

PLANNING BOARD
FOR THE CITY OF CAMBRIDGE

GENERAL HEARING

Tuesday, July 21, 2015

7:00 p.m.

in

Second Floor Meeting Room
344 Broadway
Cambridge, Massachusetts

H. Theodore Cohen, Chair
Catherine Preston Connolly, Vice Chair
Hugh Russell, Member
Tom Sieniewicz, Member
Steven Cohen, Member
Louis J. Bacci, Jr., Member
Mary Flynn, Member
Thacher Tiffany, Associate Member

Iram Farooq, Acting Assistant City Manager

Community Development Staff:

Jeff Roberts
Stuart Dash
Suzannah Bigolin

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PUBLIC HEARINGS

7:00 p.m. (Continued) PB#296, 57 JFK Street, Special Permit to waive the Parking and Loading Requirements (Section 20.54.4.2) to construct a general office addition of 18,351 square feet to the existing 43,000 square foot retail building known as the Crimson Galleria at 57 John F. Kennedy Street. The proposal has been reviewed by the Cambridge Historical Commission and was granted a Certificate of Appropriateness Crimson Galleria, LP is the applicant.	8
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8:30 p.m. City Council petition to amend Incentive Zoning Section 11.200 of the Cambridge Zoning Ordinance so as to modify the Incentive Zoning provisions, which require contributions to the Cambridge Affordable Housing Trust for developments containing specified uses and exceeding specified size thresholds.	137
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H. THEODORE COHEN: All right, everyone if you could sit down. Thank you all. Welcome to the July 21st meeting of the Planning Board.

First off, we would like to welcome our newest member Mary Flynn. We're looking forward to having you as part of our Board.

MARY FLYNN: Thank you so much, I appreciate it.

H. THEODORE COHEN: Glad you're here.

Is there an update from -- Jeff, are you making the update today?

JEFF ROBERTS: I think I'm too close to the speaker. Does this work okay?

Okay. This is not going to go well.

JOHN HAWKINSON: You could stand.

JEFF ROBERTS: All right, thanks for the advice. Is this better? Okay.

So, I'll just try to briefly go through the upcoming schedule. Tonight we have two public hearings: One a continuation on 57 J.F.K. Street project and then later a public hearing on Incentive Zoning changes, Zoning petition.

Next week there are two items of business: The first one is a public hearing on a special permit case 2551 Mass. Avenue. It's way up on Northern Mass. Ave. It's a smaller project that is seeking relief from some design requirements in the Overlay District. We also have as an item of General Business a review of a Minor Amendment request by the HYM Group for the NorthPoint Development.

Then looking into August, we have three

meetings scheduled. The first one on August 4th there are no public hearings scheduled, but there will be opportunities for some discussion on a couple of issues. One, a general discussion on affordable housing. And second, a discussion of the NetZero task force and recommendations.

August 11th there will be two public hearings on Zoning petitions, one affecting the Walden Street and Sherman Street intersection street area. People may be familiar with that as the Masse Hardware area. It's been under much discussion.

The second is a Zoning Petition, the Elizabeth Stern, et al petition affecting the corner of Massachusetts Avenue and Richard Avenue which is, which will sound familiar because it's the area that is the 2551 Mass. Avenue project.

On August 18th there will be a public hearing on a case for development of housing at 249 Third Street. And that also involves some amendments to other Special Permits in order to enable the parking arrangement that's described when that comes up. And that's August. And I won't be here so I hope you'll all have fun with those cases.

Just as another way of update, there was an Ordinance Committee hearing last week on the Incentive Zoning and we'll talk about that when we get to that point of the night.

Last week at the Board of Zoning Appeal they did grant a Variance for the microbrewery proposal which we did talk about at the Planning Board. And the Planning Board issued a favorable recommendation for that. And I think that's all I can think of in the way of updates.

JOHN HAWKINSON: Excuse me, Jeff, citywide planning?

JEFF ROBERTS: And there is citywide planning. Do we have an update on citywide planning that we want to --

STUART DASH: Next Monday there will be a presentation by the three short listed firms for the citywide planning, and starting at 5:30 at City Hall. And each firm will be presenting their approach and have a chance to take questions from the public during that time period. And open to the public, whoever would like to attend.

JAMES WILLIAMSON: And is the August 4th meeting meant to be jointly with the Affordable Housing Trust?

JEFF ROBERTS: I believe members of the Affordable Housing Trust will be present. I don't know if it's been advertised as a

joint meeting. I don't believe it has been.

H. THEODORE COHEN: Are there any transcripts to be approved this evening?

JEFF ROBERTS: No.

H. THEODORE COHEN: All right, then we will continue on. This is a continuation of Planning Board No. 296, relating to 57 J.F.K. Street, a Special Permit to waive parking and loading requirements to construct an addition to the existing 43,000 square foot building known as Crimson Galleria. This is a continuation of a hearings we had several months ago where we had requested some further information. And, Mr. Quinn, are you prepared to move forward?

PETER QUINN: Yes. My name is Peter Quinn of Peter Quinn Architects in Davis Square. Thank you for hearing us tonight, Mr. Chairman, Members of the Board. I do

want to ask a procedural question. I can't remember which members of the Board were here in February when we presented. Do we have a quorum along those lines? May I ask that?

H. THEODORE COHEN: You certainly may ask that.

Jeff, do you have that list?

PETER QUINN: I think we do just from memory.

H. THEODORE COHEN: But we have almost a full Board this evening, so the only person we're missing is Ahmed, so certainly.

MARY FLYNN: And I wasn't here for it.

H. THEODORE COHEN: And Mary wasn't here. But even if she wasn't present -- even if he was present --

CATHERINE PRESTON CONNOLLY: It's more a question of who wasn't here.

PETER QUINN: And who is an alternate. I don't know how you do it.

JEFF ROBERTS: I'm going to have to retrieve the file for this case.

H. THEODORE COHEN: Those who were here, could you raise your hand if you recall being present at the last hearing?

(Raising hands).

H. THEODORE COHEN: So you've got....

PETER QUINN: I think we're good. Thank you. Thank you for coming.

I'm not a lawyer. I'm not Jim Rafferty. I probably would have had that figured out a long time ago. Thank you.

I'm just going to review briefly because it has been over four months since we presented. I won't belabor all the same drawings again, but I just want to just kind

of refresh your memory. As you know, we have -- we're adding a -- we're proposing a three-story addition to what is now a two-story commercial building which also has a habitable basement. We would add about 19,000 square feet of space which we anticipate the office type space, type use. And as the Chairman mentioned, we are requesting a Special Permit -- misspelled there, I'm sorry -- for waiver of parking and loading dock requirements.

Just to give you an orientation, Winthrop Street, the lane that runs between our building and the Winthrop Park or the square is kind of a very carefully crafted road with pavers, light posts, and bollards. J.F.K. Street runs here, down to the river. The other buildings in the area, this is the Grendel Den building.

This is 96 Winthrop, which was the Hasty Pudding now.

And this building over here is just a corner of Du Bois Center and the residences associated with that building.

Back here is the building that we got approved on last week, the 18 Eliot Street. I don't think it's quite drawn correctly in 3-D.

And back in this area over here is the big garage, the four-story garage.

On this side here you have the traditional triple deckers and six-unit buildings and the retail and the ground floor in the basement. So it's a very dense area, a very interesting area with a great variety of different buildings. In our building here what I want to just point out some of the major features: The first and probably the

most important thing, is how we are dealing with this mechanical systems in the area on this side where most of the mechanical systems are located. What we're doing is actually raising the parapet a few feet, and we've created an interstitial area between our third floor in the building and the second floor. That will allow us to move ducts around and get access to equipment or equipment supply and returns into shaft ways into the new part of the building. But it also helps us to screen all of this from the screen, I'll show a little bit later on how we do that. We've created a kind of layered edge here where we have a freeze that's in two steps that's a fiber cement panel system. And then we have a planted order. This is intended to be a like a four season type of planting. It would be irrigated, of course,

and it would allow plants to be there at all times with some color and visual interest.

Behind that, you can just barely see it, is a glass railing. That allows us to have decks up here so that provides an additional screen as well.

We also have access on this side of the building. This is the alleyway that's in there now. Some of you may remember when Ohm had a small addition on the side of this building where they had an outdoor patio, that we're about that same width as they were with an elevator core that goes up three stories and then a two-story lobby. All of that is set back from Winthrop Street. And I'll go into that in detail in a few minutes.

The most dramatic thing about our building and the most prominent thing is the way that it's stepped back. What I mentioned

in the previous presentation was this was an actually a form from several different inputs. The most significant was the shadow studies that we did which were very, very extensive trying to create a form that worked on a lot of different levels, but most of all did not cast significant shadows on to Winthrop Park really at any time of the year. And I can go into the shadow studies again if you like. We did submit them as part of our Special Permit application, and they were extensively reviewed in our seven presentations to the Historical Commission.

This also gives us a sweeping kind of building form that allows the park to stand without feeling hemmed in by a large five-story building. So this, the distance is back this direction or, you know, quite a bit. The first line here is over 26 feet

deep back -- so 26 feet back.

We'll move on.

The site plan. This was probably one of the areas where we wanted to respond the most to some of the concerns. On this plan you can see where the property line is. There's also a curb line that shows the differences in pavement. This is the kind of the driving aisle here. This is Winthrop, of course, and the park is up above here. So what we've worked out with the city, actually, in an agreement that our client has now established, is a series of planters that would be integrated in line of the bollards and street fixtures that are here, the street lights, to prevent people from parking along this line and also make it, make it more useful for outdoor seating. Of course Shake Shack already has been doing that. There

certainly will be tenants in the future that will do that as well.

Around the corner, this is our service alley. We're completely rebuilding that. Later in the presentation I'll show you what we're doing, but we are creating a very intensively used but organized backyard here. The idea is to get as much of the back of the house items on -- in this alley out of the building and not along the street edge.

This is the view that one would see from the corner of Mount Auburn Street. And looking down J.F.K. you can see how the building sweeps back but then at the end there's a kind of a significant monumental type mass, and you'll see how that works with the garage tower that's there and the like. But then as it steps down to where the garden, it has a kind of ease of form there.

This is a view in the summer from about the middle point in the park where the paths intersect. Of course, you don't see much of the building because of the trees. In winter, however, you would see the building but you could see how it steps back gracefully. And as I said, I do hope we have a planting edge there that would have a four season color in that and texture.

I'll go into the changes on the existing building little bit later when we do the elevations.

This is the view of JFK, a very significant view. There's actually a very large opening right here in the building now which we are kind of re-cladding. And this in a way corresponds to that as a big portal as framed by a metal zinc siding with a big window on two stories there. The idea is to

create a large mass that builds off the garage tower and then steps down toward the park with an arm reaching out towards the park if you will.

A few -- let me make sure I didn't pass one here. Okay.

A view up Winthrop Street looking at the Dunster Tower -- the Dunster House Tower. You can see the property line right up around here. That's approximately where it is. This is the 96 Winthrop Street, the Hasty Pudding Club. So what we've done here is actually you can see how the sign has been reconstructed, the signboard, that the idea there is to create a channel much what Shake Shack has now and extends that around the building. This is then projected out here to create a canopy for our office entry. We've proposed banners, created some color, and

visual interest and actually make this space much more urbanistically friendly with outdoor seating and color and a lot of safety from the potential traffic on this road. Although, as you probably know, the traffic is restricted on that street.

A little further down you can still see the Dunster House Tower. Our building here you really can't see the addition other than the raised parapet as I mentioned. And this is the three-story elevator core kind of peering up behind the Hasty Pudding House. Now that, that is set back over 26 feet from the face of this building.

This is the entry area for the offices, and there will be created a new lobby, a two-story lobby with lots of glass, set back about five or six feet in order to acknowledge the presence of this building.

And then we have about a five-foot space in here to move equipment in and out to the back service area.

This is the Shake Shack's existing facade. We really haven't changed it much other than up in this area.

Okay, so this gives you a clearer idea of that J.F.K. facade that I mentioned. So this is a deeper opening that exists there now. We've cleaned up how it's delineated on the edges. We're replacing this sign panel in here with a channel. All the windows are rebuilt, framing and glazing alike, to give a better sense of scale to the building. This frees up in this area, it's completely replaced. Right now it's a stucco panel that's deteriorated a little bit just from wear, and we're replacing that with a heavy fiber cement panel in two tones.

You can see the landscaped edge that we have brought around the corner and the glass railing up there where there's a deck. And then these are the steps in the building as it moves away from the park. This kind of gives you an idea of the whole (inaudible) that the park really demands to get light into that park area.

So these are the heights that we have from our average grade which is a little bit below the grade of the corner. So right now actually this is the existing about 26 feet, but we've raised the parapet a little bit, so we're up around 29. That's the interstitial area that I mentioned, but you don't really see because it's behind that trees. And then the first step is at 3950 and 60. And the garage, the service tower is about 63 feet to its peak, but it has a kind of an angle back

right here that goes back at about 45 degrees there. So it's approximately the same height visually.

That's the property line.

Same thing here, we have -- this -- that's the 60 feet that I mentioned. This is the -- that three-story elevator tower. What happens is once you get off this elevator, you get into the offices. There's a second elevator that just takes you these three levels inside the office area. So we don't have a single elevator connecting all of these levels. This -- that was to avoid having either a lot of circulation or having a much taller tower here in this corner. So, as I said, we're 26 foot, 8 back from the property line. So it's about 24 feet back from the -- or a little less, about 20 feet back from the face of the building. And it's

40 foot, three, six high.

Make sure I haven't missed anything here. Okay.

Okay, now, a little bit of some details here. So what we -- what we're showing you here is actually a section through this service alley. And I know certainly one of the points of the Special Permit is to make sure that we're not creating a nuisance. We're actually trying to completely rebuild this area back here and make it much more efficient. Just to take you through it, this is our step back entry area here with a two-story lobby followed by the elevator. We're rebuilding our own stairway to connect up through the building. So this will be the egress coming out by stairway. So we've -- we're going to replace this entirely with a new concrete pad that will be needed so there

will never be any snow or ice accumulation back there, and we'll have drains that will drain into the sewer system so it can be cleaned and there won't be any accumulation of snow.

We have a bike enclosure here, that's what you see right here. So that's an -- our mandatory minimum bike requirement.

Actually, I think we have more than we need here, but that provides the users of the building, I think it's six spaces that are enclosed in a cage, if you will.

Then we have, we have a series of bailers and compactors. The compactors themselves are a little different than used on this site. A lot of other places has the ability -- the compactors have a roller cart underneath them so we can pull them out to the street at the appropriate time. And they

will fit down through this alley. But it allows us just to maintain minimal trash footprint by having the trash constantly going into a compactor. We have some utilities and places for recycling as well back here.

So, while another thing there's actually a platform that exists there now for mechanical. We want to rebuild that a little bit just to make it more coherent, a little bit hacked together, but the idea is to get as much mechanical equipment back here as we can so we're not putting it up on the roof unless we absolutely have to. So we can get quite a bit of mechanical equipment up here, and then you're just seeing here the profile of the step backs of the building here.

I want to make sure I got everything.

There was some concern about protecting

this house which of course is historic, and we will put bumpers, steel bumpers on the side of this building so it doesn't get dinged up. Okay.

This is actually a line-of-sight study. And it probably looks a little confusing at first, but the upshot of it is if you're standing in the middle of the park, this parapet, raised parapet, and railing system that we have will hide this equipment. This equipment here, this is over five feet high, six feet, and you won't see it. Even if you're further back, of course you're not going to see it. And there will be some places up here on the highest level where you do get a little glimpse of it, but for the most part we're making an effort to hide the equipment to make it -- leave it on the existing roof where we can or move it so that

it's in this type of well here. You can see the interstitial space here where we can move horizontally with ducts. It is, you know, something of a large engineering undertaking to do this. We have engaged engineering and a surveyor who has a specialty scope to create this 3-D model of our rooftop, and we're beginning, assuming we're fortunate enough to receive a Special Permit, we would begin to really catalog all of this equipment that's up there. This is all existing. The orange are the kitchen exhaust, the others are supply and return of air.

And we would -- well, right off the bat we know about 20 percent of this can be thrown out and the rest of it we'll reconfigure. We want to get most of the equipment over here wherever we can. Of course, this arch fault to be taken out so we

have access across the roof. I know there was a concern with our abutter on the garage about these, about these kitchen exhaust. We believe we can move them horizontally and take them up through a new shaft on this end of the building which will then be protected from the garage rooftop. So we, you know, we want to just go on the record as saying that we want to get as much of the equipment on this street side as possible and on the service alley. And where we can't, we'll put it on this -- in this area over here on the new three-story and two-story part of the building.

It's really not possible to engineer all of that right now, but I think we have a pretty good handle on it so far.

Materials. I know we talked about this before. I did bring in a materials board.

Again, our primary material is this zinc metal. It's kind of very heavy high quality zinc with a copper patina. This forms sort of the big volumes, the third and our fifth story block, as well as these boxes that are cut away for the steps that you see on J.F.K. Street. And then the secondary material, at least in our addition, is a two tones of fiber cement panel. Again, a very heavy cement panel, stone like. I know we had discussion about this last week with Eliot Street. We think it's appropriate material because it has a kind of ability to frame our building in a way that gives it kind of an elegant sophistication. That and the rebuilding of the windows and the glazing system, the storefront system, will really kind of make this building, you know, really sophisticated looking.

The other materials that we have here, there will be some detailing done in metal channel such as this signboard here that's actually meant to be steel, and we have screens as I mentioned. I think that's about it.

This is a fragment of the J.F.K. elevation. This is that tall box that I mentioned with the two-story windows. So this is all glazing in here. And we have these sign panels on the side of the building to create a little visual interest.

These are some examples. I don't think we showed this one before, but it was one that definitely inspired us before. The building down in South Boston, how this was added on top with these kind of -- they used a variegated type of metal, it's quite interesting, as well as a fiber -- it looks

like fiber cement.

Another precedent, a series of precedences with the metal as well, with the metal siding that we have right here.

These are very, very high quality materials and high quality buildings.

This is the fiber cement. I know this is familiar because I used the same slide last week, but as I mentioned, these are very heavy. You're welcome to pick those up. That little piece right there weighs about five pounds.

These are two buildings that you probably know. The one that was approved in this room I think for the Water Street apartments, and then this church in Brookline right across from the Town Hall in Brookline. These are both the fiber cement panels.

Now I have the floor plans if you like

to see them as well as the shadow studies, but otherwise I thank you and I'm happy to take any questions. I know Raj Tahanda, our client and owner of the building would like to speak as well.

RAJ TAHANDA: Greetings, Chairman and members of the Planning Board, members of the Community Development Department, members of the Traffic, Parking and Transportation Department, and members of the public. Since the last meeting my project team and I have reached out to abutters, various city departments, and stakeholders of this project on Winthrop Street. I'd like to summarize the results of those efforts, especially as they relate to parking, loading, unloading, and operation of the Winthrop Street, some of the things that Peter has already touched on.

First, I'd like to comment on parking.

Parking on various parts of Winthrop Street has been a problem. We have discussed this with abutters, with Mr. Adam Shulman of Traffic Department, Mr. Joseph Barr, Director of Traffic, Parking, and Transportation. We have a number of meetings with our neighbors on Winthrop Street, and also formed a new group known as Winthrop Street Stakeholders Association with the idea of managing the street, making sure we are all in compliance with the parking and loading rules of the Winthrop -- of Winthrop Street.

The Traffic, Parking, and Transportation Department has also made several recommendations to the Planning Board, all of which we fully agree with and will work diligently to implement them. Specifically we will be installing heavy planters on the paved area on Winthrop Street

that is a part of our property to allay some concerns that people might be parking, including owners.

We conveyed to the Parking Department that if an easement is needed to enforce parking regulations, we are agreeable to that.

The Traffic, Parking, and Transportation Department is also in the process of adding some new signs to make sure that everyone understands the parking regulations and restrictions. Naturally we fully agree and will remain vigilant and helpful in enforcing all of the parking regulations.

We've made a financial contribution to Winthrop Street Stakeholders Association to be able to -- as well as some of the people of property owners and business owners so

that we can do some maintenance kinds of things such as planters that are the beginning of Winthrop Street.

If snow issue -- snow becomes an issue, we can tap into that money. If the street needs to be washed, we can tap into it. So this is a very tangible way of saying that this group is not only in agreement in thinking, but also has the money to spend to be able to address those issues.

We're also mindful of concerns of one of the abutters that the mechanical equipment on top of the proposed addition may have adverse consequences on the garage next-door. Peter referred to that a little bit. In that context I would like to say the following:

More than 75 percent of the equipment, the HVAC equipment will be on the second floor roof of the building which will be

approximately 30 feet below -- more than 30 feet below the height of the garage and will stay on that side, on the Winthrop Street side of the building.

Second, in the last 17 years of my ownership of the building, there has been no spilling of grease on Crimson Galleria roof. Could it ever happen? Of course. In the remote chance that the grease spills on the garage, Crimson Galleria will be fully responsible for the clean-up and any damage it causes.

I think Peter, in his presentation and the material that has been submitted is -- in putting that together we have taken a lot of time, a lot of effort, and our hope is that after review of things that you have in front of you, that we would be approved for this project.

Thank you very much.

H. THEODORE COHEN: Thank you.

Do any Board Members have questions right now or should we go to continued public session?

TOM SIENIEWICZ: I'd just like to get to the bottom of the MEP issue. It relates not specifically to all of the equipment, right? It just relates to the kitchen exhaust, which today exists fully two stories below -- or three stories below from where it's supposed to be. It's not surprising it's not a nuisance now, and I can understand the abutter's concern that if the stacks rise, that his property may be adversely affected. So I think despite your assurance that you're going to move 75 percent of the equipment forward on the roof, it really comes down to a fairly finite and

specific perceived potential for a nuisance. So, I think we have to get to the bottom of that, figure out -- at least I haven't heard the details that assure me that this won't be a problem if there's a way -- it hasn't been engineered to figure out how we might move that exhaust. And the rest of the equipment is really not --

RAJ TAHANDA: I think the full engineering of it is a very big project and it would be one of the first things we would undertake. And Peter pointed out earlier that if there's some stacks going up, I shouldn't say if, the stacks going up, we can turn them horizontal and move them to the, to the far corner of -- what direction is that? But in any case, it would be very far from the garage building. And I think that as I said, we've had no issue at all, and this is

the same equipment that would be at a higher elevation. Very small amount of it. And we intend to be completely mindful of any impact it has. I'm happy to have my abutter as additionally insured on my insurance policies if there is any need to be. So at this moment that's the best we can do. If you feel strong enough that you want to put some language that we should present or report from an HVAC company before, before actual construction, we'd be happy to. So that's what I can say about it as of now.

HUGH RUSSELL: I'm wondering if this might be a place for asking you to have a peer review of the exhaust system design that would be reviewed before Building Permit was issued? And you would simply hire a second engineer acceptable to the city that would write a report on this rather narrow point.

RAJ TAHANDA: I'm completely okay with that if that's what the -- is the wish of the --

H. THEODORE COHEN: Does that sound like an appropriate thing to do?

TOM SIENIEWICZ: It sounds like a very good suggestion and may be a way to untie this worthy knot.

H. THEODORE COHEN: Before we continue with that, could you just, Peter, could you just point out again where the issue is?

PETER QUINN: Certainly. This is the garage wall here.

H. THEODORE COHEN: All right. So that is now the new top level?

PETER QUINN: This is the existing -- this is the existing of the second floor.

H. THEODORE COHEN: Okay.

PETER QUINN: So we're building in this area here. We're building our three stories.

JAMES WILLIAMSON: Three?

PETER QUINN: Yeah. Threes, two yellow units here. Those are both kitchen exhausts right now. And I think what's probably going to happen is go into those kitchens and rebuild the ducts and run them horizontally and get them over here. That's conceptually what we talked to our engineer about doing. And this is a specialized engineering and, you know, certainly -- I've done it on other projects so I know it can be done and so does our engineer.

H. THEODORE COHEN: All right.

I'm -- sorry, I'm still not clear on exactly the area we're talking about. Can you go to

the --

PETER QUINN: Yes.

H. THEODORE COHEN: -- one of the
other --

PETER QUINN: I'll go to one of the
three -- you know, the aerial view.

H. THEODORE COHEN: Actually, can
you go back to that one?

PETER QUINN: Right.

H. THEODORE COHEN: The area on the
right.

PETER QUINN: Right here, this is
where we want it to come out.

H. THEODORE COHEN: What is further
down on top of the second story?

PETER QUINN: Yes, this area here.
Yeah, those --

H. THEODORE COHEN: Those are
mechanicals?

PETER QUINN: Those are.

H. THEODORE COHEN: And those are intended to be screened?

PETER QUINN: Yes. You won't see this.

H. THEODORE COHEN: So you won't see them?

PETER QUINN: They're in a well as you can see, yeah.

H. THEODORE COHEN: And now, is that where the existing mechanicals are from the other image?

PETER QUINN: Yes. As Raj said, most of the mechanical equipment is already on this side including kitchen exhaust.

H. THEODORE COHEN: And so now the exhausts are going to end up at the top of the --

PETER QUINN: There's just the two

that are back against this wall at a lower elevation now. At the same roof level they're back at the level of the garage which is right behind our fifth story. So the idea here is that we would, we would pick those up, get them over here horizontally, and bring them up into the this.

H. THEODORE COHEN: And what is on the top of the elevator, is that the mechanical --

PETER QUINN: That's just an elevator --

H. THEODORE COHEN: Further down to the right? That --

PETER QUINN: Those are additional mechanical, just HVAC that we're hiding behind the elevator core.

H. THEODORE COHEN: Those are not an issue that the abutter has with those?

PETER QUINN: No. As I understand it, he's concerned about -- and he may be here, and I don't mean to speak for him. We talked about having an engineering report and giving it to him so it dovetails perfectly with what we propose to do. If we had have the kitchen exhaust here and we didn't screen it, there will be a thin screen of oil that would get on the cars which is a reasonable concern.

LOUIS J. BACCI, JR.: Relocating that exhaust to the right side of the building you have a much lower building to the right of building, correct?

PETER QUINN: Over here?

LOUIS J. BACCI, JR.: Yes.

PETER QUINN: Yes.

LOUIS J. BACCI, JR.: So is that transferring this to a different party?

PETER QUINN: Well, Raj owns this building here. No, I don't think it would -- these things, you know, put out serious volume of air and push it away quite a bit.

LOUIS J. BACCI, JR.: Well, whatever the concern was here for the back of the building and transferring it to the right.

PETER QUINN: Yeah, I mean if you were to go up on this roof now, you would not see oil all over the place. There's an -- every six months they're cleaned.

H. THEODORE COHEN: I would assume if we have a peer review, they can be looking at what's going to happen on the --

LOUIS J. BACCI, JR.: Are they going to review all of the mechanicals or just the exhaust?

HUGH RUSSELL: We propose just the kitchen exhaust.

PETER QUINN: So if I may,
Mr. Chairman, it's not just bringing it up
over here, that we would also create a screen
around it so that if there is anything that's
exhausted horizontally, we would capture it
on the screen, yeah.

H. THEODORE COHEN: Lou, further
questions?

LOUIS J. BACCI, JR.: More on the
other mechanicals in the alley, I don't know
how....

H. THEODORE COHEN: You might as
well ask them.

LOUIS J. BACCI, JR.: Might as well.
The HVAC units in the alley in the
rear, they're on top of a roof?

PETER QUINN: They are on a
platform.

LOUIS J. BACCI, JR.: Small

platform?

PETER QUINN: Yeah.

LOUIS J. BACCI, JR.: And I guess the abutter is in the room. So not concerned with noise in there or -- between the dumpsters, the compactors, the HVAC units and all that?

PETER QUINN: It is an intensively used area --

LOUIS J. BACCI, JR.: Right.

PETER QUINN: -- and I think it's intended to be that way.

LOUIS J. BACCI, JR.: Right, I understand.

PETER QUINN: We certainly have a noise ordinance that we have to deal with. Lot of this equipment is quite old and we'll be replacing it. The older equipment is much noisier. There's refrigeration equipment

that's up here for Yogurt Land that we'd like to get rid of. That's slated for removal. That's some of the noisiest that you can imagine. I don't know how that got put up there, but there it is. Yeah, it's clearly something that we have to design. We'll probably engage a noise -- a sound engineer to make sure that we comply with the code. I have to sign an Affidavit to that effect.

LOUIS J. BACCI, JR.: No, I gotcha. I noticed it's a lot. There's a lot happening right there.

PETER QUINN: I want to get the whole thing under control. It's just sort of whoever went up there and put a piece of equipment and found a space for it.

LOUIS J. BACCI, JR.: Are you reusing much of the existing mechanical on that roof?

PETER QUINN: One of the first things is value the engineering equipment that's up there to see if it's wiser to unify these systems and have a heat pump system for instance that distributes air to several, the whole floor at once.

LOUIS J. BACCI, JR.: I was actually going back to the original second-story rooftop.

PETER QUINN: Yeah, yeah. Yep.

LOUIS J. BACCI, JR.: Is much of that going to get reused or are you going to try new units and distribution?

PETER QUINN: I think we're getting a lot of new equipment.

LOUIS J. BACCI, JR.: Yes.

PETER QUINN: Some of it is quite old. Shake Shack is of course new, just in the last couple years, and it's very high

quality equipment. You can see immediately which is there because it's all done right. So we'll, we'll certainly have to throw a big net out and figure out -- I mean, I would like to see, you know, half a dozen of these things combined into one.

LOUIS J. BACCI, JR.: Right, that's what I was thinking --

PETER QUINN: High quality and put it on springs and keep the noise down and distribute it with fan use through the building.

LOUIS J. BACCI, JR.: When I saw that, the colored drawing of the mechanicals, there's a lot of small units all over that roof that you have to --

PETER QUINN: Yeah. That actually was a 3-D model that was done with a laser so we've taken a serious inventory.

Thank you.

H. THEODORE COHEN: I have a couple of other questions before we go on.

On the J.F.K. facade are the windows on the right-hand side different from the windows on the left?

PETER QUINN: No, they're all --

H. THEODORE COHEN: Actually, I'm talking about the first two stories.

PETER QUINN: Yes. We have introduced two different patterns into the building intentionally, and part of that is because Shake Shack has already introduced that into the building. You can see here they have, they have kind of a close rhythm. So we were, we were, you know -- and, again, this is something that we went through with the Historic Commission. They nudged us forward to try to completely redo this

facade, new glazing. We finally agreed to do that. And one of the things we came up with is to try to create a little visual variety, if you will, with different longing patterns, but all from the same school of glazing and storefront frame.

H. THEODORE COHEN: And the grey material, is that the same as --

PETER QUINN: This one?

H. THEODORE COHEN: The material -- well, on your materials board?

PETER QUINN: Yes.

H. THEODORE COHEN: Is that the same as what we saw for the Eliot Street property?

PETER QUINN: Yes, it's one of the shades.

H. THEODORE COHEN: Is there any intention that any of the building is supposed to look like one complex?

PETER QUINN: No, no. I mean, the thing that's very different is that this building has, it's much more glazed. It's a commercial building. It's -- that I think you can say when you look, for instance, an elevation, I mean a 3-D view like this, that you're primarily looking at glass. And the high density fiber cement is just framing that, it's actually not a lot of it you're seeing from here, it's just this freeze which is an existing band up here that we're treating. And this is a piece of steel actually. What you're looking at are, you know, primarily inside inter-commercial space. In this case Staples and the Indian restaurant upstairs. So -- and then up here you're seeing glass. So it's really primarily that and then we've used this other material -- actually, the two other

materials, the metal and the fiber cement, to frame that glazing. And it's different from Eliot Street in which we were creating a loose monumental facade in which that material was main surface.

H. THEODORE COHEN: Okay.

And with regard to parking, when these planters are put on Winthrop Street, will it not be possible for a car to pull over and park next to the building?

PETER QUINN: I think that's the very thing we're trying to avoid here in our -- in Raj's agreement with the other stakeholders on the street.

H. THEODORE COHEN: So it will not be possible to park there?

RAJ TAHANDA: That's correct.

LOUIS J. BACCI, JR.: The planters appear on the city property?

PETER QUINN: That's the idea. The city will accept that. Right in line with the bollards and -- right now the planters are placed here at the end of the street and there still will be some kind of system that is moved out of the way, you know, twice a day in order to allow traffic to go through up until about eleven a.m., I believe, but this is of a different nature. This is kind of more scaled to pedestrian traffic trying to create a zone in here that really allows the building to open out onto it as new tenants come in, like Shake Shack, to have some outdoor space, and for those pedestrians that are seated there to feel protected that there's nobody going to park there. So, yeah, they're -- it's kind of a different quality.

H. THEODORE COHEN: Okay.

Anyone else have any other questions right now?

STEVEN COHEN: Peter, just in a couple of first operationally on the alley for a loading trash removal, so forth, I imagine any one truck, whether it be a delivery truck, trash, what have you, any one truck will more or less block access to the alley and you have a number of abutters who are all, I imagine, depending on access to the alley to service their own buildings.

PETER QUINN: Yeah.

STEVEN COHEN: Is that something that has been discussed as part of the association? How are you going to deal with that during those limited hours of the day?

PETER QUINN: Well, first let me say if a truck pulls over, another one can get through.

STEVEN COHEN: Is that so?

PETER QUINN: So, yes, with these bollards, these are not new. So, yes, a truck pulls over, coming in at five to six a.m. to take the trash away, I believe, isn't that the scheduled time?

RAJ TAHANDA: Correct.

PETER QUINN: And you know the idea is that they go fairly often to just get this stuff out of there, and quickly. So, yes, I mean you can have that kind of thing and somebody might have to wait a few minutes.

STEVEN COHEN: But frankly if a truck can get by, that addresses my concern.

PETER QUINN: Yes.

STEVEN COHEN: I have some comments which I'll reserve for later, but the mechanism of the peer review.

Just one question, and I'm just curious

to see how you would address and that is the color, either black and the grey, the sort of dark grey eminence that you're creating there. As I recall the first hearing, there was some concern expressed about it, and I guess I would just like to hear your perspective as the architect and designer what the rationale was for the colors.

PETER QUINN: Yeah. I'll just reiterate what I said before. These colors are framing a glazed building. It's not actually a dominant color. It may seem that way, but once these buildings are lit with, you know, activity inside, that is primarily what you're going to see. So, you know, we went through a very, very extensive process, and I, you know, I just -- this issue came up of course with the Historic Commission and they settled on this, they felt comfortable

with it. We did show alternative materials such as metal and stucco and the like and different colors, and, you know, I think we finally came to the conclusion that we wanted to quiet down this building as much as possible. The grey seems to do that. I think you'll disagree. I think it gives a kind of elegance to the building. The retail activity that's inside and the restaurants that come out to the street, which is really a desired urbanistic goal I think. If I may, so we're -- we understand there's a risk with grey, but, you know, you've got so much going on with the square there. The building up the street is livid orange as you probably know. There's brick, kind of old clapboard over here. It's just part of the fabric of Harvard Square which makes it a great place.

STEVEN COHEN: That's also yours,

Raj, isn't it?

RAJ TAHANDA: Excuse me?

STEVEN COHEN: That's your building?

RAJ TAHANDA: Yes.

STEVEN COHEN: You have the full gamut of color.

PETER QUINN: Nobody can touch the color, it's kind of historical.

H. THEODORE COHEN: We'll go to the public hearing now. Is there a sign-up sheet?

JEFF ROBERTS: Yes.

H. THEODORE COHEN: So when you speak, please come forward and use the podium and give us your name and address. And if it's anything other than Jane Doe, please spell it for the stenographer. And in general, you will have three minutes to speak. And we -- this was a continuation so

it's not necessary to reiterate things you might have said at the last hearing.

Ms. Landsman.

ADRIAN LANDSMAN: Yes. My name Adrian Landsman and I'm from Cambridge and I am going to make two sets of points:

The first set is with photographs and then there's the other set. And my background as my -- my background is I'm a gov docs librarian. I went to two government agencies because what is better than a primary source?

So I've been to the previous hearings and I'm -- although I enjoyed the amount -- I enjoy being on cordial terms with

Mr. Tahanda.

STEVEN COHEN: Can you speak into the microphone?

ADRIAN LANDSMAN: I'll just project.

I am opposed to the project as was everyone who spoke at the previous hearings.

Now, I went to the Cambridge Historical Commission, and the very first thing it says on the first very page about Winthrop Park is that when the Olmstead redesign came in, it was meant -- the landscape garden was designed for a quiet reflection. So I have some pictures that show that. First of all, this is as best as I can do. This is from the Harvard Crimson. This is how, this is your blank background from the Crimson Galleria and the blank brick wall of the garage.

Now, because of those blank walls this is how we appreciate the tray. Denise, look at that. Okay. All right. And this is not a faulty picture. This -- the blankness of the background gives us the quiet enjoyment,

the peaceful, quiet enjoyment of the park as it is set up.

Now, what if it would have a whole row of office windows like that? Not to mention that they think they're looking out at the park but they're really looking out at the mechanicals. So what would a whole row of office buildings -- office windows look -- like that look like at night? This is where I walked passed the Harvard Square post office. Look at that, nice and horizontal just like that.

And now I have another set of photos to illustrate another point. And the photos are -- I'm going to submit them and they have my comments on the back.

These photos were all taken a couple of days ago. I think Saturday night.

As I walked up Winthrop Street -- I'm

amazed at how well this picture came out. Look how charming this is. These are the lamps. Notice how there's no fluorescent light above them. There's no clutter above them. We now -- as you all know, we have this charming street life with people sitting outdoors at the restaurants and they enjoy this charming setting.

Now, also this, so this is an evening view, nice and peaceful. This is the daytime view from the same street, and it illustrates another point that I want to make. Notice how the sight line from the corner of Crimson Galleria is the same as the building across the street above Burke's shoes.

CATHERINE PRESTON CONNOLLY: Ma'am, can you wrap up your comments, please?

ADRIAN LANDSMAN: So that should remain the same.

And the other thing that I want to say -- this is a completely different topic. There's been word of mouth that Mr. Tahanda's building is not well maintained. And so that in order to elevate that from gossip, nobody really wants to have attributed to them, I went to the primary source which is Inspectional Services down in their records room. Now this is not one thing. Perhaps I shouldn't have stapled it. This is the facing page of ten different items. There are ten pages here. I was going to highlight the egregious parts in red, but it's all egregious so I didn't use my highlighter. The actual file is thicker. These are ten different complaints. The woman who runs the records room there took each one. I just chose the facing page of ten different complaints. So please consider this, ten

different things. Some of them are signed by Michael Grover from Inspectional Services, the building inspector.

H. THEODORE COHEN: If you could wrap up, please.

ADRIAN LANDSMAN: So I want to put this into the record. The record of tenants' complaints, of complaints over the decade.

H. THEODORE COHEN: Everything will be in the record that you submit.

ADRIAN LANDSMAN: And I'm also submitting these four pictures and the cover page of the attribution for this is the Harvard Crimson and I will just put these in order.

H. THEODORE COHEN: That's fine. Thank you very much.

ADRIAN LANDSMAN: And whom do I hand them to?

H. THEODORE COHEN: Mr. Roberts
right there.

Mr. Williamson.

HUGH RUSSELL: Could you pass them
around Jeff?

JEFF ROBERTS: I'll circulate them
to the Board.

JAMES WILLIAMSON: May I bring this
over here and speak from over here?

Thank you.

James Williamson 1000 Jackson Place.
Thank you.

Well, to me this is -- this is a
three-story building that's a story too far.
I think it's one story too many. I think
there are concerns about the impact on the
park which I'm not going to go into again in
great detail, but those are concerns that
were expressed by Kitty Dukakis in a letter

to the Historical Commission. Jane Thompson, the distinguished architect that lives in the building caddy corner to the building to the park. I think impingements impinging on the park have been addressed in a satisfactory way allowing a three-story building -- the shadow impact is not as significant, but I would argue that it still is somewhat significant in the winter months and I think that matters. But having said all that, and I don't think all of those people are happy as a result of that. But having said that, the one hope that I have is connected to what I raised last time, and I think there's a tremendous opportunity.

Peter, could you go to page 3, please?

Thanks, yeah.

And so it's the opportunity that I think exists, although it doesn't, you

know -- it's seeming problematical described in terms of the intensity of material placed in the back, but right there is the existing stair identified in the plan. There is the stair there. You used to be able to walk through here, down through. In fact, I have a vague recollection of having once being able to do that, but it's rather dim. But we have an opportunity here, the same architect, Peter Quinn is the architect for this building and this building. We have all the discussion about this retaining wall which comes up to right here. We have a cinderblock wall which was added here blocking off the pathway that the stair, you know, now ends in that wall. And I would be interested to hear if you cared to speak to it, if you could care to invite them to what Mr. Danda (sic) thinks about the opportunity

since now we're gonna have an entry here. So this is gonna be -- have to be made more pleasant for the people entering in this area. Is there not a possibility for creating a pathway through -- across the diagonal of Winthrop Park, which comes right to here, a pathway through and down the stairs, passed the retaining wall, the historic retaining wall, continuing on a path, there could be techniques used to control it for security issues in the evening or at night. I think people passing through it actually make it safer and less likely to have graffiti than currently where there is just a hidden cul-de-sac with graffiti on this side. And the pathway comes through and it comes out directly across the street from the new entry to the Kennedy School of Government which has been redesigned so that

it's intended to be a pathway at grade on a diagonal through the Kennedy School of Government, out to what was apparently controversially referred to as the alley down to the river.

CATHERINE PRESTON CONNOLLY:

Mr. Williamson, can you wrap up?

JAMES WILLIAMSON: Right, sure.

So I think there's a great opportunity here. And if public funds are at all involved, it's even a greater opportunity to look at this possibility, and I ask the Board to inquire about it and I suggest further investigation of that opportunity.

Thanks.

H. THEODORE COHEN: Thank you.

Is there anyone else who wishes to speak?

Denise.

DENISE JILLSON: Thank you. Good evening. Denies Jillson, 2203 Mass. Ave. Also the Executive Director for the Harvard Business Association. And as previously said at the last meeting, this building is really I think quite lovely and, you know, really appreciate the design and the hard work that went into all of Peter's hard work actually, you know, with the Historical Commission to come up with a design that seems, that seems to really work. The concerns that we still have are around Winthrop Street and, you know, we talked the last time about how much effort and money the city invested in creating a pedestrian experience on Winthrop Street. And we were sent away with a task of sort of getting together and coming up with a plan, but that has not really happened. And I know that there is an association now

that's been developed on Winthrop Street that includes the immediate abutters on Winthrop Street, but the street is not just for Winthrop Street, it's the entire Harvard Square experience. It's the whole district. And the disappointment that we have is that while we're delighted that the abutters have gotten together and talked about things that are practical, like cleaning the street and, you know, making sure that the flowers and the planter boxes are watered, but a real program of how that street is going to be used and ensuring that the parking situation, which continues to exist up until, by the way, this afternoon. So we're still not there yet and, therefore, cannot support this. And I will also say that, you know, I know that there are concerns around the mechanicals on the roof, and I can't speak

for John, he is a member of the association as is Raj, but it has not been resolved. It hasn't been resolved in 16 months. I think the first question came up back in March of 2014 relative to the mechanicals on the roof still has not been addressed, and while it's great to have some assurance that it will be addressed, I think that 16-month period in getting a mechanical plan together could have been achieved and, therefore, we continue to hope that we can come to an agreement, but for the time being feel that we can't support it until those two issues are fully addressed.

Thank you.

H. THEODORE COHEN: Excuse me, Ms. Jillson, before you sit down. What other issues or what other things would the association be interested in happening on

Winthrop Street?

DENISE JILLSON: The Harvard Square Business Association?

H. THEODORE COHEN: Yes.

DENISE JILLSON: The frustration has always been that the, that there's just been abuse, abuse of that space. It's a sidewalk along with I think six feet of private property. It looks like a sidewalk, but it's not treated as a sidewalk. It has not been treated as a sidewalk up until this afternoon. There's just been complete disregard for the fact that there's supposed to be a lovely pedestrian experience. So people were sitting outside at the Shake Shack patio beside a van that was there doing work in the building. That's not what it was meant to do. That, and we, we just find that, you know, it's -- while we say yes, go

ahead, you know, enforce it, well, the person that can enforce it certainly the owner of the building. And it has not been enforced and is not enforced. So saying that it's going to be enforced, one has to say well, when? When does this happen? So there is that issue. And that has been just, again, it's just the entire experience. This isn't just about the building, it's about Winthrop Park, about Winthrop Street, about what the vision the city had, when they chose Winthrop Street to be repaired, how it was going to look, how it was going to work, what it would feel like? And there's just been complete disregard for that.

H. THEODORE COHEN: Okay, thank you.

Lou.

LOUIS J. BACCI, JR.: Since you're pretty familiar with this area, is there much

of a problem with trucks and deliveries
bypassing each other during the day?

DENISE JILLSON: It's impossible.
You can't do it.

LOUIS J. BACCI, JR.: I thought so.

DENISE JILLSON: It's 18 feet. The
street is 18 feet.

LOUIS J. BACCI, JR.: Especially at
the end, yes, but at the beginning of the
street coming up from Eliot, no way?

DENISE JILLSON: No, no, you can't
do it.

LOUIS J. BACCI, JR.: Okay.

DENISE JILLSON: Thank you.

H. THEODORE COHEN: Anyone else who
wishes to speak? Sir.

PAUL OVERGAAG: Good evening my name
is Paul Overgaag, 0-v-e-r-g-a-a-g, 98
Winthrop Street that houses the red house and

Charlie's Kitchen.

I think it's a great project. Raj has done a great job designing this together with his architect, and I'm in full support of the added density and the architectural design.

I do have a few concerns about the parking and the way the Winthrop Street operates. We did make a new stakeholder group that is now going to pay -- help provide some planters in keeping the street clean. But I would like to urge Mr. Raj to continue talking to the city about the possible easement that he could give to the city to take over stewardship of the private property so that we can really make sure that that part of the private property stays part of the sidewalk, the way it's been all along, and it will not be an encroachment on parking or, you know, a building wanting to expand, excel for another

three feet. That piece of the sidewalk is part of Harvard Square and it should be part of -- stay part of the usage of Harvard Square. So that along with the parking, the parking has become a lot better lately, but it's still sometimes an issue.

To answer the question I heard the architect say trucks can't pass. It's impossible. They call me the Winthrop Street cop because I'm out there, you know, on a daily basis. No, you got to back up. You can't come in here. You have to find a loading dock and load it in a wheeler. Sometimes it's a big fight, but I've been texting pictures to Raj and, you know, there seems to be some continuing bettering of the situation. So that's good.

Seeing this design, though, a concern that came up today is a large amounts of

mechanical equipment that is in the front of the street that is gonna make the quiet enjoyment of the street a lot noisier because you're gonna add a lot more density to the equipment in one particular corner. And if I were upstairs in the square and I was planning my patio, I wouldn't want to plan my patio with 20 pieces of equipment in the summer humming when I'm trying to sit outside and enjoy. I think we really need to take a look at that and I'll definitely make sure that I come back and see what the solutions are on that because I think it will be better.

Thank you.

H. THEODORE COHEN: Thank you.

Is there anyone else who wishes to speak? Yes.

JOHN SANZONE: Hi there. John

Sanzone. J-o-h-n S-a-n-z-o-n-e, 445 Memorial Drive, Cambridge. And I wanted to put in a good word about the design. I followed I think all of the public iterations at the Historical Commission. Apparently there were seven. And I honestly thought they arrived at that iteration one ago or one and a half ago. Nevertheless, this is where we are. And to put it in the context of the building that's there now, it's a vast improvement than the current building is at best outdated, and frankly kind of an architectural failure, something that would never be allowed today. So this is -- improves and brings the two-story building into something more cohesive and interesting. And in my opinion it contributes to the district and Harvard Square and even in a way to Winthrop Park. The impact there being

that it can actually improve the aesthetic appearance. One of the things that the Harvard Square District is interesting and variable architecture and forms and massing, as long as we don't infringe on something that's really important like the lighting and the sky views of Winthrop Park which I think does very minimally. We actually contribute something by bringing a new contemporary architectural piece that has something interesting, that's almost a destination in the square.

And the second, James Williamson's point about the retaining wall, I think we are missing an opportunity here for another interesting destination at Harvard Square, the historical retaining wall that's now going to be just out of reach, too newly renovated and added to the building in

Harvard Square. So if there's anything that could be added there, that could be really special.

Thank you.

H. THEODORE COHEN: Thank you.

Anyone else wish to speak? Yes.

KARI KULUZER: Hi, my name is Kari Kuluzer, K-a-r-i K-u-l-u-z-e-r. And I am an abutter as the owner of Grendel's Den and also as the President of the Winthrop Park Trust. I wanted to echo a lot of people's comments that the design has come a long way since it was initially presented to the Historical Commission and got a huge amount of push back. The -- I think the result of this is really a willingness to work with the community and a lot of community input. So I think that this is something that a lot of people have talked about is how much the

immediate abutters and a lot of members of the community have worked to try to make this work. And I think the level of concerns are still there is that we still feel like we're pushing somewhat of a boulder on some of the issues, and in particular our confidence in the property owner's ability to maintain the building as Adrian and actually found some evidence. I hope that -- I've never actually looked at it but I've been in there so I believe that there are some complaints there. But mostly with the parking and other aspects of, like, taking some stewardship of the area. So if there's a lot of density to be added here and it requires immediate abutters in the community to constantly come up and kind of drag the property owner by the hand through taking responsibility for making sure that it's working. I don't know how once

this -- once this is built, this is going to represent a lot of money for the property owner, a lot of revenue, and a lot of density and once he has that money in hand and the permission to go ahead with the project, there is no way we're going to be able to get him by the hands again. It has never happened before. And only when he's up here looking for permission to do something and needs the support of the community, has he even been willing to work with any of us. So maybe this is a moment of a watershed change, but I don't know how that's going to go forward in the future. I would like to know that there is -- I would like some way that this permit or approval would ensure that the use of this -- the third, fourth, and fifth stories of this building were gonna stay as anticipated in the proposal. Because if it

changes, all of a sudden any kind of HVAC plan for the mechanicals goes out the window. Any kinds of noise or like impacts on the park in terms of the use of those decks, which is a lot of space, and I don't really believe that they're going to be managed better than this private space that's on the street. There's no track record to say that it would, I should say. So how are we going to say to make sure that there's not a giant nightclub sitting up there? I mean, that could happen. Who is going to stop that from happening? I don't want to say that I approve of the building unless there's some real binding connected to the building not connected to the property owner, because the property owner could sell it tomorrow the minute it's completed. The building could not have this usage change in the future and

all of the types of activity that need to manage the impact of the density have to be sort of guaranteed in perpetuity because the building is not going to go away, but the property owner could. It's not his words and it's not something that I particularly would like to sit here and police for the rest of my life, even though I relish the opportunity to do what I can for my environment and my neighborhood and Harvard Square. And I think there are a million people who are gung-ho about it who are all in this room, and I don't think we want to fight this fight forever.

CATHERINE PRESTON CONNOLLY: Ma'am?

KARI KULUZER: We like to see a positive impact and see that it's going to stay that way.

Thank you very much.

H. THEODORE COHEN: Thank you.

I just want to point out, the use of the building is controlled by the Zoning Ordinance and by the terms of the Special Permit and can only be used in the future for the purposes that are in keeping with those.

Is there anyone else who wishes to speak?

JERRY TRAEY: Good evening my name is Jerry Traey J-e-r-r-y T-r-a-e-y, 99 Winthrop Street. I would like to echo the concerns that Kari mentioned about the use of particularly the decks. And if there were to be alternative uses besides what's described as office space, then there's probably some concern and some discussion there. When you blanket it as commercial, it could be anything. Office is one thing, especially in regards to parking relief. Employers, office

managers, they make arrangements for the use of the T which is readily available in Harvard Square. When it turns into a retail operations or restaurant operations, it's an entirely different ball game where we don't have the capacity on J.F.K. Street as anybody drives on that street right now it's impossible, it's ridiculous. You can't add to that without having some solutions.

And the other concern I have is for the third and fourth floor of 91 Winthrop Street and the sight lines. The building itself is beautiful and the hardscape that will be put up there will solve a lot of the problems, especially with the parapet wall that's been extended. But that's great from the middle of the park street view. I'm concerned about the second, third, fourth 91 Winthrop Street where we're looking out the this new

landscape of mechanicals.

Thank you.

H. THEODORE COHEN: Thank you.

Anyone else wish to speak? I'm sorry, you've already spoken, Ma'am. It's not an ongoing conversation.

All right. Do we have any further questions?

CATHERINE PRESTON CONNOLLY: I'd like to hear from Traffic and Parking about what they think of what's been proposed.

JOSEPH BARR: Now?

CATHERINE PRESTON CONNOLLY: Yes.

JOSEPH BARR: Joe Barr, Director of Parking and Transportation. So I guess I'll say a few things and I'm happy to answer any questions, specific questions I guess.

The plan we've come up with in coordination with the property owner and the

applicants is basically a package of signage improvements that we'll do to -- because right now if you go out there, it's not completely obvious or not very obvious what the regulations are beginning on the side of the street adjacent to this building, and so, you know, it's not really, not that we can't enforce because it's a fire lane, but it's very challenging to do so particularly with the private property that's, you know, appears to be part of the public space. And I guess I'll just make it -- I think it's important to make the point that the way Winthrop Street is intended to function at all times of the day, not just when it's closed between eleven a.m. and two a.m. as a shared street. Although for historical reasons there are pavement materials that look like a sidewalk and a curb line and a

sort of concrete street and a curb line and a sidewalk, the reality is the way that street was intended to function or is intended to function at all times, even when it's opened, pedestrians and cyclists are anywhere, there is a limited hours that delivery vehicles are allowed on the street for that purpose. And even during those hours, the intention is that people can be anywhere in that space. So although it looks like a sidewalk, the intent, the design is not for it to function as a traditional sidewalk. It's -- people are intended to be all over the place. We don't necessarily have the same perspective that we would normally have that that brick area needs to be completely open at all times. If the property owner wanted to use it for outside tables or some sort of publicly available use or beneficial use, we

think that's totally appropriate, but we certainly don't want it to be used for parking and loading on that side partly because it is a fire lane on that side of the street. The way Winthrop Street works from a traffic perspective, it is in a segment really in front of this building it's wide enough that on the right side of the street adjacent to the park there is room for a truck to park and for loading activities to occur and for another truck or another vehicle to get by, and that's really pretty much the area. Like I said, across from this building adjacent to the park, once you get down to where the other buildings start upstairs in the square, Grendel's Den then it narrows down and at that point on both sides are no standing any time. Again, not necessarily signed properly today, but we

will fix that and the intent is for the rest of the street, you know, we wouldn't expect to see trucks loading, unloading. Obviously something small at six a.m. like a garbage truck making a quick pick up, you know, we can't necessarily control everything, but the idea is that activity is happening at the eastern end of the street, you know, between two a.m. and eleven a.m. And from eleven a.m. on it should be closed to the activity that Denise saw really today and sent me a picture of is not supposed to be happening. The intent of the agreement with the property owner regarding the planters I think should actually probably be scooped over a little bit so they're right on the property line, not necessarily in the public right of way, and we've suggested that there be a sort of staff review of the placement of those

planters as we finalize the building details prior to a Building Permit being issued. But the idea would those would physically prevent, you know, in perpetuity any vehicles parking on the private side of the parking line. Where, if again you're standing on the brick area, you don't actually have no idea where the demarcation of where it is. So from our perspective, from an enforcement perspective and the police perspective there's no way exactly to know is that vehicle that's, you know, parked next to the building, is it actually completely on the public -- on the private right of way? In which case the only thing, the only recourse is for the property owner to tow it or is it partially on the public right of way, in which case we can ticket it and/or tow it ourselves. So by putting the planters on the

property line, we can therefore know exactly that that vehicle is on public property and we have full authority, once the signs are up properly, to ticket it and/or to tow it.

That will give us the enforcement mechanism we need as well as physically keeping anything from happening that's beyond our reach that's in terms of reinforcement. I think there may be further legal agreements that might make sense in terms of governing how that space could be used. I think the, you know, from my end talking with the city engineer, you know, the easement is probably the wrong tool for this. It's probably a step too far in terms of really the legal obligations it puts on us as well as the requirements it puts on the property owner. So as our letter suggested, you know, we're certainly open to looking at other legal

agreements if that's something that makes sense, but we don't necessarily believe that an easement will be the right tool in this case. And I'm personally hopeful that the signage improvements and the planters we've suggested will sort of cure 95 percent of the problem and not lead to this being a reoccurring issue as has been discussed today.

H. THEODORE COHEN: I just have a question. The barriers that block off Winthrop Street, how easy are they to move?

JOSEPH BARR: So those are -- those are rolling planters so they're relatively easy to move. So someone can come up and, you know, I guess say those signs that say the street is closed don't obviously don't apply to me, so therefore I can move them. One of the things we do want to do with the

signage changes is improve the signs at the end, at the east end of the street of J.F.K. which is the only direction you should be coming in from to make it clearer that, you know, this road is closed to motor vehicles between the hours of eleven a.m. and two a.m. We want the cyclists to be there as well as pedestrians, but we think the signs that are up there now are not totally 100 percent clear. I'm not going to pretend that a good sign solves every problem, but again it gives a good indication of anyone who is trying to enforce, there's no way you didn't know that you weren't supposed to be here. Because I, you know, I think there are delivery drivers who look at something like, at that planter that's to keep out cars, you know, I'm making a delivery, I need to be here. The reality is there are other loading zones on J.F.K.

Street close by if someone does arrive at two in the afternoon, there are other options for them to make a delivery other than coming down Winthrop Street.

STEVEN COHEN: Just a simple factual issue which hasn't been clear this evening about whether a vehicle can pass when a truck is parked. You've now said very clearly that a vehicle can pass a truck or a garbage truck that --

JOSEPH BARR: In the area adjacent to the park, and if you look at an aerial, go out there and look at the things are a little wider there, that is designated right now -- the signs are a little bit strange, but it is designated right now as a loading zone and there is enough room, for you know, assuming the truck pulls all the way over for the way it's supposed to for a vehicle to pass. Once

you get passed to Grendel's Den building from there to the end of the street there, there really isn't -- there is a little area in front of the Grendel's Den that you can pull into, but again that's partially on private property and we're not encouraging people to do that. So it's, you know, has not raised the same sort of issues that we've heard. And it's property, but it's basically the same problem someone pulling on the partial property in order to make the delivery.

STEVEN COHEN: Does placing bollards on the property line cutting off roughly six feet of the percent potential driveway, does that change the situation at all even with the bollards cutting off the six feet, there's still room for a truck and for another vehicle to pass?

JOSEPH BARR: Yes, actually and the

width I'm talking about is even, like I said earlier it's not technically where the curb lines appear to be, it's flush, it's not a little pedestrian space. The width I'm talking about is actually the concrete paver area that looks more like a street. So that's -- this is basically without being on the bricks. We don't we want pedestrians to be everywhere when -- the hours when cars are allowed or vehicles are allowed, we don't want them to be anywhere other than on the paver area.

LOUIS J. BACCI, JR.: So adjacent to the park is there a loading area now?

JOSEPH BARR: Correct.

LOUIS J. BACCI, JR.: So you would consider the rest of Winthrop Street as a fire lane?

JOSEPH BARR: Correct.

LOUIS J. BACCI, JR.: Is there loading allowed on the fire lanes?

JOSEPH BARR: No.

LOUIS J. BACCI, JR.: How does anyone load on the street?

JOSEPH BARR: They need to stop in the area where loading is allowed and --

LOUIS J. BACCI, JR.: Even if they bypassed a loading vehicle they couldn't stop on the --

JOSEPH BARR: They can't. They're not legally allowed to stop.

LOUIS J. BACCI, JR.: Does that ever happen?

JOSEPH BARR: We were out there a week and a half ago looking at the area. You know, there was a beer delivery truck and, you know, I assume he was making deliveries to multiple restaurants. They're all, you

know, the ones -- you know, the Red House and everything farther down and he was, you know, I'm sure he would have preferred to be closer but, you know, he was actually doing what he was supposed to be doing.

H. THEODORE COHEN: Hugh.

HUGH RUSSELL: So the manner that's before us is actually whether we should grant a Special Permit to allow him to buy out the parking requirements.

H. THEODORE COHEN: Right.

HUGH RUSSELL: And so, I just wanted to ask you one, do you support that notion? And secondly, do you feel that it's important to attach a restriction on the use of the upper floors for that to work?

JOSEPH BARR: I certainly support the, you know, the buyout and the contribution and that's pretty standard for

buildings in this area. I would say that, you know, the reality is that, you know, I may be getting my trip generation slightly wrong, but the offices uses are one of the higher trip generation uses. Residential is probably the lowest. Retail and restaurant in a place like Harvard Square, you know, I think there's a couple of things: One, there's relatively a little expectation that you can drive up to a restaurant on Harvard Square and people park directly there. So people are used to the idea that I have to go around and find a meter or go in the garage or maybe I should take the T or bike or whatever. So there's sort of a -- and same thing with retail. I think office, Harvard Square is pretty unique in terms of I don't think people expect to drive there and find a particularly convenient parking spot. I

think whether it was office or some sort of retail use or some sort of, you know, restaurant use, something like, you know, if it was truly a nightclub or a, you know, performance venue, I mean that would create concerns because those often come with, you know, fairly -- very heavily peak demand and they often come with valet needs and other kinds of things that could be problematic in this specific location. But I think the sort of, what I'll call run-of-the-mill sort of standard uses in the office, and leaving that aside, what Zoning allows, and I don't know exactly what the base district here is, but, you know, leaving that aside, you know, the run-of-the-mill uses would probably be fine in this location, you know, a block from the T station in Harvard Square where, again, I don't think anyone should or does really

expect to be able to park, park easily.

Although if you're going to come park at Harvard Square, use one of our meters.

H. THEODORE COHEN: And I want to confirm that it's Traffic and Parking's position that it makes more sense instead of putting in short-term parking at the building, that a contribution should be made to the city for the development of short-term parking in some other location?

JOSEPH BARR: Correct, through an existing structure that's in place, yes.

H. THEODORE COHEN: Thank you.

Anyone else have any other questions for Traffic and Parking?

(No Response.)

H. THEODORE COHEN: Jeff, would Zoning allow a nightclub or some other music venue in this location?

JEFF ROBERTS: So I'll just, to -- I can try to pull that up. I don't have the Zoning Ordinance in front of me right now to tell you what's allowed and not allowed in Harvard Square. Generally speaking it's one of the permissive commercial districts. So something like a, you know, restaurants and bars are generally allowed. Sometimes entertainment venues have some more restrictions on them, but of course there are entertainment venues in Harvard Square.

Just to back up from that, the proposal is for office use. The Special Permit, if the Planning Board were to grant it, would be for office use. If it were a change of use, it would like any other Planning Board Special Permit, would have to come back to the Planning Board to amend that. So this wouldn't, this proposal wouldn't authorize

any allowed use to be located, it would just be what's proposed.

H. THEODORE COHEN: Just what's proposed in the Special Permit. Thank you.

HUGH RUSSELL: Jeff, that would be interpreted in 4.34 which is office use, those are the things that are there under this permit?

JEFF ROBERTS: Yes, it would be. I believe the way that it's been portrayed is really as a general office use, but I suppose it could accommodate a professional office or a financial institution.

HUGH RUSSELL: So we might probably make that clear in our decision.

H. THEODORE COHEN: Right.

Mr. Tahanda.

RAJ TAHANDA: Yes, I wanted to comment on some of the Inspectional Services

reports that were presented here. My guess is most of those relate to my tenants and restaurant sometimes get those. I did get one recently where there was some work needed to be done after the fire we had last year, but I was waiting for the restaurant, the second floor to finish their work before doing that. And that was accomplished within the time allowed for any of those things. We have maintenance person every single day that spends many hours, picks up cigarette butts from people on the street or wherever, washes -- power washes the area of the dumpsters. And so I'm not aware -- I haven't received any violations except the one I just referred to you to which is about three weeks ago, and there were three things pointed out and those were done as quickly as possible. And they were not being done because we were

waiting for the restaurant to finish their work if we had done those things to redo them again.

H. THEODORE COHEN: Okay fine.

Thank you.

So are we ready to deliberate and make a decision or are there other -- is there other information or materials that people wish to see before we proceed?

TOM SIENIEWICZ: Well, I made just a short list and I don't want to be a stick in the mud here. I would like to know how other Board Members are feeling about this and concerns that were raised about sounds and acoustics around the mechanical systems? These are knowable. They can be measured. They can be engineered. The issue that was in the briefing materials that I reviewed about potentially actually a formal easement

for the city across the property owner's land, I think maybe we should see that executed potentially.

H. THEODORE COHEN: Well, we just heard Traffic and Parking say they didn't want it.

TOM SIENIEWICZ: Okay.

H. THEODORE COHEN: They said it was not an appropriate instrument that they wanted.

TOM SIENIEWICZ: Okay.

So strike that one.

And then, again, the kitchen exhaust could be engineered, right? We could, that could be something that could be knowable and I think it rises to a level that I'm not sure I want to kick that down the field. I'd like to get that resolved. I think it can be looked at and engineered fairly quickly.

STEVEN COHEN: If I can just pick up on the last point, we talked about peer review. I probably be inclined to expand a peer review to include the noise levels of the HVAC as well. And I'm not sure to what extent existing units may be grandfathered in under the noise ordinance, but in the context of this new development, I don't think we'd want to see old noisy units grandfathered in. Just as a technical matter, I don't know, having the City of Cambridge does ordinarily a peer review, but in my experience the peer review is actually selected and engaged by the municipality. Fee, of course, is paid by the applicant, but the peer reviewer is engaged by the municipality. The scope of review is established by the municipality and, of course, comes back to whatever staff as we would designate. So I think that

increases the level of professional objectivity on the matter. But I think peer review could address both of those matters, and whether we do it simply as a condition of a possible approval that we eventually approve a peer review report, I don't think that it warrants an approval today.

CATHERINE PRESTON CONNOLLY: I'll just pick up on that. I agree with Steve that I think that the scope of peer review should include all of the HVAC systems and their impacts. And I also agree that I think it is something that can be accomplished after granting of the Special Permit before construction, and that if there was any doubt as to whether or not the impacts were rising to a level of concern, the staff could refer it back to the Board for further discussion, but I think that can be handled at a staff

level in the same way we do with a lot of design details.

H. THEODORE COHEN: Do people have any other opinions about that matter?

STEVEN COHEN: Just on the peer review?

H. THEODORE COHEN: Just on the peer review. If you have other issues, let's bring them up now.

LOUIS J. BACCI, JR.: I guess I have a quick question. No upgrades to the water, sewer, electric, telephone, data, anything like that? Any excavation that warrant on the site?

PETER QUINN: We did have a brief utility analysis done by Sign Consultants (phonetic) and we believe we have adequate connections as it is now.

LOUIS J. BACCI, JR.: Good.

PETER QUINN: We will double check that.

LOUIS J. BACCI, JR.: At a complication.

PETER QUINN: This probably covers a couple of comments. We have a building with several microunits in it, and at the time we had a building that is much, much larger and more prominent as it related to the park. And then those comments that Mr. Williamson referred to were made about that building, okay? So just to correct his comment about that. But at that time we, of course, residential use is a very height utility but we were confident.

LOUIS J. BACCI, JR.: If there was going to be any work done on the sidewalk, there might be opportunity for you to do something on that in that area to resolve the

parking.

PETER QUINN: Yes.

H. THEODORE COHEN: Are there any other issues that you want to raise now?

STEVEN COHEN: I just have one more. I have a concern about the comments raised I guess by Kari Kuluzer, is it? That everybody's talking co-operatively now, but hadn't been the case for the previous 17 years. And I know there's an association, but I mean which has now been formed which sounds like a good thing, people are talking. But I'm wondering what the nature of the association is and whether it's, you know, binding on folks and whether there's any mechanism in -- minding mechanism for folks to cooperate with each other going forward. It's not meant to be a joke.

H. THEODORE COHEN: I'm curious what

binding document exists anywhere in this world that mandates cooperation.

STEVEN COHEN: No, absolutely. And subdivisions and things, I mean, there are homeowner associations. There are various mechanisms. I'm aware on matters of mutual interest such as this common passage that people need to work, and the association has some teeth and it has some -- I don't know what exists here or not, but with all that we've heard about the association, cooperation, and so forth. First of all, I'm simply asking the question, is this a purely informal voluntary thing or does this actually have any legal existence that, you know, has any ongoing binding nature?

So first, is the factual question and there may be discussion based on what the answer is based on what that question?

LOUIS J. BACCI, JR.: And who are the members of the association?

KARI KULUZER: I am.

RAJ TAHANDA: Maybe I can speak to what Kari was saying.

This association, we all committed to funding it based on some rough estimate that was arrived by us for five years. And all I can say is that we are all committed to doing it again whenever that need comes. At this moment there's -- I could give you how much money was put in, but all estimates, it was adequate to cover any of the things that may come up. And if something comes up, we'll address it when it comes up.

LOUIS J. BACCI, JR.: How many members are in your association?

RAJ TAHANDA: Kari, Paul, myself. I mean, we didn't -- we have funded it so there

isn't like a membership list I could give you.

LOUIS J. BACCI, JR.: No, I understand. It's not 10, it's not 30?

RAJ TAHANDA: No, it's -- going forward it's probably not going to exceed fingers of one hand.

STEVEN COHEN: Raj, again, just factual question, this is an informal, voluntary association I gather?

RAJ TAHANDA: Correct. We explored a number of possibilities. We talked to some tax people. We talked with some lawyers, and at the end of the day was getting -- setting it up and managing was going to become the bigger issue and nobody wanted that. This is -- you know, who was going to file tax returns and who is going to maintain books. There's been an account, separate account

opened. Paul has the checkbook, and there's -- if there's going to be some money spent, we'll talk to each other. And certainly I don't think there is need to do more than that, and it could just become a project onto itself.

STEVEN COHEN: Raj, forgive me for asking, but the concern was -- it's been expressed that the dialogue didn't begin to take place until the need for public permits arose. Is there any basis for that concern? And going forward, do you imagine that the property owners, including yourself, will continue on an ongoing basis to talk with each other and to cooperate?

RAJ TAHANDA: I can simply say that is the commitment going forward. I have maintained the building quite well. It's an old building. There have been issues with

the building, but we are doing all this to take away some of those issues and make it a better building and a better street and neighborhood. So that's where I stand on it.

STEVEN COHEN: Thank you.

H. THEODORE COHEN: Hugh.

HUGH RUSSELL: So the narrow issue on the street is controlled parking on the six-foot wide piece that's on this property, and there's a proposal that is not entirely finalized to physically prevent cars from doing that. So I think we can put a condition that if plan to be approved by Joe be in place before Building Permit, that will effectively accomplish that goal.

Now the larger goal that Denise spoke about is the vision for the street and what's needed to extend that vision. This parking piece is one part of that, and I think it's

hard for us to right or imagine any condition. I think by having the property unit that's along the street forming even a voluntary organization means they will have a forum in the sense for talking to each other and have a wide choice of restaurants to have their meetings in. And I'm assuming that it might be -- it probably would be useful for the business association to have some kind of exo officio status on the committee so that there would be coordination with other things in the square.

H. THEODORE COHEN: Agreed, but I don't think that's anything that we can do in the context of the Special Permit.

HUGH RUSSELL: I would agree.

CATHERINE PRESTON CONNOLLY: A suggestion.

H. THEODORE COHEN: Cooperation

amongst all of the Winthrop Street land owners and with the Harvard Square Business Association would be a good thing for all concerned.

HUGH RUSSELL: And I guess the park is represented because you're -- right.

H. THEODORE COHEN: Okay.

So, are we prepared to proceed with debating whether we can grant -- can or should grant a Special Permit as requested?

HUGH RUSSELL: I'd like to make one other comment which is about the architectural design of the building.

H. THEODORE COHEN: Okay.

HUGH RUSSELL: And I believe that seven meetings with the Historical Commission to achieve a Certificate of Appropriateness represents a robust design review effort.

And while we may not -- sitting here, may not

understand why particularly decisions were made, I think we can be confident that the Historical Commission does believe this is an appropriate project and that we do not have to substitute our judgment for theirs.

CATHERINE PRESTON CONNOLLY: I wholeheartedly agree with that.

H. THEODORE COHEN: All right. Well, if we're prepared to go forward, the requested Special Permit has been in exemption for parking and loading requirements in Harvard Square Overlay District in accordance with Section 20.54.4 in the Zoning Ordinance which provides in summary, that the lot contributes to the development pattern of diverse small scale new structure in the retention of existing structures.

The exemption from parking and loading

requirements results in a building design that is more appropriate to the location and fabric of the neighborhood.

The design is in conformance with the objectives and criteria contained in the Harvard Square Development Guidelines which have been provided to us and have been posted.

That no national register contributing building is demolished or altered.

And it conforms to the general criteria for the issuance of a Special Permit.

The --

HUGH RUSSELL: If the Chair -- there's a -- you referred to language about the paragraph 20.54.4b that says when the lot is bigger than 10,000 feet. So you've made those findings, but if you want to be explicit those findings related to that.

H. THEODORE COHEN: Fine, yes.

So, do we feel that we can make those findings?

We believe we have, and staff has gone through things and we have reviewed all the criteria and we reviewed the criteria in the terms of the general Special Permit.

And would somebody like to make a motion that takes into account the couple of issues that have been raised this evening and in the past to wit with regard to peer review with regard -- peer review for the mechanicals, with regard to approval of the conditions for the use of Winthrop Street, and also with regard to the waiver of the requirement for bicycle parking in little of which under the Ordinance a payment will be made in to the City for provision bicycle parking off site.

And were there any other conditions, Jeff, or, Suzannah, that need to go into this?

SUZANNAH BIGOLIN: I would just add to continue to review the designs in terms of the screening of the mechanicals and their location.

H. THEODORE COHEN: Yes, obviously there would be ongoing review of everything by CDD.

Somebody wish to make a motion?

JOSEPH BARR: Mr. Chair, just one other thing on the transportation side. We have made some recommendations regarding potential TDM measures in our memo.

H. THEODORE COHEN: And all the conditions in Traffic and Parking's memorandum with regard to TDM and other matters will be incorporated into the terms

of the Special Permit.

TOM SIENIEWICZ: I would so move. I think that's a comprehensive list of what we have discovered and discussed and it's consistent with the findings that I sense the Board has made in the granting of the Special Permit.

H. THEODORE COHEN: And just want to be clear for everybody that the peer review would take place and would be reviewed by staff before the Building Permit is issued. And if there were any questions about it, it would be brought back to the Planning Board. And similarly, that the Traffic and Parking would be reviewing the final placement of the planters or bollards or whatever other material was ultimately to be determined to be used to delineate the public way of Winthrop Street from the private way.

STEVEN COHEN: Just on the peer review, I agree with the procedure, but just to clarify or simply confirm the scope of review, I think for the kitchen exhaust, to review that mechanical system to assure that the exhaust does not create a nuisance or damage to any abutters, and that the scope also include the HVAC equipment. And I believe it's simply to confirm compliance even though existing old equipment with currently applicable standards established by the noise ordinance.

LOUIS J. BACCI, JR.: The trash compacting, and if there's any substantial change in design because of the peer review do we want to see anything?

H. THEODORE COHEN: Yes, I think so. I think we'll leave that to staff if something comes up that changes the design --

LOUIS J. BACCI, JR.: Right.

H. THEODORE COHEN: -- that it would be brought back to us.

HUGH RUSSELL: I think we have to --

STEVEN COHEN: Hugh, I'm sorry, just implicitly that, you know, the peer review, you know, we are saying that the applicant must comply with the standards established by the peer review. Is that essentially what we're saying or is it all subject to review by staff?

HUGH RUSSELL: Okay, so one does peer review when one does believe that the staff themselves do not have these particular technical confidence to review. And so there's no acoustical engineer on staff. There's no, you know -- so the -- so their review of the peer review is just to see have you reached the consensus? And if you

cannot, I mean -- the way it works is, you know, send something out to peer review or sends a letter back and says I've got these questions or got these concerns, and there's a reply, and you move until you -- both people are saying, yeah, we're on the same page, it's going to work.

STUART DASH: Steve, if I could add. We found these kinds of things where we'll ask, just ask a question like a peer review and say is there something you might do here that might be a better outcome? And the peer review system may say yes, you can do this or change this kind of equipment or these are the choices you face. And we have to make some positive changes just by asking that question at the right time.

STEVEN COHEN: Stuart, are we clear about what the criteria are that we're -- on

the basis of which the peer reviewer is performing his review?

STUART DASH: I think so. I think you're basically going with the noise ordinance standards and making sure you're meeting them. And secondarily, I think the questions are with the existing equipment and just sort of looking forward to the kind of things are you looking forward five years or three years in the proper way? And then you might have a discussion with, you know, Raj or something like that, is this piece of equipment might be a problem for years. And the peer reviewer would look at that and he might ask those questions and basically meeting the noise ordinance standards.

And the second one in terms of the exhaust for the restaurant, just the standards of are you going to have a problem

with your neighbors.

TOM SIENIEWICZ: I want to be clear with the extent that the renovations that are going on here, it's my expectation that the -- any equipment that exists there today which does not meet the sound of noise ordinance because of the sensitivity of the historic park across the street, this is the time to address that. Either screen it or replace it or hot rod it, whatever you need to do to make it quiet.

LOUIS J. BACCI, JR.: There seemed to be some effort on the owner's part to use existing equipment.

CATHERINE PRESTON CONNOLLY: If it complies.

STUART DASH: And from the City's point of view with the park right there, we have a very big interest to seeing this done

well.

HUGH RUSSELL: The other thing is it's a cumulative analysis, that's the way the ordinance works. It's like you get to the property line with the noise level.

H. THEODORE COHEN: Okay.

So we have a motion. Do we have a second?

STEVEN COHEN: Second.

H. THEODORE COHEN: All right.

All those in favor? Mary, you cannot vote tonight.

MARY FLYNN: Right, I know, thank you.

(Show of hands).

H. THEODORE COHEN: So seven votes in favor.

Anyone opposed?

(No Response.)

H. THEODORE COHEN: Thank you very much. We will take a five minute break and we will return to have a hearing on the amendment of Incentive Zoning.

(A short recess was taken.)

H. THEODORE COHEN: Okay, thank you, all, and now we have a hearing on the City Council Petition to amend the Incentive Zoning 11.200 of the Cambridge Zoning Ordinance to modify the Incentive Zoning provisions.

Who will be making the presentation?

CHRIS COTTER: Good evening. Thank you. Chris Cotter, Director of Housing for the Community Development Department. I'm going to start us off here and I will be joined by Carl Seidman, the consultant team leader who completed the Nexus study that is the basis for these updates to the Incentive

Ordinance. And then I think Jeff is going to walk us through the petition briefly at the end of the presentation.

So I'll start just by giving a quick background on the Incentive Ordinance, how we've arrived at this point, a little bit about the Nexus study, how the Incentive Ordinance benefits the Housing Trust and how the trust uses the funds generated by the Incentive Ordinance. I've got three members of the Affordable Housing Trust here; Susan Schlesinger, Bill Tibbs, and Cheryl-Ann Pizza-Zeoli. Questions for the trust, certainly I'm happy to answer them. We've got the firsthand perspective here as well.

So just by way of background, the Incentive Ordinance is one of the two funding sources of the Affordable Housing Trust, the other being the Community Preservation Act.

(Inaudible) on the flexible source of funds for the trust, a very important source. It has been around for many years and has generated about \$5 million since it was first adopted in 1988. You can see it was about 1.8 million during the study period that we're talking about. And the trust has used the funds very flexibly. They can be used for first time home buyer's assistance. We've used them for rental rehab programs. We've been using them very much in our efforts to preserve expiring use properties over the last five or six years. The incentive funds have helped us complete a citywide analysis of expiring use needs to understand what's at risk, what we needed to take action on, setting some priorities. We've also used the funds to fund and implement a lot of our preservation plans of

the eight after the ten expired use properties in the last five years. One of the most recent ones, Briston Arms which closed a couple weeks ago, we've been working on for the last year, and the incentive funds were essential in developing the preservation plan there and carrying it out with the selected preservation buyer.

So it's an important source of funding for the trust. We think that the petition here will make it an even more useful source as we go forward. Funds are very important given where we are in the market. Given the costs in Cambridge, we're finding that the funds that the trust has are harder to stretch given the cost that we've seen in this market, given the high acquisition costs, and increases in construction costs.

So I can say that the incentive funds

are used in conjunction with CPA funds for most affordable housing development preservation projects, and so they are really being used in everything that the trust does.

Briefly just the details on the ordinance. As you can see, it was established in 1988. It is an exaction. It is a requirement of non-residential development. So there is a requirement that we establish the legal basis for that, that is the Nexus study that we're talking about that was first done in 1988. What we're doing now is reestablishing the basis and looking at what the requirement recommendations are. And Carl will talk about this, what they will be based upon current requirements.

The Ordinance is structured so that it applies to certain Special Permits. It is a

small range of Special Permits to date. Among the things we'll talk about today are the recommendations to expand that later. So it is a specific requirement is triggered at 30,000 square feet of non-residential development. There is a 2500 square foot exemption. So we're talking about moderate to large size commercial developments that, again, are triggering or requiring certain Special Permits. And the rate, I think this is the first time that we've gotten to this point where we're actually talking about a significant change to the Ordinance. The rate has been established many years ago and adjusted by the Consumer Price Index by the Affordable Housing Trust which looks at it every year to make that CPI adjustment.

So we started to talk about this a couple of years ago, and about a year and a

half ago were out with an RFP to find a team to update the Nexus study to look at the requirements, to look at the range of non-residential development over the past many years to determine what the housing impacts were from that development, what was the impact on the need for affordable units based on new development over this past period of time. So to update that and establish the legal basis, we contribute with Carl Seidman and Associates, the consultant team who completed the study earlier this year. We asked them to look at what the current rate would be based upon development patterns, based upon housing impacts from jobs created from that development. They came out with a recommendation which Carl will talk about. We've also asked them to look at the Ordinance itself, to look at how

it was working, where it applied, where it didn't apply, and to make some recommendations on how we might improve it, how we might change it based upon the study finding. Which you'll hear from Carl, his presentation is -- he'll walk you through the study methodology and the study recommendations and then we'll talk about the Zoning Petition which advances some of those recommendations.

So without any further introduction, Carl Seidman.

CARL SEIDMAN: Great. Thank you, Chris. And I'm happy to be here to sort of summarize the study methodology and results.

First, I just thought I'd get right to the recommendations. You had a quick overview of the recommendations which include expanding the uses that are subject to

housing contributions. As I'll talk about, there are quite a few uses that are generating housing impacts that aren't covered by the Ordinance now; removing the Special Permit trigger, the housing contributions, and then recommended raising the housing contribution level from the current \$4.58 a square foot to something in the range of 10 to 12 dollars, and then to continue to a single contribution rate across the use and to continue to make regular CPI adjustments.

I know this is a very hard slide to read. It kind of outlines the methodology, but the approach we had to take was to first estimate the type of development that would happen in Cambridge, how many jobs that would create. We then had to look at -- of the jobs that were created, how many residents

would actually move to Cambridge and seek housing in Cambridge. We used an employee survey to look at current employees to make that estimate. We then also looked at the occupational distribution across the different industries we'd expect to come to Cambridge and what their earning levels were, because obviously we have to estimate the income levels of the employees that are going to be looking for work in Cambridge. We then also used census data to look at what the mix of those households would look like in terms of value, size, and the number of earners they had. So we could assign what households would be at different income levels and how many would need units of different size. And that resulted in a projected demand for new low income, moderate income, and middle income housing units and by household size

and unit mix.

We then worked with the City Housing Department to look at what would be a reasonable mix of rental versus ownership units, and then estimated the development costs to build those units, and then what required subsidy would be needed to fill the gap between the income for the projects that could be built and then we applied that to the amount of new development to come up with a rate. So that's a complex explanation. Hopefully as I walk through some of the figures, it will be easier to see how this methodology worked in practice.

The first thing we did was look at development over the past ten years and then trends in employment and planned projects to sort of estimate new development in Cambridge over the next ten years. And we estimate

almost 4.6 million square feet of new development. You can see heavily concentrated in office and R&D development. And then using, you know, current data on square footage per job, we estimated that this would generate almost 14,000 -- over 14,000 new jobs. So that's sort of the employment impact independent of the housing demand.

So when we went through that process of applying the survey results to how many workers would look for housing, what their income levels would be and what their household mix would be, we ended up with an estimated demand for 692 new housing units; 108 of those we expect to be low income, 231 moderate income, and a little more than half, 353, would be middle income and you see the distributed by household size. So this is

sort of the housing impact from the new development on Cambridge.

So the next step was to look at the composition of these units between rental and ownership units. And this was essentially a city policy issue. We worked with the City Housing Department staff to come up with these assumptions, and the assumptions are that all of the low income units would be rental housing. The moderate income units would be split 30 percent ownership and 70 percent rental. And the middle income units would be 50/50 rental ownership and rental. And we also make the assumptions about the bedroom unit mix for one, two, three, and four-person households. And then the results of those assumptions was a break down of units of about two thirds or 446 units would be rental and the balance 246 would be

ownership units.

So next we estimated the development costs for these projects and the required subsidy. We did this based on the total development cost for recent affordable housing projects that were built in Cambridge. We had comparables for five projects. The average per unit cost for projects were \$481,000. That was used to project this. For the 446 rental units the development costs would be \$214 million. We then looked at the income that would be generated by those units with having households pay 30 percent of their income for rent, subtracting operating costs, and we ended up with net operating income of \$3.7 million. Not a lot. Very little net. You know, almost all of the income is consumed by operating costs. But that income would

support about 40 -- \$57 million of private investment, \$53 million mortgage, and then some residual cash flow to pay for some equity. And then we're left a subsidy of \$156.7 million that's needed to build those 446 rental units.

We did a similar analysis for the ownership units. \$118 million development costs. We assume the sales price once again would be based on owners paying 30 percent of their income for their mortgage payment, taxes, and make a five percent down payment, that resulted in moderate income households be able to pay about \$166,000 per unit. Middle income households paying almost 347. And we ended up generating sales revenue of those houses of almost 73 million. We're left with a subsidy of 45 million. So we combined these two and we end up with a total

required subsidy of over \$200 million in the -- in the -- we allocated that across the projected development. And the figure you see there for 4,538,000 subtracts out the 2500 square foot exemption. We applied current law to this. So this would generate a required subsidy of \$44.54 per square foot. But we recognize that the Affordable Housing Trust, the Cambridge Affordable Housing Trust is only one source of funding to build affordable housing units. So we looked at other fund me sources like low income housing tax credits, state grants, and other sources that will contribute to this.

So when we looked at recent development projects in Cambridge, we found that the Affordable Housing Trust contributed 33.9 percent of the subsidy requirement. So we essentially looked forward and said the

housing contributions, it's reasonable to expect that those would also cover 33.9 percent of the subsidy level, and that essentially reduced the required or maximum amount of housing contributions to \$24.30. A little more than \$10 of that would cover the cost of the low and moderate income units, and about \$14 of that would cover the cost of the middle income units. We made -- we assumed that there's no subsidy for the middle income units because generally the other funding sources only applied to low and moderate income units.

So that takes you through the calculations for the, you know, maximum allowable defensible housing contribution. We also looked at a number of policy issues within the Ordinance, including changes, uses subject to the Ordinance conditions that

trigger it, whether the contribution should be varied by use and changing the exemption level. And so I'm going to largely talk about those first two issues because they're really the most significant. And when we looked at the actual development activity in Cambridge over the last ten years versus contributions that actually made to under the Incentive Zoning Ordinance we really found that the vast majority of development is actually not contributing to the Incentive Zoning Ordinance. There were a fair amount of uses that are not subject to the Ordinance. The most significant of one was institutional use. And the last ten years Cambridge saw, you know, 2.4 million square feet of institutional development.

Hotel development is another development that's not subject to the

Ordinance. And then many projects get built without triggering the Special Permits that require the housing contribution. So only 26 percent of new private commercial, retail, and lab development from 2004 to 2013 was actually required to make housing contributions. Just under three quarters of that development even though it had the same housing impacts and generated the same demand for affordable housing, middle, low income housing, it did not have to pay any contributions. So that's -- those findings are really the basis for the recommendations we use to expand the use of subject to house the contribution and we move the Special Permit trigger and essentially apply the contribution rate to, you know, any non-residential development that will have significant employment impacts and create

demand for housing.

We also looked at the, you know, other communities that have similar policies and where does Cambridge fit into it. And as you can see, Boston has a higher rate than Cambridge's current rate of \$8.34, but a much higher threshold of 74,000. Somerville has the same threshold as Cambridge but a rate of \$5.15. And both Boston and Cambridge apply this to a much larger range of uses than Cambridge does currently. Barnstable County is the third community that has this type of housing contribution. They have a much lower trigger there. They have a very complicated system. I wouldn't recommend applying it in Cambridge. They vary the use -- they vary the fee amount both by type of use and by location. So it's a very complicated system to administer.

So the other thing we looked at was the potential competitive impact of this large increase in the fee. You know, the \$24.30 fee is a very large increase from what you're charging developments now. It's a five time increase. It would be more than two and a half times the combined jobs and housing linkage fee in Boston and four times Somerville's fees. So, you know, the fee will impact development costs. It's, you know, we don't know for sure how developers will deal with that cost. You know, maybe they'll pay less for land. You know, unlikely in this environment, but they may pass it on to tenants and increase rents, in which case Cambridge would be more expensive for businesses to move into and it might impact, you know, what type of development happens here. Or they may pay it out of

their own equity investment. And so we looked at the implication of those options, so if there was -- if all of the increased fee was passed on to rents, it would add \$2.29 per square foot over a ten year lease which is an increase of about four to six percent, you know, depending on where in Cambridge that you are and what type of property it is. If it was all absorbed by the developer, it would reduce their return by 100 basis points. You know, we also note that East Cambridge rents are among the highest in the region already. And West Cambridge rents, which are much less than East Cambridge are significantly higher than some of the competing suburbs that, you know, firms are looking at.

So when we looked at all of these factors, we ended up recommending that the

maximum that Cambridge set a rate that's lower than the maximum \$24.30 just to ensure that you don't end up creating such a large increase that it ends up influencing where firms or developers choose to locate and benefitting Somerville or benefitting Boston or benefitting Waltham. And certainly, you know, the benefits of Cambridge may have the impacts but not generate any revenue for the city.

So just to recap the final recommendations of the study were to remove the permanent trigger and apply the kinds of contributions of all projects over 30,000 square feet within an expanded set of uses, and those additional uses under the project definition in the Ordinance would include seven new uses, hotels and motels, radio and TV studios, institutional health, education,

social services, light industry, and sale or heavy industry. And recommend the rate of 10 and 12 dollars per square foot and to maintain administrative simplicity to avoid some of the problems you may have to vary the use. And we also recommended eliminating the 2500 square foot exemption. There was no clear reason for that exemption being there, and it just essentially reduces the base in which you calculate the fee and ends up, you know, raising the nominal fee so it has no real significant impact. So that, you know, is a synopsis of the study.

I don't know, Chris, do you want to open it up for questions here or pass it on to Jeff?

JEFF ROBERTS: Thanks. And I'm sure we'll all be available for questions.

There's a step here that I just don't

want to skip over which is that when the Nexus study was completed, it was submitted to the City Council's Housing Committee which had the opportunity to review the recommendations and then make their own recommendations based on that in terms of what the -- what would be developed in the petition. That recommendation is fairly consistent with what you see here. There's one key, not necessarily a change, but an elaboration, but I'll describe when I describe the Zoning Petition.

So, the text of the petition has been submitted. I just organized it a little bit to walk through what the major components are. This first screen relating to the components in the first part of the proposed changes that relate to the definition of an incentive project or project that's subject

to the Incentive Zoning requirements. So under current zoning the uses that are included for projects that fall under this Ordinance are office, retail, and non-commercial research facilities. The proposed zoning retains those uses and adds the uses that Carl just described, including hotel, motel, university uses, healthcare, and social service, those are categories of institutional use. Some have asked, well, what categories have not been included? And the simple answer is religious and religious and public uses including public educational uses. Those are not included in this proposal.

Industrial uses are added, and radio and TV which is a use, that's kind of off by itself for some reason, but is characteristically, if there were such a

thing, would be similar to the other commercial uses that are included.

In terms of the size of the project that that 30,000 square foot threshold is retained, but as was noted, rather than having projects trigger this requirement only when they seek a Special Permit to increase the intensity of the use, there is no Special Permit requirement. It applies to all projects that trigger that threshold in containing those uses.

So that's the changes to the -- what constitutes an incentive project.

This next screen has to do with how the requirements are calculated. That comes further down in the petition. The way the calculation is made is still based on the square footage of the total project. The first -- in the current zoning the first 2500

square feet is deducted as we recommended. That's been taken out in the current petition. A provision was added just to note that if an incentive project is created and enlarged at some point in the future, than the enlargement continues to be subject.

The rate was one of the key issues here, and the recommendation of the housing committee following this Nexus study was that an established rate of \$12 per square foot would be instituted. There would continue to be annual and automatic in -- under this proposal, adjustments under the consumer price index, and in addition an increase of one dollar of square foot annually for the next three years. So topping out at \$15 a square foot-ish after CPI adjustment, whatever that would turn out to be, and that, that would be -- and so that would be the

rate after three years.

So the timing, the timing of the payment was clarified. It's clarified in the proposal. The current zoning tells you when you have to pay before taking occupancy, but sometimes -- there had been questions and implementation about how and when it's calculated. We made it clear for convenience sake that it be calculated when the building permit was issued. And then in terms of review and calculation, there's some -- there was discussion about when the next study would occur. The current zoning advises that after three years, it can be, the rate can be reevaluated. We are retaining that and making it clear that a study would be initiated three years after the rate change and that the Council could then act to change it.

And then the last page has to do with some changes that are made further on in the Ordinance where the Incentive Zoning requirements are referred to.

One, in the current zoning there is a housing creation option which says that if a project proponent comes to the Planning Board and seeks a Special Permit, they could provide, actually create housing units and provide those in lieu of the payment. Those of you who have been on the Planning Board a long time know this is not a Special Permit subject granted and we don't think it's ever been applied for. I think the proposal takes a somewhat different approach to trying to effect a similar result, but rather than make the relief or make the provision of units completely discretionary the -- it would be clarified that the Affordable Housing Trust

as the recipient of the funds could use those funds to leverage the creation of affordable units in private development. So it would be more of an, I guess, a business transaction, you might call it between the developer and the Affordable Housing Trust, rather than a discretionary affirmative action to be adjudicated by the Planning Board.

And then the second category of changes have to do with some of the Zoning language pertaining to the use of these Incentive Zoning funds which Chris outlined at the very beginning, and it's really the changes in the language are intended to make it more consistent with what the practice is.

First of all, to establish that the creation of affordable units can apply to low -- to all income ranges from low, moderate, and middle income that was not

entirely clear in the -- it's not entirely clear in the current language. And a note was added that preservation of units with expiring affordability, which Chris mentioned was a major element of the trust work is one of the anticipated uses of funds.

That covers the changes, and we're happy to answer questions about the petition or about the study or anything related.

H. THEODORE COHEN: Tom.

TOM SIENIEWICZ: Really simple question, the square footage you alluded to is FAR square feet, not gross?

JEFF ROBERTS: It is FAR -- well, it's -- that's what we call it. We call it gross floor area in the Zoning. To be very precise, gross floor area is the measure that -- that's used in the Zoning Ordinance to apply FAR controls and other controls.

I should mention one -- I stepped away before I promised I would wrap this up with a review of the Ordinance Committee hearing per last week. So just as a summary, the Ordinance Committee heard this. There was much discussion. They voted to move the petition to the full Council with a favorable recommendation. But there were a few points that the Ordinance Committee added to their motion that would be sent to the full Council and then referred for comment by staff, and those include some clarification on one point in the proposed language which says that it applies to new construction and substantial rehabilitation, substantially rehabilitated development I should say. And there were some question about well, what exactly does that mean? And I think there was certainly interest in substantially repurposed

buildings being also included in this regulation, and we would look to provide more clarification to those -- what those projects are.

Another point was whether the housing -- whether the rate increase of one dollar per year could continue indefinitely until the Nexus study was completed and then brought back before the Board? And that will be discussed.

And the third point was to -- I'm forgetting.

CHRIS COTTER: Low income housing.

JEFF ROBERTS: Oh, yes, the third point was whether there should be restriction placed on how much of the funding that received through the Incentive Zoning could be used towards middle income housing programs and so that's a question I'm sure

will be discussed by the trust I imagine.

So that's just wrapping up what happened at the Ordinance Committee. And that report will go to the City Council, the summary meeting.

H. THEODORE COHEN: Hugh.

HUGH RUSSELL: So Tom asked my question, but I now want to make a -- we're architects, you know, somebody's going to ask us to calculate what the rules are.

The -- in the 521 CMR, the accessibility regulations of the Commonwealth, there's a standard for when full compliance of the ordinance is triggered, which I believe is 30 percent of the assessed valuation. Now if you're taking a property that's not assessed very highly, you're doing a lot of work. You go for that trigger quickly. I mean, I think it's sort

of common sense. Do you really want somebody who's putting in a lot of money into something to comply with accessibility but you also want to collect from them the sort of increase of intensity of the use that is as a result of the renovation project.

And I would just comment that as an architect, sometimes I do conversion of one, like a factory building to housing and the factory buildings actually have negative value. Several times we've had simultaneous projects, same owner, same contractor, one's a rehab, one's new construction, the interior design standards are similar, and the rehab project is more expensive. So -- by 10 or 20 percent. I've had that experience recently so I don't know what the percentage is this year. So if you're thinking about that question, you might follow the -- where the

accessibility law works because it seems to be fair and reasonable.

STEVEN COHEN: I -- just one technical question, Jeff, on the uses covered. Are there any non-residential uses not covered other than religious and public?

JEFF ROBERTS: Those are the major categories of use that are not covered. And I think those, I think those are all of them.

CARL SEIDMAN: There are some minor uses that don't have employment impacts like cellphone towers and stuff like -- any use that would generate significant employment is really what we tried to catch.

JEFF ROBERTS: I think there may be parking garages and bus stations.

CARL SEIDMAN: Right.

H. THEODORE COHEN: Jeff, the question I have is that with regard to the

CPI, while it is not all that likely it will occur, it is feasible that the CPI would go down, and this does not take into -- this indicates there ought to be an automatic adjustment based on CPI. Most leases and other contracts that rely on the CPI provide that it will, you know, when an adjustment is made, it never goes below what it currently is, but can only go up. That's not in -- that's not how it's written here. And I was wondering if there was a reason why.

JEFF ROBERTS: Well, the intent in the proposal was to make the CPI adjustments automatic which means that would be an administrative action to make the adjustment. And just as an administrative action, it would have to be whatever the change is, whatever the change is. And we'll certainly -- we can certainly explore whether

we can add additional, you know -- we probably would need to consult with the legal department to see if we can change, add a floor.

H. THEODORE COHEN: It still seems to be -- it would still be administrative, but in the event the CPI were to go down, there wouldn't be this action. It would only be when it went up, then it would automatically go up by the amount of CPI. So yes, I think it would be worthwhile checking with the City Solicitor's office whether it could be worded that way.

HUGH RUSSELL: And then next year, the CPI would have to get back to where it was?

H. THEODORE COHEN: No, no. It's -- this is pretty standard. You know, every lease does it. You know, it's just pretty

standard that it can only go up and that's just the way it is.

STEVEN COHEN: You know sometimes you compare to the previous year and sometimes you're comparing to a base year.

H. THEODORE COHEN: Right.

STEVEN COHEN: And if you're comparing to a base year, then it actually has to sort of catch up again for it --

H. THEODORE COHEN: Right, right. If this is going to be automatic. If it goes up.

STEVEN COHEN: Still year over year.

H. THEODORE COHEN: Right.

STEVEN COHEN: It's how you draft these things.

H. THEODORE COHEN: Right.

THACHER TIFFANY: Can I ask a question?

H. THEODORE COHEN: Yes.

THACHER TIFFANY: Quickly, did you consider at all using an index that was maybe more relevant to housing production costs? I don't know if they exist. But, you know, the CPI I think recently has moved a lot more slowly than cost of construction around here.

CHRIS COTTER: The index that we use is the CPI Housing Index of Greater Boston, it is the best index that we found. It is, you know, it's not a perfect measure but it's the one that we found is the best representation of the change over time, but -- we're certainly better to know better indices. And the indices, we want to rely on something that was going to be there. And the CPI Index that we found has been there reliably for many years that we've made the adjustment.

STEVEN COHEN: Is it based on the cost of production or prices for sale?

CHRIS COTTER: I think housing prices more -- housing costs in the Boston area more specifically.

STEVEN COHEN: Cost of production?

CHRIS COTTER: Consumer prices for housing.

STEVEN COHEN: I see. It's a combination of rents and --

CHRIS COTTER: That's right.

STEVEN COHEN: -- and purchase costs?

H. THEODORE COHEN: I will mention that actually the Ordinance itself or the proposed adjustment just says the Consumer Price Index, and maybe if we're going to use the particular, you know, Boston Metropolitan Area Housing Index, it ought to state that

rather than just leave it.

CHRIS COTTER: Sure, we can clarify that.

H. THEODORE COHEN: For someone to claim they can use a different adjustment.

LOUIS J. BACCI, JR.: I've got a couple of quick ones.

First of all, what's the balance of the trust fund now roughly?

CHRIS COTTER: Well, the -- in the incentive fund it's not a significant balance. It may be several hundred thousand dollars as those funds tend to be accounted for separately. The most significant funds the trust receives are the CPA funds. I think the allocation this year is about \$10 million. So this is -- these changes could put the incentive into the same range of resources as CPA, but certainly I think we'd

still expect CPA to be the most significant source that the trust receive with the assumption of the 80 percent allocation.

LOUIS J. BACCI, JR.: And the other thing, this was based on jobs created? And I didn't see any numbers on what those jobs created for income. Curious how that works in this.

CARL SEIDMAN: Right. So what we did was sort of a three steps:

One, the projection of uses, so --

JAMES WILLIAMSON: Can you push the button, Carl, please? Thanks.

CARL SEIDMAN: So first, we projected uses; how much would be use office versus retail, you know, etcetera.

And then within an office use we made some estimates of industry. How much of it would be computers? How much of it would be

biotech? How much of it would be financial institutions and the like?

And then for industries, the Bureau of Labor Statistics produces an occupations matrix of occupations for that industry and wages, you know, annual wages for those industries. So, you know, for estimated jobs in biotech which the actual industry coded is scientific, research, and development. We took the occupational distribution and the actual wage for that occupation to sort of assign an income level for that job. So that's how we ended up predicting the income level for each job. And then we had to look at the housing, you know, is that a single person, a single wage earner household, or dual wage earner household? We looked at Metropolitan data for the distribution of households by the number of earners to try to

figure out, you know, what the household distribution would be and then applied that to the occupational.

LOUIS J. BACCI, JR.: So my question at the end of that, so what percentage of the people that are getting jobs created in Cambridge can afford to live here on their own?

CARL SEIDMAN: Yeah, well, you know, it varies a lot by industry.

LOUIS J. BACCI, JR.: I understand. Subsidizing or --

CARL SEIDMAN: Right.

LOUIS J. BACCI, JR.: -- incentivizing this?

CARL SEIDMAN: The biotech jobs do not produce a large percentage of people who are at a low income or a moderate income, right? So there are some, you know, there

are some, you know, janitors and lab technicians and stuff like that, but it's restaurants. I mean, the biggest actual industry that produces, you know, a high percentage of workers who meet the low income threshold is certainly restaurants. That would -- you know, it does -- I don't remember all of the figures off the top of my head.

LOUIS J. BACCI, JR.: I'm trying to figure out where we are.

CARL SEIDMAN: It does vary quite a bit across industries.

STEVEN COHEN: If I could just address what I think Lou's question or concern is a little bit, and forgive me, I think the \$12 or \$15 number's a good number, but I think it's totally arbitrary, because I think there's two things going on here. I

mean, we have this legal requirement, the Supreme Court, and the U.S. Constitution says that there has to be a nexus between fees imposed by municipalities for a project and costs incurred or imposed on municipalities by that project. So, you know, from my perspective, and perhaps your perspective as well, this is primarily to satisfy that legal and Constitutional requirement. You know, from a planning and political perspective, we simply want to generate as much fee income as market conditions will allow and irrespective of the analysis. And I think at the end of the day it's almost just a gut judgment about how far we can push this thing.

CARL SEIDMAN: It's not scientific. There's a lot of judgment involved. I would agree with that.

H. THEODORE COHEN: All right,

anyone else have any other questions?

MARY FLYNN: I have one. Under the institutional uses what the thinking was adding the social service agencies? It seems to me they're trying to accomplish something that's good for the public, too, so if you could just --

CARL SEIDMAN: Right. Well, you know, once again, that sort of -- it's sort of a policy decision on the City's point of view. You know, from an impact point of view if you build a new hospital or you build a new social service center and you are adding jobs, those people will need housing. So it, you know, from an impact point of view, it seems, you know, consistent to include them.

MARY FLYNN: Okay.

CARL SEIDMAN: But, you know, it is a policy decision on the part of the City as

to non-profit versus for-profit. The one caution or the one concern I would have is, you know, the big institutional development is non-profit as well. So one could argue if you are excluding social service agencies because they have a social mission, well, don't. The large educational institutions as well, so in that sense they also seem to sort of be more consistent in how we're treating institutional uses.

MARY FLYNN: Thank you.

H. THEODORE COHEN: Hugh, you had a question?

HUGH RUSSELL: As I understood the presentation, the amount of money that was being proposed as a fee was less than the amount of money that could be justified by the study.

STEVEN COHEN: That's what he said.

HUGH RUSSELL: About half.

And that in the study showed need for low income housing and moderate income housing, and so I'm wondering -- well, the decision is to what projects to support for the Affordable Housing Trust and not with us, but if there's only enough money to go for the low, does that mean the moderate income doesn't get supported? We're seeing increasing problems. So this is really --

CATHERINE PRESTON CONNOLLY: You mean the middle income because low and moderate are the two that could be subsidized by other programs. It's middle that's an issue.

HUGH RUSSELL: I'm not sure that's -- I'd like a clarification.

CHRIS COTTER: Just to clarify. So the assumptions in the study assumed that the

housing needed for low and moderate income households, what we would typically be under 80 percent of median did assume that there would be funds leveraged from other sources.

The middle income households that were included in the analysis are the households that are between 80 and 100 percent of median. There's no assumption that there will be subsidy effort to leverage city source and the other source they're not, certainly as many sources that are available to leverage middle income housing at this time.

STEVEN COHEN: So when you say there's no other funds to leverage, are you saying that more of the funds for the trust would be devoted to it, to middle income since there was, since there are no other sources?

CHRIS COTTER: No, I think -- we talked about this with the trust and heard from them a desire to maintain flexibility in terms of how the funds are allocated. And I think given the trust's mission with its long history of funding low, moderate income housing, I would be very surprised if that had any impact. I think the mentality of the trust has been to maintain and expand what's happening for low and moderate income households, but then to look to do middle income housing where it makes sense. So one of the things that we talk about with the trust is being flexible to be able to capitalize an opportunity. So if there were a scenario where we could create middle income units in a reasonable way with leverage, you know, from a private source, we would look at that. But one of the big

considerations that we look at financially with a request of the trust is the leverage and that would be much better certainly in the low and moderate income requests that we will see because we will be leveraging income from state, federal, and other private sources.

STEVEN COHEN: Can I follow up on the middle income? This is a matter of some discussion and then confusion or really ignorance on our part. On the one hand, you know, we believe intuitively that there's a significant portion of the population who would fall into precisely, but by definition they're going to fall into that middle ground of 80 to 120 percent and they would have difficulty finding housing in Cambridge. On the other hand, we speculated do they stay in Cambridge or do they go on to greener,

cheaper pastures in surrounding municipalities? So I don't know if you've done any study on this. To what extent do these folks actually exist and is there actually demand for housing in that category?

CHRIS COTTER: That's a really good question and there's not a -- an easy answer that sheds a lot of light, but I can tell you what we've learned from our experience in serving low, moderate, and middle income housing, we do have a fair amount of experience serving low moderate households ownership, less so in rental. But what we found is that middle income households are more likely to look at choices that they have, and they do have more choices. So our experience is with the middle income household where the top priority is being in Cambridge, they will participate in our

programs. And then if it is a lower priority to be in Cambridge, then they will look to go to another community. They've got the choices there. So it's not a clear line where it is the length between the gap in the market and the demand. There's certainly more of a gap in the market for middle income households now. It does not translate in the same way to demand in the same way that it does for low and moderate income in our experience to this point. We will learn more about it. We're about to begin marketing the middle income units in the Alexandria development units in East Cambridge. With that data in the several months to get more information. As I said, most of the data that we have directly based upon our own marketing is from homeownership. I can tell you anecdotally we've been looking at

applications for a middle income home ownership unit with two bedrooms. We've got about 20 applications. I think we've had five buyers pass on it so far. We don't typically see that level of buyers passing in the low and moderate income range because, again, they don't have as many options that this is presented. That is a very good option, you kind of jump at it when it's offered. Middle income households maybe looking the -- a wider range of choices.

STEVEN COHEN: That's a really important issue for us especially as we look at inclusionary zoning proposals in the months to come. So if you could somehow report back to us from time to time with what you learn with the Alexandria experience and --

CHRIS COTTER: Yeah, happy to come

back and talk.

STEVEN COHEN: -- where that demand is if --

CHRIS COTTER: Yeah, we're kind of divided. We think there might be more demand for rental housing in that range because it is more flexible. And it certainly comes with some requirements about annual recertifications, but for a lot of households the jump to home ownership is a one time jump and don't take at that leap likely.

LOUIS J. BACCI, JR.: Just looking at this, this seems to accelerate the loss of our middle income people in Cambridge. It doesn't seem any help for that area at all. It's accelerating the loss of these people. At what rate? I think greatly. It's -- I don't know inclusion? Exclusive?

HUGH RUSSELL: So I'm doing a

project now for one client I've been working with for about 30 years, and we're both kind of over the hill and we sit around and talk about stuff. And so I ask him these questions about low and moderate. He owns -- his company owns about 30 units of housing on the eastern seaboard, and a few of those developments date back to the 1980s in Massachusetts when low income and moderate -- or low, middle, and market were mixed in the same development. He's a very strong supporter of that kind of a mix, and it's because of the -- what happens to the individual tenants. If you have a tenant who starts earning too much money, if you've got a middle income slot in your building, they don't have to move out of your building. They don't have to leave their home. And of course the reverse may happen. Someone who

is in a middle income unit, their situation may change, and they can then move down into a greater level of subsidy, and that somehow -- that process works fairly well. So, you know, it's an unusual comment from a developer, but he's really looking saying I'm providing housing for people after we look at what their needs are, and my job is to meet people's needs. Yes, I'm going to take a percentage of the money that passes through my hands, but that to me is one of the strongest arguments for mixing some amount of middle income into a lot of the projects that have lower income. I don't know what the right proportion is. It's the facts of each project. You're looking at a project by project basis, looking at how to -- how can you leverage, maybe get the best outcome for the people who need to be served. And I

guess we're feeling like because of the run-up of the market rate, there are fewer and fewer options where people in the middle income.

STEVEN COHEN: Yes, exactly.

H. THEODORE COHEN: All right, this is a public hearing so why don't we hear from the public at this point.

I don't know if there's a sign-up sheet.

JAMES WILLIAMSON: There is and Nancy Ryan is the first person to speak.

H. THEODORE COHEN: Do you want to bring me the sign-up sheet?

JAMES WILLIAMSON: I'll let staff do it.

H. THEODORE COHEN: Ms. Ryan.

NANCY RYAN: Nancy Ryan, R-y-a-n, Four Ashburton Place in Central Square. I'm

speaking for the Cambridge Residence Alliance and we strongly support increasing the amount of commercial development --

We do support the increases and the increases both in amount and in the types and sizes of developments required to pay the fee. Since we all have, we all know this is a really important source of affordable housing money, a demand for a substantial increase has been in our platform for two and a half years. We're disappointed it's taken this long given the amount of affordable housing money that could have benefitted the city. I'm assuming the Planning Board members are aware that this increase, this \$4.58 could have been increased every three years since 2002. So we've left four increases on the table. So that I think is a little bit of a context for looking at the

raise that we might be looking at now. It's our fault collectively that we have not raised this consistently as the demand has gotten crazy. So we desperately need a major increase, and we see that the Nexus study says that the demand could be \$24.30. We don't think that \$12 a square foot is sufficient. We don't have a number, but we'd like you all to think about recommending it be higher.

We will also very much like to see the one dollar per year increase until there is a normal next study. So -- as opposed to just doing it for three years. The current proposal seems to be that we start a study after the third year, and that means we could be into the fourth or fifth year of this increase before a next assessment is made. Studies take a long time. They're expensive.

So we would like to see the one dollar increase. Someone mentioned continue until a new rate is recommended. And the City Council did seem to feel, as was reported, comfortable with these suggestions.

We would like to see a specific percentage of the linkage funds be used for middle income households, not just a general let's kind of put it in the mix. Although I'm sure the Affordable Housing Trust has always prioritized low and moderate income housing. We would like to see some kind of percentage of middle income, perhaps put in as a guideline or requirement depending on what you all and the Council decides.

We do support the substantial rehabilitation clause. We think it's really important. We're looking at right now, you know, 295 Harvard Street where 110 households

have been thrown out into the street. We don't know what that rehab is gonna look like. But it potentially could be a condo conversion or it could be a high end rehab. And so you would expect that's a contemporary example of where we think the rehab clause is really important.

So that's it. Thank you for listening and thank you for your work on this.

H. THEODORE COHEN: Thank you.

CATHERINE PRESTON CONNOLLY: Before we move on from that, can I just get a clarification, Chris or Jeff, that the examples cited it was a residential rehab, would that -- the linkage fee would not apply to residential rehab?

NANCY RYAN: You're right. That was extemporaneous.

CATHERINE PRESTON CONNOLLY: Okay.

Thank you, I just wanted to clarify that.

H. THEODORE COHEN: James.

JAMES WILLIAMSON: Thanks. James Williamson, 1000 Jackson Place. I would like to first of all thank Professor Seidman from MIT for helping me to understand this 93 -- very dense, 93-page report. I remember Gerald Kayden who is professor of real estate and other things, graduate school of design, its Nexus study was a bit shorter. And I'm kind of curious, it seems like there's a bit of different methodology here that was used in Gerald Kayden's, but I'm not sure. That's not something that you're necessarily going to be asked to talk about. But I'm interested in the methodology here.

Maybe it went from Harvard to MIT and MIT's investment arm has been making more money than Harvard. We're better off with

somebody from MIT. Nothing here addresses this is a different take on something that Nancy Ryan just spoke to, which is that nothing here addresses this enormous gap that's existed since the last time this rate was raised. This is a going forward look on this. So what do we do about the impact in our city that's already -- all the displacement that's already taken place over that roughly ten-year period or maybe even more than a ten-year period?

So what do we do about that? And that to me is an argument that is foregoing for a higher number than the number that's been proposed. Maybe not up to the \$24.30 number. Maybe to the \$20 number. Maybe to a \$15 number, but I think certainly not to \$12, and I'm not sure what the rationale is if it's entirely subjective. Why 12? Why the not

15? And why not dare to go as high as 20?

I think that the argument that's presented, the risk there has to do with competitive, you know, there's competitive issues. And I'd like to say to that that I'm not sure that that's necessarily such a bad thing. I mean, there's been tremendous amount of concern, complaining in the city over the pace of development, that it's out of control. And if it were a disincentive to some degree, to some modest degree, and the intensity of development, that might not be a bad thing. Kind of like a Tobin tax.

(Inaudible). Slowing them down a little bit but still garnering funds for activity. We shouldn't be getting all of or money for affordable housing from activity for increasing in development in my opinion. And we also shouldn't be engaged in big

(inaudible) neighbor. I take a bus home every night down Beacon Street and it rattles the bones of everybody on the bus. It's over on the other side of the line in Somerville and they don't have the money to pay to get their roads fixed and they -- Cambridge is in a position doesn't want to help. But people who live in Cambridge suffer from that lack of repair. So maybe a little bit of extra money for our neighbor wouldn't be such a bad thing.

And I would like to just second what was said about if, you know, either starting the study sooner or having it be an automatic increase while another study is entertained, and be engaged, and the middle income issue I would support, too, there ought to be -- I understand mix income is positive attributes, you know, the arguments for that, but I think

there ought to be some boundaries around the middle income piece.

Thanks.

H. THEODORE COHEN: Thank you.

Anyone else wish to speak?

JOHN HAWKINSON: John Hawkinson, Mass. Ave. Just a brief technical note. Earlier I heard the Board recommend changing the language on the Consumer Price Index to be more specific as to the pick index, and both the current Zoning as well as the proposed amendment say annually based on the CPI or a similar standard. And I would suggest leaving staff flexibility to choose that standard as the wise approach. It's worked for us, why change it?

H. THEODORE COHEN: Well, that language by the similar standard is also typically used in every lease or contract

because it's also theoretically possible that the CPI will not be published at some time in the future. So it's intended as an alternative in the event the CPI ceases to exist. But I think it makes sense, you know, as Thacher pointed out to pick the most realistic and appropriate index and specify that with the option that it could be changed in the event it was necessary.

JOHN HAWKINSON: So retaining or similar?

H. THEODORE COHEN: Yes.

JOHN HAWKINSON: Thank you.

H. THEODORE COHEN: Yes, please.

SUSAN SCHLESINGER: My name is Susan Schlesinger, S-c-h-l-e-s-i-n-g-e-r. And I live at 34 Glenwood Ave. in Cambridge and I'm a member of the Affordable Housing Trust as well as Community Preservation Act Board.

And I just wanted to talk a little bit more in general about the trust, what we're thinking about with regards to middle income housing, and some of the other issues that I think you very thoughtfully raised tonight.

I think we all understand here that affordable housing and the lack of it is really changing our community. It's a crisis. We have long waiting lists. The cost to develop housing here are among the highest in the state at a time where federal and state resources are not -- federal resources have gone dramatically down. State resources have stayed steady, but certainly aren't ramping up to meet the need that we see in Cambridge.

So the Incentive Zoning increase and the Incentive Zoning increases that are covered are really critical pieces of what is

a larger toolbox to try to stabilize the affordable housing crisis in Cambridge. And one of the things that we've talked a lot about is this issue of middle income housing. And we looked at the reports that the Community Development Department produced a year or so ago on poverty and changes in population, particularly changes since rent control. Not saying they're all based on rent control, because we see these trends of losing middle income population throughout the United States in cities that are relatively growing cities. And I think it's very challenging. And that's one of the reasons why I would argue about the flexibility of the use of this, of the funds that are generated by Incentive Zoning. We don't have a middle income program that we can plug this money into. We're doing the

right thing, I think, which is experimenting. We're trying to see what is the demand in units? Can we buy down units from developers who are already producing them? Is there a way to incent more mixed income housing that includes a middle tier? We just don't know that. And I think, you know, I think we need the flexibility and the trust and the experience that we're gonna gain in order to have a clearer programmatic response.

The staff and many of us who are in the field in our day jobs are trying to look around the country and see examples. You see New York City trying to do some of this work, but it's really an unsolved problem for a whole variety of reasons.

We see the population being hollowed out from 50 percent up to 120 percent, probably primarily in the 50 to 100 percent

range. And we see more wealthy people in the city the very low income people are pretty well stable here because we have a lot of built-in-place public housing and affordable housing. So we're really struggling with these issues at the trust. And one of the things we'd like to do, and I think is being planned, is to have a session with the Planning Board to talk just talk through in more detail how we're thinking about affordable housing now going forward, what are the options that we're looking at, what ideas do people have?

The other parts of the toolbox that you're gonna be seeing are Inclusionary Zoning. Cambridge probably has the most effective Inclusionary Zoning Ordinance in the country I would say. There are about 800 units either that have been built or in the

pipeline. That's 100 units that were created because of Zoning and do not have any public subsidy in them. So if you think about a subsidy number of \$200,000 per unit, you can do the math. I was just trying to figure out to do the math, but it's a lot, 160 million maybe. You know, it's a lot of money. So that's another tool, inclusionary housing is very important. And a fresh look at that is very important. And to try to think about what the middle income tier is in that versus a low and moderate tier is something that we're very interested in.

And finally we're beginning to look at and the staff here is looking at what does affordable housing overlay, what would that look like in the city? Is that something that can be done? Does it produce affordable housing? What are the pros and cons of it?

So those -- this is not a one-dimensional issue, nor is any one response the only response to it, but I would argue that the Incentive Zoning Ordinance is an important one and it's an important first step. The trust did recommend \$12 with the dollar per year increase to it and we're happy that Council accepted that. We are not particularly -- we're pretty single minded in terms we want to create more money for affordable housing. We're not looking to slow down or pick up development. We're really, you know, not trying to impact the pace of development. And I feel strongly -- you know, what happens is the history of is there was another effort to increase the affordable housing -- the Incentive Zoning rate and the Council didn't forward it. So it's, you know, not like nothing ever

happened in terms of effort.

So I want to thank you for the time and all of the thoughtfulness that you put not only into this but other efforts that you had to do in affordable housing and the projects you see in front of you. And the trust looks forward to having some less dialogue on these issues.

H. THEODORE COHEN: That would be great. Thank you.

Is there anyone else who wishes to speak?

Heather.

HEATHER HOFFMAN: Hello. Heather Hoffman, 213 Hurley Street and I wasn't gonna speak because my main message was gonna be yes, you should recommend this. But then I started thinking about affordable housing and the way that the City. As you all know my

opinion on this, the City is not enforcing the existing Inclusionary Zoning Ordinance, and so it is making things worse. By not enforcing existing law, letting units that should be affordable be market rate. And I hope that your recommendation could at least include something in that regard. I understand that you think that this is not on your plate, but with this it is, because part of this is about how to make more, more affordable units. And what people were saying about the need for middle income housing. I can tell you that from people I know, they want to say in Cambridge and there isn't a place they can afford. And these are people who can afford way more than I can. And I'm just lucky that I'm old and I bought a house. And I understand that. So having, as someone said, having the City hollowed out

is not good for anybody. And having developments that where if you make a little more money, you become homeless essentially is not good for the city. And having the housing developments going up all over the city where they're expecting people to stay a year, maybe two years, is not good for the city. I imagine that in those buildings the affordable units are the ones that will have people who don't, who don't move out after a year or two years. And these are people who are really important to the city.

So I will get back to my initial message. Yes, this is -- this is a good step and we should do it.

Thanks.

H. THEODORE COHEN: Thank you.

Is there anyone else who wishes to speak?

(No Response.)

H. THEODORE COHEN: All right, if not, then we'll go back to our discussion.

Jeff, I had a question. The reference with regard to institutional picks up the same language from Zoning Ordinance which are college and universities which are not exempt by statute. What does that include and what does that exclude?

JEFF ROBERTS: That is an excellent question. It is a funny sort of turn of phrases in the Zoning Ordinance and it relates to -- it actually is something that you have to trace through the Ordinance to understand what it means. So we have a, the Zoning, the Use Table in the Zoning Ordinance has a listing of uses. There's also a separate listing which is related to that which is a listing of institutional uses.

And if, if you look at that one line item in the Zoning Ordinance, it tracks to a more detailed listing of uses, particularly educational uses which are separated into use of -- and I'm reading from the Zoning Ordinance, use of lands or structure of educational purposes on land owned or leased by the Commonwealth or any of its agencies, subdivisions, body politics. And then use of land or structure for educational purpose only and only if owner not included in the section I just read. And within that there are -- and these are the uses that are, that are tracked by that one phrase in the proposed zoning:

College or university, athletic facility, auditorium, theatre or similar facility. Any of which is customarily accessible to the general public paid

admission fee or other basis.

College or university laboratory or research facility, customarily involving radioactive materials, other controlled substance, electromagnetic radiation or chemical or biological process essentially. Danger to public health and safety. And then other college and university facility, but it's -- but that is separate from the dormitories. So it's a sure way of saying that is meant to include college and university facilities but excluding dormitories.

H. THEODORE COHEN: I'm not sure -- so what wouldn't be covered by the Inclusionary Zoning fee would be dormitories?

JEFF ROBERTS: Dormitories wouldn't be covered among the private institutions.

Also no -- primary secondary schools

would not be included, and any public educational institution, which we don't have public higher ed in the City of Cambridge, but if we did, that would also not be included.

H. THEODORE COHEN: So what MIT is talking about in Kendall Square, there are five or six buildings, they would all be subject to this?

JEFF ROBERTS: Well, those are proposed commercial buildings.

H. THEODORE COHEN: They're commercial buildings.

JEFF ROBERTS: So they certainly would. Some of the uses I think within them are institutional uses which also would be covered. They are proposing a dormitory which would not be included.

H. THEODORE COHEN: Right.

STEVEN COHEN: So other than dormitory, are there any institutional uses that are not included?

JEFF ROBERTS: There are in -- so primary -- preschool, primary school, secondary. So elementary and high school are not included.

STEVEN COHEN: Oh, just private?

JEFF ROBERTS: Private.

STEVEN COHEN: Private as well?

CATHERINE PRESTON CONNOLLY:

Private.

STEVEN COHEN: Okay.

JEFF ROBERTS: And then no public educational uses.

STEVEN COHEN: And the distinction -- I don't know if it's relevant in Cambridge, the distinction between facilities owned by land by a public entity

is that probably makes a difference, it's probably a public institution?

JEFF ROBERTS: It's -- I tend to not go too deep. It's very precise because Cambridge's Zoning Ordinance, unlike many other Zoning Ordinances, is based on special legislation that allows the City to regulate, generally under the Zoning Act cannot so that's why the language is very precise.

H. THEODORE COHEN: Okay.

So most of their facilities would be covered with the exception of dormitories?

JEFF ROBERTS: Yes. Private institute. Private college and university facilities. And it's college and university, not other education.

H. THEODORE COHEN: Right, right.

JEFF ROBERTS: But college level.

H. THEODORE COHEN: All right.

Other comments?

HUGH RUSSELL: So I wonder how we would substitute our judgment on the percentages and the schedules for the recommendation of the trust or the City Council who -- the City Council has the -- get the deal that is best for the city. Do we have an opinion whether they've got the best deal or not? I don't think so.

STEVEN COHEN: Well, you know, in large measure it's a political judgment. I really, I really think the analysis that we heard is really interesting. I'd love to read it in more detail, but I still think that that analysis was primarily to show that there's some rational basis for supporting this. There are so many assumptions that have to be made and to go through that analysis that it's not that meaningful. So I

just come back to the political judgment and the common sense judgments of how far can you go here without killing the golden goose.

H. THEODORE COHEN: Right.

STEVEN COHEN: And I have no question in my mind that I mean that, you know, 12 doesn't kill the goose. I don't think 15 kills the goose. I guess at some point you're going to kill the goose, but I don't know where it is. I'm -- so I mean I would be happy to defer also simply because there's some degree of arbitrariness and why impose our arbitrary judgments ahead of, you know, the Council's arbitrary judgment.

H. THEODORE COHEN: I would agree with that. I mean I don't see that I can pick a number, but I think, you know, I would be happy saying that, you know, we would recommend an increase to something not less

than \$12. And that if in their political wisdom they thought 15 was a better number or 20 was a better number and that they could justify it based upon the Nexus study, then, you know, that's their decision.

I would also, I personally would say I see no reason why the dollar increase stops after three years, awaiting another study rather than continuing, you know, until such time a further study is done and, you know, suggest something different.

STEVEN COHEN: Can I ask a question again? Why, why is there talk about another study? As if, as if this study is really telling us something meaningful about the political judgment that has to be made here? I mean, is there some Constitutional thing that says we have to approve this Nexus every three years?

FROM THE AUDIENCE: Yes.

STEVEN COHEN: I'm getting a yes?

H. THEODORE COHEN: I think, I don't know that it's three years.

CATHERINE PRESTON CONNOLLY: Yes, it does have to be updated to reflect the actual market.

JOHN HAWKINSON: When you want to change the rate.

CATHERINE PRESTON CONNOLLY: Not every three years, but regularly.

H. THEODORE COHEN: Regularly, yes.

CATHERINE PRESTON CONNOLLY: And I guess I would say as to the dollar increase, I'm fine with it increasing until the next Nexus study is done or until we reach the \$24 that the study justifies. I think going above that is problematic.

STEVEN COHEN: Simply because it's

legally problematic?

CATHERINE PRESTON CONNOLLY:

Exactly. And obviously the intent here is to have a study well before we would get to that number, but I do think if we're going to have it be essentially in perpetuity, we have to say until it reaches that level. Because at that point we have reached the limits of what we can justify legally without a new study.

STEVEN COHEN: Let me make another comment which is, you know, so where would the impact -- I mean, you suggested well maybe they'll charge more rent? I think every landlord charges just as much rent as the market will bear, and that may or may not be a function of his costs. You're saying with those who sell. But I imagine, you know, as you raise this number, it will affect the price of land primarily, but

that's not our problem. And so I think it would be appropriate at some point to hear from the developers, the landlords, just to see what they say. But, again, at the 12 to 15 dollar range, if that's what we're talking about, I honestly relative to the cost of development, it's such a modest number that I'm not concerned about killing the goose. Principally it would be appropriate to hear from them. Maybe they could testify.

H. THEODORE COHEN: It's a public hearing, they could have showed up.

STEVEN COHEN: Exactly.

H. THEODORE COHEN: There's nobody here who wants to speak in opposition to it. So that's -- they've had an opportunity at the Ordinance Committee and they have an opportunity here and they'll have an opportunity at City Council if they want to

show up.

STEVEN COHEN: As an amount of fairness if they want to show up, you're right. Informing ourselves and making sure that we know what we're doing it would be nice. But, again, in the 12 to 15 dollar range I don't have that concern.

H. THEODORE COHEN: All right, can we move on? It's almost eleven o'clock at night.

TOM SIENIEWICZ: There are four things in front of us, right?

Expanding the uses. I think that makes use.

The category of uses that's subjective to.

Removing a Special Permit trigger, which I'm reluctant to give up that power. I think it also makes sense to administer the

standpoint.

The dollar thing is a political thing, I think, based on the Nexus judgment. I don't feel like I have that -- any methodology or rationale to tamper with that number.

And the CPI we tore that apart. Thank you for bringing that perspective.

STEVEN COHEN: So what's before us?

H. THEODORE COHEN: We have to make a recommendation for this petition. And, you know, I think we can make that recommendation. I think, you know, our recommendation includes some question about whether \$12 is the right number, and it shouldn't be any less than that. That there should be a question about whether they can make it so the CPI cannot go down, would not go down based upon that.

That the dollar incentive increase should continue until there is a Nexus study or until it reaches the limit that's justified by the existing Nexus study.

And that the other provisions in the proposed amendment do make sense and are recommended.

HUGH RUSSELL: So moved.

STEVEN COHEN: Yes, second.

H. THEODORE COHEN: Second?

And any further discussion?

(No Response.)

H. THEODORE COHEN: All those in favor?

(Show of hands.)

H. THEODORE COHEN: Anybody oppose?

(No Response.)

H. THEODORE COHEN: Thank you so much for coming. It was very informative and

very interesting. And I think we would all relish in meeting with the Affordable Housing Trust to discuss things in general.

JEFF ROBERTS: If you remember from the update, that's August 4th, scheduled for August 4th.

H. THEODORE COHEN: Great.

(Whereupon, at 10:55 p.m., the Planning Board Adjourned.)

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C E R T I F I C A T E**COMMONWEALTH OF MASSACHUSETTS
BRISTOL, SS.**

I, Catherine Lawson Zelinski, a
Certified Shorthand Reporter, the undersigned
Notary Public, certify:

That the hearing herein before set
forth is a true and accurate record of the
proceedings.

IN WITNESS WHEREOF, I have hereunto set
my hand this 7th day of August, 2015.

Catherine L. Zelinski
Notary Public
Certified Shorthand Reporter
License No. 147703

My Commission Expires:
April 29, 2022

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