25 Farm Avenue, Map 69, Lot 6, Peabody MA. (DEP File No. 55-860).

Present: Attorney John Harding (Lewis, Brisbois & Smith LLP), Members of the Papanickolas family & Christopher Mello ELSA

ATTNY HARDING: Mr. Mello has submitted a revised site plan to address the concerns of stormwater and runoff. He is happy to address that with the commission. He has also submitted an operational report. Mr. Raymond is here to address the culvert issue.

Discussion ensued. Attorney Harding asked to discuss the culvert issues and any other questions but pressed that he would like the item continued as his client is still not certain of the use.

MR MELLO: Continuing from the last meeting where we proposed to the commission some items that would take place on the parcel of land which we are calling the piece closest to Forest Street. The piece we were just discussing is closest to route 128. At our last meeting we discussed taking out the logs that were there and adding two swales. Adding seven posts with signs of no disturbance to the wetlands. Taking the muck material out. Bringing in nine (9) inches of fresh stone in two sections. Putting a timber fence that has a detail on the plan around the area of concern. The erosion control along the outside edge inside the BVW marked by Mr. Manuell. That is pretty much all the information that was on the plan that I had here at the last meeting. I was asked to take it back, formalize it, submit it with an operation and maintenance plan and a discussion of how the stormwater works would be submitted. I would be happy to answer any questions that the commission may have.

Discussion ensued regarding the plan that was submitted. Some commissioners felt that the work area was now encroaching farther into the buffer and closer to the resource. The proposed guardrail will vary in distance from the wetlands. The closest area will be about seven (7) feet away from the resource. The furthest area is about twenty-five (25) feet from the wetlands. It will average about seven to ten feet away. The date of the plan is December 17, 2018. The site is presently vacant. There is not a tenant using it. Commissioner Wojcik inquired to the intended use of this portion of the property since there was currently not a tenant.

MS PAPANICKOLAS: His intent is to continue to use the lot as it was before and to rent it out for trucking companies.

Discussion ensued.

Peter Ogren, Hayes Engineering

MR OGREN: Chris I have one question. You say one to three inches of broken stone. And then three to six inches of broken stone in your cross section. It looks like you are removing and replacing a total of nine (9) but it doesn't say what the relative thickness is of the stone. I assume the size is one to three inches and not the depth?

MR MELLO: I am sorry it is to remove nine plus or minus inches of existing material.

MR OGREN: And replace it with nine inches of stone.

MR MELLO: Right. Three inches of one to three and six inches of (interrupted- inaudible).

MR OGREN: The reason I am asking the question is we heard you want to go back to the truck maintenance here. Truck storage. I think that section would probably be suitable to put heavy trucks on.

Discussion ensued regarding thickness of stone.

MR OGREN: In our request we asked for an operation and maintenance plan. Which is basically what Chris has provided. A commercial use on this site if that is what the use is to be requires a check stormwater management report under the DEP regulations. I don't see any way to avoid providing this information. It does say if some reason you don't or can't provide the information you need to state the reason that you can't. The thing that first comes to my mind, I don't know how the commission is viewing this? Whether they are viewing this as a change from an original condition. Or it was originally an impervious surface as Chris mentioned and then they are putting the stone on it. That goes directly to whether there is any increase in runoff. There is obviously no mitigation. At least no mitigation documented in terms of the swale plan. I am not saying the swales aren't adequate to carry the runoff. I am saying does it require mitigation? I don't know how the commission is viewing this. Whether they are viewing it as a previously disturbed site but it was disturbed maybe historically. I am not that familiar with what had happened here. There is a stormwater management report and checklist that is a standard requirement. A commercial property would have to have it. The only other question that I might have is do we know what the underlying soils are like? When you look at the hydraulic computation if you are talking about going from an existing wooded condition to the prior condition I don't know whether the underlying soils will work.

MR. MELLO: I don't have any soil testing.

Discussion ensued. The commission felt that it was a disturbed site. However, they are not certain when it was disturbed. There was further discussion regarding the ACOP from DEP. The commission wanted to move on and discuss the culvert near JD Raymond's.

ATTY HARDING: I have been advised that Mr. Raymond would prefer to deal with that when we come back in February as well.

MR. RIZZO: No. We have questions and we are not getting answers to any of our questions. We are expecting tonight for you to tell us the condition of that culvert. Has it been repaired? Is it damaged? Has it been fixed? You need to talk to us.

ATTNY HARDING: Well Mr. Raymond did an inspection of it. There are some leads there. He had a video camera that was snaked through it and it took pictures. There was no evidence of structural breakage or collapse or anything like that. There are some naturally occurring leaves there. That is basically what we know.

Ann Marton, LEC Environmental

MS MARTON: I have represented John Raymond on this site since 2011. We did not show up at this public hearing tonight to speak. I was not aware that other people thought we were here to speak. It is my understanding that his name and his operation has been brought up in the last two public hearings. He was not aware of it. It came to our attention. Brendan and I spoke yesterday. We have attempted to put together a meeting where we can sit down with Brendan and the building inspector to talk through some of the concerns that you have raised. I also needed time to read through the meeting minutes. Then I can come in to you and make an organized presentation. We came tonight because after reading through the minutes from the last two meetings I was concerned that the dialogue about his operation would continue in our absence. I did not want that to happen. I was not aware until we were sitting here that there was an expectation that we were going to give a presentation or talk about the culvert. When he found out that the commission was interested in the culvert as a courtesy he did run a video camera on December 20, 2018. If the commission is interested in a report from the consultant that did that for him I am more than happy to prepare the report and give that to you. I didn't come prepared to talk about this subject matter.

Discussion ensued regarding the culvert.

CLLR SASLAW: I understand there might be the potential that she might not be able to pull it together by the next meeting. I certainly understand that. She stated that they have done the inspection on the culvert. I would expect that to be available ahead of time to you folks so that you at least discuss that one particular item at the next meeting. As it is affecting a residential home in the area.

MS MARTON: It depends on how it is connected to the entire package. I am concerned about being required to piecemeal information. The answer to the question could be a little complex.

MR RIZZO: I don't necessarily disagree or agree. There is an existing pipe. If somebody was able to go there and do an evaluation, pull a camera through it and get some data on it. We would hope that you can provide that data. Not subject to the rest of the site just that pipe. Then we would at least have an idea of that particular pipe and what is going on with that.

MS MARTON: We will get you that report.

MR OGREN: Mr. Chairman I have a question. I was not at the last meeting. Two months ago, we asked about the pipe. My client noted that the culvert had been clogged. He has been suffering with the back up of the water. I firmly believe that it is because the culvert is clogged and not passing the water. In order to complete his work, he actually pumped into the wetland. I think you are aware of that. It was stated last meeting that we wanted that information. I received a letter today from the attorney that said that the consultant will be attending the meeting this evening and will address the issues with respect to the inspection of the culvert. We fully expected to have an inspection report. I don't think anybody asked Ann Marton's firm to opine on the conditions or anything. Certainly the inspection report should be available this evening to us.

MS. MARTON: I was not aware of what was going in the contents of that letter. I did not see the contents of this letter until I got to this meeting. Peter, I apologize if you came here thinking we were bringing something that we were not. **Discussion ensued.**

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

3. A continued public hearing on a Notice of Intent submitted by Elizabeth Wallis & Peter Ogren (Hayes Engineering) for Seven Dearborn Limited Partnership c/o Joe O'Donnell (owner). The applicant proposes to construct a parking lot with associated drainage and stormwater systems as part of site redevelopment for a new apartment building. The property is known as 7 Dearborn Avenue, Map 78, Lot 19, Peabody MA.

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

4. A continued Public hearing on a Notice of Intent submitted by Matthew Salem of Solitude Lake Management for the City of Peabody/Community Development. The proposed work is the management of excessive aquatic vegetation and algae in Bartholomew Pond, Crystal Lake, Devils Dishfull Pond, Elginwood Pond and Sidneys Pond through an integrated management plan utilizing US EPA registered & state approved herbicides and algacides. The property is known as Bartholomew Pond, Crystal Lake, Devils Dishfull Pond, Elginwood Pond and Sidneys Pond, Peabody MA.

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

5. A Public Hearing on a Notice of Intent submitted by Attorney John R Keilty for David P. Silvey (owner). The proposed work is the construction of a single-family home with utilities, driveway, landscaping and lawn. The property is known as 49 Blaney Avenue, Map 103, Lot 81, Peabody MA.

Present: Attorney John R Keilty (legal counsel), Christopher Mello (ELSAI) and property owners

Summary: There was a brief discussion regarding the construction of a single-family house. The project is buffer zone alteration only. There were no members of the public that wished to comment. There was one unnamed resident that came for informational purposes only. The commission felt they could vote.

Motion to close the public hearing as made by Mr. Wojcik. Seconded by Mr. Welton. Adopted unanimously.

Motion to issue a Standard Order of Conditions 1-47 adding condition **48**) a tarp **MUST** be placed on all stockpiles during any rain events. Erosion controls should also be appropriately placed around stockpiles to ensure no migration of soil into the resource as made by Mr. Wojcik. Seconded by Mr. Welton. Adopted unanimously.

6. A Public Hearing on a Notice of Intent submitted by Greg Hochmuth- Williams & Sparages, LLC for Patrick Coburn-AmConCorp (applicant). The proposed work is the demolition of an existing single-family home and the redevelopment of the property to include a commercial building and parking lot. The property is known as 3 Mount Pleasant Drive, Map 29, Lot 6, Peabody MA.

Present: Greg Hochmuth (Williams & Sparages, LLC), Pat Coburn (owner)

Summary: Greg Hochmuth gave a presentation regarding the project change. The applicant originally was planning to refurbish the house and received a RDA. Unfortunately, the structure could not be saved. The applicant had to change his plans to demolish the building down to the existing foundation. There is a buffer zone enhancement plan proposed. The parking has changed significantly and has also triggered stormwater standards. DPS submitted a memo to

the commission stated that the project as submitted should not be approved until some issues have been addressed.

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

CERTIFICATE OF COMPLIANCE

7. A continued request for a PARTIAL Certificate of Compliance made by Joseph Orzel (Wetlands Preservation, Inc.) on DEP file No. 55-800. The property is known as 252 Andover Street, Map 39, Lot 25C, Peabody MA.

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

8. A request for a FULL Certificate of Compliance made by Richard Williams (Williams & Sparages) for Fran Tower-RTW Realty LLC on DEP file No. 55-799. The property is known as 119 Foster Street, Map 94, Lots 6C and 71, Peabody MA.

Present: Fran Tower (applicant), Attorney Jill Mann (legal counsel for Fran Tower), Christopher Sparages (Williams & Sparages), Joel Meyerson (abutter) and Scott Cameron (Morin-Cameron Group Inc.- engineer for abutter Joel)

Summary: There was a heated discussion regarding the reliability of the stormwater structure. The abutter Mr. Meyerson felt that it did not work in heavy rain conditions. He cited an August 2018 rainstorm that caused flooding in the area. He also accused the Tower's of not following up with maintenance. However, the Tower's previously submitted documentation that they are up to date with all maintenance. The Order of Conditions was part of a lawsuit between the two parties mentioned. The commission felt that the applicant's engineer submitted enough documentation that it was working as designed. There have been ongoing issues with flooding on this site. However, it is FEMA flood zone AE so flooding is typical.

Motion to issue a Full Certificate of Compliance stating the O&M Plan, CPPPPESC, LTPPP and condition 48-No winter sanding in close proximity to porous pavement are in perpetuity as made by Mr. Wojcik. Seconded by Mr. Lazares. Adopted unanimously.

9. A request for a FULL Certificate of Compliance made by Denis Blais (TRC) for Maritimes and Northeast Operating Company- Douglas Parcher on DEP file No. 55-823. The property is known as Glen Drive, Maps 001 and 002, Lots 20, 28 & Bike Path, Peabody MA.

Motion to issue a Full Certificate of compliance asking city staff to hold off issuance until a site visit is conducted as made by Mr. Wojcik. Seconded by Mr. Lazares. Adopted unanimously.

VIOLATION ORDER

10. Violation Order issued to Steven and Neva Georgian for the property located at 13 Goodridge Street in Peabody MASS. The violation is the construction of an addition to a single-family house including stockpiling and dewatering in the buffer zone without a permit from the commission. The property owner did receive a permit from the city's building department and was unaware of said violation. They intend to file an After the Fact Notice of Intent to continue said construction.

Present: Neva and Steven Georgian (owners), Fred Geisel (engineer and wetland scientist), Gregory Boghosian (architect) and Mary Rogers (abutter)

Summary: A building permit was issued for said addition without the knowledge of the commission. The direct abutter Mary Rogers filed a complaint with the conservation agent. The commission noted that work was being done in buffer zone to state and locally regulated wetlands. The property owner was issued a cease and desist and asked to file an after the fact NOI. The property owner still needs to go to the ZBA board for approval. A legal ad was not able to be run so the public hearing could not be open anyways. The commission felt that they needed to wait until ZBA voted before they could act regardless. The abutter Ms. Rogers asked that they submit a larger detail for the infiltration component in the rear of the property. The engineer agreed. The commission felt confident that they would be voting favorably at the February meeting if ZBA approves said project first.

Motion to continue as made by Mr. Lazares. Seconded by Mr. Howcroft. Adopted unanimously.

APPROVAL OF MINUTES

11. MINUTES- December 12, 2018

Motion to approve as made by Mr. Lazares. Seconded by Mr. Wojcik. Adopted unanimously.

OTHER

●Any other matter presented to the commission at this time.

Request from city clerk for commission to discuss the following:

MOTION: P14-19- Move that the Conservation Commission provide the city council with an opinion regarding placing black mesh-type barrier on the bottom half of the guardrail with stakes in the ground surrounding Crystal Lake to prevent any debris or runoff going into Crystal Lake.

- ▶ The commission does not support any type of fencing that will constitute a barrier of wildlife movement per 310CMR10.02. The commission believes this type of fencing will create a barrier for wildlife movement.
- ▶ The commission stated that the mesh fencing may block the view of Crystal Lake. They were also concerned about any maintenance for said mesh fence.
- ▶ The commission stated numerous times in the past that they are much more concerned about street sweeping near the lake. It is imperative that the streets are swept in the Spring after the snow melt to collect any sands before they clog catch basins and return to the dredged lake.
- ▶ Staff conducted a follow up site visit on Big Y's parking lot. Currently Big Y Plaza has a post and rail fence with chicken wire. The fence was in good condition. However, the commission believes that Big Y should be more proactive keeping their litter and debris on site. The commission respectfully requests that the property owners of the plaza be contacted to come up with a solution to the problem on their end.

12. Adjournment

Motion to adjourn as made by Mr. Welton. Seconded by Mr. Wojcik. Adopted unanimously.

The meeting adjourned at 11:15 pm.

Respectfully submitted-

Chairman Michael Rizzo