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PLANNING BOARD FOR THE CITY OF CAMBRIDGE

GENERAL HEARING

Tuesday, June 7, 2011

7:00 p.m.

in

Second Floor Meeting Room, 344 Broadway  
City Hall Annex -- McCusker Building  
Cambridge, Massachusetts

- Hugh Russell, Chair
- Thomas Anninger, Vice Chair
- William Tibbs, Member
- Pamela Winters, Member
- Steven Winter, Member
- H. Theodore Cohen, Member
- Ahmed Nur, Associate Member

Community Development Staff:  
 Brian Murphy, Assistant City Manager  
 Susan Glazer  
 Liza Paden  
 Roger Boothe  
 Stuart Dash  
 Jeff Roberts



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## P R O C E E D I N G S

(Sitting Members: Hugh Russell, Thomas Anninger, Pamela Winters, Steven Winter, H. Theodore Cohen, Ahmed Nur.)

HUGH RUSSELL: Good evening. This is the meeting of the Cambridge Planning Board. The first item on our agenda is the review of the Board of Zoning Appeal cases. And it appears we have a bumper crop.

LIZA PADEN: Yes. This evening on the agenda for June 9th I'd like to draw your attention to case No. 10011, 114 Mass. Avenue. This is the Cambridge Culinary Arts Institute up on Mass. Ave. up on Porter Square. Their proposal is to take over the retail space that is next-door to them. It's, in the past, been various picture stores, pocketbook stores.

PAMELA WINTERS: The frame place on the corner?

LIZA PADEN: Yes. It would be a

1 continuation of the existing kitchen uses.  
2 This does not create additional students to  
3 the area, but allows them to stage more  
4 classroom space. They have most of their  
5 students arrive by public transportation or  
6 on bicycle.

7 PAMELA WINTERS: That's true.

8 LIZA PADEN: And they are on a  
9 schedule that the majority of their students  
10 are there at the sort of last congested  
11 retail time. And I wanted to point that out  
12 to the Board and whether or not they wanted  
13 to support that or not. This is a Special  
14 Permit to allow the reduction of the two  
15 required parking spaces for this use. This  
16 is an institutional use in the Business A-2  
17 District.

18 PAMELA WINTERS: Well, since it's in  
19 my neighborhood, I would like to support it  
20 personally. I don't know if any of my other  
21 colleagues feel --

1 AHMED NUR: Yes, I'd second that.

2 STEVEN WINTER: I thought that I had  
3 everythi ng that I needed, but I can't fi nd  
4 that case on my two sheets. The fi rst one I  
5 have starts wi th 175 Huron Ave. on top. And  
6 the second one is 7 to 9 Crescent Street.

7 LIZA PADEN: Thi s case woul d be the  
8 thi rd from the bottom on the Crescent Street  
9 case on the agenda.

10 THOMAS ANNINGER: N. T. Dowl i ng?

11 LIZA PADEN: Yes, he's the landl ord.

12 THOMAS ANNINGER: Can you gi ve us  
13 the context for thi s parki ng requi rement?

14 LIZA PADEN: So there' s a parki ng  
15 requi rement created for the school , the  
16 vocational school at thi s locati on, and they  
17 don' t have the number of spaces that they  
18 need. Behi nd thi s bui ldi ng there are fi ve  
19 parki ng spaces, and they' re requi red to have  
20 20 accordi ng to the classroom space  
21 requi rement. In thei r case they expl ai n that

1 the majority of their students come by public  
2 transportation on the Red Line, and they have  
3 a significant number, which they didn't say  
4 what it is, but there's a significant number  
5 who ride their bicycles. They also have use  
6 of all of the spaces behind this address of  
7 Mass. Ave. when the other retailers close for  
8 the evening, and they also can use metered  
9 parking.

10 AHMED NUR: I actually usually see  
11 about 78 bikes. I thought it was a bike shop  
12 for a minute. They really do use the bike  
13 racks.

14 HUGH RUSSELL: Comment to support  
15 this. Is there anyone who objects that?

16 STEVEN WINTER: Pam, you support  
17 this; is that right?

18 PAMELA WINTERS: Yes.

19 HUGH RUSSELL: I am less familiar  
20 with this business. As presented, it makes  
21 sense to me.

1 STEVEN WINTER: I concur.

2 PAMELA WINTERS: Yes.

3 THOMAS ANNINGER: On the one hand  
4 this is just the kind of issue that I think  
5 the Board is perfectly capable of analyzing  
6 on their own. Whatever you tell us will be  
7 told to them and they will probably have the  
8 same analysis as we do. It seems like a  
9 small request and a reasonable one for  
10 longstanding, I don't know, institution? You  
11 can't really call them a retail outlet.

12 LIZA PADEN: No. They are an  
13 institutional use. They are a vocational  
14 school.

15 THOMAS ANNINGER: An institutional  
16 use I would think we would want to promote.

17 HUGH RUSSELL: What's happening to  
18 the street frontage windows in the space  
19 they're taking over?

20 LIZA PADEN: They're going to  
21 maintain the windows as they are now, which

1 is open. It's not to the ground, but it's  
2 from the ceiling to about two feet off the  
3 ground which is what they are now. It's what  
4 they are in the rest of their classroom  
5 space. This is all active classroom space.  
6 They'll install the kitchen like in the other  
7 two bays.

8 HUGH RUSSELL: So people walking  
9 down the street can look in the windows, and  
10 see the activity?

11 LIZA PADEN: Oh, yes. You'll see  
12 them doing gingerbread workshops in the  
13 winter for Christmas. And baking cakes in  
14 the spring for weddings and other public  
15 activity.

16 HUGH RUSSELL: This is the kind of  
17 thing that promotes an active street frontage  
18 which is what we're trying to do,  
19 particularly along Mass. Avenue.

20 H. THEODORE COHEN: It's actually  
21 quite fun. When you walk by, you see all the

1 students in their white jackets and chef hats  
2 and cooking or studying something. It's been  
3 there for several -- you know, many, many  
4 years.

5 THOMAS ANNINGER: And the reverse  
6 would be a problem. Suppose they couldn't  
7 find room and desirable space here, they  
8 might just like the people who used to teach  
9 massage and so on, decide that another place  
10 is better. And so I think we would want to  
11 promote this as an area that is welcoming.

12 LIZA PADEN: Right.

13 AHMED NUR: Yes.

14 HUGH RUSSELL: That's the catch that  
15 we can use from a planning point of view,  
16 this is a good use to encourage.

17 LIZA PADEN: Okay.

18 The last case on that agenda is the One  
19 Story Street, which is the Special Permit  
20 that you were granted back in March which the  
21 decision has now been signed by Hugh and I'll

1 be submitting to the Board of Zoning Appeal  
2 that decision. And you discussed earlier  
3 about sending a favorable recommendation in  
4 support of that Special Permit being granted  
5 to waive the parking space as well as the  
6 Variance that they need.

7 HUGH RUSSELL: So we could say that  
8 we reviewed the project, we have given the  
9 Special Permit the setback, and that we hope  
10 that the Zoning Board will, you know, act  
11 favorably on this.

12 LIZA PADEN: Okay.

13 HUGH RUSSELL: They'll know that the  
14 Historic Commission's also been involved?

15 LIZA PADEN: Yes. They have that  
16 package now.

17 Are there any other questions on the  
18 June 9th agenda?

19 H. THEODORE COHEN: Yes. What is  
20 the Pemberton Market?

21 PAMELA WINTERS: I was going to ask

1 that, too.

2 LIZA PADEN: So Pemberton Market.

3 There has been a change in the ownership of  
4 the abutting residential building, and the  
5 Pemberton Market -- indicates mystery book.

6 So Pemberton Market decided they would like  
7 to reconfigure their space in their existing  
8 building so that they can move the liquor  
9 license that's across Dover Street, Dover or  
10 Day.

11 AHMED NUR: Day Street.

12 PAMELA WINTERS: Day Street.

13 LIZA PADEN: Move it across into and  
14 have everything in one building. And to do  
15 this they need to reconfigure the existing  
16 building that they're using. And the rear of  
17 their lot is in the Residence B District. So  
18 they are proposing to put a conforming  
19 addition to the existing structure and to  
20 take out the use restrictions which were  
21 prohibited, certain food items, and the

1           Liquor license from being in the Pemberton  
2           Market itself. And those were part of a  
3           Variance that was granted, case No. 7490 when  
4           the Pemberton Market went into the space.  
5           And those Variances are, for the most part,  
6           have to do with the fact that part of the  
7           building is in the Residence B District.

8                   H. THEODORE COHEN: And am I correct  
9           some of the use restrictions had to do with  
10          the fact that Kate's Mystery Books was there?

11                   LIZA PADEN: Yes. And she objected  
12          to certain food items being sold in the store  
13          as well as the liquor license.

14                   PAMELA WINTERS: Some food items?

15                   LIZA PADEN: Yes.

16                   HUGH RUSSELL: Seems like something  
17          the Zoning Board can dig into and doesn't  
18          have big planning pieces. I can't say I  
19          really understand all the intricacies from  
20          this description.

21                   PAMELA WINTERS: I personally am

1           there like three or four times a week getting  
2           sandwiches, so I think, I think it's -- I  
3           personally think it's fine.

4                     LIZA PADEN:    Okay.

5                     THOMAS ANNINGER:  Can you talk to us  
6           about Fawcett Street?

7                     LIZA PADEN:  The Fawcett Street  
8           case.  So they're looking to expand -- I  
9           think what has happened over time is that  
10          there was a use that expanded that didn't get  
11          a Special Permit from the Board of Zoning  
12          Appeal, and so now they are going to put this  
13          use that's been in the area in a new  
14          structure that needs to be renovated or  
15          rebuilt, excuse me.  So they're presently  
16          using their existing building, and they  
17          wanted to build additional square footage for  
18          the storage of the various building  
19          materials.

20                    HUGH RUSSELL:  So, how does that  
21          relate to our plan for that district?

1                   LIZA PADEN: Well, it's the  
2                   preservation of the existing use. It's a use  
3                   that's been there for 50 years, 50 plus  
4                   years.

5                   THOMAS ANNINGER: Is this across the  
6                   street from what Hugh was just talking about?

7                   LIZA PADEN: 170 Fawcett Street?

8                   HUGH RUSSELL: Well, I mean we have  
9                   a --

10                  THOMAS ANNINGER: We have the  
11                  residential project.

12                  LIZA PADEN: 70 Fawcett Street. So  
13                  Fawcett Street as it goes into the quadrangle  
14                  and then makes a turn and goes toward  
15                  Belmont, so this is at the other end. This  
16                  is around the corner.

17                  THOMAS ANNINGER: Where the fire --  
18                  where the bakery is maybe?

19                  LIZA PADEN: Beyond the bakery.

20                  SUSAN GLAZER: West of it.

21                  FROM THE AUDIENCE: Where the green

1 house is.

2 THOMAS ANNINGER: It's where the  
3 firehouse has its training ground.

4 LIZA PADEN: That I'm not positive  
5 about, but I know it's passed the bakery.

6 HUGH RUSSELL: So is it all the way  
7 to Smith Place?

8 LIZA PADEN: Almost.

9 HUGH RUSSELL: Almost.

10 And what does the planning for that  
11 district -- would this interfere with the  
12 larger growth for that district? Where there  
13 are two cross streets, it's on one of them.

14 LIZA PADEN: Right.

15 HUGH RUSSELL: There's a -- what  
16 side of the street is it on? Is it on the  
17 railroad side or the other side?

18 LIZA PADEN: Railroad side.

19 In answer to your question on whether  
20 or not this is in line with the long-term  
21 plans, this is a shed building that's being

1           built. It's a shed storage building. It's  
2           not -- how to say this tactfully? It's not a  
3           heavy duty brick and mortar. It keeps the  
4           wood dry. It keeps the molding dry. It's a  
5           place to keep the things out of the elements  
6           safe and clean.

7                   HUGH RUSSELL: It doesn't represent  
8           an enormous investment?

9                   LIZA PADEN: No, I don't think so.

10                  AHMED NUR: Storage?

11                  THOMAS ANNINGER: Well, storage for  
12           hard wood.

13                  AHMED NUR: For hard wood?

14                  THOMAS ANNINGER: Right.

15                  LIZA PADEN: Right. It's not  
16           storage.

17                  THOMAS ANNINGER: Not self-storage.

18                  LIZA PADEN: It's not self-storage.  
19           And it's not storage for recycling materials.  
20           This is for consumer wood products. But the  
21           building itself, for example, is just going

1 to be on a simple slab, according to this  
2 simple slab foundation with a shed. There's  
3 no floors in it.

4 HUGH RUSSELL: Okay.

5 THOMAS ANNINGER: I guess I'd be  
6 tempted to urge the Board to examine  
7 carefully just how this does fit into the  
8 larger scheme of things, but it sounds  
9 innocent enough the way you've described it.

10 HUGH RUSSELL: It seems like it's  
11 far enough down that it's not and chronology  
12 berry place where the pedestrian crossing.

13 LIZA PADEN: No, it's not.

14 HUGH RUSSELL: No blocks. It's  
15 backing up to the railroad tracks, close to  
16 the railroad tracks, and it's not something  
17 that's going to create noise, and it's not  
18 going to interfere with other uses.

19 AHMED NUR: I guess I would like to  
20 -- there's a lot of buildings that look like  
21 that in that area, storage, and Home Depot

1 type of environment that somehow I feel blind  
2 as to what's going in there structure steel.

3 LIZA PADEN: 25 feet high.

4 AHMED NUR: 25 feet to the peak of  
5 the roof?

6 LIZA PADEN: Yes.

7 AHMED NUR: Personally as you  
8 described, I would like to see how it fits  
9 into the area. I just feel blind, completely  
10 blind as to what we're talking about enough.

11 LIZA PADEN: Do you want them to  
12 come in and talk to you before -- I mean, the  
13 complication is their hearing is June 9th.  
14 It's this Thursday.

15 STEVEN WINTER: What they're asking  
16 for is consistent with an Industrial B-2  
17 Zone?

18 LIZA PADEN: Yes, it's allowed use.  
19 And it's the existing use that's on the lot  
20 now.

21 HUGH RUSSELL: Right. It's the --

1 this is Industrial B-2 Zone that has a city  
2 plan for a transition permits, presented uses  
3 over probably quite a long time to different  
4 uses. And if this project were blocking a  
5 critical access route, if it were creating  
6 something that would create lots of noise or  
7 fumes and things, you know, so this is going  
8 to be a building that -- and also it sounds  
9 like there won't be an enormous investment  
10 being made so that, you know, somebody wants  
11 to do a larger scale redevelopment which is  
12 what we're hoping basically is apt to happen,  
13 people don't acquire multiple lots. This  
14 isn't a particular barrier to any of those  
15 things that might happen.

16 AHMED NUR: It's far beyond the  
17 Raytheon noise and vibrations with lab work.

18 ROGER BOOTHE: Hugh, I actually have  
19 been there many times and it's definitely not  
20 a problem. Vis-a-vis our plan and what  
21 they're doing. It's just a continuation.

1 It's longstanding use, and that's actually  
2 consistent with our plan. We want businesses  
3 to stay healthy. They're there of course.  
4 It would be quite a while before this  
5 redevelopment.

6 HUGH RUSSELL: Okay.

7 LIZA PADEN: Moving to the June 23rd  
8 agenda. One of the cases. The sign case at  
9 the second from the bottom which is 10118 is  
10 the high school. And the architects have  
11 been in long discussion with the Historical  
12 Commission, the Mid Cambridge Conservation  
13 Department, this department and signage for  
14 the school I think they've come up with  
15 something that's very handsome and reuse of  
16 some of the existing granite that they had,  
17 but also creating a real signature of the  
18 place. But because this is in the residence  
19 C-3 District, you're only allowed one sign.  
20 So everything on the campus requires -- and  
21 they have two frontages, one on Broadway, one

1 on Cambridge -- four, sorry. Ellery Street,  
2 they take up the whole block. So there's a  
3 lot of signage that they're proposing and  
4 they have a very well thought out sign  
5 package.

6 STEVEN WINTER: Mr. Chair, I have a  
7 problem the LED particular part of it. I  
8 don't have a problem with the illuminated  
9 tech sign, but I do have a problem with the  
10 sign that's blinking. I don't think it's  
11 appropriate. I need some feedback from other  
12 Members of the Board to see if that is  
13 something other people share.

14 HUGH RUSSELL: I guess my feeling is  
15 the neighborhood conservation district and  
16 the historic people are much tougher than we  
17 are, and so I would be inclined to defer to  
18 them rather than create -- I mean, if they're  
19 willing to accept this, then I would accept  
20 their judgment. I think in general moving  
21 signs are something we don't like in the

1           ci ty.

2                   STEVEN WINTER:   And when would that  
3           review occur from these bodies that you just  
4           mentioned?

5                   LIZA PADEN:   It has.

6                   HUGH RUSSELL:   The proposal has been  
7           reviewed by them.

8                   STEVEN WINTER:   And approved?

9                   HUGH RUSSELL:   Apparently.

10                  LIZA PADEN:   So, the moving sign  
11           that you're talking about is in front of the  
12           theatre. So the Fitzgerald Theatre Building  
13           will have an LED sign that changes with the  
14           performances. For example, on Friday evening  
15           when the dance is going on, it will read for  
16           the dance performance. And the following  
17           week when it's the jazz ensemble, it will be  
18           for the jazz ensemble.

19                  STEVEN WINTER:   Where is that, the  
20           Fitzgerald Theatre?

21                  LIZA PADEN:   The Fitzgerald Theatre

1 is from Cambridge Street. This is Cambridge  
2 Street and this is the theatre arts building.  
3 So that sign will be here. So as you walk  
4 off of Cambridge Street in the garden area,  
5 that's where that sign will be.

6 STEVEN WINTER: So it's not directly  
7 on the road and it's not posted for 24-hour  
8 use then?

9 LIZA PADEN: That, I can't speak to.  
10 I don't know if they've agreed to turn it  
11 off.

12 AHMED NUR: It's an oblique angle to  
13 the road.

14 STEVEN WINTER: If approval has been  
15 given to other boards, I don't think I'm  
16 against it then.

17 WILLIAM TIBBS: My comment on it is  
18 I need to know more about it to sign one way  
19 or the other. I'm perfectly to let other  
20 boards handle it.

21 LIZA PADEN: Okay. And I don't know

1 if anybody had a question about 100 Cambridge  
2 Park Drive or not? It's a day care center,  
3 and for this particular building which is a  
4 Planning Board Special Permit from probably  
5 28 years ago, this applicant is looking to  
6 put in a day care center, and one of the day  
7 care center requirements from the state is  
8 that you have a shade area. And Inspectional  
9 Services has now interpreted the shade areas  
10 as creating gross floor area. So they're  
11 looking for a Variance for the gross floor  
12 area from the shade as well as storage from  
13 for the tri cycles. Community Development had  
14 looked at this for signage, and one thing or  
15 another. They're also looking for parking  
16 relief because they're going to have a  
17 dedicated drop off and pick up area for the  
18 day care center, so that this will be -- if  
19 you can picture, this is the building next to  
20 30 Cambridge Park Drive which is the  
21 residential building. And so instead of

1           having just open driveway that goes to the  
2           parking behind the building along the  
3           railroad tracks, this will be a drop off area  
4           that goes right to the doorway into the day  
5           care center. So, I think they've done a nice  
6           job of it.

7                   HUGH RUSSELL: So we're definitely  
8           in favor of child care centers.

9                   LIZA PADEN: And shade.

10                  PAMELA WINTERS: And shade.

11                  HUGH RUSSELL: And shade.

12                  H. THEODORE COHEN: And tricycle  
13           parking?

14                  LIZA PADEN: And tricycle parking.

15                  HUGH RUSSELL: Yes.

16                  STEVEN WINTER: We speak for those  
17           who cannot speak.

18                  LIZA PADEN: Very good, Steve.

19                  WILLIAM TIBBS: Who cannot speak  
20           well.

21                  LIZA PADEN: Huron Avenue?

1 PAMELA WINTERS: Did you have any  
2 issues with Huron Avenue, Li za?

3 LIZA PADEN: I did not, no.

4 PAMELA WINTERS: Okay.

5 THOMAS ANNINGER: The funeral home  
6 is out of business?

7 LIZA PADEN: Oh, yes.

8 H. THEODORE COHEN: A long time ago.

9 LIZA PADEN: Don't go there.

10 THOMAS ANNINGER: I wasn't planning  
11 on it for a while.

12 LIZA PADEN: I don't even want to  
13 visit. Is that it?

14 THOMAS ANNINGER: They just want to  
15 convert whatever space that was to  
16 residential?

17 LIZA PADEN: Yes. They're looking  
18 to convert it to residential. One of the  
19 things that happens is that the things like  
20 the window openings are in the setbacks and  
21 in the Residence B, this building is pretty

1 close on to the side yard and it's an  
2 existing wall that they want to open up for  
3 more windows. I believe they're converting  
4 it to three units and they're required to  
5 have three parking spaces and they will have  
6 three parking spaces.

7 Is that it?

8 \* \* \* \* \*

9 HUGH RUSSELL: Okay.

10 Next item on our agenda is an update  
11 which I guess Susan is going to do.

12 SUSAN GLAZER: Good evening. Our  
13 next meeting will be June 28th when there  
14 will be a public hearing for the Cambridge  
15 Housing Authority to convert the old police  
16 station for its new offices. And in addition  
17 to that, we will have, under general business  
18 the Harvey Street development. They have  
19 made a number of revisions, and we will be  
20 bringing that back to the Board for  
21 consideration.

1           The meeting after that will be July  
2           12th. And at that time we will have the MIT  
3           Zoning discussion.

4           I want to bring to your attention a  
5           couple of other meetings, this Thursday night  
6           at the Christian Life Center on Bishop Allen  
7           Drive there will be a visioning charrette for  
8           the Central Square portion of the Kendall  
9           Central Study, also under the auspices of the  
10          Red Ribbon Commission. On Monday the 13th,  
11          there will be a round table with the City  
12          Council and the Planning Board. And though  
13          we don't have any specific agenda, it would  
14          be good to hear from the Planning Board as to  
15          whether you have any particular issues that  
16          you would like to discuss with the City  
17          Council. So if you want to comment on that,  
18          that would be great.

19          And then on June 21st there will be a  
20          second charrette, this time in Kendall Square  
21          at the Marriott Hotel to discuss the Kendall

1 Square portion of the Kendall Central Study.  
2 These are the first of three public meetings  
3 in each area as part of that larger study.

4 ROGER BOOTHE: Susan, can you  
5 mention (inaudible).

6 SUSAN GLAZER: Sure. For those in  
7 the audience, we will not be discussing the  
8 Forest City Development that was originally  
9 on our agenda. They've chosen to take a  
10 little more time before coming back to the  
11 Board.

12 PAMELA WINTERS: Susan, I have a  
13 question. So the round table discussion,  
14 that was called by the City Council because  
15 they had issues they want to discuss with us?

16 SUSAN GLAZER: Well, I think in  
17 light of the number of planning issues that  
18 are currently before the City, they wanted to  
19 talk to the Planning Board.

20 PAMELA WINTERS: Okay, thanks.

21 H. THEODORE COHEN: Can you remind

1 us of the time and place?

2 SUSAN GLAZER: It's at 5:30 and at  
3 the Sullivan Chambers at City Hall.

4 AHMED NUR: What was the day again?

5 SUSAN GLAZER: Monday, the 13th.

6 STEVEN WINTER: Mr. Chair.

7 Susan, do you need to know who is  
8 attending for a quorum or anything like that?

9 SUSAN GLAZER: I don't think there  
10 are any quorum issues because this is a round  
11 table, but it would be good to know who of  
12 you will be able to attend.

13 HUGH RUSSELL: So if we could have a  
14 show of hands of people who are thinking they  
15 would probably attend.

16 (Show of hands).

17 SUSAN GLAZER: On the 13th. That's  
18 good. Thank you very much.

19 \* \* \* \* \*

20 HUGH RUSSELL: Meeting transcripts.

21 LIZA PADEN: I'm sorry, I haven't

1 caught up yet. It's my plan for June.

2 \* \* \* \* \*

3 (Sitting Members: Hugh Russell, Thomas  
4 Anninger, William Tibbs, Pamela Winters,  
5 Steven Winter, H. Theodore Cohen, Ahmed Nur.)

6 HUGH RUSSELL: Okay. Then we'll go  
7 on to public hearing of Planning Board case  
8 256, 34-36 Hampshire Street. This is a  
9 hearing that was continued from March 15th,  
10 and so we didn't close the hearing for public  
11 testimony. Have we received some drawings?

12 Mr. Rafferty, do you want to speak with  
13 us?

14 ATTORNEY JAMES RAFFERTY: Did you  
15 call the Hampshire Street case?

16 HUGH RUSSELL: We did.

17 ATTORNEY JAMES RAFFERTY: We were  
18 out in the hallway, I apologize.

19 HUGH RUSSELL: So I think what's  
20 going to happen is you're going to tell us  
21 what's changed, we'll ask questions, and then

1 we'll sort of open it to the public for the  
2 hearing process and then we'll discuss it.

3 ATTORNEY JAMES RAFFERTY: Good  
4 evening, Mr. Chairman, Members of the Board,  
5 James Rafferty R-a-f-f-e-r-t-y, from the law  
6 firm of Adams and Rafferty, 130 Bishop Allen  
7 Drive in Cambridge here this evening  
8 appearing on behalf of the Applicant.

9 You'll recall several weeks back this  
10 project was before the Board, and the public  
11 hearing was continued at that time. And the  
12 Applicant was asked to address a couple of  
13 design features, and also do some additional  
14 work on the parking request.

15 The application is for a Special Permit  
16 for a multi-family dwelling containing 20  
17 units in this location. There's also Special  
18 Permit relief associated with parking. The  
19 parking requirement, as you know, is one per  
20 dwelling unit. And in this application the  
21 proponent proposes to construct 10 parking

1 spaces.

2 It's a constraint essentially driven by  
3 the size of the lot and the limited  
4 opportunities to create parking. The parking  
5 will all be on an on-grade garage, and we  
6 were asked to provide some additional design  
7 elements to the ground floor facade,  
8 particularly on the Prospect Street side as  
9 we -- the -- where the garage is and also on  
10 the Hampshire Street side where --

11 AHMED NUR: I'm sorry, Broadway or  
12 Hampshire or Prospect? Is it Portland?

13 ATTORNEY JAMES RAFFERTY: Portland.  
14 I said Prospect, I apologize. It's Portland.

15 Portland Street has an edge on it that  
16 we're going to show you. And though there's  
17 a retail, a modest amount of retail on the  
18 Hampshire Street side, and there's been  
19 conversation about the size of the retail,  
20 could it be more? But there's a balance  
21 taking place between retail and parking.

1 Every square foot that's given up on the  
2 retail side in the move towards parking  
3 results in a reduction on the parking side.  
4 So, it is admittedly not a grand retail  
5 space, but it does try to capture an  
6 opportunity at the street level. The  
7 property, as you know, abuts a popular  
8 restaurant, Emma's Pizza, and there was a  
9 significant amount of foot traffic. The  
10 building is located diagonally across from  
11 the One Kendall Square complex. And the  
12 Proponent has sent in a suggestion to the  
13 Traffic Department that is intended to  
14 address concerns about the adequacy of the  
15 parking supply in the context of the Special  
16 Permit relief.

17 What we have suggested, and have asked  
18 the Traffic Department to give some  
19 consideration to is to try to achieve a 0.75  
20 parking ratio. But under the strict terms of  
21 the Ordinance, the way we would achieve that,

1 to truly achieve a 0.75 parking ratio, the  
2 Applicant would be required to produce a  
3 long-term agreement for control of the  
4 spaces. The most logical and available  
5 parking supply exists in the One Kendall  
6 Garage. The Applicant has met with the  
7 operators of the garage, and they're more  
8 than willing to lease five spaces. But as  
9 you might imagine, five spaces in a 1200 car  
10 garage are not really a big book of business,  
11 so they're content to give monthly leases as  
12 they've been doing for the 20 plus years the  
13 garage has been in existence. But to create  
14 a new model for this particular use, they  
15 were unwilling to do. So it's for that  
16 reason that it's not a true 0.75, and we  
17 would be coming to the Board and saying that  
18 we've identified public parking within 300  
19 feet of the site, and that we would then look  
20 to rely upon the provision of the Special  
21 Permit that you could meet your parking needs

1 off site as long as you come up with evidence  
2 of a long-term agreement. And the problem  
3 there is long term.

4 So, the relief remains at 0.75. And  
5 the suggestion from the correspondence to the  
6 Traffic Department is that the Planning Board  
7 impose a requirement if you saw fit to grant  
8 the 0.75 parking ratio, a requirement that  
9 the Applicant secure five additional spaces  
10 and that he provide annual reporting to the  
11 Traffic Department on that. So it would be a  
12 condition of the Special Permit and thus an  
13 ongoing condition associated with the use of  
14 the building.

15 I did want to allow for the possibility  
16 that what the Applicant honestly believes is  
17 likely to occur here would in fact occur, and  
18 that is that the population in this building  
19 or the residents of this building will not  
20 have a parking -- an auto share ownership in  
21 excess of 0.5. And thought that perhaps the

1 Board would be willing to delegate, in its  
2 condition, a mechanism whereby the Traffic  
3 Department could some day look at this and  
4 conclude that the requirement of five was no  
5 longer necessary. The point being that if  
6 the Applicant is required to lease these  
7 spaces and no one is using them for years on  
8 end, it seems like a foolish exercise. And  
9 the only beneficiary would be the operators  
10 of the One Kendall garage.

11 It's interesting, a few years ago in  
12 the permitting of the Amgen Building there  
13 was a requirement associated with that  
14 building. The Applicant was required to  
15 secure parking at One Kendall with a minimum  
16 number of spaces. And for years Amgen was  
17 leasing far more spaces than they were using.  
18 I think within the past year they actually  
19 came before the Board and asked to have that  
20 requirement reduced. Holding out the chance  
21 that that possibility is very real here, I

1 had suggested that perhaps the Traffic  
2 Department could have the authority to review  
3 that, or in the alternative the Petitioner  
4 could come back some day in the same way that  
5 Amgen and make the case to this Board as to  
6 whether or not that's the condition. So the  
7 mechanics of that we'll leave to the  
8 discretion of the Board. For the reasons we  
9 cited at the prior public hearing, there's a  
10 very strong belief based on some surveying of  
11 surrounding multi-family apartment buildings  
12 in the Kendall Square area, and the  
13 anticipated demographics of the residents of  
14 this building that the 0.5 ratio will be  
15 adequate. But we're suggesting 0.5 with the  
16 requirement that there be an additional  
17 rental requirement of 0.5. So in effect a  
18 0.75 and not a pure 0.75 as the Ordinance  
19 allows, but a 0.75 imposed by issue of a  
20 condition of the Special Permit is the  
21 approach we're suggesting.

1           We just have a brief presentation  
2 involving some of these design features. The  
3 Board might recall we were asked in addition  
4 to the ground floor elevations at Portland  
5 and Hampshire, we were also asked to look at  
6 the facade facing up Hampshire Street. There  
7 was a certain simplicity to that that I think  
8 people felt that could be enhanced. So,  
9 Peter Quinn is the project architect, and  
10 he'd be happy to walk you through those  
11 changes.

12           PETER QUINN: Thank you Peter Quinn  
13 for the record. Peter Quinn of Peter Quinn  
14 Architects, 1904 Mass. Ave., Cambridge.

15           We made four changes in response to  
16 your request from the last meeting. The  
17 first one, probably fairly significant one,  
18 is how we treated the facade facing Emma's  
19 Pizza. And what we did, you can see right  
20 there, you have your sheet, I'm not sure  
21 which sheet. AA02. And down lower?

1                   ATTORNEY JAMES RAFFERTY: Yes, I'll  
2 get this one.

3                   PETER QUINN: Put that to the right.

4                   HUGH RUSSELL: The package was dated  
5 15th April?

6                   PETER QUINN: Yes, 15th April.

7                   You have handouts, sheet 02 and sheet  
8 02-A. Sorry, I have to -- right there.

9                   That's the side that faces Emma's  
10 Pizza. What this is actually is a stucco  
11 finish that's painted. And we, instead of  
12 building it out of a block wall, we'll build  
13 this out of a stud wall with a treated panel  
14 board on the side that gives us our two hour  
15 ratings required.

16                   On the side facing the tall building,  
17 we continued the same materials and brought  
18 them around just for consistency. Where you  
19 see the windows there, that's where we pulled  
20 away from that building.

21                   So I think this gives us kind of a

1           playful unity, if you will, to the whole --  
2           for the whole project small building as it  
3           is. We start to dissolve the colors and  
4           shift them and make them kind of an  
5           interesting gesture to the neighbors and that  
6           side wall becomes a lot more interesting.

7                       HUGH RUSSELL: Peter, is the similar  
8           color material on the two street frontages?

9                       PETER QUINN: Yes, it's actually my  
10          last item, but I'll mention that now.

11                      We submitted two copies of a Trespa  
12          material in our resubmission. So some you  
13          may have that. There was some question as to  
14          what material actually is, how durable it is  
15          and so forth. It's a very long-term durable  
16          material. It's on a lot of high rise  
17          buildings in Europe and on the West Coast.  
18          It uses rain screen system. In other words,  
19          there's a stud wall and then there's a kind  
20          of furring put on the building, and then this  
21          material, this Trespa is actually screwed

1 into that permanently. And that allows the  
2 building to breathe. It's a nice green  
3 material. So all that you see on the  
4 Portland facade above the ground floor and on  
5 the Hampshire side is that material. So, we  
6 were going to match the colors and then just  
7 kind of wrap that around and build it up a  
8 little bit. Okay.

9 On sheet 2B, which by the way on the  
10 Trespa, just to finish that discussion,  
11 there's this example from Trespa's website.  
12 You can see this is a 20-some-odd, or at  
13 least a 15-story building that has that  
14 material on it. That happens to be in San  
15 Francisco.

16 We provided blowups and that's on sheet  
17 A2B.

18 What we tried to do -- should I wait  
19 for Jim?

20 So this is -- these are enlargements of  
21 the facade at the lower, at the first floor.

1           What you see, and what you see there is Jim  
2           Rafferty but there we go. Thanks, Jim.

3                   This is a kind of play of etched  
4           glazing. In other words, we would have a  
5           curtain wall, a storefront type material, in  
6           which we have on the inside an etching of  
7           stripes as we're suggesting. You can see  
8           them if you look at your sheet, your B. And  
9           then we intersperse that with some panels  
10          that have displays that we think will  
11          probably relate to whatever retail ends up at  
12          the corner. So the corner itself is  
13          completely glazed. And the idea there is to  
14          bring out to the sidewalk this -- a small a  
15          space as it is, what actually is available in  
16          there so that it, it's actually, you know, an  
17          extension of the building out to the walk.

18                   On the bottom of the building we put a  
19          darkened concrete or a granite base, a  
20          granite inner base. And then right in the  
21          middle, a little bit off center, is the entry

1 to the garage door, also a glazed opening.

2 Finally, I submitted, and I think it  
3 was Hugh Russell had asked to make sure that  
4 we were paying attention to the ADA and  
5 access to the units. And I redesigned one of  
6 the typical floors and resubmitted that with  
7 the handicap boxes for clearances and  
8 fixtures and the like. I'm sorry that we  
9 didn't do that for the whole project, but it,  
10 it's kind of a little bit of a time consuming  
11 thing. So we'll -- when we get to the  
12 building permit stage, we'll finish that.

13 HUGH RUSSELL: Well, you proved that  
14 it can be done without changing the concept  
15 to the project.

16 PETER QUINN: That's fine, thank  
17 you. I'm happy to take any questions as long  
18 as I don't need to go near that.

19 HUGH RUSSELL: I have a question  
20 which is the retail store doesn't have a door  
21 on to the street, it's in the building lobby;

1 is that correct?

2 PETER QUINN: No, actually there is  
3 a door. The intention is -- yeah, that's  
4 right. It is. You go through this lobby  
5 here, and then you can turn into that store.  
6 That's something that we -- we went back and  
7 forth about. I think, you know, if you  
8 suggested that we have a door, we would do  
9 it. It just it takes up quite a space  
10 because of the out swing issue, and this is  
11 quite a small store. So that's the way we're  
12 going with it for now.

13 HUGH RUSSELL: Is it small enough to  
14 actually not require an out swinging door?

15 PETER QUINN: Oh, yeah, it's only  
16 350 square feet. So it's certainly from what  
17 I can see never be over 50, yeah.

18 HUGH RUSSELL: I mean, I think a  
19 retailer might have a strong opinion about  
20 that, and I think we should prove it with or  
21 without a door because I don't think it makes

1 much difference in terms of the appearance of  
2 the building, and let the market determine  
3 what's going to happen.

4 PETER QUINN: Yes. We can easily  
5 fit one into the curtain wall system.

6 HUGH RUSSELL: Right.

7 PETER QUINN: It's set-up for that.  
8 Thank you.

9 AHMED NUR: Have you thought about  
10 the -- you mentioned you were going to do the  
11 stucco on the back of the building?

12 PETER QUINN: Yes.

13 AHMED NUR: Okay. And what's the  
14 space between you and the adjacent building?  
15 I wondered how you're going to get up there,  
16 paint it and put the stucco and just the  
17 cement-type of material, I wondered if you  
18 thought about it.

19 PETER QUINN: Well, we can hang off  
20 the top of the building. We obviously have  
21 to get an agreement with the neighbor to do

1           that. But, you know, under case law as I  
2           understand it, that reasonable access must be  
3           given to a neighbor.

4                   AHMED NUR: Right. I just didn't  
5           know what the space was because most likely  
6           you need an approval of some sort.

7                   And is that a composite that Hugh was  
8           asking you or is that a (inaudible), the  
9           panels themselves.

10                   PETER QUINN: It is composite.

11                   AHMED NUR: Is it a composite  
12           material?

13                   PETER QUINN: Yes.

14                   AHMED NUR: Okay.

15                   And to get that up on that height as  
16           well, you probably --

17                   PETER QUINN: Use a boom. You  
18           wouldn't need a scaffold.

19                   AHMED NUR: Use a boom on the  
20           sidewalk?

21                   PETER QUINN: This would go pretty

1           qui ck.   Essenti al l y i t' s carpentry.

2                   AHMED NUR:   Yes, okay.

3                   PETER QUI NN:   That' s how i t' s  
4           actual l y done.

5                   Any other questi ons?

6                   HUGH RUSSELL:   We' ve recei ved a  
7           letter from Sophi a Venetsanaki s.   And j ust  
8           for the part of the letter that I want to ask  
9           you about i s have you -- I understand the  
10          Bui l di ng Code requi res you to undertake an  
11          analysi s of the roof of her bui l di ng because  
12          your bui l di ng might create dri fti ng.   Is that  
13          your understandi ng?   Are you prepared to do  
14          that?

15                  PETER QUI NN:   Yes, we are.   We j ust  
16          are not at that stage yet.   And certai n l y i f  
17          there i s any remedi al need that we woul d  
18          have, we woul d di scuss i t wi th them, you  
19          know, see what we coul d work out.   I thi nk we  
20          have a mutual desi re there to protect thei r  
21          bui l di ng.

1 HUGH RUSSELL: Okay.

2 Any more questions by the Board?

3 (No Response.)

4 HUGH RUSSELL: Then we'll go to  
5 public testimony. Is there a sign-up sheet?

6 LIZA PADEN: Yes.

7 HUGH RUSSELL: While you're getting  
8 that, maybe Mrs. Venetsanakis, would you like  
9 to come up?

10 SOPHIA VENETSANAKIS: It's a tongue  
11 twister.

12 HUGH RUSSELL: Why don't you start?

13 SOPHIA VENETSANAKIS: This is  
14 like --

15 HUGH RUSSELL: Could you come up and  
16 use the microphone?

17 SOPHIA VENETSANAKIS: Like, where  
18 our building, it's like a narrow alleyway.  
19 In fact, where I'm so chubby you gotta kind  
20 of go sideways. And the gas meter is there.  
21 And they also put the telephone there years

1 ago. Why they did that? They insisted it  
2 had to go out there, and I'm concerned about  
3 that.

4 And then plus when we have to throw  
5 snow off our roof because it's a flat roof,  
6 we'll have to throw it in that narrow  
7 alleyway, so I don't want any complaints.  
8 You know, it's like, I don't want people  
9 getting killed in the restaurant that we  
10 rent, you know, because we have our heating  
11 and air conditioning system up on that roof.  
12 And also, when the Davis Building was built,  
13 I'm trying to think how our wood was. I  
14 think it was going -- when it was the gas  
15 station, it was going like this way, it was  
16 all open. Well, they, you know, there were  
17 some court issues with them and us. And they  
18 had us move it. And the City approved for it  
19 to be moved towards what would be this  
20 building now. And it might be hitting the  
21 back of that building, but that's what the

1 City made us do. We said why can't we let it  
2 go up? And they wouldn't let us at the time.  
3 Philip Simons, I don't think he's around  
4 anymore, did the work.

5 And it's an old building, and -- but my  
6 husband gave his life there when he had the  
7 restaurant. It was formerly John's Coffee  
8 Shop. So I like to see things go because  
9 there's my daughter sitting here, and I'd  
10 like her to have something when I'm gone and  
11 my grandchildren. So I don't like to see it  
12 go down into the ground. It's kind of hard  
13 to express. You know, I don't know if this  
14 has anything to do with the meeting, but  
15 that's my feelings, you know. I was born in  
16 and brought up in Cambridge. I live in  
17 Belmont now which I hate. I wish I was in  
18 Cambridge believe me.

19 HUGH RUSSELL: There's going to be a  
20 great new building next-door.

21 ATTORNEY JAMES RAFFERTY: I know a

1           guy who has an apartment.

2                   SOPHIA VENETSANAKI S:   You never know  
3           I might come, believe me.

4                   ATTORNEY JAMES RAFFERTY:   Leave your  
5           car in Belmont.

6                   SOPHIA VENETSANAKI S:   Cambri dge i s  
7           my town. That's what I have to say.

8                   HUGH RUSSELL:   Okay, thank you.

9                   H. THEODORE COHEN:   Who owns the  
10          alley?

11                   ATTORNEY JAMES RAFFERTY:   Between  
12          the two properties?

13                   H. THEODORE COHEN:   Yes.

14                   PETER QUINN:   The alley is actually  
15          on their property, it's about two feet wide.  
16          And the present building is where Griffi n  
17          Real Estate broker, which is the adjacent  
18          building, the owners of our property. That  
19          building is actually on the property that  
20          we're in line with right now. The effective  
21          width of that alley will not change. It is

1 at two feet now and will be.

2 HUGH RUSSELL: Okay, are we  
3 repaired? Then Charlie Marquardt.

4 CHARLES MARQUARDT: Charlie  
5 Marquardt, Ten Rogers Street. I'm staying  
6 over here, away from there and Liza told me  
7 not to touch anything.

8 A couple of quick questions when I look  
9 at this, and I just had a new question come  
10 up, it's not even on my list here. But is  
11 there a means for an egress down that  
12 alleyway and do they need an easement from  
13 the property owners next to them to be able  
14 to actually grant them that access? I can't  
15 tell by looking at the pictures, but I'm not  
16 sure if there's a back door there or  
17 something.

18 HUGH RUSSELL: No, they have two  
19 means of egress.

20 CHARLES MARQUARDT: Okay.

21 HUGH RUSSELL: One at Portland

1 Street and one at Hampshire Street.

2 CHARLES MARQUARDT: Okay. I just  
3 couldn't tell from the pictures.

4 Now, I have a couple of just two  
5 things. One is parking, both parking for the  
6 residents. And the thing we never ever hear  
7 about in these meetings, where are the  
8 visitors going to park? And this is an odd  
9 location because it's technically an Area 4,  
10 but the most amenable area to park is in Area  
11 3. So you have people parking in the area  
12 where they're technically not able to park,  
13 and there doesn't seem to be any  
14 accommodation for visitor parking in this  
15 building. So, I'm not sure what the process  
16 for that is, but I could see it becoming a  
17 problem particularly on Sundays where the  
18 meters are all free, but then you have people  
19 trying to run their business and potentially  
20 even the small retail shop. So what is the  
21 parking for that?

1           And my other question on parking is if  
2           you're going to have parking as a condition  
3           at the One Kendall Square site, it's great  
4           that they're going to have ongoing issues and  
5           ongoing reviews by the parking group, but how  
6           about requiring a bond so they can actually  
7           pay for those spaces so something doesn't  
8           happen and all of a sudden they're not paying  
9           and the spaces go away and there's really not  
10          anything else we can do. If they're going to  
11          commit to do it, let's put some money aside  
12          so we actually have some financial resources  
13          behind that commitment.

14                 And the other question really is the  
15          retail space. And it looks really, it looks  
16          like a nice picture. But there's a 700  
17          square foot spot right around the corner  
18          that's been open for two years, so I'm really  
19          concerned about a 350 square foot spot or  
20          less if they actually have a front door on  
21          it, with an in-swinging front door or an

1 out-swinging front door, whatever way it ends  
2 up going. I could see it being rented every  
3 two years for political purposes. But aside  
4 than that, I don't see any other great use  
5 for it. But the one thing I wouldn't want to  
6 see it come, and what's happening with a lot  
7 of these building, is the retail space  
8 becomes an ongoing rental office rather than  
9 a space available for retail. So is there  
10 anything in the conditions for the Special  
11 Permit that preclude it from becoming a  
12 rental spot for the rental apartments and  
13 we're not having ground floor retail, we're  
14 just having ground floor office.

15 Thank you.

16 HUGH RUSSELL: Okay. At the end of  
17 the public testimony, Sue, maybe we'll ask  
18 you to address any other issues that might  
19 have come up and you give us your own  
20 thoughts on the project.

21 Does Rudy Belliardi wish to speak?

1 RUDY BELLIARDI: Yes.

2 B-e-l-l-i-a-r-d-i. I live near the place.

3 The comment I have is that it is a very

4 small spot for 20 plus one spot plus for what

5 is basically 21 units. There are several

6 problems with the park. This problem is they

7 do come because the area is small. Some

8 comment was made regarding visitors. It is

9 very likely that the parking for visitors

10 will be the one that are, that are the one

11 for the residents now. And the residents

12 with the parking permit would end up being on

13 the street. It is a very, very congested

14 area. When there are rush hours, I don't

15 know if you drive to go north, north toward

16 Hampshire Street, with the rush hour, it is

17 impossible. It is like a parking spot. One

18 day we had the snowstorm, it took like two

19 hours to move out of there. All of those

20 drawings, they are very nice, but they are

21 out of scale. The street is very narrow. It

1 is not as wide. Basically the issue is that  
2 the lot seems too small for what is 20 plus,  
3 for the 21 units. And this is, this is where  
4 all these problems come. It could be done  
5 with less units, the parking wouldn't be a  
6 problem. And we wouldn't be asked basically  
7 to give up ten parking spots within Webster  
8 and Medeiros.

9 HUGH RUSSELL: Thank you.

10 Does Torgun Austin wish to speak?

11 TORGUN AUSTIN: My name is Torgun  
12 Austin. I live on Bristol Street which is  
13 within the same block. Parking is an  
14 extremely difficult problem. They're  
15 converting more and more of the old triple  
16 deckers into condominiums. Some of them do  
17 have parking, but many of them do not. And  
18 all of the people who then own apartments in  
19 these condominiums have residency stickers  
20 and they all park on the street. So with  
21 another influx of parkers from this fairly

1 dense apartment building, it will be a  
2 continued problem.

3 I also wonder about the retail space on  
4 the bottom floor, if that's going to be a  
5 rental office, then customers will also have  
6 to park there. And some of the parking  
7 places in this complex will have to be set  
8 aside for the business. I can't imagine for  
9 a retailer to want an office there or a shop  
10 there without any place to park for the  
11 operator of the business which will further  
12 reduce the amount of parking spaces in the  
13 building. And there really is not space in  
14 our congested neighborhood for additional  
15 parking so this Variance does not make sense  
16 to the neighbors.

17 Thank you.

18 HUGH RUSSELL: Thank you.

19 Barry Zevin.

20 BARRY ZEVIN: Barry Zevin, 67

21 Hampshire Street which is two blocks up from

1           this.

2                   I think I expressed my happiness with  
3           use and density and my lack of concern with  
4           the parking which may be biased by the fact  
5           that I have one car in the driveway up the  
6           street. But, as I thought about this, and  
7           looked at it again, I became more and more  
8           alarmed at the prospect of what I think is  
9           going to be really spectacularly bizarre  
10          space between this building and the piece of  
11          201 Broadway that is on Hampshire Street, the  
12          box canyon that's over Emma's. And I wonder  
13          if that, for one thing, it's hard to imagine  
14          that Emma's being turned into anything useful  
15          once this happens. And it seems to me that  
16          maybe Zoning, in a very roundabout way, is  
17          telling you that you can't build a building  
18          this big on a site with a footprint this  
19          small as much as I would love to see this use  
20          in this place. It's really a sort of bizarre  
21          dilemma and no amount of declaration on the

1 side of that is going to change the weirdness  
2 of that space, which I think you really need  
3 to wrap your heads around it. It's a very  
4 strange thing. And there's no way around it,  
5 because the building code doesn't let you  
6 even have windows in that wall. I mean, it's  
7 a -- it's a strange outcome of a planning  
8 process. And so -- I guess also the last  
9 piece is I think if you look at precedent  
10 around the neighborhood, it's pretty  
11 incredible to think 300 foot retail space is  
12 ever going to be rented to anything useful.  
13 Although with a bunch of people living  
14 upstairs, that's a big help, but the track  
15 record so far is pretty minimal.

16 HUGH RUSSELL: Okay, thank you.

17 Gary Lilienthal.

18 ATTORNEY GARY LILIENTHAL: Good  
19 evening, Mr. Chairman, Members of the Board.  
20 My name is Gary Lilienthal. And I'm an  
21 attorney with the firm of Bernkopf, Goodman

1 in Boston. And I am very appreciative of the  
2 opportunity to be heard. We had some issues  
3 with people being available for the first  
4 hearing, and so I apologize for this a bit  
5 late, but hopefully not too late appearance.

6 I am here this evening representing the  
7 owners of 201 Broadway, which you can see  
8 this building is nested in, which is the  
9 direct sub of the abutter to the proposed  
10 project, which is the subject of this hearing  
11 for Special Permit. And I think a lot of  
12 what I've heard is interesting and good for  
13 site plan review, but I think I would like to  
14 point out some important things with respect  
15 to this being two Special Permit  
16 applications. Just for orientation, and I'm  
17 again apologetic if I'm repeating things that  
18 took place at the first hearing. 201  
19 Broadway is an eight-story office building  
20 constructed in 1989. The owner is Broadway  
21 Hampshire Associates Limited Partnership

1 which is an affiliate of the Boston-based  
2 real estate company known as the Davis  
3 Companies. The Davis Companies under the  
4 direction of Jonathan Davis have been  
5 developing and operating real estate in the  
6 Greater Boston area, including Cambridge, for  
7 over 35 years.

8 I'd like to introduce some people,  
9 because I think their presence will show you  
10 the importance of this process to us. On  
11 behalf of the Davis Companies, David Currie  
12 is here as the general counsel of the Davis  
13 Companies. And Stephen Davis is the  
14 associate general counsel of the Davis  
15 Companies. Stephen Davis is a third  
16 generation member of the Davis Companies.  
17 And as I said, their presence underscores  
18 the importance of this proposed development.

19 Since learning about the project, our  
20 client actually reached out to the developer  
21 and they have met and discussed this project

1 and our client's concerns. Our client has  
2 offered several options to address their  
3 concerns. Unfortunately I must report that  
4 to date there's been no progress on this.

5 At the outset I want to be clear with  
6 respect to what I call the preverbal elephant  
7 in the hearing room. My client is here  
8 because he has legitimate zoning development  
9 land use concerns, not to seek any payment  
10 for allowing the development to go forward.  
11 That is not the issue here. It's not the  
12 specter here. And I find myself in the  
13 unusual position of representing somebody  
14 opposing a development. I usually am here  
15 sometimes with Mr. Rafferty on behalf of the  
16 developer or in another lifetime on the same  
17 side of the table as you. We don't take this  
18 opposition lightly. My client is not opposed  
19 to the development of this site. They just  
20 want this development to be sensible and  
21 consistent with good zoning and land use

1           practices.

2                     Our concern is that the approval of an  
3           increase in density for the project and the  
4           relaxing of the strict requirements of the  
5           Ordinance by Special Permit would translate  
6           into excessive and unwarranted height for  
7           this project. The increase in height  
8           stemming from the requested relief will  
9           substantially block three floors of our  
10          client's building. This blockage would be of  
11          light, of air, and would be on two sides.  
12          And I'm going to hand you a plan in a little  
13          bit so that this will be illustrated. This  
14          would create an extreme diminution in value  
15          for our client's building. In effect the  
16          Applicant's proposed development, if approved  
17          by this Board, would confer an economic  
18          benefit on the Applicant to the detriment of  
19          our client.

20                     The lot proposed, just for some  
21          orientation, again, the lot proposed for

1 development is 4176 square feet. Under the  
2 Cambridge Zoning Ordinance, an as of right  
3 commercial use for this property would be at  
4 an FAR of 2.75 and would result in a building  
5 three stories in height. An FAR of 0.40 for  
6 a residential use, which requires a Special  
7 Permit, would max out to the lot lines and  
8 result in a building of four stories in  
9 height. By the Applicant's numbers  
10 themselves, an FAR of 5.2 which is the 5.0  
11 for residential multi-family, and a density  
12 bonus for affordable housing, would result in  
13 a building of 21,300 square feet on a  
14 4,000-foot lot at six stories in height.  
15 Almost double the as of right option.

16 Under the proposed development plan,  
17 the Applicant's request to max out the  
18 density of the site in the Industrial B  
19 District for multi-family residential use, as  
20 I mentioned, requires a Special Permit. In  
21 addition to seeking density relief, the

1 Applicant also seeks a Special Permit to  
2 provide one half of the required parking.  
3 Now, I just learned this evening of  
4 Mr. Rafferty's proposal to the Parking and  
5 Traffic Department, but as he acknowledges,  
6 that is an almost 0.75. We still have grave  
7 concerns about the parking at a half of  
8 what's required. I would note that under the  
9 law and the Ordinance, in order to satisfy a  
10 Special Permit requirement, both Special  
11 Permit requests require non-detriment  
12 findings. Such findings are, as I mentioned,  
13 required under state law Chapter 40A, Section  
14 9 and under 1043 of the Cambridge Zoning  
15 Ordinance.

16 In granting the Special Permits  
17 required in this case, the Board would be  
18 conferring a substantial economic benefit on  
19 the Applicant, while permitting a substantial  
20 detriment to our client and its property.  
21 And I'm going to mention that a couple of

1 times, because I think that draws hopefully  
2 everyone to the conclusion that we have  
3 reached.

4 On a legal basis, under Section 1.2 of  
5 the preamble of the Cambridge Zoning  
6 Ordinance, the purpose of the Ordinance as  
7 stated in part, to provide adequate light and  
8 air, and to prevent overcrowding. On the  
9 density, as previously mentioned, the relief  
10 requested by the Applicant under 4.26 of the  
11 Ordinance, will, if granted, result in the  
12 pushing of the envelope of density and FAR  
13 from the as of right allowed 2.75 to 5.2.  
14 That's an increase of almost --

15 HUGH RUSSELL: Excuse me, excuse me.  
16 The 5.2 is also as of right.

17 ATTORNEY GARY LILIENTHAL: I  
18 understood it as a Special Permit.

19 ATTORNEY JAMES RAFFERTY: No, it's  
20 not.

21 HUGH RUSSELL: No. I want to make

1 this clear. For a residential use on the  
2 site, basic floor area ratio is 4.0. You're  
3 required onto the Ordinance --

4 ATTORNEY GARY LILIENTHAL: I  
5 understand that.

6 HUGH RUSSELL: -- to provide  
7 affordable housing.

8 ATTORNEY GARY LILIENTHAL: I  
9 understand. You provide multi-family, I do  
10 understand that.

11 HUGH RUSSELL: Right, so --

12 ATTORNEY GARY LILIENTHAL: But the  
13 multi-family, correct me if I'm wrong, I will  
14 apologize --

15 HUGH RUSSELL: It's not. It's a  
16 design review permit.

17 ATTORNEY GARY LILIENTHAL: My  
18 understanding was it was a Special Permit.

19 HUGH RUSSELL: Yes, it's a Special  
20 Permit to do design review.

21 ATTORNEY GARY LILIENTHAL: Okay.

1                   HUGH RUSSELL: It's not a Special  
2                   Permit to grant additional floor area.

3                   ATTORNEY GARY LILIENTHAL: My  
4                   understanding is a Special Permit under the  
5                   bylaws is a Special Permit.

6                   HUGH RUSSELL: Well, I've been on  
7                   the Zoning Board for ten years and on this  
8                   Board for 20 years, and I disagree with you.

9                   ATTORNEY GARY LILIENTHAL: Okay.  
10                  Well, we'd like the opportunity to brief  
11                  that.

12                  In order to increase both the width and  
13                  height of the building, the developer would  
14                  be required to max out the building on the  
15                  lot. That puts the developer up against our  
16                  building. If the building of greater density  
17                  is allowed, under 4.26 of the Ordinance, this  
18                  would require, as I read it, a Special  
19                  Permit. I will look into this again and I  
20                  will correct myself if I'm wrong certainly.  
21                  I'd certainly know that the parking, and I'm

1 going to get to that in a minute, requires a  
2 Special Permit. And I'd like to tie the two  
3 together which I will do.

4 HUGH RUSSELL: Okay. I'd just like  
5 to let you know that ordinarily we only allow  
6 people to speak for three minutes.

7 ATTORNEY GARY LILIENTHAL: I was  
8 unaware of that. I'll summarize and go right  
9 to the parking.

10 HUGH RUSSELL: I mean, I'd like you  
11 to proceed along as rapidly as possible. I  
12 felt as because of the seriousness and  
13 because you're representing a direct abutter,  
14 we should let you make your full statement.

15 ATTORNEY GARY LILIENTHAL: Okay. I  
16 would then like to go to the parking which  
17 will take me fairly close to my conclusion.

18 HUGH RUSSELL: Thank you.

19 ATTORNEY GARY LILIENTHAL: Thank  
20 you.

21 In addition to the Special Permit

1 relief requested for multi-family, we are  
2 opposing here the Special Permit request for  
3 parking. This is a -- they've asked for a  
4 waiver of 50 percent of the parking here for  
5 20 units plus retail space. We believe that  
6 the -- there will be necessary for visitors  
7 for the retail and for the 20 residences,  
8 more than ten spaces required. We actually  
9 entered into discussions with them about  
10 allowing them part of the parking, but in  
11 connection with that, we wanted some  
12 consideration of the lack of light and air on  
13 this. We believe that the creation of  
14 parking, which requires a Special Permit, is  
15 due to the increase in density of the site.  
16 And while we can certainly defer for now for  
17 the Special Permit nature of the density, the  
18 creation of the extra density is what  
19 requires the additional parking. So they are  
20 asking you to allow them or to grant from  
21 your review perspective, the Special Permit

1 for site plan review or design review, the  
2 Special Permit which creates a larger  
3 necessity for parking and then waive the  
4 parking requirement. That seems to be a  
5 self-imposed or self-created hardship as we  
6 might call it on the Board of appeals or the  
7 Planning Board.

8 We believe this site is actually  
9 appropriate for a commercial use, not a  
10 residential use. We believe that the  
11 Applicant, in accordance with their  
12 application, has stated that this spot would  
13 serve as a transition from the residential  
14 uses nearby to the commercial use next-door.  
15 We disagree. We think that the transitions  
16 are the streets themselves, and that this  
17 site would be more appropriate for a  
18 commercial use and not for a residential use.  
19 And we feel that the transition would be this  
20 of a use for commercial purposes on a smaller  
21 site when next to the building created at 201

1 Broadway in 1989.

2 I'll sum up now. As the direct abutter  
3 of this property, our client is the most  
4 affected. We don't believe that the criteria  
5 for Special Permit in either case has been  
6 satisfied. We'd like to hand a sketch to you  
7 showing you the proximity and the effect of  
8 this development on our client's building,  
9 and we would also like to point out to you  
10 that our client has done an analysis, the  
11 shading is the shadow and the effected area  
12 of our client's floors. The floors are  
13 indicated on here. I believe it's four, five  
14 and six, which will be impacted by the  
15 closing off of light and air on this  
16 property.

17 We believe there is not sufficient  
18 justification for Special Permits on this  
19 project. We believe that this will impose a  
20 hardship and a financial debt and extreme  
21 financial detriment to our client.

1           Our client commissioned Callus  
2           International to do a study of the after  
3           building effect of this project on the value  
4           of our client's building, and I'd like to  
5           hand that out as well. It shows a diminution  
6           in value of our client's property of \$100,000  
7           in the market rental value per year from the  
8           proximity of this building. And I would note  
9           that on floors four, five and six, the office  
10          people will be looking into the residences.  
11          It will be feet away. Not even the width of  
12          the street. And the market affect is  
13          approximately \$1 million.

14                 I would ask this Board not to act  
15          favorably on the Special Permits required. I  
16          would ask the Board to ask the Applicant to  
17          redesign this project. We would be willing  
18          to talk to them about extra parking if we can  
19          either lower the height of the building or  
20          talk about stepping it back.

21                 And I thank you for your indulgence,

1 and I certainly will follow up on the issue  
2 with respect to the Special Permit.

3 HUGH RUSSELL: Okay, thank you.

4 Is there anyone else who wishes to be  
5 heard at this time?

6 (No Response.)

7 HUGH RUSSELL: I see no one  
8 indicating they wish to be heard. So, shall  
9 we close the hearing for public testimony?

10 (Board Members agree to close public  
11 hearing ).

12 HUGH RUSSELL: Yes.

13 ATTORNEY JAMES RAFFERTY:

14 Mr. Chairman, would I be permitted two  
15 minutes just on the basic relief that's been  
16 totally mischaracterized with all due  
17 respect?

18 HUGH RUSSELL: I would appreciate  
19 that actually. And then I'd like to ask Sue  
20 if she would talk about --

21 ATTORNEY JAMES RAFFERTY: Thank you.

1 Just briefly.

2 There were repeated references in  
3 Mr. Lilienthal's presentation to the extra  
4 density being sought by the Applicant. I'd  
5 like to make it clear, there is no extra  
6 density contained in the application. The  
7 suggestion that this would be better off as  
8 office, is totally inconsistent with the land  
9 use and centers that are in place under the  
10 current zoning, which does allow for a 4.0  
11 FAR for residential uses. The density bonus  
12 is not something the Applicant comes to this  
13 Board seeking for as the Board well knows.  
14 It's a requirement, it's an obligation  
15 associated with the requirement to provide  
16 the affordable housing. Similarly, the  
17 number of units in the project are not being  
18 sought beyond what the as of right allowed.  
19 The lot area per dwelling unit is applied  
20 here. That's how we get to this number. The  
21 bonus units are applied similarly. There is

1 no height relief. This building is not one  
2 square foot bigger as a result of this  
3 application.

4 So, there's repeated references here to  
5 larger buildings, and a clear misstatement of  
6 the lot to suggest that the as of right FAR  
7 is 2.75. That's the as of right FAR for  
8 commercial. But clearly the as of right FAR  
9 for residential is 4.0.

10 What's before the Board is an  
11 application for multi-family Special Permit,  
12 which in certain districts requires the Board  
13 to do review when the number of units exceeds  
14 a certain threshold. In this case I believe  
15 it's 12. And that's what's before the Board.  
16 We're not asking for the Board to approve  
17 units beyond what's permitted. We're not  
18 asking for any density what's beyond  
19 permitted. He did correctly state the  
20 parking relief, but I can't help but note the  
21 irony, that's the parking garage that led to

1 the change in the Ordinance that now below  
2 grade -- above grade parking structures are  
3 now included in the gross floor area  
4 calculation because it takes a lot of  
5 restraint to sit here and listen to talks  
6 about density when one understands that  
7 there's four floors of a parking garage above  
8 grade in that building that is not included  
9 in the GFA calculations. That has since  
10 changed. But that is real mass, real density  
11 that is there today that doesn't count  
12 against the GFA. So, the contrast between  
13 the two buildings, I think, is worthy to note  
14 that we're dealing with a structure that is  
15 -- good luck to him. He got permitted, and  
16 Mr. Lienthal did a good job with it. I  
17 think the city learned a lot after that  
18 building and then changed its rules. I think  
19 this building is completely consistent with  
20 the requirements of the Ordinance and the  
21 land use objectives in the area.

1 Thank you.

2 HUGH RUSSELL: Okay.

3 Susan, are you going to talk to us  
4 about parking and agreements and what you  
5 think the right thing to do about this  
6 project is.

7 SUSAN CLIPPINGER: Sue Clippinger,  
8 Traffic Department.

9 This project is requesting 0.5 parking,  
10 because that's what fits on the site. We  
11 have been finding that within a quarter mile  
12 of transit 0.5 parking for a residential  
13 building is very reasonable. This building's  
14 a little bit further than that. I think we  
15 would be much more comfortable with a 0.75  
16 ratio. We don't believe that it has to be  
17 one per unit in this location. As  
18 Mr. Rafferty has said, they are unwilling or  
19 unable to get long-term commitment for the  
20 additional five spaces that would bring them  
21 to 0.75. I believe what he's asking you to

1 do is to approve a 0.5 parking ratio with a  
2 condition in the permit that would require  
3 the Traffic Department to monitor the project  
4 and to make sure that they were renting  
5 parking from an appropriate location.  
6 They're recommending One Kendall to meet the  
7 auto ownership parking needs of the actual  
8 tenants of the building for some period of  
9 time, which would be more than two years.  
10 And that we would, and that you would  
11 actually be getting the Traffic Department  
12 the responsibility to make sure that they've  
13 got parking secured for all the tenants. And  
14 we would have the decision to end that at  
15 some time. So that's kind of your choice.  
16 I'd rather not have the responsibility, but I  
17 don't think it's an unreasonable thing for us  
18 to be able to manage to do. And, you know,  
19 we would request that the Board require them  
20 to do whatever we ask them to do in order to  
21 provide those five additional spaces for

1           whatever duration you determine. But it's  
2           really your decision about what parking ratio  
3           you're approving, and given the proposed  
4           building and what they're proposing, the max  
5           that you can approve is the 0.5. So that  
6           you're mitigating that number with an  
7           obligation that the requirement has to make  
8           sure that they're purchasing additional  
9           spaces and that we're monitoring the tenants  
10          to make sure that they are -- if they have  
11          cars, there's spaces for them.

12                   HUGH RUSSELL: Okay. What would  
13          happen if, for example, they needed to buy  
14          six cars, space for six cars, because, you  
15          know, 0.75 as an abstraction since, it's an  
16          average to maybe somebody comes in and they  
17          want to have two cars? So, can we write this  
18          condition in such a way that you monitor the,  
19          you know, the registrations within the  
20          building and make sure that they get enough  
21          parking to serve the cars that are registered

1 in the building?

2 SUSAN CLIPPINGER: Yes, I mean I  
3 think it's your choice. There's no proposed  
4 language before you specifically about what  
5 it is that this agreement is, just general  
6 concept. And so I think it's, it's kind of  
7 your, you know, whatever issues you feel  
8 would make you most comfortable with this  
9 that need to be articulated.

10 HUGH RUSSELL: A long time ago, I  
11 think 13, 14 years ago, it was known then as  
12 the Eastern Uniform Building, and although I  
13 could not appear before this Board, this  
14 Board did grant relief for the parking. And  
15 I believe the condition was that the owner  
16 would provide enough parking up to one to one  
17 as was needed, and they had 80 spaces. It  
18 was 104 unit space building. I worked for  
19 this client frequently. And I asked him  
20 well, how many spaces do you need? Did you  
21 buy? The answer was one year they had to buy

1           one. That goes to your general argument that  
2           you're close to a T station, you don't need  
3           the full one to one. But there was no  
4           limitation on how many they would have to  
5           get. They had to get enough. And I think I  
6           would give him the testimony about the  
7           difficulty of parking in the neighborhood.  
8           I'd like to make sure there is enough. And  
9           the fact that they seem to be a very large  
10          number of spaces available at the One Kendall  
11          Square. And not only are there a large  
12          number of spaces directly next-door, which  
13          would be more convenient, and if I could  
14          influence the people next-door to be good  
15          neighbors, I would certainly encourage them  
16          to do that, but we don't have that ability to  
17          ask people to be good neighbors.

18                    Any questions for Sue?

19                    AHMED NUR: I have one.

20                    HUGH RUSSELL: Sure.

21                    AHMED NUR: Which is sort of what

1           you asked. You said you'd rather not  
2           monitor, but it's our choice. And have you  
3           done any of this type of work? Have you done  
4           anything like that, monitor traffic analysis  
5           for a particular residential building? Is  
6           this something you would...

7                        SUSAN CLIPPINGER: Well, the PTDM  
8           Ordinance has a lot of monitoring  
9           requirements that fall on CDD and on  
10          Community Development to do. We work with  
11          them on these things. You know, I think  
12          that, you know, I always rather a building  
13          was built and it was the owner's  
14          responsibility. But, you know, this is a  
15          situation that, you know, times are changing,  
16          auto ownership is dropping, Kendall Square is  
17          growing. I can't predict what's going to be  
18          happening in the long term, so I think this  
19          is not an unreasonable way to address the  
20          problem. And I think our goal would be to  
21          make sure we know the auto ownership of the

1 tenants so that we're comfortable that  
2 they're either fitting in the building or  
3 they're fitting in the building plus the  
4 leased spaces. I think you said, Hugh, up to  
5 one per one and then you said unlimited. I'm  
6 not sure which.

7 HUGH RUSSELL: I think we probably  
8 can't go over one to one just because of the  
9 general structure of the Ordinance. But my  
10 preference would be, you know, if the  
11 building needs 22 parking spaces, that they  
12 get 22 spaces. And if there's a process  
13 that, you know, a review and I think they  
14 would probably do that. You know, it's --  
15 they're not going to be -- you know, it's not  
16 like they're going to spend their money to  
17 provide parking that's going to have to be  
18 part of the, you know, rental part of the  
19 income of the building that gets devoted to  
20 this process.

21 Is it rental or condo?

1 ATTORNEY JAMES RAFFERTY: Rental.

2 HUGH RUSSELL: And no doubt they'll  
3 be charging their tenants in some way so that  
4 they can differentiate from the people that  
5 do need parking and people that don't need  
6 parking.

7 ATTORNEY JAMES RAFFERTY:

8 Mr. Chairman, the only point is the flip side  
9 of that analysis, were that if there was the  
10 ability to provide 30 spaces for a 20-unit  
11 building, with all due respect to  
12 Ms. Clippinger, I think she'd be pushing back  
13 on this saying that's too much parking.

14 HUGH RUSSELL: She would.

15 ATTORNEY JAMES RAFFERTY: Because  
16 constrain is supply so as to create incentive  
17 for non-parking. I understand the one for  
18 one. I think if we get beyond that, it opens  
19 up a whole other different request.

20 HUGH RUSSELL: Right.

21 Are there metered spaces in the

1           vi ci ni ty?

2                   SUSAN CLIPPINGER:   Hampshi re Street  
3           from Broadway all the way back, I'm not  
4           rememberi ng.

5                   AHMED NUR:   To Portl and, yes, they  
6           have.

7                   SUSAN CLIPPINGER:   Unti l it turns  
8           into resi dent.   And on Broadway al so by the  
9           ti re store si de.

10                  HUGH RUSSELL:   Ri ght.   That goes  
11           back i n for the busi ness di stricts i t  
12           appears.   So there are some ki nds of uses.  
13           I'm sure i t's not easy to fi nd a meter at all  
14           times of the day, though.   I t's easy to park  
15           there when I go to the ci nema sometimes.  
16           Yes.

17                  PAMELA WI NTERS:   Are you through,  
18           Hugh?

19                  HUGH RUSSELL:   Go ahead.

20                  PAMELA WI NTERS:   Okay.

21                  Sue, I had a quick questi on.   I f you

1           were going to monitor the parking situation,  
2           would it be on an annual basis or how often  
3           would you do that?

4                   SUSAN CLIPPINGER: It wouldn't be  
5           more than annual.

6                   PAMELA WINTERS: Okay, but it would  
7           be at least annual?

8                   SUSAN CLIPPINGER: I believe so.

9                   PAMELA WINTERS: Okay.

10                   And I also have a question for  
11           Mr. Rafferty. Are you in negotiation right  
12           now with any of the abutting garages or  
13           people that own the abutting --

14                   ATTORNEY JAMES RAFFERTY: Oh, yes,  
15           we've had extensive conversations with the  
16           operators of the One Kendall garage. It's a  
17           perfect facility because it's an easy walk.  
18           It's staffed 24 hours. And we think,  
19           frankly, One Kendall is a very nice amenity  
20           for this building with the restaurants,  
21           retail on other things there.

1           There' s also a garage at Tech Square,  
2           and the Traffic Department has i denti fi ed  
3           that and a few others. But there' s no  
4           shortage, and it' s one of the cri teri a in  
5           l ooki ng at the Speci al Permi t, there' s no  
6           shortage for opportuni ties for off street  
7           parki ng, but we bel i eve strongl y that the  
8           avai l abi l i ty i s at One Kendal l . They have a  
9           program i n place now where some resi dents  
10          park there duri ng snow emergenci es and the  
11          l i ke. But given i ts easy access and the  
12          pl easant nature of the wal k and i ts proxi mi ty  
13          to the bui l di ng, i t seems l i ke the perfect  
14          candi date.

15                   PAMELA WINTERS: Have you gotten any  
16                   feedback from One Kendal l ?

17                   ATTORNEY JAMES RAFFERTY: Oh, yes,  
18                   we have term sheets they' l l rent to us at  
19                   \$240 a month.

20                   PAMELA WINTERS: Oh, great.

21                   ATTORNEY JAMES RAFFERTY: Chri s

1 spoke to them about five spaces I think.  
2 They'll give them 50 spaces. They just lost  
3 a couple 100 spaces to Amgen, the amendment  
4 to the Special Permit. And the garage isn't  
5 going anywhere because the garage is  
6 providing the parking supply for One Kendall  
7 and all the office and retail uses there. So  
8 that's, that's a real attractive option in  
9 which it encourages us to believe that it's  
10 an appropriate safety valve in the parking  
11 ownership. But I will point out, and our  
12 suggestion, we were benefited from Ms.  
13 Clippinger's suggestion that the monitoring  
14 not simply be who has resident parking  
15 stickers, because she impressed upon me let  
16 us know who owns cars? How many households  
17 own cars wherever those cars might be. And  
18 that would be a requirement around car  
19 ownership. And I'd say whatever form of  
20 monitoring, we're not looking to add to a  
21 very busy department, but our thinking is

1           it's at least an annual report. It will be  
2           incumbent upon the operator to provide that.  
3           And monitoring is a function associated with  
4           PTDM. This is residential. And I know that  
5           Traffic Department doesn't oversee PTDM, but  
6           the feeling was that at some point if that  
7           could be administratively handled by another  
8           department at the direction of the Traffic  
9           Department, we'd obviously follow whatever  
10          direction they have.

11                   SUSAN CLIPPINGER: They don't  
12          create.

13                   ATTORNEY JAMES RAFFERTY: No, I'm  
14          here as a peacemaker.

15                   HUGH RUSSELL: I mean, I feel myself  
16          ready to reach a decision on this case  
17          tonight. How do other people feel? I see  
18          some nodding heads.

19                   STEVEN WINTER: I concur.

20                   THOMAS ANNINGER: I agree. I think  
21          we have to talk a little bit.

1                   WILLIAM TIBBS: I think we have to  
2 discuss it and I'll see how I feel once the  
3 discussion is done. So I'm -- I don't want  
4 to make a blanket statement at this point,  
5 but I think we should deliberate a little.

6                   THOMAS ANNINGER: Take a break or  
7 should we just go right into it?

8                   HUGH RUSSELL: Let's go right into  
9 it.

10                  STEVEN WINTER: Yes.

11                  WILLIAM TIBBS: Relative to the  
12 issue that we were just talking about  
13 relative to the parking, I actually think  
14 that the one, the 1.0 versus the 0.75, if we  
15 were going to do that kind of arrangement to  
16 allow the 0.5 and then require that the  
17 monitoring go up. I think I would go to the  
18 full 1.0 as a threshold so to speak. As you  
19 said, Hugh, I don't think we have the  
20 authority to go above that, but I would do  
21 that. And also if we should decide that

1 that's something we would like to do, my  
2 preference would be for the monitoring to  
3 happen, but that they would have to come back  
4 before us to make a change very similar to  
5 what Amgen did, and not give Traffic the  
6 authority to make that. I just think, I  
7 wouldn't -- given the issues we have around  
8 traffic --

9 HUGH RUSSELL: So, you're saying Sue  
10 has enough to do. We'd set up the  
11 monitoring, if they wanted to discontinue it,  
12 they would have to come back.

13 WILLIAM TIBBS: They would have to  
14 come back and make the request for us. That  
15 way Sue is not an agency saying yea or nay,  
16 which I think it's pretty controversial  
17 anyway.

18 ATTORNEY JAMES RAFFERTY: Ms.  
19 Clippinger's recommendation was 1.0. It's my  
20 understanding of your comment your  
21 requirement would be more?

1 WILLIAM TIBBS: Yes, that's correct.  
2 That's my thought right now. But I mean, it  
3 would be based on monitoring. So it would  
4 be, I think you could determine what the  
5 appropriate number was, would need to be.  
6 But I think it can go up as high as 1.0 in  
7 order to -- based on the monitoring itself,  
8 what the starting point is. I'm not quite  
9 sure. There's some mechanism as to how to  
10 start that, but --

11 HUGH RUSSELL: You know, you rent up  
12 a building, it takes you, you know, some  
13 number of months, years, you keep track of  
14 how many cars. And at some point you say  
15 "Oh, gee, we're going to make it." Or "No,  
16 we're not." At some point you say to people,  
17 the only parking that's available is at One  
18 Kendall Square. And at the end of the year  
19 you have the letter that says, so we've got  
20 21 apartments and we've got 12 cars, and two  
21 of them are at One Kendall Square and ten of



1 think, I think it's okay. I think the issue  
2 of the retail space I'm concerned about. It  
3 is small and I guess precedent is such that  
4 it's car tight, and the question I have which  
5 you don't have to answer at this moment, is  
6 have you thought about that space and what  
7 kind of uses it could be? I, too, would be  
8 concerned that some of the people in public  
9 hearing said if it turned out to be just a  
10 rental office for the building, then that's  
11 -- either if that were the case, then I would  
12 almost say that we should not be too  
13 concerned about the rental requirement at  
14 all. So, I'm not quite sure if that's a bad  
15 thing, but I think that if we're saying it  
16 should be retail, then I think that -- I'd be  
17 concerned about that's what the retail is.  
18 But I don't have a problem with it being that  
19 if people feel that's the only thing it can  
20 be.

21 And I'd like to hear some of the other

1 Board Members' feelings on that before I come  
2 to the decision on that.

3 Barry Zevin's comment about the canyon  
4 that's being created is kind of interesting.  
5 It's that, and this whole issue of the height  
6 and the density is what our Zoning has --  
7 what our Zoning and census has allowed to  
8 happen. So in a sense I'm interested in what  
9 our other Board Members have to say about  
10 that, too. So I think I'll leave it at that  
11 as to my initial thoughts, and then I might  
12 have a couple of other things after I hear  
13 what you all have to say.

14 HUGH RUSSELL: You know, I think  
15 there are these disjointed height things  
16 along Mass. Ave. anyway. I took a bunch of  
17 pictures along Mass. Ave. in preparation for  
18 the discussion that we're not going to have.  
19 So, it does happen in the city, that there  
20 are places. One thing about it is a little  
21 view court so some of those people whose view

1 is being restricted, it will be able to  
2 actually catch a little bit more of the  
3 distance because of that.

4 WILLIAM TIBBS: I do want to say one  
5 thing and that is I guess I'm of mixed  
6 feeling about the potential for the loss of  
7 light next-door. And I say I'm a mixed  
8 feeling only in the sense that I think this  
9 is one of those cases where, you know, you  
10 have a building and there's an empty lot  
11 next-door and you're right up to your  
12 property line, and even though the Zoning  
13 says there has to be a setback, I think the  
14 people who built their building need to be  
15 aware of the potential of the development  
16 that could happen around them. And so that's  
17 my mixed feeling. I'm not quite sure if --  
18 how much of a hardship that is if you know  
19 you designed a building and built it, and  
20 some of those changes happened afterwards,  
21 then I'm not quite sure. But I'm interested

1           what people thought about that, too.

2                       H. THEODORE COHEN: I'll go next.

3           I agree with a lot of things you just  
4           said, Bill. I like the building. I mean,  
5           I've always liked it from initial proposal to  
6           now. I go by the site twice a day. I think  
7           it would be very attractive there. It would  
8           look nice there. I understand that Emma's  
9           parcel issue, but I think that the building  
10          is addressing them as well as can be. And I  
11          think, you know, it's sort of like any owner,  
12          any developer has to take what's there. And  
13          so on one side you've got a low building, and  
14          so there's a question of is this going to  
15          overwhelm that building and is it creating a  
16          canyon? And on the other side we've got a  
17          large building that went up with windows on  
18          the side. And so we have to talk about what  
19          happens with the windows.

20                       I think on the Emma's side, it's not  
21          too big of an issue, and I think the

1           diversity of heights will be fine. And, you  
2           know, who knows what the family might choose  
3           to do at some future time. I mean, maybe  
4           there is something that happens.

5                     But, the retail, you know, it's small  
6           and will it be successful? Who knows. I  
7           don't have a great opposition to it being a  
8           rental office building, which I assume would  
9           be just a temporary basis. If it were a  
10          commercial real estate office, that might be  
11          a good size for that. There is or has been a  
12          real estate office there for many years. I  
13          wouldn't have any opposition to something  
14          like that. You know, maybe some very small  
15          convenience store that's basically servicing  
16          the owner, the residents there and then, you  
17          know, by area.

18                    Parking, I agree with the concept of I  
19          think going up to 1.0 if necessary. You  
20          know, we're always balancing, you know,  
21          providing enough parking versus not providing

1 too much so that we're promoting use of  
2 public transportation, but I think through a  
3 monitoring procedure we can figure out what  
4 the right number is. And I think, I also  
5 agree with the idea that it should come back  
6 to us to modify it if necessary.

7 The last -- and I don't know if there's  
8 anything that can be done in terms of  
9 monitoring visitor parking. I don't think we  
10 do that anywhere else, so I don't know how  
11 that could be done even if they were required  
12 to purchase one or two spots for visitors. I  
13 don't know how, you know, anybody actually  
14 uses that.

15 The last issue, and, you know, perhaps  
16 the most troublesome is, you know, floors  
17 four, five and six of 201 Broadway. And I  
18 think it shows 199 Broadway in these plans.  
19 And, you know, that -- I don't know that  
20 there's any real resolution to that. That's,  
21 you know, a good resolution. Obviously

1 buildings are built, and at a later point in  
2 time another building is built upright next  
3 to it. And if the first building didn't  
4 consider what might happen, you know, that's  
5 unfortunate, and I can understand that  
6 certainly there's going to be a detriment to  
7 that building and to the occupants of those  
8 offices, but I think it happens in a lot of  
9 places and a lot of times. And, you know, I  
10 don't know what the answer is. You know, is  
11 it ten foot set back? Is it 20 foot set  
12 back? Is it going to significantly change  
13 anything those offices are going to be  
14 facing, you know, a wall or however we do it.  
15 I think, you know, it's allowed that height  
16 as of right. We're not being asked to change  
17 anything. So I think that is a difficult  
18 issue and a concern, but, you know, I think I  
19 like the building enough, and I think in that  
20 particular location it would be a nice thing  
21 to have a building of this size and style

1 that I would be inclined to go along with it.  
2 But, I'm curious if others have any comments  
3 of, you know, how we address that particular  
4 ownership.

5 HUGH RUSSELL: Steve.

6 STEVEN WINTER: Thank you,  
7 Mr. Chair. I concur with the thoughtful  
8 comments of Bill and my colleague here to my  
9 left, also.

10 Once we solve the parking issue,  
11 however we solve it, and there's a lot of  
12 creative ways to do it, I think we have to  
13 cut it loose at some point and give it to Sue  
14 and the proponent and the proponent's  
15 attorney to solve it. And I think it can be  
16 solved. So I think that problem's out of the  
17 way. I don't think that's an issue here.

18 The retail is small, but it's not a  
19 deal breaker. It doesn't kill the whole  
20 thing for me.

21 I think we need to take a step back and

1 understand that this whole very interesting  
2 confluence of buildings and proposed  
3 buildings; Hampshire, 201 Broadway, Emma's,  
4 have created a very, very interesting and  
5 very complex set of design conditions that  
6 this building is going into. And I don't  
7 want that to stop me from approving this, the  
8 Hampshire Street building from going into it  
9 just because it's complex or complicated or  
10 has created some problems. None of the  
11 problems that it has created are deal  
12 breakers for me. So I feel like the  
13 architect has worked very hard to put  
14 something in there. I think if we're putting  
15 density and it's going to go in Kendall  
16 Square and the residential density, I think  
17 that's a great place for it. So, I -- I'm  
18 good to go on this one.

19 HUGH RUSSELL: I guess I want to  
20 comment on the issue of the spacing between  
21 the buildings. I think the notion that our

1           Zoning Ordinance guarantees an existing  
2           building the right to unobstructed views is  
3           really not nowhere in the Ordinance. And,  
4           you know, the -- we have rules in the  
5           Ordinance about setbacks and, you know, this  
6           building follows those rules. I believe  
7           their building followed those rules. Their  
8           building is built up to their property line  
9           at some places, and it's set back some places  
10          from the property line. This one is the same  
11          way. It's up to the property line in some  
12          places, and it has setbacks in other places.

13                 When I moved into my office in 1977, I  
14                 could see the trees on the river from looking  
15                 out my window. And then there was a fire a  
16                 couple years after, and I went to what I  
17                 would think of as the Woodsworth's building  
18                 was built in place of the two-story building.  
19                 And so I could only see the tops of the trees  
20                 and then the Kennedy School built their  
21                 Belfer Center and I couldn't see the tops of

1 the trees anymore. And then the folks who  
2 moved the building and made Peets Coffee  
3 built a small in-fill building in Winthrop  
4 Square, and now I can see that over the top  
5 of the Woodsworth Building. I didn't  
6 actually choose to move, and my rent has been  
7 going up, you know, as the market goes up.  
8 I'm there because I like the location, and  
9 yes, the view is a little more interesting 35  
10 years ago. So, I think, you know, when  
11 you're in the city you have the advantage of  
12 being near places and near things and the  
13 countervailing thing is you're not in control  
14 of your views, and you may end up seeing  
15 other buildings up close. Actually, the  
16 worst thing that's happened to me is that  
17 Dickson Brothers decided to be energy  
18 efficient and put a white roof on their  
19 building, and that really provides blinding  
20 glare, but it's much more environmental for  
21 them I guess.

1           So, I really don't buy the argument  
2           that their view is protected and that we can  
3           only put a three-story building because that  
4           will be only as high as their parking garage  
5           and really won't block any views. I think  
6           that's really not a very good argument.

7           THOMAS ANNINGER: I have a few  
8           comments.

9           HUGH RUSSELL: Yes, Tom.

10          THOMAS ANNINGER: Let me just follow  
11          up and try not to repeat what's been said,  
12          because I think a lot already has been said.  
13          I, too, like this building. I liked it when  
14          we first saw it. I think there have been  
15          improvements to it. I think this is a good  
16          project. There are -- there's an awkward  
17          aspect to it on Emma's side. I don't think  
18          there's anything we can really do about that.  
19          This is a city, it does have its bumpy sides  
20          to it. But I think that's part of just the  
21          site and the various ownerships. I'm sure

1           there was an effort to purchase that lot and  
2           it was unsuccessful.

3                   SOPHIA VENETSANAKI S:   There was not.

4                   THOMAS ANNINGER:   There was not?

5                   SOPHIA VENETSANAKI S:   No.

6                   HUGH RUSSELL:   And there isn't  
7           because that lot doesn't help them much in  
8           terms of laying out the apartment building.  
9           You have -- because of the abutters'  
10          four-story parking garage or whatever it is  
11          on the other side of the lot, it doesn't help  
12          them at all. It makes their problem more  
13          difficult rather than new.

14                   ATTORNEY JAMES RAFFERTY:   It's also  
15          my understanding there's a lack of interest  
16          on the part of the owner to sell.

17                   SOPHIA VENETSANAKI S:   The First  
18          National is for sale.

19                   HUGH RUSSELL:   Maybe we just try to  
20          preserve your pizza.

21                   ATTORNEY JAMES RAFFERTY:   Well, I

1 think we tried to be respectful of the fact  
2 that there wasn't any interest in selling.

3 THOMAS ANNINGER: Am I seeing the  
4 beginning of some negotiation here?

5 SOPHIA VENETSANAKIS: If you heard  
6 this from other people, that was untrue.  
7 Every dollar, you know, it depends on what  
8 this is.

9 THOMAS ANNINGER: Well, in my view  
10 if this is the start of some discussions why,  
11 I think we would welcome a Major Amendment to  
12 the project if that ever should come before  
13 us --

14 HUGH RUSSELL: I would not.

15 THOMAS ANNINGER: -- to approve on  
16 that.

17 HUGH RUSSELL: I would not. I think  
18 this is the better solution and I like Emma's  
19 Pizza.

20 SOPHIA VENETSANAKIS: You -- so you  
21 like our little building there?

1                   UNI DENTI FIED FEMALE: We wanted to  
2 retain that space.

3                   THOMAS ANNINGER: This is not what I  
4 expected when I made that comment. I didn't  
5 want to open that up.

6                   On the parking I think enough has been  
7 said whether it's 0.75 or 1.0, we're talking  
8 about a handful of parking spaces. These are  
9 not big numbers as we're used to playing  
10 with. I could go either way. If you split  
11 the difference, it's, it's similar to the 0.8  
12 or 0.9 that we approved -- has become  
13 customary. So there's, there's something  
14 that ought to be able to be worked out there  
15 without a whole lot of further discussion.

16                   I will just say this: I was -- I'm  
17 puzzled by the intervention of the abutter at  
18 the second hearing, not the first hearing,  
19 without any writing beforehand in what seemed  
20 to me to be a very off the mark kind of way.  
21 And I don't quite understand how it has come

1 up quite this way, but it seems to me off the  
2 mark, first of all, in his comments about  
3 residential. It is perfectly clear what the  
4 Zoning Ordinance is trying to do. It is  
5 clear to me, also, if one has one's ear to  
6 the ground at all, that this is what the  
7 neighborhoods have been asking for for a long  
8 time, which is to try to humanize this part  
9 of the city with residences. Therefore, to  
10 start trying to add commercial here seems out  
11 of place with what we've been, with the  
12 policies that we've been trying to promote.  
13 I also happen to like the idea of this  
14 building, which by the way, let me just  
15 reference a memo that Roger Boothe wrote in  
16 March, which gives you a long list of why  
17 this is a very nice project. But among other  
18 things he calls it a charming building. And  
19 I think he's right. And I think it sets the  
20 right tone for what I think will be an  
21 interesting site, the tire site as somebody

1 called it, and I think it was Sue, it is  
2 something that I think we have to assume will  
3 not be there forever. It looks to me like a  
4 valuable site that will be redeveloped some  
5 day. And in many ways I think what you've  
6 done here will set a tone for the site across  
7 the street rather than to make it commercial  
8 and make this yet more commercial. I  
9 wouldn't be surprised if this gives us a  
10 chance for more residential in that triangle  
11 there. So I think this residential idea is  
12 all to the good, as is the design of the  
13 building.

14 As for this argument about detriment  
15 and benefit, I'll just say that to me I see a  
16 used car lot as a detriment. And our  
17 allegiance is really to the city, not  
18 necessarily to each and every building owner.  
19 And I see what you're doing as a benefit. I  
20 don't think people really ought to have great  
21 expectations for a site that is right now an

1 eyesore and a parking lot or a used car lot  
2 that really does not do anything for the  
3 neighborhood. So, in my balancing of  
4 benefits and detriments, I see what's being  
5 happening here as a great benefit to the city  
6 and to this particular area. And, therefore,  
7 I discount the intervention of the abutters  
8 who I think have a building that is actually  
9 what we're trying to undo in some of the  
10 other parts of the city, because it's a big  
11 dark brooding building looming over Broadway  
12 and I'm very happy to give my support to this  
13 project if and when we put this to a Special  
14 Permit vote tonight.

15 HUGH RUSSELL: Ahmed.

16 AHMED NUR: I, too, like the  
17 proposal in front of us when we first saw it  
18 the first time. And Susan cleared up the  
19 parking and parking is a problem. I often go  
20 there a lot. But I'm willing to rest that  
21 case with the monitoring. And I think it is

1 also, not to repeat with all my colleagues  
2 are saying, I think a residential building is  
3 definitely inevitable in that location. It's  
4 close to the T. There's a lot in the area  
5 that I like to see some residents in that  
6 area definitely.

7 The only question that I have for you,  
8 Mr. Chairman, is the floor area ratio that's  
9 been raised by Gary with regarding to if the  
10 staff wanted to comment on that or if you're  
11 comfortable without the staff answering the  
12 questions with height.

13 HUGH RUSSELL: I think we're not  
14 granting any floor area relief. If there's  
15 a, you know, some minor dimensional  
16 calculation thing that we're not aware of, it  
17 will come out in the wash, but basic  
18 principle of FAR floor plus the bonus floor  
19 area so they can have affordable housing,  
20 those calculations seem to be correct for me  
21 and about what we would expect.

1                   STUART DASH: That's exactly what  
2                   Zoning allows.

3                   AHMED NUR: Okay. I just wanted to  
4                   hear that.

5                   HUGH RUSSELL: I don't have a  
6                   calculator here so I can't check the math,  
7                   but it's not very difficult.

8                   AHMED NUR: All right. Thank you,  
9                   all set.

10                  HUGH RUSSELL: Pam.

11                  PAMELA WINTERS: The only question  
12                  that I had was for the staff and Roger, I  
13                  didn't know if you wanted to add anything to  
14                  what was said or have any thoughts about the  
15                  project.

16                  ROGER BOOTHE: The changes that were  
17                  made in response to the Board's design  
18                  concerns, have been from my point of view,  
19                  have been quite successful so I continue to  
20                  be pleased with what's shown.

21                  PAMELA WINTERS: Okay, thank you.

1                   HUGH RUSSELL:   Okay, are we ready  
2                   for a motion?

3                   The one thing that we haven't really  
4                   resolved is the cap on the amount of  
5                   additional parking that might be required.  
6                   As I see it, they're only going to provide  
7                   parking for the actual need. So if they need  
8                   one car, they'll provide one. And they won't  
9                   provide more than ten because that's the --  
10                  that would mean ten plus ten is equal to 20,  
11                  so they're providing between one and ten cars  
12                  depending on the need, and the need to be  
13                  based on registrations of people with cars in  
14                  the building.

15                  ATTORNEY JAMES RAFFERTY:   Could I be  
16                  heard just slightly on the mechanics of that  
17                  relief we're asking for? Because I have had  
18                  an opportunity to review this with  
19                  Ms. Clippinger.

20                  HUGH RUSSELL:   Yes.

21                  ATTORNEY JAMES RAFFERTY:   The

1 application would ask the Board to grant a  
2 Special Permit for a 0.5 parking ratio with a  
3 condition that the Applicant lease at least  
4 five spaces, for a minimum of 0.75 and  
5 require monitoring annually to the Traffic  
6 Department. And the Traffic Department could  
7 impose a greater requirement up to 1.0 based  
8 on the results of the monitoring. And if the  
9 Applicant wanted to have relief from the 0.7  
10 requirement, they would have to return to the  
11 Board and obtain an amendment to the Special  
12 Permit. So, but --

13 HUGH RUSSELL: I have a different  
14 scheme, which is that if you only need one  
15 space, we're not going to require you and you  
16 don't have to come back for relief to get  
17 just one space.

18 WILLIAM TIBBS: I think we have to  
19 start somewhere based on which I think would  
20 be Sue's recommendation as to what would be  
21 the starting point.

1           HUGH RUSSELL: Right. To me it's  
2           very simple, when a tenant walks in, that the  
3           eleventh person with a car that walks into  
4           the office and says I want to rent the  
5           apartment, this guy says yes, he rents the  
6           space. At the end of the year he reports  
7           what he's done. It's that simple.

8           ATTORNEY JAMES RAFFERTY: The only  
9           difference in that would be that the concept  
10          we had talked about would impose a minimum of  
11          0.75. And I think what the Chairman is  
12          describing really doesn't establish 0.75 as a  
13          minimum.

14          HUGH RUSSELL: Right.

15          ATTORNEY JAMES RAFFERTY: I guess  
16          that's a subject for discussion with the  
17          Board, because we did it in our proposal and  
18          I know my client would be happy not to have  
19          to live with the minimum. But in fairness to  
20          my discussions with Ms. Clippinger, we've  
21          agreed at a 0.75 as a minimum. And I think

1 that's probably where the Board needs to  
2 reach some resolution as to whether or not  
3 that minimum concept finds itself in. At any  
4 rate, but because we don't have those  
5 long-term leases, granting a Special Permit  
6 of 0.75 doesn't work here. We would need it  
7 a 0.5 plus whatever add ons beyond that.

8 WILLIAM TIBBS: Again, I was  
9 reacting to the Sue's comments where she  
10 thought the 0.75 was a more appropriate  
11 number. I would almost say that whatever Sue  
12 feels is the appropriate starting point and  
13 minimum, I'm comfortable with. I was going  
14 on her testimony where she thought 0.75 was  
15 the better number at least for start. We can  
16 either ask her or just have them work that  
17 out between them. I have no problem with the  
18 concept of not having a minimum, but I was  
19 basing my 0.75 on Sue's recommendations.

20 HUGH RUSSELL: Okay. So, let's just  
21 put it over to Sue. Do you think we should

1 have a minimum number of leased spaces? And  
2 if so, and that would be the five spaces?

3 H. THEODORE COHEN: While she's  
4 thinking about that could I just jump in?  
5 I'm uncomfortable with the concept of there  
6 not being any minimum, because I don't know  
7 that we've reduced parking down to a 0.5  
8 anywhere else in my recollection. And you  
9 know, we've done 0.8. We've done 0.9. I  
10 think I'm willing to consider 0.75, you know,  
11 rather than something higher. But I would  
12 think we ought to have a minimum. And if  
13 over time, you know, the monitoring shows  
14 that that's not the right number, then I  
15 think they could come back to us to revisit  
16 it. But I'm uncomfortable starting -- really  
17 starting and saying at 0.5 right at the  
18 moment.

19 PAMELA WINTERS: I agree.

20 HUGH RUSSELL: So, what was dreading  
21 my thought was we do have survey information.

1 And I think there's at least one building in  
2 the Kendall Square area that has a demand of  
3 less than 0.5. I think Sue's, I interpreted  
4 Sue's thing as saying that she's feeling that  
5 it's likely to end up in needing five spaces,  
6 and that's the -- that's what she would  
7 expect based on the statistical data that she  
8 has and her knowledge of the city. But  
9 nobody knows. And I just don't want to  
10 repeat the, you know, if it's \$240 a month,  
11 it's \$3,000 a year. It's not a lot money for  
12 somebody's renting an apartment. But still,  
13 it seems like if they're committed to  
14 providing enough parking up to the one to  
15 one, that's best and to let the market  
16 determine how many there are. Sue, tell me  
17 what to do.

18 PAMELA WINTERS: And one more  
19 question. Are you going to be charging  
20 parking for the other ten residents?

21 ATTORNEY JAMES RAFFERTY: Yes.

1 PAMELA WINTERS: So they're going to  
2 be charged parking, also?

3 ATTORNEY JAMES RAFFERTY: There's  
4 another, we mentioned at the last hearing  
5 there's a mechanism where there will be a  
6 rental credit if you don't have a car. So,  
7 there's some creative pricing around parking.  
8 So, it's --

9 PAMELA WINTERS: Great.

10 ATTORNEY JAMES RAFFERTY: People  
11 with cars will be ostracized to the greatest  
12 extent possible in the building.

13 PAMELA WINTERS: Thank you.

14 SUSAN CLIPPINGER: I think because  
15 they're not building the parking, it's sort  
16 of a different conversation than if you're  
17 actually physically building the parking.  
18 I'm not sure there's actually a substantial  
19 difference in what the two of you are saying  
20 in terms of how it goes forward. You know,  
21 I'm happy with Hugh's proposal which

1 obviously is to the benefit of the proponent.

2 I think the difficulty is what would, what

3 would they come back to the Board for?

4 WILLIAM TIBBS: They wouldn't in

5 that case.

6 HUGH RUSSELL: I think in ten years

7 they come back and say we've never filled

8 those ten spaces.

9 SUSAN CLIPPINGER: We wouldn't have

10 to monitor anymore.

11 HUGH RUSSELL: Can we get out of

12 sending the annual letter? I think the

13 burden of monitoring is pretty small here.

14 SUSAN CLIPPINGER: I think obviously

15 that what we're trying to make sure the need

16 is accommodated. And I think what you're

17 saying, Hugh, is that it's the proponent's

18 responsibility to figure out when that need

19 exists and to respond to it. If we require

20 them to do something and then monitor, we're

21 trying to retroactively deal with it, so that

1 sort of puts the burden on the proponent to,  
2 you know, provide that parking, you know, as  
3 soon as the request is made for whatever  
4 duration of time that you have tenants that  
5 have more than ten cars. So, you know, I'm  
6 comfortable either way, but I think there's  
7 some advantages to what Hugh's recommending  
8 just in terms of putting the onus of  
9 responsibility on the proponent, and there's  
10 some financial gain obviously for them in  
11 case we don't know what we're -- what the  
12 real need is and it ends up being something  
13 in between, you know, 0.5 and 0.75.

14 HUGH RUSSELL: All right. Would  
15 someone like to make a motion?

16 H. THEODORE COHEN: I'll make a  
17 motion.

18 HUGH RUSSELL: Thank you.

19 H. THEODORE COHEN: I move that we  
20 grant a Special Permit for relief of parking  
21 to allow only ten parking spaces under the

1 Special Permit, but that as a condition of  
2 the Special Permit they be required -- the  
3 Proponent be required to obtain parking at a  
4 minimum of 0.75 total through some rental  
5 mechanism.

6 That the parking needs be monitored by  
7 the Transportation and Parking Department.  
8 And that if it's determined at any point that  
9 less than 0.75 is necessary, that they can  
10 come back to this Board to review it and to  
11 reduce it.

12 And then do we have to authorize  
13 something with regard to the design review?

14 HUGH RUSSELL: That's right. As a  
15 multi-family Special Permit, and that would  
16 be based on the conditions for them following  
17 the plans as revised.

18 H. THEODORE COHEN: Per 20 units in  
19 accordance with the plans that we've been  
20 reviewing today and that were submitted, I  
21 believe, in revision in April 15, 2011.

1                   HUGH RUSSELL: And so those plans  
2 show a retail space. Do we wish to say  
3 something about the use of that 300 square  
4 foot space? Is it permissible for that to be  
5 some retail and/or office? And at some point  
6 somebody's going to come up for a permit and  
7 they're going to look at the Special Permit  
8 and they're going to say, they're going to  
9 say to the department is that within the  
10 Special Permit? And there are lots of lines  
11 in the Ordinance, and it really needs to get  
12 defined in the permit pretty clear. We can  
13 here state the principle, and then the  
14 language can be developed. But my view would  
15 be to allow both retail and customer serving  
16 office uses.

17                   STEVEN WINTER: Yes.

18                   H. THEODORE COHEN: Yes, I accept  
19 that as a friendly amendment.

20                   PAMELA WINTERS: I just have one  
21 question. What if the parking requirement is

1 above 0.75?

2 H. THEODORE COHEN: Well, under this  
3 motion it would not be incumbent upon the  
4 owner to provide it. But, you know, their  
5 desire to lease property may drive them to  
6 it. The alternative is to go up to say  
7 required up to one.

8 PAMELA WINTERS: One.

9 H. THEODORE COHEN: But I was trying  
10 to reach a compromise.

11 HUGH RUSSELL: There are a variety  
12 of ways to do this. It seems to me that, you  
13 know, I was arguing for letting the market do  
14 0.5. This way it's setting a simple straight  
15 forward number based on what the Traffic  
16 Department recommends and is consistent with  
17 our previous policy of having a specific  
18 number and having a mechanism that number  
19 might be changed. So, you know, I would  
20 think we ought to either go one way or we got  
21 to go the other. And that this motion is

1 following kind of tried and true method of  
2 dealing with residential parking.

3 There are a number of findings that  
4 needs to be made.

5 THOMAS ANNINGER: Mr. Rafferty had  
6 something to say.

7 HUGH RUSSELL: Mr. Rafferty.

8 ATTORNEY JAMES RAFFERTY: Thank you.  
9 Just on the issue of the ground floor  
10 commercial space. My view of the  
11 application, my analysis that the  
12 multi-family Special Permit applied to the  
13 dwelling units. The parking relief applied  
14 to the parking required of the dwelling, and  
15 I hadn't contemplated that the Board would  
16 then be weighing in on the use of the ground  
17 floor commercial space, and that the base  
18 zoning district allows for a range of uses,  
19 professional office, plain office, retail,  
20 and other things. I just didn't think the  
21 multi-family Special Permit reached to that

1           Locati on.

2                   HUGH RUSSELL:  Makes sense to me.

3                   H. THEODORE COHEN:  I'm perfectly  
4 content with whatever base zoni ng allows.

5                   WILLIAM TIBBS:  Me, too.

6                   HUGH RUSSELL:  So we'll make that  
7 clear in the deci si on.

8                   Okay, fi ndi ngs?  So, sometimes  
9 Mr. Rafferty goes through the list of things  
10 he has.

11                   LIZA PADEN:  They actually are in  
12 one of the submi ttals, there was a list of  
13 the fi ndi ngs in the appli cati on.

14                   HUGH RUSSELL:  It's something  
15 enti tled, "Narrati ve" for Speci al Permi t  
16 appl i cati on?

17                   LIZA PADEN:  Yes.

18                   ATTORNEY JAMES RAFFERTY:  Yes.

19                   HUGH RUSSELL:  Maybe we shoul d  
20 revi ew that just to make sure that we are in  
21 agreement with the proposed language.  It's a

1 document from the first hearing, 1/28/11.

2 THOMAS ANNINGER: Yes.

3 HUGH RUSSELL: So it seems only a  
4 few people have it.

5 ATTORNEY JAMES RAFFERTY: We have a  
6 copy. It's a generic Special Permit plus the  
7 multi-family?

8 HUGH RUSSELL: Right.

9 So there's language that there's no  
10 aspect of the proposed development that would  
11 adversely affect the adjacent uses. That  
12 might be a little strong given the testimony.  
13 That's what we've been given. That's in the  
14 C on page three under subhead A.

15 We might want to say something to the  
16 effect that the impact is -- sort of impact  
17 that would be anticipated from application of  
18 the Zoning rules and regulations in this  
19 district. And it contemplates buildings next  
20 to each other with, you know, setbacks  
21 between them, but not a full street with

1 setbacks. So it will have an impact on the  
2 next building because that changes.

3 The rule that make continued operation  
4 of adjacent uses be impaired, I don't think  
5 so. I think you can still use the next --  
6 the building next-door for an office  
7 building.

8 STEVEN WINTER: I just wanted to  
9 double back to what you said about the  
10 impact. I think we do need to be careful of  
11 saying there's no impact, or we don't see an  
12 impact but I think we can say these impacts  
13 are within what we reasonably expect to see  
14 in an area zoned like this and consistent  
15 with the surrounding.

16 HUGH RUSSELL: Yes.

17 STEVEN WINTER: Right.

18 HUGH RUSSELL: And that there are  
19 plenty of other buildings that have these  
20 kind of other office buildings. They have  
21 these kinds of views and relationship.

1           Okay, the multi -- I'm now on page  
2           five. I think actually the No. 2 description  
3           is actually quite a good thing. There's a  
4           mix of large buildings and smaller older  
5           buildings. Proposed building occupies a  
6           middle ground. I think that's what we liked  
7           about this project, it helped to bridge that.

8           H. THEODORE COHEN: I think, also, a  
9           relevant point that was made earlier that  
10          this building is replacing a used car lot,  
11          and that there's already adverse impact from  
12          what's existing and it's being replaced with  
13          a residential use that we find appropriate  
14          for this area.

15          HUGH RUSSELL: All right. I think  
16          the other findings under the multi-family  
17          permit are, the statements are there.

18          STEVEN WINTER: What page are you on  
19          again?

20          HUGH RUSSELL: On page six.

21          STEVEN WINTER: Got it.

1                   HUGH RUSSELL: I mean, those are  
2                   factual statements about the project there,  
3                   things we've talked about.

4                   And then we go on to page seven which  
5                   is the further findings in industrial  
6                   districts. This is what you might put on the  
7                   list to protect the amendments, because we've  
8                   had them when this language was written 25  
9                   years ago, it was starting to think about  
10                  housing in industrial districts. Now  
11                  housing's permitted in all districts of the  
12                  city. And these are actually the reasons  
13                  that we think, so maybe this paragraph needs  
14                  to be tweaked at some point in time, but --

15                  PAMELA WINTERS: Which paragraph is  
16                  that, Hugh?

17                  HUGH RUSSELL: On balance  
18                  regulations for proposed residential uses.  
19                  We've now allowed it in all industrial  
20                  districts, so it's not like the exception  
21                  anymore. We've determined that housing is

1 allowed, is an appropriate in all districts  
2 because of essentially the changes to  
3 industry.

4 Right. And then on No. 2: The  
5 proposed design includes amenities  
6 appropriate to provide supportive service  
7 environment for the anticipated residential  
8 uses.

9 That was put in there because say if  
10 you were in a building where there were no  
11 sportive uses anywhere nearby, we might want  
12 to think about that. Well, this was built  
13 adjacent to a residential neighborhood.  
14 There are plenty of supportive uses, and  
15 indeed we talked about one that literally  
16 abuts the property. Very important to me as  
17 a resident.

18 H. THEODORE COHEN: You can buy  
19 tires.

20 HUGH RUSSELL: Right. If you had a  
21 car. Do they sell bicycle tires there?

1           Okay. And then the reduction in  
2           required parking. There are references to  
3           raised memorandums which are appropriate.

4           So this all makes sense to me. Does  
5           anyone else have any comment?

6           AHMED NUR: One thing that keeps on  
7           coming back to me is the 24-inches in between  
8           the buildings. I like some sort of a line to  
9           show up in there to say if it is not doable.  
10          Because I really have a hard time imagining  
11          how you can put a stack of paint between  
12          buildings with that height without having  
13          more space. So if there was a problem, is it  
14          going to be a problem for people with windows  
15          and seeing you all. The only thing in me  
16          head that can really happen is seeing you all  
17          where the joints are exposed to that window  
18          at that height and that distance they have in  
19          between. So, if there is an issue for them  
20          to come back, I mean I just -- I'm having a  
21          hard time imagining what's going to happen

1 between these buildings in terms of finished  
2 product.

3 HUGH RUSSELL: Right. You mean  
4 they're building near the lot line, you know,  
5 inches from the lot line in their new  
6 proposal. So they're going to need to  
7 consult with their abutter and get permission  
8 to, you know, and staging and overhanging and  
9 that's sort of a building code issue, not a  
10 Zoning issue I think.

11 AHMED NUR: Okay.

12 WILLIAM TIBBS: And a construction  
13 issue, too, as to how to do it.

14 HUGH RUSSELL: Right. How are you  
15 going to stage the construction? You know,  
16 there's a whole series of other issues that  
17 don't come into the permitting.

18 AHMED NUR: No, I understand that.  
19 I just didn't want it to say we have the  
20 permit to build at this height and this  
21 location, and it's going to be done and,

1           therefore, this whole thing changes into, you  
2           know. I understand the Inspectional Services  
3           are involved, and so on and so forth. I just  
4           wanted something to mention that we are aware  
5           that it's only 24 inches between the  
6           buildings, so they have to work with the  
7           abutters.

8                   HUGH RUSSELL: And the 24-inch  
9           belongs to the abutter. So in some instance  
10          there's zero inches or one inch or whatever,  
11          whatever distance they're planning to put on  
12          the property line.

13                   AHMED NUR: Okay.

14                   HUGH RUSSELL: All right. We have a  
15          motion, we have findings, are we ready to  
16          vote?

17                   UNIDENTIFIED FEMALE: Can I ask one  
18          last question? When we spoke of the analysis  
19          of the roof, is that in your --

20                   HUGH RUSSELL: That's a requirement  
21          of the Building Code. And that will be in

1 the minutes of the meeting. That's how it  
2 was resolved. We don't, we don't have to  
3 require that because --

4 UNI DENTIFIED FEMALE: It's already  
5 required?

6 HUGH RUSSELL: It was acknowledged  
7 that it was required.

8 On the motion.

9 H. THEODORE COHEN: You don't have a  
10 second yet.

11 HUGH RUSSELL: Do we have a second?

12 STEVEN WINTER: Second.

13 HUGH RUSSELL: Thank you.

14 On the motion, all those in favor of  
15 the motion?

16 (Show of hands).

17 HUGH RUSSELL: All members voting in  
18 favor and the permits are entered.

19 (Russell, Anninger, Tibbs, Winters,  
20 Winter, Cohen, Nur.)

21 LIZA PADEN: Can I ask the Board to

1 take one more action? I requested an  
2 extension from the Applicant because the  
3 decision filing date is Monday, the 13th.  
4 And I've asked for an extension which they  
5 have offered to us. And I'd like the Board  
6 to accept it to June 30th.

7 HUGH RUSSELL: Okay. On that  
8 request, all those in favor?

9 (Show of hands).

10 HUGH RUSSELL: All members voting in  
11 favor.

12 (Russell, Anninger, Tibbs, Winters,  
13 Winter, Cohen, Nur.)

14 LIZA PADEN: Thank you.

15 ATTORNEY JAMES RAFFERTY: Thank you  
16 very much.

17 (A short recess was taken.)

18 (Sitting Members: Hugh Russell, Thomas  
19 Anninger, William Tibbs, Steven Winter, H.  
20 Theodore Cohen, Ahmed Nur.)

21 HUGH RUSSELL: Okay, the Board is

1 going to discuss Planning Board case No.  
2 241A, 1991 and 2013 Massachusetts Avenue.

3 And what's before the Board is a  
4 request that we accept a minor revision to  
5 the plans as being consistent with the Permit  
6 that we voted on the project. And that  
7 revision basically takes the driveway which  
8 used to be running along the property line  
9 has now been relocated so that it's now  
10 inside the building, and that the area is now  
11 a landscaped area.

12 WILLIAM TIBBS: Just for clarity, we  
13 did not approve this the last time. This is  
14 -- we asked for some things to happen and now  
15 we are approving it. Just help my memory.

16 HUGH RUSSELL: The last time we  
17 discussed it and we weren't ready to act and  
18 I don't remember why.

19 THOMAS ANNINGER: You don't remember  
20 why?

21 HUGH RUSSELL: Why we weren't ready

1 to act the last time.

2 THOMAS ANNINGER: Because it was the  
3 eleventh hour that it came up and in  
4 particular I remember that the traffic people  
5 had only really learned of this that very  
6 morning and hadn't had time to do, for  
7 example, the memorandum that we have before  
8 us now.

9 WILLIAM TIBBS: Thank you.

10 H. THEODORE COHEN: And the church  
11 next-door hadn't known about it.

12 HUGH RUSSELL: And we have a letter  
13 from the church next-door that doesn't seem  
14 to be opposing this change.

15 And Sue's letter -- is this something  
16 you want to speak on or does the letter fully  
17 explain it?

18 SUSAN CLIPPINGER: The MOU? It's  
19 self-explanatory. I can explain it if you  
20 want, but if you want to zip along.

21 AHMED NUR: No, I'm okay.

1 WILLIAM TIBBS: No, that's okay.

2 HUGH RUSSELL: My own view is that  
3 this is consistent with the permit we did,  
4 but as a minor improvement. And that we have  
5 a significant improvement to the abutters on  
6 Orchard Street, and for that reason we really  
7 ought to do this.

8 STEVEN WINTER: I concur.

9 WILLIAM TIBBS: I concur.

10 HUGH RUSSELL: Would somebody like  
11 to make a motion?

12 THOMAS ANNINGER: How does this go?

13 HUGH RUSSELL: We're asked to  
14 approve the revised plans as being consistent  
15 with the Special Permit.

16 STEVEN WINTER: Mr. Chair, I move  
17 that we accept this revision as it is and in  
18 include within that -- I may need your help  
19 with this, Bill -- and include within that  
20 our approval of the -- well, I spoke too  
21 soon. It was my impression that we provided

1 our approval for everything except for this  
2 one revision. And now in approving this  
3 revision, we are approving the permit for the  
4 project?

5 HUGH RUSSELL: No, we actually  
6 already issued it.

7 STEVEN WINTER: We've already done  
8 that?

9 HUGH RUSSELL: Yes.

10 STEVEN WINTER: Sorry.

11 HUGH RUSSELL: The next step is  
12 because this is a plan revision, we have to  
13 accept the plans.

14 STEVEN WINTER: I move that we  
15 accept this revision as it is stated here in  
16 this packet, particularly, the notes from Sue  
17 Clippinger to the permit that we have  
18 approved.

19 WILLIAM TIBBS: Second.

20 HUGH RUSSELL: Okay. Any  
21 discussion?

1 (No Response.)

2 HUGH RUSSELL: All those in favor.

3 (Show of hands.)

4 HUGH RUSSELL: Six members voting in  
5 favor and it's a vote.

6 (Russell, Anninger, Tibbs, Winter,  
7 Cohen, Nur.)

8 HUGH RUSSELL: If somebody can  
9 step outside to tell Pam we're on to the next  
10 item.

11 (A short recess was taken.)

12 \* \* \* \* \*

13 (Sitting Members: Hugh Russell, Thomas  
14 Anninger, William Tibbs, Pamela Winters,  
15 Steven Winter, H. Theodore Cohen, Ahmed Nur.)

16 HUGH RUSSELL: So, the Board will  
17 discuss the recommendation of the City  
18 Council on the 5.28.2 rezoning petition.

19 I must say I was under the impression  
20 we'd actually concluded this business at our  
21 last meeting, but the staff decided that that

1 wasn't what they heard. And I think we have  
2 an opportunity now that two members of the  
3 Board who were not present for that  
4 discussion, Tom and Bill, are now present for  
5 this one. And so, I think the written  
6 recommendation is a beautiful translation of  
7 what we were stumbling with.

8 STEVEN WINTER: I concur.

9 HUGH RUSSELL: It really captured  
10 what we did. When I read it myself, I  
11 thought there wasn't something we didn't talk  
12 about. And I felt like we still weren't  
13 quite in agreement, and it's better if we can  
14 be completely in agreement. And so I had a  
15 thought which I'll just -- which is what  
16 would happen if the density calculation  
17 weren't a requirement, but were a guideline?

18 STEVEN WINTER: Can you give me an  
19 example?

20 HUGH RUSSELL: So, we would say that  
21 the Board should consider in these permits,

1 the appropriate number of units. And compare  
2 it to the table, which represents the  
3 previous history of the Board in general. So  
4 here's what we have been doing. And the  
5 table I would use would be the newest, the  
6 latest version. We wouldn't be bound by  
7 that, but we would have to consider that as a  
8 starting point in discussion. And so  
9 somebody would say this building for that  
10 reason or this reason or another reason, this  
11 formula, you know, doesn't quite capture this  
12 building correctly or this site, and then we  
13 would figure out what it was if we had that  
14 as a guidance.

15 The other piece that bothered me ever  
16 since 25 people came here and testified that  
17 they wanted the cap, that it bothers me that  
18 we didn't respond to that in our decision  
19 because these same people are going to come  
20 to the City Council and say the same thing to  
21 them, we should revise our thinking to the

1 Council on that. And my thinking is not that  
2 -- is that if the building is, you know, much  
3 denser than is permitted in the district,  
4 that why not to look very carefully at making  
5 the building even bigger by filling in, you  
6 know, additional space? You know, there  
7 might be that that's the right thing to do,  
8 but it's like a warning sign. If your  
9 building is at an FAR of like twice the  
10 district and you're proposing to add another  
11 one, make sure that all of the impacts of  
12 that additional density are properly handled.  
13 I mean, of course trying to handle all the  
14 impacts anyway, but it should just -- so, you  
15 know, as a guideline -- that was my thinking,  
16 that we leave the Board -- we propose to  
17 leave the Board full discretion to deal with  
18 each building the best way --

19 STEVEN WINTER: And may I say why?  
20 The reason is, just so that we can put that  
21 back on the table, these buildings that we're

1            talking about are unusual , unique, wonderful ,  
2            one of a kind, and there's no cookie cutter  
3            approach to them.

4                            PAMELA WINTERS:    That's right.

5                            THOMAS ANNINGER:    Can I ask a  
6            questi on?

7                            HUGH RUSSELL:    Sure.

8                            THOMAS ANNINGER:    Because I wasn't  
9            here for all of this, so I'm not up to speed  
10           at all , but I looked with interest at this  
11           table, page six of six, the so-called  
12           illustration of all the projects that we have  
13           approved.    And I'm trying to understand here  
14           if we went with either the proposed or the  
15           alternative, it doesn't matter really,  
16           they're so close.    And if it were a  
17           requirement that it, that we follow the  
18           calculated allowed units, does that mean that  
19           what we actually did approve for Blackstone  
20           Street or for Aberdeen Avenue or for Rindge  
21           Avenue would not have had 33 units but only

1           26 units? Would not have 55 units, but only  
2           35? Would not have had 64, but only 45.

3                   HUGH RUSSELL: That's right. And  
4           that was why there was a strong sentiment on  
5           the Board not to adopt that as a requirement.

6                   WILLIAM TIBBS: Right.

7                   HUGH RUSSELL: Because it might have  
8           prevented us from doing the right thing on  
9           those projects.

10                   THOMAS ANNINGER: And these are  
11          buildings that have a predetermined space?

12                   WILLIAM TIBBS: Yes.

13                   THOMAS ANNINGER: What do you do  
14          with all that space, just make bigger units?

15                   STEVEN WINTER: Well, the bigger you  
16          units -- I'm sorry, Mr. Chair, I did not mean  
17          to interrupt. The bigger units would be one.

18                   THOMAS ANNINGER: Or this would be  
19          monster units.

20                   STEVEN WINTER: There's a  
21          possibility to put first floor on basement,

1 other uses, mixed use in the first floor in  
2 the basement; is that right, Mr. Chair?

3 HUGH RUSSELL: Right.

4 Well, I mean I think in the Aberdeen  
5 Avenue case I think they actually created a  
6 floor area, they did in-fill.

7 JEFF ROBERTS: Excuse me, Mr. Chair.  
8 I actually wanted to make a clarification on  
9 this table. So in the cases that you  
10 mentioned, the Blackstone Street and the  
11 Aberdeen Avenue cases, if you look back at  
12 the column that starts base zoning plus  
13 inclusionary. So under the formulation of  
14 the Zoning in the petition, if the total  
15 number of units falls under what would be  
16 allowed under the base zoning with the  
17 inclusionary bonus included within that, that  
18 would also be allowed. So in the case of  
19 Blackstone Street, that base zoning would  
20 allow up to 37 units. And so the 33 that  
21 they built was within that.

1                   And then on Aberdeen Avenue, the 55  
2                   units is what's allowed under base and that's  
3                   what was actually permitted in the end.

4                   THOMAS ANNINGER: I see.

5                   WILLIAM TIBBS: But the --

6                   JEFF ROBERTS: In the cases where  
7                   it's dark, where there's a dark shading,  
8                   those are cases where the new formulation  
9                   under the proposed or the alternative would  
10                  fall below what was actually permitted. And  
11                  so then that number that was permitted by the  
12                  Planning Board would not be allowed under the  
13                  new formulation.

14                 THOMAS ANNINGER: Oh, that's what  
15                 the shading means, okay.

16                 JEFF ROBERTS: Yes.

17                 WILLIAM TIBBS: Just for clarity,  
18                 you're saying that as this is -- as these  
19                 alternate calculation, the proposed and  
20                 alternate calculation methods, the amount  
21                 that's in the base zoning would apply

1           regardless of those two as the proposal is  
2           written?

3                     JEFF ROBERTS: That's correct.

4                     WILLIAM TIBBS: Okay. So the 55  
5           is --

6                     THOMAS ANNINGER: Is okay.

7                     WILLIAM TIBBS: Is okay.

8                     JEFF ROBERTS: Yes.

9                     WILLIAM TIBBS: Even though the  
10          other calculations give you lower numbers?

11                    JEFF ROBERTS: Right.

12                    HUGH RUSSELL: Right. And that's  
13          essentially because of the density permitted  
14          in the district and the Aberdeen Avenue where  
15          the FAR was really quite low. It was a big  
16          site and a big building they chose to build  
17          quite small units as you may remember.

18                    WILLIAM TIBBS: Just going to your  
19          earlier question or your earlier comment, I  
20          agree that I think that anything that gives  
21          us flexibility, I think that was a concern I

1 had when we first talked about it, I wasn't  
2 here for that conversation. When I read  
3 this, I thought it hit upon, other than the  
4 cap issue, which I was going to ask about, it  
5 hit upon my concerns that I expressed. So as  
6 a matter of fact, when I read it, I was going  
7 to go Wow, that was interesting. So, maybe I  
8 should stay away more often -- no, only  
9 kidding.

10 HUGH RUSSELL: We also got home at  
11 9:30.

12 WILLIAM TIBBS: But, yes, so I think  
13 that anything -- I'm amendable to anything  
14 that would give us the flexibility. Because  
15 I think exactly for what you said that the --  
16 these buildings are unique, and they just  
17 need to -- you just can't have a rule that  
18 applies to all of them, I think.

19 And my sense is that there shouldn't be  
20 a cap per se, but that's something we should,  
21 we should consider as we're looking at it,

1           what's the appropriate cap, but there  
2           shoul dn' t be a cap i n the Ordi nance i tsel f.

3                   H. THEODORE COHEN: Can I click in  
4           here?

5                   HUGH RUSSELL: Yes.

6                   H. THEODORE COHEN: I thought staff  
7           di d an excel l ent j ob of summari zi ng very  
8           accuratel y the very l engthy di scussi on that  
9           we had.

10                   STEVEN WINTER: May I say that Jeff  
11           Roberts was the person who wrote the piece  
12           up, and I thi nk we al l agree that i t' s an  
13           outstandi ng synthesi s of what we sai d.

14                   Sorry, Ted.

15                   H. THEODORE COHEN: Yes, I  
16           congratul ate you.

17                   I for one real l y don' t feel the need to  
18           reopen thi s whol e di scussi on. I thi nk i t  
19           says exactl y what we concl uded, that we  
20           wanted the fl exi bi l i ty and di dn' t thi nk that,  
21           you know, the proposa l s, you know, that -- we

1           were uncomfortable with having -- some of us  
2           were uncomfortable with having a formula that  
3           forced us to do something that we may not  
4           want to do and that the properties were all  
5           unique. I think that we had determined that  
6           we didn't want to have a cap. And, you know,  
7           maybe that's the one thing that's missing  
8           from this write up, a statement that we  
9           concluded a cap took away the flexibility.

10                   HUGH RUSSELL: I would not -- I  
11           think we need to give guidance to the  
12           developer in some form. I think it doesn't  
13           have to be a cap, but I think if there's no  
14           -- how's he going to know how many units when  
15           he's trying to make a purchase price? And I  
16           know you don't like this argument, Ted, but  
17           in the real world guys pay too much for  
18           buildings and then we have to deal with the  
19           consequences of that.

20                   H. THEODORE COHEN: And I understand  
21           that, and it seems to me that we've done a

1 very good job of dealing with the  
2 consequences of it. That we've allowed them  
3 to build what we thought was appropriate  
4 given the building and given the neighborhood  
5 and given the situation and that, you know,  
6 somehow we've stumbled through okay, and that  
7 trying to come up with some formulation  
8 that's going to be clearer to a developer  
9 and, you know, a seller, and to leave us with  
10 the flexibility, you know, we talked about it  
11 at great length last time. And, you know, I  
12 don't think we were able to come up with  
13 anything that we were all comfortable with.  
14 And I just, you know --

15 HUGH RUSSELL: That's precisely why  
16 I was suggesting that there was a different  
17 way to handle it than asking the Board if  
18 that might be the way to bridge the two  
19 thoughts.

20 THOMAS ANNINGER: Can I react and  
21 give you the benefit of somebody who was not

1 here? In reading this, while it's  
2 interesting, and I can tell from the language  
3 in this, that a lot went on, I don't think  
4 this is as helpful to the Council as it could  
5 be. We do a better job when we speak clearly  
6 with one voice. And I think that's possible  
7 here. And I think Hugh is on to the right  
8 way to do that. I think it is a good first  
9 draft of maybe a lot of good thinking, but my  
10 suggestion is that you rewrite it bringing  
11 together the thought process that has gone  
12 here and make a one clear recommendation for  
13 flexibility with guideline. And I think that  
14 could be done in a lot sharper way, and I  
15 think it would be very helpful to the Council  
16 that way. This, I think leaves it wide open.

17 WILLIAM TIBBS: I think, I guess my  
18 reaction to that is that I read this as  
19 saying that it sounds like, since I wasn't  
20 here, there was a lot of conversation, but  
21 there wasn't an agreement that we would ever

1 get to that point so that this, this  
2 represents where the concerns were.

3 THOMAS ANNINGER: Yes, but that was  
4 then. I think maybe, I don't know, and maybe  
5 there is no desire to go beyond where you  
6 were last time, but it seems to me that there  
7 is an opportunity to renegotiate the  
8 discussion in such a way that you come out  
9 with one voice that captures the flexibility  
10 that is desired. And the point that Hugh is  
11 making, which I think is a good one, which is  
12 that it needs to give people some  
13 predictability as to the likelihood of how  
14 this might come out so that they don't have  
15 outsized expectations.

16 PAMELA WINTERS: So, Tom, what  
17 you're saying, then, is to combine what we  
18 have here with Hugh's ideas and come up with  
19 another draft, is that what you're saying?

20 THOMAS ANNINGER: Well, absolutely  
21 that's what I'm saying. I think I would

1 explain in a first part what's been explained  
2 here, which is that a lot of effort was made  
3 to try to come up with a formula that might  
4 capture better how 5.28 might possibly work.  
5 But when we applied that, I think it was  
6 realized that it, it -- I think it's a  
7 mistake to use that as a mandatory path. And  
8 half of this thing almost says some people  
9 here wanted a requirement that we go with a  
10 new formula. I think that's a mistake. I  
11 think the flexibility is right. On the other  
12 hand, I do think it -- it's very helpful that  
13 all this language explains the complexity of  
14 the issues and gives some touchstone, some  
15 guideline as to where this might be a  
16 starting point for a discussion at least on  
17 where it ought to come out. All that  
18 reflects the complexity of these issues. And  
19 it will perhaps be a complex 5.28, but that's  
20 not our fault. That's the fault of the issue  
21 which is complex, but I think you can capture

1 all of these thoughts in one clear message.  
2 And I think it's a mistake to leave it just  
3 like this.

4 WILLIAM TIBBS: I guess I'm a little  
5 confused because you said you see that there  
6 was somebody that wanted the calculations.  
7 My sense from reading this is we don't want  
8 those calculations. Or maybe is that an  
9 error in the reading or is that --

10 STEVEN WINTER: I'm confused, also.

11 HUGH RUSSELL: Okay, I think I'm the  
12 person who wants the calculation because the  
13 current calculation gives people an  
14 unreasonable expectation of what the building  
15 could be done. And if there's nothing --  
16 there's no guidance, then, you know, people  
17 who are looking to buy these properties will  
18 make some guesses as to what they think they  
19 might get, and often those guesses will be  
20 asking for things that are unreasonable.

21 WILLIAM TIBBS: But just going by

1 what's written here, what's written there is  
2 that this requires more study which means we  
3 aren't able to come up with -- or we're not  
4 necessarily agreeing with the calculations  
5 that are recommended. I'm just trying to  
6 clarify --

7 AHMED NUR: My understanding was  
8 that we specifically Chairman and Ted have  
9 not come to the same conclusion, and so we've  
10 mentioned, and we talked a lot about this, we  
11 have mentioned that this is what we came up  
12 with, which means we're not in agreement, but  
13 more studies need to be done. And my  
14 understanding on the behalf of the Council,  
15 we expressed what we feel. We fall, these  
16 two gentlemen stand, you know, apart and we  
17 fall in between.

18 Tom, you weren't here. You're  
19 indicating that we come up with one clear  
20 message to Council so that we are more  
21 effective than what we are doing. I agree

1 with that, but how do you suggest we do that?  
2 I mean, this is just a quick question.

3 THOMAS ANNINGER: Well, I think it's  
4 out there. It might take another round of a  
5 draft, but I think what's been written here  
6 is a starting point, and I think what Hugh  
7 wrote on June 2nd, putting together with  
8 this, gives you the elements. It doesn't  
9 give you the words, but it gives you the  
10 elements of a proposal that I think is pretty  
11 clear.

12 AHMED NUR: Right, but then Ted also  
13 had his saying and that's not going away.

14 THOMAS ANNINGER: I don't think Ted  
15 is saying anything different than that if I  
16 understand it right.

17 HUGH RUSSELL: So --

18 PAMELA WINTERS: Ted?

19 H. THEODORE COHEN: I'm happy to  
20 reiterate my point of view, which is while I  
21 understand Hugh's point of view of not giving

1           devel opers and/or sel lers some, you know,  
2           improper expectations of what they can pack  
3           into any bui lding, that there is no -- well,  
4           first of all, I don't necessari ly agree that  
5           we shoul d be planni ng simpl y for the purposes  
6           of the purchasers or the devel oper of the  
7           sel l er. I thi nk we shoul d come up wi th  
8           somethi ng that works best for the Ci ty and  
9           thi s Board. And that I thi nk that is  
10          fl exi bi li ty to do what the nei ghborhood and  
11          the bui lding requi res, and that based upon  
12          the numbers we were seei ng in the vari ous  
13          proposal, I di dn't thi nk that anythi ng real ly  
14          took i nto account, you know, what has real ly  
15          been done and that what has been done before,  
16          whi ch is if you may recal l, I thi nk we  
17          started out the first meeti ng sayi ng if it  
18          ai n't broke, so don't fi x it. And I thi nk I  
19          am sti ll of that posi ti on, that if it ai n't  
20          broke, so don't fi x it and leave thi ngs the  
21          way they are. So, I, you know, my posi ti on

1 has been that the various formulas don't  
2 work, aren't necessarily correct. And maybe  
3 there is a formula somewhere somebody could  
4 come up with, but I didn't think it's really  
5 going to happen because every building is  
6 different.

7           Having said that, and I don't know that  
8 having some non-binding guidelines is going  
9 to give the purchaser or the seller any  
10 greater understanding of what they can do or  
11 can't do, and I think that any, you know,  
12 purchaser or developer is going to have to  
13 deal with staff and understand, you know,  
14 what this Board has done in the past and what  
15 they might be likely to do in the future  
16 given a particular building. And I similarly  
17 thought that we had not agreed upon there  
18 being a cap in any particular circumstance  
19 because we wanted to retain the flexibility.

20           So that's what my point of view has  
21 been. I'm just one member. And I think the

1 staff adequately reflected that there was a  
2 difference of opinion amongst all of us with,  
3 you know, if you want to say you and I are on  
4 opposite ends of the spectrum and the other  
5 people who were here fall somewhere in  
6 between, I think that's what this says. And,  
7 you know, I don't know that our going over it  
8 more and more and more would, you know, even  
9 information that we've had so far, bring us  
10 to anything that gives us any more clarity to  
11 the subject right now. And that we are one  
12 voice that, you know, the City Council hears  
13 and the City Council will be hearing from the  
14 Ordinance Commission and from the public at  
15 large, and they may decide based upon all of  
16 this information that, you know, they're  
17 going to come down one way or the other. And  
18 that we've given them our input that, you  
19 know, as a Board we're not speaking with one  
20 voice, that we are of various positions on  
21 the issue.

1                   STEVEN WINTER: I'd like to make a  
2 comment if I could, Mr. Chair.

3                   Tom, I do want to say, Tom, I do  
4 respect what you're saying about the, some  
5 ambiguity. I do want to tell you that the  
6 conversation that we had was a sea of  
7 ambiguity and an ocean of uncertainty, and I  
8 think it's a miracle that we have this  
9 written down frankly. And not to, not to  
10 chastise you, but I think -- and I'm glad  
11 that we have someone looking at this with  
12 fresh eyes, but from this document for me  
13 brings things together that were very, very  
14 ambiguous when we ended our discussion. So  
15 I'm happy with the document. Could it use a  
16 little tweaking? Yes, sure there's a latent  
17 need to edit that lasts forever and I get  
18 that.

19                   Ted, I want to push back a little bit  
20 also on your -- we don't have a  
21 responsibility to the developers to help them

1 understand what they're getting into, but our  
2 only responsibility is to the city. The  
3 public sector is supposed to create  
4 preconditions for successful economic  
5 development. That's our job. That's what we  
6 do and then we get out of the way. And  
7 Hugh's trying to do that. That's one of the  
8 things he is trying to do. But in fact the  
9 public sector often shies away or doesn't  
10 want to set those preconditions for success,  
11 because it feels like we're getting into  
12 command economy and that's against our nature  
13 as good New Englanders. But in fact I  
14 believe we need to do something that helps  
15 developers coming into the process to be able  
16 to find their way properly.

17 I also, Hugh, I would ask you what is,  
18 what is the Chair's perception of our charge  
19 to the Council? What are we supposed to be  
20 bringing to them in your perspective?

21 HUGH RUSSELL: I think in the

1           situation like this where there are many  
2           voices, if we can distill out of all of those  
3           voices a single thing that all of us can  
4           agree on, that's very helpful to the Council.  
5           That should be what we should be striving to  
6           do.

7                     Now, perhaps you should have addressed  
8           that to the only former City Councilor -- or  
9           actually there are two City Councilors in  
10          the room and maybe we should ask them.

11                    STEVEN WINTER: It's okay with me.

12                    HUGH RUSSELL: Because they both  
13          served for a significant time. But, you  
14          know --

15                    WILLIAM TIBBS: I do want to make a  
16          comment before you ask that question, and  
17          that is that my sense is that they're just  
18          asking us for what we think our opinion is.  
19          And that we have been -- we have given our  
20          opinion in a very strong single voice before  
21          and the Council has done otherwise.

1 PAMELA WINTERS: Yes, they have.

2 WILLIAM TIBBS: So I think, you  
3 know, at best all we can do is, I mean, we're  
4 a Board of many people and all we can do is  
5 try, I think the single voice comes when we  
6 have a single voice. And if we don't have a  
7 single voice, I actually think it's helpful  
8 that the Planning Board is not in single  
9 agreement on some of these things.

10 So, I know for me, I mean, I think I  
11 mentioned when this first came up, I  
12 perceived this as us -- it started out as us  
13 seeing there's a problem, particularly with  
14 the use table and stuff and we were trying to  
15 just fine tune it. And this was a whole sort  
16 of rethinking of some stuff which I wasn't  
17 sure if I was ready to, you know -- and with  
18 some very prescriptive kind of formulas and  
19 stuff which I just didn't feel comfortable  
20 with. And so, and this statement, even  
21 though I wasn't here for the very long

1           deliberation, the statement -- and when I  
2           read it is where I thought it made sense to  
3           me. I mean, so that -- that's where I am.  
4           And I mean, Tom, if you do, if we did open  
5           this up and try to get there, I think we'd  
6           have another sense of, you now, you just now  
7           have two more players in the same situation  
8           and -- or you'll have a similar conversation.  
9           And I'm not, I'm not comfortable where we  
10          would come out. But if that's what everybody  
11          wants to do, we can. But I'm mindful of the  
12          fact that I wasn't here, I mean, for that,  
13          and that the folks who were here struggled  
14          with it and came up with a conclusion. I'd  
15          be the last person to say, particularly since  
16          I commented on the fact that if we were going  
17          to be having a lot of meetings, that I  
18          wouldn't be able to be for everyone to come  
19          afterwards and then try to get my point in if  
20          I couldn't do that by either sending a note  
21          or a letter for the discussion. But this to

1 me reflects at least, it reflects positively  
2 on the concerns I had even though I would  
3 agree with you wholeheartedly it doesn't give  
4 a lot of specific clarity as to how to do  
5 what we're saying here, but it does say,  
6 that's the feeling I guess.

7 STEVEN WINTER: See, Tom, I don't  
8 think this is the same thing as granting the  
9 Special Permit. I don't think the  
10 deliberation requires us to come up with  
11 something that you can hit with a mallet and  
12 nail it right down. I think this, to a  
13 thoughtful reader, and I agree it could use  
14 some tweaking. I do think it could use a  
15 little bit of tweaking, but to me this says,  
16 there were some things that we absolutely  
17 agreed on. And I saw those in No. 1. And  
18 then there was a very complicated discussion  
19 where we had, we had some interesting  
20 perspectives and here they are. And we'd  
21 like that to inform your own perspectives on

1 the issue. I don't think it says the  
2 Planning Board wants you to go to point A and  
3 stay there. I think it's our responsibility  
4 to say here's thought from the -- what is it,  
5 one, two, three, four, five, six, seven  
6 smartest people in Cambridge.

7 HUGH RUSSELL: See, I guess I feel  
8 like the second page doesn't represent two  
9 radically points of view. It basically, I  
10 think, we all agree that we want to have the  
11 ability, flexibility to respond to each  
12 building in its locale, in its peculiarities  
13 properly. There's no disagreement on that  
14 point.

15 AHMED NUR: No.

16 HUGH RUSSELL: And where there is  
17 disagreement is, is it helpful to have a  
18 starting point in terms of density. And that  
19 could -- and it was written as a cap, which  
20 is like an ending point. And I think we were  
21 all uncomfortable with the cap, particularly

1 the revised cap because it seemed to tell us  
2 we made the wrong decision on four different  
3 cases where we didn't think those of us were  
4 familiar sat with those.

5 Take Charles Street, for example, it's  
6 a four-story building, I believe, and two  
7 apartments per floor. That's why they end up  
8 with eight smallish apartments. But it sets  
9 up better as two apartments per floor.  
10 That's if you look at that building, there  
11 was enough parking on the site to cover that.  
12 You know, so that was the right solution. We  
13 shouldn't have been saying no, you should  
14 have only done six apartments there. Either  
15 one would have worked. But eight works and  
16 that's what the buildings are wanted.

17 So the disagreement is how do you deal  
18 with trying to get some -- get the  
19 expectations? I'm not -- the reason I'm very  
20 interested in having developers have the  
21 right expectations is not so developers make

1 a lot of money, it's that the developers  
2 don't come into a neighborhood saying, gee,  
3 I've got this building and I want to pack it  
4 full of things and put 39 apartments in it,  
5 and the Ordinance says I can do it. And to  
6 then have to start from that point  
7 negotiating rather from a different point,  
8 you know, I'd rather start negotiating on  
9 Norris Street from 25 units rather than 31.  
10 But it's a negotiation.

11 THOMAS ANNINGER: Are we constrained  
12 by time?

13 BRIAN MURPHY: It's always dangerous  
14 to predict what the City Council is going to  
15 do. But they've got the round table next  
16 week. There's a meeting the 20th. I don't  
17 know whether there will be a meeting on the  
18 27th or not. And then they're out until  
19 August 1st. I think it is, I mean, jump in  
20 if you agree, Susan.

21 SUSAN GLAZER: Well, this expires on

1 the 19th of July.

2 BRIAN MURPHY: And I would expect  
3 that they would like to move on this rather  
4 than look to another re-filing. So I expect  
5 it is likely that yes, you are constrained by  
6 time.

7 THOMAS ANNINGER: To resolve this  
8 tonight?

9 BRIAN MURPHY: Probably, yes.

10 HUGH RUSSELL: I like to say we  
11 ought to be constrained by trying to resolve  
12 it in the next five minutes. If we can't  
13 make any progress, than we ought to stop.

14 STEVEN WINTER: I concur.

15 WILLIAM TIBBS: Yes.

16 THOMAS ANNINGER: I guess I'll just  
17 say I think it's a mistake to send it the way  
18 it is, point No. 1.

19 I think the open question is whether  
20 there should be any guidance in a formulaic  
21 way or not. Hugh seems to prefer the formula

1 as a form of guidance. If I'm hearing Ted  
2 right, he does not -- I would like to -- and  
3 this is not something that's going to be  
4 resolved tonight in five minutes. But I have  
5 a feeling that just like in Article 19, we  
6 can find words that underlie the formulas you  
7 came up with that could be put into 5.28 to  
8 give people guidance on what it is we're  
9 going to be thinking about in coming to a  
10 determination on the number of units. That  
11 would be -- that would preserve the  
12 flexibility that I think everybody is in  
13 agreement we need. And yet, not incorporate  
14 formulas which I think are probably too  
15 bright line and too arbitrary in their  
16 numbers. Perhaps -- I don't know, I don't  
17 have a good feeling for that, but it sounds  
18 like there are enough people here who don't  
19 like those formulas. I think I probably lean  
20 that way myself. But I do think that there  
21 are words that could be found to express what

1 it is we will consider in coming up with the  
2 right numbers, and I wish we could find a way  
3 to bring that all together in one suggestion.  
4 I think to send something like this is  
5 confusing and unhelpful and will perhaps even  
6 lead to a -- could lead to the wrong result  
7 by the Council. It could either lead to no  
8 guidance or some mandatory formula that  
9 nobody is really comfortable with.

10 WILLIAM TIBBS: Again, I don't want  
11 to drag this out. It's not that we're  
12 starting from scratch and coming up with a  
13 new idea here. This is something that's  
14 already there. And in a lot of ways, I agree  
15 with Ted, that if I look at the chart on this  
16 last chart, it basically says that with the  
17 problems that we have, particularly relative  
18 to unit size and stuff like that, base with  
19 the zoning we have, we as a Board we're able  
20 to come up with reasonable conclusions as to  
21 that. So again, I go back to what was --

1           what was the original intent. I thought it  
2           was, again, to just resolve something that  
3           was a real problem, that people saw some  
4           ambiguity in use and what could happen and  
5           whatever. And so again, I'm not -- I don't  
6           feel that -- I think this particular proposal  
7           is complex, but what we're left with is what  
8           we have, and we've been able to work with  
9           that other than that ambiguity that we had in  
10          terms that needed to be corrected. So --

11                   PAMELA WINTERS: So what you're  
12          saying then if it ain't broke, don't fix it?

13                   WILLIAM TIBBS: And that's what Ted  
14          said, and I tend to be on that.

15                   PAMELA WINTERS: And that's what I  
16          said last time, too.

17                   AHMED NUR: Hugh. So with respect  
18          to the five minutes, I just wanted to maybe  
19          conclude this as to what I think we're going,  
20          which is exactly what I thought we were going  
21          at that time. I am also -- I'm definitely

1 for the numbers and calculation. I think  
2 that this is -- we're all in agreement. One  
3 thing I think we're all in agreement as here  
4 is we don't want the developer to come in and  
5 say, All right, I've got this building and  
6 I'm going to put this much rooms in it, and  
7 so on and so forth. So as a base I think I'm  
8 very happy personally with what -- and I'm  
9 assuming that we all are in terms of -- in  
10 terms of the calculation, we can raise hands  
11 who's for and who's not and call it a day. I  
12 am for calculation, and I think things are  
13 broken. I don't think anything is not  
14 broken. I think that from -- I haven't been  
15 here very long, but people -- developers are  
16 coming in and they wanted to do this, and the  
17 other person at the end of the building comes  
18 up and says, oh, wait a minute this building  
19 is too much. This building is too small  
20 space to do it and so forth. Someone can  
21 just easily say well, look they've got the

1 zoning permits and this is what we do. And I  
2 think this will make our lives easier and  
3 that's why it's broken, and it will make our  
4 lives easier.

5 WILLIAM TIBBS: I just have to say  
6 that one of the problems that I just seen is  
7 that even things that we can do in base  
8 zoning, we have projects that come here, and  
9 I particularly look at the affordable housing  
10 ones, where in base zoning people can put in  
11 20 units, and we get a lot of residents and  
12 stuff that say we only want 12. So I mean,  
13 that's an issue this Board has to deal with  
14 all the time. And so that, and I don't think  
15 in this particular case putting a formula  
16 there is going to give them with so much more  
17 clarity. Because if the community feels that  
18 the density is too high regardless of what's  
19 in the Zoning Ordinance, they're going to  
20 come in, and we as a Board are the ones that  
21 have to bring some balance to that.

1 AHMED NUR: So, can we vote as of  
2 how many people are for the formula and how  
3 many are not for the formula and then we're  
4 on the same page of the developers?

5 BRIAN MURPHY: Mr. Chair, if I can  
6 give a little bit of additional background in  
7 terms of why the staff put in its  
8 recommendation for the formula in the first  
9 place? I'd say not only was it sort of the  
10 desire to try to provide a certain amount of  
11 clarity to a perspective purchaser, but also  
12 probably by the same token to try to give a  
13 range of possible outcomes for the  
14 neighborhood as well. That, even if you end  
15 up in a place through the process that sort  
16 of says, we end up at X units for a  
17 particular project, if the initial  
18 expectation or fear, depending on where  
19 you're coming from, was 2X, having that kind  
20 of a broad range for an extended period of  
21 time, can be a fairly stressful situation for

1 the neighborhood and also can make for a  
2 fairly contentious dynamic for the developer.  
3 Whereas if you have a more constrained range  
4 of a conversation, where it's a difference of  
5 1.2X or X, there's still going to be an area  
6 of negotiation but that it's a little bit  
7 more cabined if you will.

8 And, Stuart, I mean, I was not as  
9 directly involved in this, it's more these  
10 three folks.

11 STUART DASH: And I think it's the  
12 kind of thing that we here, not just these  
13 folks here, it's all over the city. Just  
14 having some sense of expectations and having  
15 to feel like they've got to come here every  
16 night and be here every night just to sort of  
17 monitor what's going on. I think some  
18 bounding of that gives some help to that.  
19 And I think Bill's right. It's not that  
20 you're going to get disagreement at the  
21 bounded portion, but it gives some range that

1 maybe sort of gives them sort of a little bit  
2 better place to start from.

3 And I think in Hugh's point is well  
4 taken. That you're setting a price for these  
5 things and that's often the conversation that  
6 starts the problem. And if you can at least  
7 sort of give a head's up to the developer  
8 saying don't just come walzing in here  
9 thinking that number's going to be easy. It  
10 gives the staff a little bit of an ability to  
11 say that early in the conversation, you know,  
12 the reason that head's up is here is because  
13 this looks to be like a problem. This is the  
14 kind of thing we do, but if it's in the  
15 Zoning, it helps. That kind of thing.

16 PAMELA WINTERS: So, again then do  
17 you want to combine this with Hugh's  
18 suggestions and come up with another draft?  
19 Is that a possibility?

20 HUGH RUSSELL: I think we basically  
21 have to decide tonight what, if anything,

1 changes in this --

2 PAMELA WINTERS: In this draft.

3 HUGH RUSSELL: -- in this draft.

4 And it doesn't have to be, you know, a  
5 language change. And the -- and so I'm just  
6 looking --

7 STEVEN WINTER: Well, I'll make a  
8 suggestion, and I don't know if others will  
9 concur. But I would, I would be pleased to  
10 have the Chair exercise leadership in this  
11 instance and to take one more editing pass at  
12 this document with the authors and to try to  
13 get it to where it needs to go. And then so  
14 we can get it out soon. The Council --  
15 that's a -- if I got this three days before  
16 the meeting, I'd be furious because that's a  
17 lot to get your head around, you know. So if  
18 we really expect people to read these things,  
19 we have to be on their timelines. We have to  
20 get it out. We have to get it to them. I'm  
21 not uncomfortable in leaving it with someone

1 from this Board, and Hugh's the person that I  
2 would go to because he's the Chair, but he  
3 could certainly designate somebody else to  
4 make those -- to make the changes that we  
5 feel are necessary, right, and get it out  
6 now. I think we can talk this thing for  
7 months.

8 WILLIAM TIBBS: I agree, but I think  
9 that we are a Board where we can't have a  
10 situation where if the Chair disagrees -- and  
11 we have a difference of opinion and the Chair  
12 has one opinion, that that Chair -- if Hugh,  
13 in his role as Chair is trying to come up  
14 with a compromised solution, then I agree  
15 with that. But that's the problem with that  
16 one. That's not the -- as much as we have a  
17 Chair, and I've been one, we are a Board of  
18 the individuals and I think at best as  
19 possible my sense is the role of the Chair  
20 when there is doing exactly what Tom's  
21 suggestion we try to do, is there some way

1           that we can come to some more concrete  
2           agreement as to what we agree with and try to  
3           facilitate that.

4                   HUGH RUSSELL:   So here's sort of a  
5           proposal.   That a third, fourth paragraph on  
6           page two become a statement of what the Board  
7           agrees to.

8                   STEVEN WINTER:   Does that begin with  
9           the Board considered?

10                   HUGH RUSSELL:   However, Board  
11           members also raised some concerns. . . .

12                   And because I think what we're -- the  
13           thing that we all agree upon is that each  
14           building is different, each situation is  
15           different.   We would like to have the maximum  
16           flexibility for dealing with that, each case  
17           in the best way.   So that doesn't -- and  
18           that's the more important thing.

19                   And then we had this long discussion,  
20           which is in the other paragraphs, about the  
21           role of formula and what formula should be.

1           And perhaps we have another suggestion on the  
2           table. But I think that's a -- so we've got  
3           another big thing we agree on. I think that  
4           should be highlighted. We really want the  
5           flexibility. And where we're -- where I  
6           don't think we can come to agreement tonight  
7           is this question of what does the role of the  
8           formula play, and the draft talks I think  
9           accurately about what we discussed. I think  
10          it's just if we change it around a little  
11          bit, it may be somewhat stronger guidance to  
12          the Council. So we're -- you want the  
13          flexibility, but we also understand there are  
14          reasons why you might want this as a formula  
15          and here's our thinking about that. There  
16          are good things about a formula, there are  
17          good things about a formula.

18                       PAMELA WINTERS: And I like that.

19                       THOMAS ANNINGER: Well, I mean just  
20          to take things further, one option would be,  
21          would be to make them a guideline.

1 PAMELA WINTERS: But that's going to  
2 take a lot more time now.

3 HUGH RUSSELL: No. No, no. We can  
4 just say that in thinking about formulas, it  
5 can be hard formulas, they can be soft  
6 formulas.

7 THOMAS ANNINGER: That's right. Or  
8 there could be no formulas, I suppose is the  
9 third option.

10 HUGH RUSSELL: Right. Well, the  
11 existing one is essentially --

12 THOMAS ANNINGER: That's right. It  
13 could be the status quo.

14 HUGH RUSSELL: The status quo which  
15 works for some projects.

16 THOMAS ANNINGER: It's not broken.

17 HUGH RUSSELL: Jeff, can you run  
18 with that?

19 JEFF ROBERTS: So let me just try to  
20 talk it back and see if I understand this.

21 So we're on page two, and the third

1 paragraph, it says, However, Board Members  
2 also raised some concerns. . . . So that  
3 statement you would want to be the  
4 introductory statement, and to say that  
5 Planning Board members agree that it's  
6 important for the Planning Board to have  
7 flexibility in many ways to deal with unique  
8 cases. So that would be the first part.

9 Then it would go on to have a longer  
10 discussion of the pros and cons of -- around  
11 a formula, and what the benefits of having a  
12 stricter formula might be versus the draw  
13 backs, etcetera.

14 And so I guess the question, the only  
15 question I have kind of goes back to the  
16 beginning in terms of the -- in terms of the  
17 recommendation itself. So in this case would  
18 we be saying that the Planning Board  
19 recommends only partial adoption of the  
20 petition and includes commentary with regard  
21 to other portions? I'll word that better.

1 HUGH RUSSELL: Yes.

2 WILLIAM TIBBS: That's exactly

3 right.

4 THOMAS ANNINGER: The only thing I  
5 would add to that or comment on, I think I  
6 would still keep one and two. Part one  
7 speaks to everything other than the formula.

8 JEFF ROBERTS: Yes.

9 THOMAS ANNINGER: And part two,  
10 paragraph three, would now in a sense be the  
11 lead paragraph to part two.

12 HUGH RUSSELL: Or would it be the  
13 last paragraph of part one? What we agree  
14 upon. I think that's going to have to --

15 THOMAS ANNINGER: Well, I think --  
16 no, I think -- no, I think one is the --

17 H. THEODORE COHEN: One we all agree  
18 on. We have no problems with one.

19 And two is just --

20 THOMAS ANNINGER: One is all the  
21 extraneous stuff other than the formula. And

1 two is the formula, which is sort of the  
2 heart of the -- the harder question.

3 H. THEODORE COHEN: I think one is  
4 what started the whole process.

5 STEVEN WINTER: It's about the  
6 formula, and then maybe a couple of bullets  
7 with those reflecting --

8 THOMAS ANNINGER: He does that. He  
9 does that by talking about the maximum  
10 allowed number of dwelling units. That's  
11 just another word -- that's just words for  
12 the formula.

13 And then paragraph three would sort of  
14 explain the flexibility points, and then you  
15 would discuss the discussion we've had on the  
16 formula and possible ways of dealing with  
17 that, hard, soft or none I suppose. Or  
18 existing.

19 H. THEODORE COHEN: There is a  
20 status quo.

21 THOMAS ANNINGER: There is a status

1           quo.

2                   JEFF ROBERTS: Right. Where it  
3 introduces by saying, The Board recognizes  
4 the potential benefit of the proposed  
5 changes. In this case it would say, the  
6 Board has concerns regarding flexibility that  
7 would be granted...and would go into the  
8 longer discussion about the benefits and draw  
9 backs?

10                   THOMAS ANNINGER: Right. And I  
11 think it would incorporate, for example --

12                   H. THEODORE COHEN: Well, I think  
13 you should start out with the positive that  
14 the Board is concerned about retaining its  
15 flexibility.

16                   JEFF ROBERTS: Right.

17                   H. THEODORE COHEN: The flexibility  
18 and we all agree with that. And then go into  
19 the discussion about the pros and cons --

20                   STEVEN WINTER: Of formula.

21                   H. THEODORE COHEN: -- of formula,

1 status quo, hard and soft formula.

2 JEFF ROBERTS: I think I can work  
3 with that. Thanks.

4 STEVEN WINTER: Thank you.

5 PAMELA WINTERS: So when do we sit  
6 down at the Council at the round table and  
7 they can ask us all kind of questions.

8 THOMAS ANNINGER: What did you guys  
9 possibly mean when you sent this thing to us?

10 HUGH RUSSELL: They may or may not  
11 receive that. I guess given the -- I don't  
12 know. It would be nice if they received it  
13 by Monday, I think, because they probably  
14 wouldn't want to ask us questions, this  
15 subject would come up.

16 SUSAN GLAZER: Hugh, does the Board  
17 want to take a vote on this? Or would you  
18 rather leave it as is?

19 HUGH RUSSELL: I have no objection  
20 to taking a vote asking that changes be  
21 prepared as discussed.

1 THOMAS ANNINGER: So moved.

2 HUGH RUSSELL: All those in favor.

3 (Show of hands).

4 HUGH RUSSELL: Unanimous.

5 (Russell, Anninger, Tibbs, Winters,

6 Winter, Cohen, Nur.)

7 HUGH RUSSELL: All right, so it's

8 ten minutes after my bedtime. Is there

9 anything else to come before us tonight?

10 We're adjourned.

11 (Whereupon, at 10:40 p.m., the

12 Planning Board adjourned.)

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## C E R T I F I C A T E

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Certified Shorthand Reporter, the undersigned  
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IN WITNESS WHEREOF, I have hereunto set  
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