



BZA-016964-2018 -- 330 Mt. Auburn Street Original Hearing Date: 08/23/18	6
BZA-016981-2018 -- 26 Lowell Street Original Hearing Date: 09/13/18	25
BZA-016783-2018 -- 1 Hancock Street Original Hearing Date: 07/26/18	39
BZA-017011-2018 -- 44 Cogswell Avenue	41
BZA-016957-2018 -- 300 Mt. Auburn Street	59
BZA-017014-2018 -- 1923-1925 Mass. Avenue	79
BZA-017020-2018 -- 426 Putnam Street	86
BZA-017016-2018 -- 175 Holworthy Street	95
BZA-017021-2018 -- 25 Hubbard Avenue	121
BZA-017018-2018 -- 1500 Cambridge Street	132/205
BZA-017013-2018 -- 84 Winthrop Street	175

KeyWordIndex

**PROCEEDINGS**

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(7:00 p.m.)

(Sitting Members: Constantine Alexander, Brendan Sullivan, Janet Green, Jim Monteverde, Laura Wernick.)

CONSTANTINE ALEXANDER: The Chair will call this

Zoning Board of Appeals meeting to order. And as is our custom, we're going to start with continued cases. These are cases that started at an earlier date and for one reason or another were continued until this evening and then we'll get to our regular agenda.

Before I call the continued cases, I'd like to read a statement:

After notifying the Chair, any person may make a video or audio recording of our open sessions or may transmit the meeting through any medium subject to reasonable requirements that the Chair may impose as to the number, placement, and operation of equipment used so as not to interfere with the conduct of the meeting. At the beginning of the meeting the Chair will inform other attendees at that meeting that a recording is being made.

And I wish to advise that there are actually at least two recordings being made. Our stenographer records to assist her when

she prepares the transcript of the meeting. And a citizen of the city has left a tape recorder here, he's recording the meeting as well.

Anyone else planning to record this meeting?

(No Response.)

CONSTANTINE ALEXANDER: Okay. Just we all know who is being recorded.

All right, so you're on record and I will start with the continued cases.

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(7:05 p.m.)

(Sitting Members Case No. BZA-016964-2018: Constantine Alexander, Brendan Sullivan, Janet Green, Jim Monteverde, Laura Wernick.)

CONSTANTINE ALEXANDER: And the first case I'm going to call is case No. 016964, 330 Mount Auburn Street.

Is there anyone here wishing to be heard on this matter?

Good evening.

RYAN LYNCH: Good evening.

ATTORNEY JONATHAN ELDER: I'm Jon Elder with Anderson and Kreiger here on behalf of Cingular wireless PCS, AT&T.

RYAN LYNCH: I'm Ryan Lynch, site contractor for AT&T as well.

CONSTANTINE ALEXANDER: Okay, floor is yours.

ATTORNEY JONATHAN ELDER: So just to summarize, ladies and gentlemen, this is an existing installation at Mount Auburn Hospital, consists of a total of 12 antenna. The proposed modification is a standard nationwide equipment upgrade improving technology, connectivity, etcetera. That affects a total of three of the antenna, that's one in each so-called sector. So one in each of the three sides. It is an in-kind, in terms of size, replacement modification, in addition to some equipment upgrades that are out of view behind the wall. I hope that the photo simulations are self-explanatory.

JANET GREEN: Can I ask you to pull the microphone up to your mouth so that the other people in the room can hear. I'm not sure that --

ATTORNEY JONATHAN ELDER: Is that better?

JANET GREEN: No, it has to be like this close to your mouth.

ATTORNEY JONATHAN ELDER: Like rock star close?

JANET GREEN: Yes.

ATTORNEY JONATHAN ELDER: Sorry. Here we go.

Does everybody have copies of the photo simulations?

CONSTANTINE ALEXANDER: Why don't you give me another one.

ATTORNEY JONATHAN ELDER: I have a spare set.

JANET GREEN: Sorry, you're still not coming through.

ATTORNEY JONATHAN ELDER: I have a spare set here.

JANET GREEN: You can hear it in your own ears.

ATTORNEY JONATHAN ELDER: And so as you may know, the Planning Board has taken review of this on August 21, 2018, and they found it was acceptable and designed appropriately.

CONSTANTINE ALEXANDER: Am I confused with another case? Didn't they have some suggestions, though? About the equipment?

RYAN LYNCH: I don't believe that was the case for this specific one.

CONSTANTINE ALEXANDER: It may be another case.

ATTORNEY JONATHAN ELDER: I think there's another

case at the same location tonight.

CONSTANTINE ALEXANDER: Yeah, there is.

Well, no, there is some -- I mean, I'll read the letter later, but it says the antennas should be aligned to remain below the cornice line, etcetera, etcetera. So they did make those suggestions.

ATTORNEY JONATHAN ELDER: Right. And as the -- they will be because they will be within the existing mounts.

CONSTANTINE ALEXANDER: Okay. But the plans they looked at were they there? Did you change these from what the Planning Board saw?

RYAN LYNCH: This is exactly what they were when the Planning Board reviewed them.

CONSTANTINE ALEXANDER: Okay.

ATTORNEY JONATHAN ELDER: Yeah.

And so we would ask obviously that this be approved and we would ask to the extent there's obviously a written decision that the Board --

JANET GREEN: Now even I can't hear you.



ATTORNEY JONATHAN ELDER: That the Board include if it so agrees, that this project, this modification falls within the jurisdiction of Section 6409.

CONSTANTINE ALEXANDER: That's for you to decide. That's not for us to make a judgment on. Our judgment is you need zoning approval and that's why you're here tonight. Whether it fits within The Spectrum Act, that's a legal matter, that's not a concern of our Board.

ATTORNEY JONATHAN ELDER: Fair enough.

CONSTANTINE ALEXANDER: Pretty straightforward.

Any questions from members of the Board?

JIM MONTEVERDE: No.

LAURA WERNICK: So are there any physical changes, I mean, any visible changes or it will look just the same as it does now?

RYAN LYNCH: Yes, the antennas that we're installing are the exact same dimensions as the ones that we have now.

CONSTANTINE ALEXANDER: That's what you said in your application. Okay.

I'll open this matter up -- any questions from members of the

Board?

JIM MONTEVERDE: No.

CONSTANTINE ALEXANDER: I'll open the matter up to public testimony.

Is there anybody here wishing to be heard on this matter?

(No Response.)

CONSTANTINE ALEXANDER: Apparently not. There is a letter from the Planning Board as you've indicated. Let me get to it. I'll get to it through all of these papers. I think I should read it into the public record. Actually the letter comes from the Community Development Department on behalf of the Planning Board. (Reading) Staff reviewed the installation at the request of the Planning Board and finds the proposal to be acceptable and designed appropriately to minimize the visual impacts of the replacement antennas. The replacement antennas should all be aligned to remain below the cornice line and be the same length and width. The mounting brackets and exposed cables should be minimized behind the antennas and concealed as much as possible. All the finishes should be consistent with the facade behind blending into the background

as much as possible.

And you've represented to us that these photo simulations reflect those comments.

RYAN LYNCH: Correct.

CONSTANTINE ALEXANDER: Okay.

Discussion or ready for a vote?

JIM MONTEVERDE: Ready.

JANET GREEN: I'm ready.

CONSTANTINE ALEXANDER: Okay. This is in a residential district so we have to make a separate finding with regard -- are you familiar with the finding we have to make?

ATTORNEY JONATHAN ELDER: I am not actually.

CONSTANTINE ALEXANDER: Okay. Thought not.

It relates to the fact that residential uses don't predominate in the district or something to that affect. I'm not getting it quite right.  
Yeah.

The Board of Zoning Appeal -- we'll talk about residential district, shall grant a Special Permit to erect such a facility in a residential

zoning district only upon a finding that the nonresidential uses predominate in the vicinity of the proposed facility's location, and that the telecommunication facility is not inconsistent with the character that does prevail in the surrounding neighborhood.

Do you want to speak to that?

ATTORNEY JONATHAN ELDER: Yeah, I think we actually -- I think we did cover that in our application.

CONSTANTINE ALEXANDER: Okay, well, we have a public hearing, though, you should repeat it for the public.

ATTORNEY JONATHAN ELDER: Yes. So I think that the facility does satisfy that requirement.

CONSTANTINE ALEXANDER: Because?

ATTORNEY JONATHAN ELDER: Because it is in an area that is -- where nonresidential uses do predominate.

CONSTANTINE ALEXANDER: Okay. Actually, we have made that same finding before when you got to your first equipment built and there's been no change in the neighborhood, so you can rely upon that.

ATTORNEY JONATHAN ELDER: Okay.

CONSTANTINE ALEXANDER: Okay.

Ready for a vote?

JIM MONTEVERDE: Yeah.

CONSTANTINE ALEXANDER: Okay, we have to make a whole number of findings unfortunately to grant you the Special Permit you're seeking.

First of all, you have to meet the general requirements for a Special Permit under our Ordinance. And let me look through those.

The Chair moves that we make the following findings with regard to the relief being requested:

That the requirements of the Ordinance cannot be met without the relief you're seeking tonight.

That traffic generated or patterns of access or egress will not cause congestion, hazard, or substantial change in established neighborhood character.

That the continued operation of or the development of adjacent uses as permitted in the Ordinance will not be adversely affected

by what is being proposed.

That no nuisance or hazard will be created to the detriment of the health, safety, and/or welfare of the occupant of the proposed use or the citizens of the city.

And generally what is being proposed will not impair the integrity of the district or adjoining district or otherwise derogate from the intent and purpose of this Ordinance.

With regard to all of these items, I would note that we made these findings in connection with earlier relief we granted with regard to putting facilities on this roof, and nothing has changed in the neighborhood or the character of the city. So we can rely on those prior findings.

Further, the Board finds that the modification of this existing telecommunication facility at the site proposed by the petitioner does not substantially change the physical dimensions of the existing wireless tower or base station at such facility within the meaning of Section 6409(a) of The Middle Class Tax Relief and Job Creation Act of 2012 also known as The Spectrum Act.

So based on these findings the Chair moves we grant the

Special Permit subject to the following conditions:

One, that the work proceed in accordance with the plans submitted by the petitioner and initialled by the Chair. And I've initialled the plans that you filed. They haven't changed.

Two, that upon completion of the work the physical appearance and visual impact of the proposed work will be consistent with the photo simulations submitted by the petitioner and initialled by the Chair. I've initialled the ones you gave us.

Three, that the petitioner shall at all times maintain the proposed work so that its physical appearance and visual impact will remain consistent with the photo simulations previously referred to.

Four, that should the petitioner cease to utilize the equipment approved tonight for a continuous period of six months or more, it shall promptly thereafter remove such equipment and restore the building on which it is located to its prior condition and appearance to the extent reasonably practicable.

And last, that the petitioner is in compliance with and will continue to comply with in all respects the conditions imposed by this

Board with regard to previous Special Permits granted to the petitioner with regard to the site in question.

Continuing, inasmuch as the health effects of the transmission of electromagnetic energy waves is a matter of ongoing societal concern and scientific study, the Special Permit is also subject to the following conditions:

A, that the petitioner shall file with the Inspectional Services Department each report it files with the federal authorities regarding electromagnetic waves emissions emanating from all the petitioner's equipment on the site. Each such report shall be filed with the Inspectional Services Department no later than ten business days after the report has been filed with the federal authorities. Failure to timely file any such report with the Inspectional Services Department shall ipso facto terminate the Special Permit granted tonight.

B, that in the event that at any time federal authorities notify the petitioner that its equipment on the site, including but not limited to the Special Permit granted tonight, fails to comply with the requirements of law or governmental regulation, whether with regard to the emissions of



electromagnetic energy waves or otherwise, the petitioner, within ten business days of receipt of such notification of such failure shall file with the Inspectional Services Department a report disclosing in reasonable detail that such failure has occurred and the basis for such claimed failure. The Special Permit granted tonight shall ipso facto terminate if any of the petitioner's federal licenses is or are suspended, revoked, or terminated.

C, that to the extent that a Special Permit is terminated pursuant to what I've just read, the petitioner may apply to this Board for a new Special Permit provided that the public meeting -- that the public notice concerning such application discloses in reasonable detail that the application has been filed because of a termination of a Special Permit pursuant to what I've read before. Any such new application shall not be deemed a repetitive petition and therefore will not be subject to the two-year period during which repetitive petitions may not be filed.

And lastly, that within ten business days after receipt of a building permit for the installation of the equipment subject to this petition, the petitioner shall file with the Inspectional Services Department, a sworn Affidavit of the person in charge of the installation of equipment by the

petitioner with the geographical area that includes Cambridge stating that A, he or she has such responsibility; and B, that the equipment being installed pursuant to the Special Permit we are granting tonight will comply with all federal safety rules and will be situated and maintained in locations with appropriate barricades and other protections such that individuals, including nearby residents and occupants of nearby structures, will be sufficiently protected from excessive radio frequency radiation under federal law.

So on the basis of this, I move that we grant the Special Permit requested subject to the conditions I've just read.

All those in favor please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Special Permit granted.

ATTORNEY JONATHAN ELDER: Thank you very much.

(Alexander, Sullivan, Green, Monteverde, Wernick.)

\* \* \* \* \*

(7:20 p.m.)

(Sitting Members Case No. BZA-016981-2018: Constantine Alexander, Brendan Sullivan, Jim Monteverde, Laura Wernick.)

CONSTANTINE ALEXANDER: The Chair will now call case No. 016981, 26 Lowell Street.

Is there anyone here wishing to be heard on this matter?

ATTORNEY SEAN HOPE: Good evening, Mr. Chairman, members of the Board. For the record, attorney Sean Hope, Hope Legal Law Offices in Cambridge. I'm here tonight on behalf of the petitioners. We have Rebecca and Brian Sparkes.

You want to spell your name for the record?

REBECCA SPARKES: Sure. Rebeccah Sparkes, R-E-B-E-C-C-A-H S-P-A-R-K-E-S.

BRYAN SPARKES: And Bryan Sparkes, B-R-Y-A-N S-P-A-R-K-E-S.

ATTORNEY SEAN HOPE: And we also have project architect Dan Hisel.

DAN HISEL: Dan Hisel. Dan Hisel Architects. That's

H-I-S-E-L.

ATTORNEY SEAN HOPE: So this is an application that was continued from a previous hearing. This is a Variance application requesting relief to construct a one-story addition. Part of the nature of relief -- so the addition that we were seeking relief for partly is for a mudroom that is approximately 26 square feet. So it's de minimus in nature. Also part of the requested relief is side and setback relief. And that is primarily due to the lot size and the lot shape. So the lot is shaped and the rear of the lot is slanted, and maybe if you just pull up the site plan so that the corner in which we are building the addition, this corner here, so this square here represents the mudroom. And as you see the shape of the lot slants so that this is at 22 and a half feet and the setback is at 25. So that if it was in this portion of the lot, we would be outside the setback. Nonetheless we would still need relief because the lot is already over what's allowed in the Residence B District.

At the previous hearing we had what we thought was unanimous support from the neighborhood, but there was a direct abutter who wasn't aware of the application. We did check with Historical and

she did receive the required notice, but nonetheless, she wasn't aware of the plans. So subsequent to the initial hearing, the petitioners and the abutters met privately without counsel and without an architect and to explain some of the issues that were present there. The conclusion of the meeting was that she is no longer opposing. And some of the aspects I thought were important to identify what was the nature of relief. And so as they drilled down to some of the issues, primarily it had to do with the internal functional use. So this was an exterior porch that was going to be used as living space. And so by incorporating the porch, which was already enclosed, but by making that living space, there was going to be an intensity on the use on the interior. And I think part of what we talked about was design is really for the Half Crown Marsh. So whether or not she liked the style of the windows or the shape of the windows, that was more of a purview for the Half Crown Marsh. But actually the nature of the relief meaning the entryway to the rear was really a purview for the Board, and that part did not increase her issue.

We also noticed that glass and glazing were some of the issues -- I should also point out that her property is within ten feet of her

property line. So both houses are sited that they're closer to the property line. And we did note that under the proposal the glazing or the amount of glass is actually going to be reduced from what was there. It wasn't apparent probably from looking at the plans and she also didn't have an opportunity to address that.

So part of what we explained to you previously, and Mr. Hisel can walk through, is so the purpose of the addition is really to change the interior layout. They're a family with two children. They've been in the property for about four years. And they've made some internal renovations. And what they're proposing would allow for an open plan for kitchens and also a mudroom entry.

And the way the parking is sited, the parking is sited in the middle of the lot, so that to be able to use the front entry would be less ideal. And so the mudroom entrance and also the reconfiguration of the interior living space is going to make it more family friendly and allow them to stay in a comfortable way.

So again, I think the setback relief has to do with the shape of the lot because the shape is slanted. And I think that the increase in FAR

really has to do with that 26 square feet, which is really a mudroom. So those are really the main elements.

CONSTANTINE ALEXANDER: This abutter who did appear at the last meeting, she hasn't written anything to us, has she?

REBECCA SPARKES: She has not. Should I? No, she has not written anything.

CONSTANTINE ALEXANDER: I didn't see anything in the file.

REBECCA SPARKES: No. We had a phone conversation with her this previous Friday. We had a meeting with her about two-and-a-half weeks ago on the property so we could look at her space and look at our space and kind of discuss what she was having concerns about. And then we had a follow-up conversation with her on Friday, and she -- I actually did not speak to her, my husband did. But she did say she was -- had reviewed the plans quite extensively, and was comfortable and was not going to have a problem. And we did also speak to the other abutter who she mentioned in the meeting. I had a face-to-face with them, and they did write a letter in support.

CONSTANTINE ALEXANDER: That's Pamela.

REBECCA SPARKES: Yes, yes. So that did come in after our previous meeting.

CONSTANTINE ALEXANDER: I just wanted to ask. And not that I don't believe what you've said.

REBECCA SPARKES: Nope.

CONSTANTINE ALEXANDER: Is there anyone here with regard to this case, the abutter? I don't recognize the abutter who was here the last time, so I assume she's not here.

(No Response.)

CONSTANTINE ALEXANDER: Okay, thank you.

That's it for your presentation?

ATTORNEY SEAN HOPE: Yes.

BRENDAN SULLIVAN: The plan is the same?

ATTORNEY SEAN HOPE: Yes.

BRENDAN SULLIVAN: There's four of us sitting on this one; is that right?

CONSTANTINE ALEXANDER: You've chosen to obviously



go forward?

ATTORNEY SEAN HOPE: Yes.

CONSTANTINE ALEXANDER: For the record. Okay.

Anyway, questions?

(No Response.)

CONSTANTINE ALEXANDER: I'll open the matter up to public testimony.

Is there anybody here wishing to be heard on this matter?

(No Response.)

CONSTANTINE ALEXANDER: No one wishes to be heard.

And as indicated, we do have a letter from Pamela Kogut, K-O-G-U-T.

REBECCA SPARKES: I think that's how you pronounce it.

CONSTANTINE ALEXANDER: And it's also her signature cuts across her printed name. Anyway, yeah, Pamela Kogut. (Reading)  
We are neighbors of Rebecca and Bryan Sparkes. Our property is directly in back of the Sparkes's property. We share a fence which separates our small backyard and back patios, and we are probably the

neighbors most affected by the Sparkes's proposed plans to remodel their home. We write to let you know that we have no objections to their plans to remodel. We understand that there was discussion at the hearing on September 13th about whether their plans would negatively impact the back neighbors. We did not attend the meeting because we thought their plans were reasonable and our concerns were relatively minor. We met with the Sparkes and they let us know that they were happy to plant trees or plants to create additional screening between our homes and gardens, limiting any impact the changes may have on our privacy. We are appreciative of their flexibility.

And then we have letters I think I read the last time from other abutters. I'm not going to read them again. They all were in support.

I will close public testimony. Discussion or are we ready for a vote?

JIM MONTEVERDE: Ready.

CONSTANTINE ALEXANDER: Ready for a vote. Okay.

The Chair moves that we make the following findings with regard to the Variance being requested:

That a literal enforcement of the provisions of the Ordinance would involve a substantial hardship. Such hardship being is that with the passage of time and the uses that the structure being put to is in need of some modification and that would apply not only to you, but any subsequent owners of the property.

That the hardship is owing to the shape of the lot, including the topography in the backyard.

And that relief may be granted without substantial detriment to the public good or nullifying or substantially derogating from the intent and purpose of the Ordinance.

In this regard the Chair would note that this project has now unanimous neighborhood support. That the relief being sought is rather modest in nature and will actually improve the house -- the ability to use the house and therefore the housing stock of the City of Cambridge.

So on the basis of all of these findings, the Chair moves we grant the Variance requested on the condition that the work proceed in accordance with plans prepared by Hisel-Flynn Architects, the first page is dated -- I can never find the dates on these things. I don't see a date.

JIM MONTEVERDE: Undated.

CONSTANTINE ALEXANDER: Undated. That's why I have  
him here.

DAN HISEL: It might be on a different sheet.

CONSTANTINE ALEXANDER: Undated plans. The first  
page of which has been initialled by the Chair.

All those in favor please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Four in favor. All who voted  
are in favor.

(Alexander, Sullivan, Monteverde, Wernick.)

\* \* \* \* \*

(7:30 p.m.)

(Sitting Members Case No. BZA-016783-2018: Constantine Alexander, Brendan Sullivan, Janet Green, Jim Monteverde, Laura Wernick.)

CONSTANTINE ALEXANDER: The Chair will now call 016783, One Hancock Street.

Is there anyone here wishing to be heard on this matter?

(No Response.)

CONSTANTINE ALEXANDER: Did we get a letter, Sisia?

SISIA DAGLIAN: I don't think so. It's withdrawn.

CONSTANTINE ALEXANDER: I don't think so either. Oh, here it is.

We have a letter dated October 22nd from Edrick Vanbeuzekom who is the architect for the project. (Reading) I

respectfully request to withdraw the continued case for zoning relief for the project at One Hancock Street for which a hearing is scheduled this Thursday, October 25th. As you know, our other case to demolish the existing house and to rebuild, was approved at the October 11th meet. So we no longer need the relief requested in this application.

So with that, the Chair moves that we accept the requested withdrawal.

All those in favor say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Case withdrawn.

(Alexander, Sullivan, Green, Monteverde, Wernick.)

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(7:30 p.m.)

(Sitting Members Case No. BZA-017011-2018: Constantine Alexander, Brendan Sullivan, Janet Green, Jim Monteverde, Laura Wernick.)

CONSTANTINE ALEXANDER: The Chair will call case No. 017011, 44 Cogswell Avenue.

Is there anyone here wishing to be heard on this matter?

You've been here before so you know the drill.

ATTORNEY MICHAEL WIGGINS: Yes.

CONSTANTINE ALEXANDER: Give your name and address to the stenographer.

ATTORNEY MICHAEL WIGGINS: Good evening, Mr. Chairman. My name is Michael Wiggins from the law firm of Weston, Patrick and Willard and Reading on 84 State Street and I'm here representing James Maher who is with us tonight. He's the trustee of the IRL Trust of 966 Broadway in Somerville. Also with me tonight is Arch Horst of Black River Design Architects.

JANET GREEN: I think we need you a little closer to the microphone.

ATTORNEY MICHAEL WIGGINS: Is that all right?

JANET GREEN: You'll hear it echo when you've got it right.

ATTORNEY MICHAEL WIGGINS: Hello? That's good.

So, what we're seeking tonight is relief from the several restrictions in order to build a small addition to quite a small house on Cogswell Avenue in North Cambridge. And the driver here is simply about safety. This is a very small building and it has a very tiny stairway that and also a fire escape that are grandfathered, but Mr. Maher and his brothers who are with him on this, when they started looking at this, it was obvious that they really couldn't do anything with this and be safe if they're going to restructure it at all. And it also became clear that the structure itself would not afford just widening the stairway at the back without having to take out bearing walls. So this is really what we're here for. We're talking about only about 100 square feet. It's a small 7 by 14 foot --

CONSTANTINE ALEXANDER: 200 feet according to my notes.

ATTORNEY MICHAEL WIGGINS: Oh, well, yeah, I'm sorry. I mean the footprint of it. It's 200 when you add both floors. But basically it affords the ability to build a staircase in the back that works.

And I'd like Arch to just explain to you the drawings exactly how that looks.



CONSTANTINE ALEXANDER: Sure. These are the ones, right?

ARCH HORST: Yeah, but these are bigger.

Just briefly this is the -- this is the site plan. You have a surveyed site plan, but this is just a blown up version. This is the addition right here. And this is the existing floor plan.

And those of you who are in the building industry will understand what Mike is saying when he talks about the stair. This is the stair which is very steep and not even close to conforming in code in terms of width or run and rise. And so what we're proposing to add into that bit in the back is a conforming stair. The -- most of the square footage actually is added to about half -- well, not most. Half of it goes into the stair and half of it goes into each unit. So the units average about 410 square feet. They're small, really small. And they become 440 or something like that. They're not -- these are one-bedroom units. They're four, one-bedroom units. And this is the final configuration.

CONSTANTINE ALEXANDER: Roughly how old is the structure?

JAMES MAHER: I think it was probably built 1940 or '50 I think.

ARCH HORST: '18 maybe.

JAMES MAHER: Maybe farther back than that.

ATTORNEY MICHAEL WIGGINS: Well, it's hard to say. I found a plan dated 1947, but that may have been a subdivision with a house already there. We don't know.

CONSTANTINE ALEXANDER: Okay.

ATTORNEY MICHAEL WIGGINS: We also have pictures of the staircase if you'd like to see it. Jim has it. It's very awkward narrow stairs and it doesn't afford turnaround space.

CONSTANTINE ALEXANDER: Can I keep these for the file?

JAMES MAHER: Yeah, that's no problem.

And here's a third one here that's not as -- it doesn't add much.

CONSTANTINE ALEXANDER: Do you want to look at them?

LAURA WERNICK: No.

ATTORNEY MICHAEL WIGGINS: Mr. Chair, I don't know if this is the time to tell you, we have a neighbor, the closest abutter is in favor of this, and we didn't get a letter of support until now, but I'd like to put it into the record.

CONSTANTINE ALEXANDER: I'll read it into the record at the appropriate time.

Anything else?

ATTORNEY MICHAEL WIGGINS: Well, sure, just to stress that this is the minimum relief that we're asking for to solve this safety issue. We're not looking to create anything more than four nice small one-bedroom apartments that are code compliant. And we would submit there's no detriment to the public good here. In fact, we're actually supplying a need for a small safe, one-bedroom apartments. And I think the city would welcome them. So, you know, again, just parodying the statute, I think there's no derogation from the code and this is actually a benefit to the neighborhood.

And just also to mention that Mr. Maher talked to all the neighbors, no one opposed him.

CONSTANTINE ALEXANDER: Okay.

We have no letters in our files other than the one you just gave us.

JAMES MAHER: Yeah, that was the only one.

CONSTANTINE ALEXANDER: Anything further?

ATTORNEY MICHAEL WIGGINS: Yeah, that's it.

CONSTANTINE ALEXANDER: That's it.

Questions from members of the Board?

(No Response.)

CONSTANTINE ALEXANDER: I'll open the matter up to public testimony.

Is there anyone here wishing to be heard on this matter?

Sir. Give your name and address to the stenographer, please.

ARRIN KATZ: Arrin Katz, A-R-R-I-N K-A-T-Z, 42 Cogswell Avenue, No. 1. So I'm the abutter. I talked to James probably about a month ago and before, before the implication came in, and I'm in full support of the plan. Obviously the safety of the residents, future

residents are important. And, you know, similar to the other abutter that's in support, I would be remiss if I didn't mention my wife's concern about the trees, but I think you're well aware of that.

JAMES MAHER: Yeah, in the letter you'll see there are two trees to the rear of the property that Arrin lives behind the building, and the neighbor who submitted that letter lives abutting to the side of the building. And I think they both raised concerns about two trees that are in the rear of the property that are not going to be impacted by this. And Jay and Ted who submitted that letter wanted it written into the letter and submitted here into the record which we had no problem with. We don't have any intention of doing anything to the trees that are back there.

CONSTANTINE ALEXANDER: Okay. So we can condition, should we grant you relief, we can condition on the grounds that you're not going to remove any trees?

JAMES MAHER: That would be no problem at all.

CONSTANTINE ALEXANDER: I viewed the property and I noticed a lot of trees in the back and I was wondering about that.

JAMES MAHER: Yeah. And this -- I think part of this

addition being, you know, as small as it is was to have as minimal an impact as possible on that. And I think that helps to accomplish it.

UNIDENTIFIED MEMBER FROM THE AUDIENCE: And just for the record I'm the owner of both -- I have two properties that abut the trust property. So I'm kind of -- I think between myself and Ted --

JAMES MAHER: You've got everybody.

UNIDENTIFIED MEMBER FROM THE AUDIENCE: You've got everybody that's right there.

CONSTANTINE ALEXANDER: Thank you for taking the time to come down.

Anyone else wishes to be heard in on this matter?

(No Response.)

CONSTANTINE ALEXANDER: Apparently not.

We are in receipt of a letter given to us by the petitioner from Jay Rogers and Ted Clausen, C-L-A-U-S-E-N who reside at 46 Cogswell Avenue. (Reading) We are writing this letter in support of Jim Maher's application for a Zoning Variance to build a small addition at the rear of his property at 44 Cogswell Avenue. We live directly next-door to 46

Cogswell Avenue and have lived here since 1982. We've recently met Jim at the property, discussed his plans, and are supportive of them. We raised the request that the big maple tree at the rear of the property be preserved, and Jim agreed that it would be preserved and not affected by the addition as it sits far enough away on the property. We have also discussed fire safety issues and Jim noted that he intends to sprinkler the building and have a fire panel installed following all related code requirements.

Am I right, that they would have to do that anyway as a matter of law to put the addition on?

BRENDAN SULLIVAN: They may, yes.

CONSTANTINE ALEXANDER: So it's a not a matter we have to require it. It's the law requires it.

ARCH HORST: Right. The Building Code because these units don't have a second means of egress.

CONSTANTINE ALEXANDER: Right.

ARCH HORST: Yeah. So you have to sprinkler.

CONSTANTINE ALEXANDER: Okay.

ARCH HORST: You get into a debate whether it's grandfathered or not.

BRENDAN SULLIVAN: Right, that's the issue. But I think they're airing on the correct side.

ARCH HORST: Yeah.

CONSTANTINE ALEXANDER: Going back. The installation of the sprinklering and the fire panel helps alleviate some concerns we have had over the years about the proximity of our houses. We hope to see this house cleaned up and its systems brought up to code and supportive of the overall project.

And that's what we have.

Unless you have anything further to add, I'm going to close public testimony.

ATTORNEY MICHAEL WIGGINS: No. I just would point out that the tree is shown on -- the trees are shown right on the plot plan that you have in the record. So there's a record of that if -- in case anybody wanted to take them up on it.

CONSTANTINE ALEXANDER: I'm not even sure I'm going



to put a condition on of non-removal of trees. I'm not sure it's really a zoning issue anyway. So just for the benefit of the board members when I make the motion.

Anyway, any discussion or move to a vote?

LAURA WERNICK: Sure.

CONSTANTINE ALEXANDER: Move to a vote.

The Chair moves that we make the following findings with regard to the Variance being sought:

That a literal enforcement of the provisions in the Ordinance would involve a substantial hardship. Such hardship being is that this building now has fire risks because of inadequate means of access -- or means of egress and, therefore, this applies to the structure as it's always been the case. And the relief being sought would alleviate this problem or eliminate it I should say.

That the hardship is owing to circumstances relating to the shape of the lot. It's a very narrow lot. And so that any -- and it's an older building. It's already non-conforming, so any modification requires zoning relief.

And lastly, that relief may be granted without substantial detriment to the public good or nullifying or substantially derogating from the intent and purpose of this Ordinance. In this regard, actually, the relief be granted will be to the substantial benefit to the public good by removing from our housing stock a building which doesn't meet code and has fire safety concerns as expressed by this gentleman.

So on the basis of these findings the Chair moves we grant the relief requested on the condition that the work proceed in accordance with two pages of plans, both of which have been initialled by the Chair, prepared by Black River Architects and are dated -- here it is. September 27, 2018.

All those in favor please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Motion granted.

(Alexander, Sullivan, Green, Monteverde, Wernick.)

ARCH HORST: Are those the right plans? We added a window which was submitted in the file.

CONSTANTINE ALEXANDER: This was in my file. There are two sets of plans. There are always two sets.

ARCH HORST: Yeah.

CONSTANTINE ALEXANDER: I want to get the plans right.

JAMES MAHER: That's the right plan.

CONSTANTINE ALEXANDER: Okay. Relief granted. You can go home.

JAMES MAHER: Thank you very much.

\* \* \* \* \*

(7:45 p.m.)

(Sitting Members Case No. BZA-016957-2018: Constantine Alexander, Brendan Sullivan, Janet Green, Jim Monteverde, Laura Wernick.)

CONSTANTINE ALEXANDER: The Chair will call case No. 016957, 300 Mount Auburn Street.

Is there anyone here wishing to be heard on this matter? As you know, name and address to the stenographer, please.

ATTORNEY SIMON BRIGHENTI: Attorney Simon Brighenti. And is this working?

JOHN HAWKINSON: It is.

ATTORNEY SIMON BRIGHENTI: I'm Simon Brighenti. Again, I've been here. And I've got attorney Sarah Snell with me. It's S-N-E-L-L, S-A-R-A-H. And we're here on that same building that the previous application was here before, for which is the Mount Auburn Hospital, which is as you know is a predominantly nonresidential use in a residential district.

CONSTANTINE ALEXANDER: You already made that finding, you're right.

ATTORNEY SIMON BRIGHENTI: Right, okay.

And what we're looking to do as the application showed in the plans, we're looking to add an antenna to the building. For a preliminary matter, we did again based on the issues that were evident last time, we did post the signs up and I presented an Affidavit showing that Heather went to the building every other day for the last two weeks to take pictures and to show that they've been in continuous posting for the whole -- Heather Hoffman, I'm sorry -- for the whole time.

So, we had been in front of the Planning Board last week, two weeks ago, and there were three items that they had requested which we've agreed to.

CONSTANTINE ALEXANDER: Four.

ATTORNEY SIMON BRIGHENTI: Four, I'm sorry. Okay.

One was that we remove what's called the RRU or the remote radio unit or remote radio transmitter from the facade of the building to the rooftop so it's not, it's no longer visible. So we've agreed to do that.

CONSTANTINE ALEXANDER: Do your photo simulations reflect that or is that -- I just want to make sure.

ATTORNEY SIMON BRIGHENTI: We have a -- the current photo simulations do not. We did have the engineer's give us the mockup which I presented also --

CONSTANTINE ALEXANDER: That's okay. We can --

ATTORNEY SIMON BRIGHENTI: Condition it.

CONSTANTINE ALEXANDER: Condition it on the grounds that you comply with this. I just wanted to be clear about it. Okay.

ATTORNEY SIMON BRIGHENTI: The second item -- I don't want to take them out of order. But another item was that they requested that we have the original -- there was some discussion about having the antennas of uniform size, and that's not -- we're not able to do that because of the technology. One of the antennas that's going up there similar to the size that's already up there which is about my height and width, a little bit heavier than me. And then the other one is a small, smaller antenna. And we've provided schematics of those. And the request was either to have the -- as we showed them, we had what's

called the center line match up, so you have the same amount of antenna above and below the same line. But their request was to have the tops of the antennas be uniform rather than the center line, so that's not a problem as well. We will reflect that both on the building application drawings and photo simulations.

A third item was that they requested that the antennas themselves be painted what they called I believe a matte finish rather than, sometimes we have either the artist or the contact paper do, try to match the brick design with the mortar lines in there, but they requested that we don't do that. So we have agreed to that condition as well.

And then the fourth one was to -- I'm sorry, the fourth item?

CONSTANTINE ALEXANDER: Yeah.

ATTORNEY SIMON BRIGHENTI: What was that?

CONSTANTINE ALEXANDER: Oh, I'm sorry you're asking me. The smallest mounting brackets should be used so that the antennas can be mounted as close to the facade surface as close as possible.

ATTORNEY SIMON BRIGHENTI: Right. And what our plan

is on that is that we did show the mounting brackets that are in the plan do show the smallest mount that is usable. And then again when we apply for the building permit, we will make sure that we give that, what we call the cut sheets, the evidence of the mount.

CONSTANTINE ALEXANDER: Okay.

ATTORNEY SIMON BRIGHENTI: And, again, our application is to enhance the service available down there. We are adding one antenna to the current look, and it's a necessity down to provide and enhance service down there. There's no additional traffic that's going to be generated other than the installation period. There will be some technicians there. There's no additional noise. There's no additional smoke or affluent. There's no additional increase in use on town utilities. And it does benefit the, not only the neighborhood there, but enhanced service but also benefits the hospital through additional revenue stream. So that is our proposal as shown.

CONSTANTINE ALEXANDER: Thank you.

Questions from members of the Board?

BRENDAN SULLIVAN: Yeah, maybe you can answer it,



maybe you can't. Does the hospital employ or utilize any one of the carriers for their internal communications that you know of?

ATTORNEY SIMON BRIGHENTI: I don't, I don't know that they do that.

BRENDAN SULLIVAN: It would be Verizon, AT&T, or you guys? Are we down to three?

ATTORNEY SIMON BRIGHENTI: I don't know, I have to check my e-mail.

BRENDAN SULLIVAN: T-Mobile I guess would be the next one.

ATTORNEY SIMON BRIGHENTI: Internally most buildings like that would use a Wi-Fi which could be a commercial, like a Comcast or somebody like that. So I really couldn't answer that question. But I'm assuming that they would use, plus the doctors and the staff and, you know, everybody in there would have their own service that would be enhanced, so they would have the opportunity to use whatever it is --

BRENDAN SULLIVAN: The reason I bring it up is that Harvard at the corner of Garden Street uses AT&T, and that was one of

the selling points or I think condensing points to grant it was that they're upgrading their service because of the Harvard network, the emergency service thing was employing that. And, yes, it has a public benefit to the community, but also institutional wise. So that's why I was asking that question.

ATTORNEY SIMON BRIGHENTI: Right, okay.

BRENDAN SULLIVAN: If in fact one of the carriers was the predominant one for intercommunication. But you're saying it's really somewhat fragmented?

ATTORNEY SIMON BRIGHENTI: Yes.

BRENDAN SULLIVAN: As it is.

CONSTANTINE ALEXANDER: As far as you know?

ATTORNEY SIMON BRIGHENTI: As far as I know, yes.

BRENDAN SULLIVAN: That's fine.

CONSTANTINE ALEXANDER: Any other questions from members of the Board?

(No Response.)

CONSTANTINE ALEXANDER: I'll open the matter up to

public testimony.

Is there anyone here wishing to be heard on this matter?

(No Response.)

CONSTANTINE ALEXANDER: Apparently not. We have a letter from the Planning Board, but petitioner's counsel has already summarized it and indicated that he -- that you're going to comply with the request or have complied --

ATTORNEY SIMON BRIGHENTI: Yes.

CONSTANTINE ALEXANDER: -- in your plans. And so we'll just condition -- we'll grant you the relief that you will comply with this letter from the Planning Board.

ATTORNEY SIMON BRIGHENTI: Yes, we will.

CONSTANTINE ALEXANDER: So, ready for a vote?

BRENDAN SULLIVAN: Do you have the photo sims there?

Yeah, continue. But do you have the photo sims there?

CONSTANTINE ALEXANDER: It's under the correspondence. It's an odd way of doing it.

All right, while you're looking at that I'll start the motion.

BRENDAN SULLIVAN: Yeah, go ahead.

CONSTANTINE ALEXANDER: Okay, as I indicated before, we have to make a whole host of votes.

The Chair moves that we make the following findings with regard to the relief being sought:

That inasmuch as that this facility or this -- yeah, this relief being sought is in a residential district, we have to find, and I move that we do find, that the nonresidential uses predominate in the vicinity of the proposed facility's location, and that the telecommunications facility is not inconsistent with the character that does prevail in the surrounding neighborhood. With regard to this finding, the Chair would note that we've made this finding in the past. This is not a first time for these facilities to be on the hospital building, and so I think we can rely upon -- and neighborhood hasn't changed in many years, so I think we can rely upon our past finding with regard to this property.

That continuing -- that requirements of the Ordinance cannot be met unless we grant you the relief you're seeking.

That traffic generated or patterns of access or egress resulting

from what you're proposing will not cause, congestion, hazard, or substantial change in established neighborhood character.

That the continued operation or development of adjacent uses as permit in the Ordinance will not be adversely affected by what is proposed.

That no nuisance or hazard will be created to the detriment of the health, safety, and/or welfare of the occupant of the proposed use or the citizens of the city.

And that generally what is being proposed will not impair the integrity of the district or adjoining district or otherwise derogate from the intent and purpose of this Ordinance.

In this regard to all of these findings, the Chair would note that we made these same findings with regard to previous relief granted to the petitioner, and that nothing has changed in the neighborhood or in the city that would cause our previous finding no longer to be accurate.

Further, we find that the modification of its existing telecommunications facility at the site proposed by the petitioner does not substantially change the physical dimensions of the existing wireless

tower base -- wireless tower or base station at such facility within the meaning of Section 6409(a) of The Middle Class Tax Relief and Job Creation Act of 2012 also known as The Spectrum Act.

So based upon these findings, the Chair moves that we grant the Special Permit being sought subject to the following conditions:

One, that the work proceed in accordance with the plans submitted by the petitioner and initialled by the Chair. I've done that.

That upon completion of the work, the physical appearance and visual impact of the proposed work will be consistent with the photo simulations submitted by the petitioner and initialled by the Chair. And that's in here.

That the petitioner shall at all times maintain the proposed work so that its physical appearance and visual impact will remain consistent with the photo simulations previously referred to.

That should the petitioner cease to utilize the equipment approved tonight for a continuous period of six months or more, it shall promptly thereafter remove such equipment and restore the building on which it is located to its prior condition and appearance to the extent

reasonably practicable.

And next, that the petitioner is in compliance with, and will continue to comply with in all respects, the conditions imposed by this Board with regard to previous Special Permits granted to the petitioner with regard to the site in question.

And then continuing, inasmuch as the -- bear with me.

Inasmuch as the health effects of the transmission of electromagnetic energy waves as a matter of ongoing societal concern and scientific study, the Special Permit is also subject to the following conditions:

A, that the petitioner shall file with the Inspectional Services Department each report it files with the federal authorities regarding electromagnetic energy waves emissions emanating from all of the petitioner's equipment on the site. Each such report shall be filed with the Inspectional Services Department no later than ten business days after the report has been filed with the federal authorities. Failure to timely file any such report with Inspectional Services Department shall ipso facto terminate the Special Permit granted tonight.

B, that in the event that at any time federal authorities notify

the petitioner that its equipment on the site, including but not limited to the Special Permit granted tonight, fails to comply with the requirements of law or governmental regulation, whether with regard to the emissions of electromagnetic energy waves or otherwise, the petitioner, within ten business days of receipt of such notification of such failure, shall file with the Inspectional Services Department a report disclosing in reasonable detail that such failure has occurred and the basis for such claimed failure. The Special Permit granted tonight shall ipso facto terminate if any of the petitioner's federal licenses is or are suspended, revoked, or terminated.

C, that to the extent that the Special Permit has terminated pursuant to the foregoing paragraphs A and B, the petitioner may apply to this Board for a new Special Permit provided that the public notice concerning such application discloses in reasonable detail that the application has been filed because of a termination of Special Permit pursuant to paragraphs A and B above. Any such new application shall not be deemed a repetitive petition, and therefore will not be subject to the two-year period during which repetitive petitions may not be filed.

And then D, that within ten business days after receipt of a



building permit for the installation of the equipment subject to the petition, the petitioner shall file with the Inspectional Services Department, a sworn Affidavit of the person in charge of the installation of equipment by the petitioner with a geographical area that includes Cambridge stating that A, he or she has such responsibility. And B, that the equipment being installed pursuant to the Special Permit we are granting tonight will comply with all federal safety rules and will be situated and maintained in situations with appropriate barricades and other protections, such that individuals including, including nearby residents and occupants of nearby structures, will be sufficiently protected from excessive radio frequency radiation under federal law.

On the basis of all these findings the Chair moves -- I already made the motion we grant the Special Permit subject to these conditions.

All those in favor please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Special Permit granted.

(Alexander, Sullivan, Green, Monteverde, Wernick.)

\* \* \* \* \*

(8:00 p.m.)

(Sitting Members Case No. BZA-017014-2018: Constantine Alexander, Brendan Sullivan, Janet Green, Jim Monteverde, Laura Wernick.)

CONSTANTINE ALEXANDER: The Chair will call case No. 017014, 1923-1925 Mass. Avenue.

UNIDENTIFIED MEMBER FROM THE AUDIENCE: I have a question regarding electromagnetic forces.

CONSTANTINE ALEXANDER: I'm sorry.

UNIDENTIFIED MEMBER FROM THE AUDIENCE: Are you aware of different levels of electromagnetic forces?

CONSTANTINE ALEXANDER: I'm not aware of anything of electromagnetic forces. Only that I know there are citizens in this country who are concerned about that.

UNIDENTIFIED MEMBER FROM THE AUDIENCE: Only

that you know what?

CONSTANTINE ALEXANDER: Sorry?

UNIDENTIFIED MEMBER FROM THE AUDIENCE: Only

that you know what?

CONSTANTINE ALEXANDER: Only that I know that there is

a body of citizens in this country who are concerned about

electromagnetic energy waves and the impact on health.

UNIDENTIFIED MEMBER FROM THE AUDIENCE: Okay,

thank you.

CONSTANTINE ALEXANDER: Yeah. And the Federal

Government so far and I think in perpetuity, has not been concerned about

this. But in case they do change their mind, we do like to have these

conditions imposed.

UNIDENTIFIED MEMBER FROM THE AUDIENCE: Okay,

thank you.

CONSTANTINE ALEXANDER: Anyway. 1923-1925.

Mass. Ave.

Is there anybody here wishing to be heard on this matter?

(No Response.)

CONSTANTINE ALEXANDER: No one wishes to be heard.

We have a letter from Adam Brillard. B-R-A-I-L-L-A-R-D of the law firm of Prince Lobel.

(Reading) This firm represents T-Mobile Northeast, LLC, in connection with an application for a Special Permit from the City of Cambridge to modify an existing wireless communications facility on the property. Please allow this letter as the applicant's request to continue its public hearing scheduled for October 25th to the next available board hearing date. It was brought to the applicant's attention that the notification poster required to be hung at the property for at least 14 days prior to the hearing was not sufficiently posted. Notwithstanding the foregoing, please note that pursuant to the attached e-mail and photographs therewith which were provided to me by the applicant's agents on October 10, 2018, the notification poster was hung properly and at least 14 days prior to the meeting. Unfortunately since that time the poster became detached from its location. For the foregoing reason the

applicant respectfully requests that the Board grant the requested continuance.

What's the next available? They've got to put another sign up and we do it in two more weeks, they won't have enough time to get the sign up for the 14 days.

SISIA DAGLIAN: Yeah, for the 8th. The 29th is the next one. But there's two continued cases already.

CONSTANTINE ALEXANDER: One of them is Arnold Hills.

SISIA DAGLIAN: Arnold, yes.

CONSTANTINE ALEXANDER: Let's continue to the one after it. Do we have anything for December?

SISIA DAGLIAN: 36 Follen Street.

CONSTANTINE ALEXANDER: That's the only one we have?

SISIA DAGLIAN: For December 13th, yeah.

CONSTANTINE ALEXANDER: Let's continue to then. It's a case not heard so we don't have to worry. So December 13th, Sisia?

SISIA DAGLIAN: Yeah.

CONSTANTINE ALEXANDER: The Chair moves that we continue this case as a case not heard until seven p.m. on December 13th subject to the following conditions.

A, that the petitioner sign a waiver of time for decision. And should they fail to do that timely, that their application will be deemed denied and will not hear the case for two years.

Second, that the petitioner put up a new posting sign reflecting the new date, December 9th, new time, seven p.m. And that the sign be maintained for the 14 days required under our Ordinance, 14 days before the hearing. And in this regard the Chair would advise the petitioner that it's not sufficient just to put a sign up, that they're going to have to -- because of the location actually. Monitor every day or every other day the sign posting. In case the sign comes down, they'll put a new one up. They just can't put a new one up and forget about it afterwards which seems to be the case for tonight.

And lastly, that to the extent the petitioner has new or modified plans or photo simulations with regard to the relief being sought, that these items be in our files no later than five p.m. on the Monday

before December 13th.

All those in favor please say "Aye."

SISIA DAGLIAN: December 13th.

CONSTANTINE ALEXANDER: Five in favor. Case

continued.

(Alexander, Sullivan, Green, Monteverde, Wernick.)

\* \* \* \* \*

(8:15 p.m.)

(Sitting Members Case No. BZA-017020-2018: Constantine Alexander,  
Brendan Sullivan, Janet Green, Jim Monteverde, Laura Wernick.)

CONSTANTINE ALEXANDER: The Chair will call case No.

017020, 426 Putnam Avenue.

Is there anyone here wishing to be heard on this matter?

ATTORNEY JAMES RAFFERTY: Yes.

CONSTANTINE ALEXANDER: Since you're new to this

Board, you have to give your name and address to the stenographer.

ATTORNEY JAMES RAFFERTY: Good evening, Mr. Chair, members of the Board. For the record, my name is James Rafferty. I'm an attorney with offices through tomorrow it's 675 Mass. Ave., but I'll be moving to 907 Mass. Ave. If you can mail the decision to that location. I'm appearing this evening on behalf of the applicant. Seated to my right is Toby and Sherry Seto, S-E-T-O. And Mr. and Mrs. Seto are the owners of this property on Putnam Avenue. It's a two-family house which they recently acquired and are in the process of renovating. And the relief is related to their desire to create access to a third floor. Currently that access is limited through narrow staircase from the second floor to the third floor. So their proposal involves the creation of or the introduction of an elevator.

CONSTANTINE ALEXANDER: Excuse me. Is the staircase code compliant now or non-conforming, the one that goes to the third floor?

ATTORNEY JAMES RAFFERTY: You know, I've spoken to the architect, he doesn't believe it's code compliant in terms of current



code.

CONSTANTINE ALEXANDER: That's important it seems to me for the relief being sought.

ATTORNEY JAMES RAFFERTY: No, it is highly relevant, I agree. Because it --

CONSTANTINE ALEXANDER: It creates a hardship.

ATTORNEY JAMES RAFFERTY: It goes directly to the hardship and it goes directly for the purpose of seeking the access to the third floor. The change itself -- there are two components to this. One is the head house for the elevator and the other is a bit of a landing area so the elevator doesn't open to the outside. So the square footage implications are quite modest. I think we're looking at less than 18.

CONSTANTINE ALEXANDER: About 30 feet.

ATTORNEY JAMES RAFFERTY: Yeah. 30 square feet.

CONSTANTINE ALEXANDER: Yeah.

ATTORNEY JAMES RAFFERTY: And it just creates a whole improved form of access to this living space. The living space is currently there, it's just not accessible in a safe and code compliant manner.

It also will allow for access to a portion of a roof deck that's being proposed. The deck is below the third -- it's at the second floor level so it does not have a GFA implication. So it's -- essentially we have highlighted in the plan the area in question where the head house will occur. It remains below the 35-foot height limit. And so the relief is really related to the fact that the current house is over the allowed GFA, so these additional 30 feet --

CONSTANTINE ALEXANDER: Just slightly. You're going to slightly increase it again.

ATTORNEY JAMES RAFFERTY: Couldn't have said it better myself.

I often get accused of using "modest" and "slight" to characterize relief. I think in this case I'm safe to say that falls into that category.

CONSTANTINE ALEXANDER: I think you're right.

That's it?

ATTORNEY JAMES RAFFERTY: That's it.

CONSTANTINE ALEXANDER: Questions from members of

the board?

(No Response.)

CONSTANTINE ALEXANDER: Apparently none.

I'll open the matter up to public testimony.

Is there anyone here wishing to be heard on this matter?

(No Response.)

CONSTANTINE ALEXANDER: Apparently not. I don't think we have any letters in the file. Just let me check.

ATTORNEY JAMES RAFFERTY: Not as of two o'clock today there weren't any.

CONSTANTINE ALEXANDER: Okay. Yesterday, no. There are no letters in the file. So that's what we have. So I'm going to close public testimony.

Questions? Comments? Discussion from members of the board or are we ready for a vote?

JANET GREEN: We're ready.

CONSTANTINE ALEXANDER: Ready for a vote. Okay.

The Chair moves that we make the following findings with

regard to the Variance being sought:

That a literal enforcement of the provisions of the Ordinance would involve a substantial hardship. Such hardship being is that the only -- without an elevator, the only really most feasible way of accessing the third floor other than by noncode compliant staircase, the only way to do it, so this would eliminate that problem and safety concerns with regard to the third floor.

The hardship is owing to the fact that the structure is already non-conforming and, therefore, any modification requires zoning relief.

And that relief may be granted without substantial detriment to the public good or nullifying or substantially derogating from the intent and purpose of this Ordinance.

In this regard, the relief being sought is very modest in nature. That it improves the inhabitability of the structure, particularly from the safety point of view. And apparently there is no neighborhood concern inasmuch as we have received no communication, no written communications from neighbors and no neighbors are here tonight to speak to the matter.

So on the basis of all of these conditions -- these findings, I'm sorry, the Chair moves we grant the relief being sought on the condition that the work proceed in accordance with the two pages of plans, both of which have been initialled by the Chair, prepared by Darlow D-A-R-L-O-W Christ Architects. And the most recent iteration is dated August 20, 2018. And as I said, both have been initialled by the Chair.

All of those in favor please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Relief granted.

(Alexander, Sullivan, Green, Monteverde, Wernick.)

\* \* \* \* \*

(8:30 p.m.)

(Sitting Members Case No. BZA-017016-2018: Constantine Alexander, Brendan Sullivan, Janet Green, Jim Monteverde, Laura Wernick.)

CONSTANTINE ALEXANDER: The Chair will now call case No. 017016, 175 Holworthy Street.

Is there anyone here wishing to be heard on this matter?

ATTORNEY SARAH RHATIGAN: Good evening.

CONSTANTINE ALEXANDER: Good evening.

ATTORNEY SARAH RHATIGAN: I'm Sarah Rhatigan from Trilogy Law representing the petitioners. And?

ROBERT O'NEIL: Robert O'Neill, 175 Holworthy Street.

O-N-E-I-L.

MARTHA ZIRBEL: I'm Martha Zirbel. Martha, M-A-R-T-H-A

and Z-I-R-B-E-L.

JANET GREEN: Okay, so there are some people here who want to hear. Just pass it right around.

CHARLES KRAUS: Charles Kraus, Kraus Associates. I'm the architect on the project.

ATTORNEY SARAH RHATIGAN: Mr. O'Neil and Ms. Zirbel are the petitioners. Thank you for hearing us this evening.

So this is both a Variance and a Special Permit matter. And what I'd like to do is just describe briefly what the project involves. I know that the written materials are pretty extensive, so I think the Board has a -- hopefully has a pretty good sense of what's going on. This is a relatively small home on Holworthy Street. And Mr. O'Neil's family actually, I think, it's your grandparents built the home?

ROBERT O'NEIL: Yeah.

CONSTANTINE ALEXANDER: Did he really?

ROBERT O'NEIL: Yeah.

ATTORNEY SARAH RHATIGAN: Yeah. And his family and several generations back have lived in this home, down the street, in the

surrounding neighborhood. And there are some really strong ties not just in Cambridge but also literally to the street and to the home. And this is in some ways unlike a lot of the homes, you know, changes of lifestyle cases that I often are here in front of the Board, although you're very young and vibrant, you're getting a little older and their life what is happening is they've gone from being extremely busy working people to trying to slow down and actually enjoy sometime in their home. And that's when they've discovered that their home is quite small and cramped and has some limitations especially as they try to work at home. And so the project for them was to design an addition or an expansion of the home that would preserve all of the things that they love about it, but give them the additional space that they needed. The unique aspects of the lot are that it's a narrow lot and it has quite a bit of --

CONSTANTINE ALEXANDER: Slope.

ATTORNEY SARAH RHATIGAN: -- a slope. Topography on the back. And it has narrow side yard setbacks. So when they're looking at options to expand, expanding in the back was really not an option. It was resulting in some very strange kind of very limited kind of



small narrow box additions at the back. Expanding out to the sides is not an option at all, again, because the side yard setbacks are limited.

Expanding up was the only option, a good option. And then they wanted and worked I personally think very, very well with the architect to design something other than just expanding a sort of one-and-a-half story cape up with a big box and, you know, a kind of typical A-frame home. Instead designing a -- I'm probably going to get this wrong, a cross gable sort of quadra-sided roof -- I don't know what you call that.

JANET GREEN: Cross gable.

ATTORNEY SARAH RHATIGAN: Okay. I'm trying my best.

ROBERT O'NEIL: Cross gable colonial.

ATTORNEY SARAH RHATIGAN: Cross gable colonial.

That's what we call it.

And what it does is it provides a full second story instead of a cramped half second story. And it provides some space on the third level that would be where their master bedroom is.

And the second level would be a small guest bedroom and then two small office spaces for these folks to work in.

What this results in is they started off with a home that was under the FAR for the district and they result in a home that's just 223 --

CONSTANTINE ALEXANDER: You're more than doubling the size of the living space in the house.

ATTORNEY SARAH RHATIGAN: The increase in living space is significant, I agree. But we go from an undersized home for the district. And also, not just in terms of the regulations for the district. But the actual facts in the neighborhood which I think they did all of the homework in providing the information to you all about what the other homes in the neighborhood look like. So, again, they went from undersized home to the proposed dwelling which is the increased in square footage over the allowed is 223 square feet.

CONSTANTINE ALEXANDER: You're going from FAR of 0.35 in a 0.5 district. So well under. And you'll be at 0.55, just slightly over.

ATTORNEY SARAH RHATIGAN: Correct, correct.

So this is, this is really a square footage case. The -- also because as you mentioned, because of the increase in volume is enough

that it triggers also a Variance requirement for the fact that the increase is more than 25 percent of the original home.

CONSTANTINE ALEXANDER: Right.

ATTORNEY SARAH RHATIGAN: So for both of those reasons we're requesting a Variance.

In the application we tried to set out in some detail the reasons for the hardship, again, based on the things that I've mentioned to you before. So the width of the lot, the topography in the back, and the kind of the real limitations on where they could do what they were trying to do.

And the other thing I wanted to point out is any time they built up to build an additional story, any of the various options that they came up with were resulting in an FAR that was just over the required. And they spent quite a bit of time trying to kind of wrestle with that. So anything that they wanted to do that met their needs was gonna require a Variance. So with that in mind, they tried to keep the design as, as mindful of their neighbors as kind of attractive and kind of fitting with the neighborhood's aesthetic look. And some of the images that they've

provided of what the neighbor's homes look I think hopefully give the Board a sense that what they're doing is not something that's kind of out of bounds in terms of what it looks and how it would feel to the neighbors. And there's also been quite a bit of support. I think there are several letters that we received --

CONSTANTINE ALEXANDER: There are.

ATTORNEY SARAH RHATIGAN: -- which I'm sure you'll read into the record.

CONSTANTINE ALEXANDER: I will.

ATTORNEY SARAH RHATIGAN: And, you know, I would be happy to address any concerns that you may have, but I think that that's the bulk of the Variance.

CONSTANTINE ALEXANDER: You haven't addressed the Special Permit.

ATTORNEY SARAH RHATIGAN: I haven't yet and I'll be ready to do that whenever you think it's appropriate.

CONSTANTINE ALEXANDER: Any questions at this point regarding the Variance that's being sought?

(No Response.)

CONSTANTINE ALEXANDER: None. Okay, why don't you talk to the Special Permit now.

ATTORNEY SARAH RHATIGAN: And so the Special Permit is required because the sides of the home that are within the side yard setbacks, there will be window changes. They'll be both movements in windows and then changing of size of windows. And there's a pretty detailed window schedule. I don't have this memorized.

CONSTANTINE ALEXANDER: Are you changing the setbacks with this construction?

ATTORNEY SARAH RHATIGAN: The side setbacks are not changing. It's just that the -- if you think about it, the wall is extending up.

CONSTANTINE ALEXANDER: No, no, I understand that.

ATTORNEY SARAH RHATIGAN: And then there's movement of windows because the interior rooms are changing, so the needs for the location of windows has changed.

CONSTANTINE ALEXANDER: The reason I ask is the practice of this Board is that if you are seeking a Variance and then part of

that Variance in connection with the project that you're seeking a Variance for, you're moving windows, if we grant you the Variance, there's no need for the Special Permit.

ATTORNEY SARAH RHATIGAN: Oh, that's great. That's not what we had understood when we reviewed the file at ISD. But perhaps it's because maybe a few of those windows are on the original portion of the house that aren't --

CONSTANTINE ALEXANDER: Could be. We'll take the vote anyway.

ATTORNEY SARAH RHATIGAN: -- that aren't technically part of the Variance.

CONSTANTINE ALEXANDER: We have had that case before. You should know you don't need both.

ATTORNEY SARAH RHATIGAN: Great.

And the only other change I haven't called to your attention is that there's a modest sort of bump out at the front of the house that allows for a more sort of proper entrance to the home. It doesn't violate the front yard setback, so it's not a different type of relief but just to mention that

that will be different. The front stairs will be a front, you know, a walk up the stairs as opposed to a side entry which is what exists now.

CONSTANTINE ALEXANDER: Okay.

Questions from members of the Board?

JANET GREEN: I just have one comment. And that is you've got absolutely the best posting sign I have seen.

CONSTANTINE ALEXANDER: You're right.

JANET GREEN: I don't know who did that.

ATTORNEY SARAH RHATIGAN: That's Mr. O'Neil for sure. I should say it could be Martha.

MARTHA ZIRBEL: No.

JANET GREEN: It was clear, it was out in front. It was --

CONSTANTINE ALEXANDER: You should offer your services to the telecom people getting their posting signs up right.

BRENDAN SULLIVAN: That was my thought, too. It's the poster child of how to put up a poster.

JANET GREEN: I wanted to take a picture of it so that we can hand it to people and say this is what you need to do.

BRENDAN SULLIVAN: Right.

CONSTANTINE ALEXANDER: I'll open the matter up to public testimony.

Is there anyone here wishing to be heard on this matter? Sir. Come forward please and give your name and address to the stenographer.

PAUL MATTEL: Sure. I'm Paul Mattel. My wife Lauren and I and our two kids live next-door to Martha and Rob at 171 Holworthy Street. We are fortunate to have lived next to Rob and Martha for about five years now. You know, we have enjoyed getting to know them.

JANET GREEN: Can you hand him the microphone?

PAUL MATTEL: We've found them to be very civic minded and very neighborhood minded. We've enjoyed getting to know the neighborhood through their connections to the neighborhood. Consistent with that, you know, they're planning of this whole process and this whole modification to their home was very much engaging the entire neighborhood. Like, actually couldn't believe how many people they talked to in the process to get input and to get feedback along the way.



You know, us first and foremost being right next-door to them. And, you know, they really worked with us carefully on the placement of the windows so that we would be able to visualize that. They showed us the drawings and models. The impact of the roof line, what we would see, and how that would look. And we are super excited about the design actually. We think it's going to actually be more consistent with the neighborhood and be really a great presence in the neighborhood. I think, I think Rob and Martha have somehow managed to take this event and turn it into the neighborhood building exercise which is kind of pretty impressive, but very consistent with them. So, you know, that's really about all I have to say. I hope these designs will be approved and I hope they will stay next-door to us for a very long time.

CONSTANTINE ALEXANDER: Thank you. And thank you for taking the time to come down and speak with us. We appreciate that.

PAUL MATTEL: Sure. Happy to do it.

CONSTANTINE ALEXANDER: Anyone else wishing to be heard?

(No Response.)

CONSTANTINE ALEXANDER: Apparently not.

We are in receipt of a number of letters which I'll read into the record. One of which is this gentleman, so I'm not going to read your letter since you've already spoken.

We have a letter from Hasti, H-A-S-T-I A. And Carstena C-A-R-S-T-E-N-A Pedersen, P-E-D-E-R-S-E-N. (Reading) This letter is in support of the variances applied for by Robert O'Neil and Marsha Zirbel, 175 Holworthy Street in connection with their renovation project. Our house is located at 630 Huron Avenue directly behind Rob and Martha with our second bedroom and back porch windows overlooking Rob and Martha's backyard, and with an unobstructed view of the back side and roof of their house. We have lived at 630 Huron Avenue since 2009. Rob and Martha have been very forthcoming about the renovation process and spent several hours to go over architectural drawings and to answer any questions we had. We are very pleased with the final second floor expansion and roof designs and think the updated house will add to the value of the neighborhood while being consistent with the architectural traits. We, therefore, welcome the approval of Rob and Martha's

Variance request.

We have a letter from Matthew Anderson and John Fiore, F-I-O-R-E who reside at 626 Huron Avenue, No. 2. (Reading) We are the owners of 626 Huron Avenue, No. 2 and the rear corner of our property abuts 175 Holworthy Street. We have no objection to the proposed renovation project at 175 Holworthy Street. We believe the proposal is consistent with the character of other houses in the neighborhood, is reasonable in scale to provide additional space in a small house, and will be viewed as an upgrade to the quality of homes in the neighborhood. We greatly appreciate the efforts of Martha and Rob to share their plans with us and other neighbors and solicit any feedback or concerns.

And lastly, we have a letter from Paula Chandoha, C-H-A-N-D-O-H-A who resides at 176 Holworthy Street. (Reading) I've owned and lived at 176 Holworthy Street since 1994. My house is directly across the street from Rob and Martha's home at 175 Holworthy Street and I have been their neighbor for 24 years. I have no objection to any aspect of the proposed renovation project. I appreciate that Rob and Martha have kept me informed of their renovation plans, reviewed their

design plans with me, and solicited my comments and concerns. I like the final design they came up with and it is consistent in size and character with the neighborhood. The roof design, particularly the front and back gables, reflect and will complement the gable roofs of surrounding homes. The renovation will help improve the quality of homes in the area and have a positive impact for the neighborhood. Granting the requested Variance and Special Permit necessary to proceed with the proposed renovation will provide Rob and Martha with needed space and allow them to continue living and contributing to the neighborhood and the City of Cambridge.

Very nice letters. And you should be congratulated on your process in getting to here, meeting with the neighbors, going over the plans. That's very, very -- being good citizens and very useful in getting the relief you're seeking.

With that, I will close public testimony. Discussion or ready for a vote?

JANET GREEN: I'm ready.

CONSTANTINE ALEXANDER: Ready for a vote. Okay, I'll

do the Variance first.

The Chair moves that we make the following findings with regard to the Variance requested:

That a literal enforcement of the provisions of this Ordinance would involve a substantial hardship. Such hardship being is that this is an older home that's quite small and additional living space would be necessary for almost any occupant of the structure, yourselves included.

That the hardship is owing to the fact that this is already a non-conforming -- no, it's not already non-conforming.

ATTORNEY SARAH RHATIGAN: It is a non-conforming with the lot width and the setbacks, yes.

CONSTANTINE ALEXANDER: Yes, you're right. It is a non-conforming lot. And, therefore, any relief -- any modification requires zoning relief.

And that relief may be granted with substantial -- without either substantial detriment to the public good or nullifying or substantially derogating from the intent and purpose of this Ordinance.

In this regard the project will certainly improve the housing

stock of the city. It seems to have unanimous neighborhood support, and will allow citizens, two citizens of the city to continue to reside in the city.

So on the basis of all of these findings, the Chair moves that we grant the relief requested on the condition that the work proceed in accordance with plans submitted by the petitioner prepared by Kraus, K-R-A-U-S Associates dated 8/31/2018, the first page of which has been initialled by the Chair.

All those in favor please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Variance granted.

(Alexander, Sullivan, Green, Monteverde, Wernick.)

CONSTANTINE ALEXANDER: Not the Special Permit, not yet. We'll now move to the Special Permit and we have to make different findings for that.

The Chair moves that we make the following findings with regard to the Special Permit being sought with regard to location of windows.

That the requirements of the Ordinance cannot be met without the Special Permit.

That traffic generated or patterns of access or egress resulting from these new windows will not cause congestion, hazard, or substantial change in established neighborhood character.

That the continued operation or development of adjacent uses will not be adversely affected by what is proposed. In this regard we have the letters of support from the neighbors who would be most affected or only affected by the window modifications being proposed.

That no nuisance or hazard will be created to the detriment of the health, safety, and/or welfare of the occupant of the proposed use or the citizens of the city.

And that generally what is being proposed with regard to the windows will not impair the integrity of the district or adjoining district or otherwise derogate from the intent and purpose of this Ordinance.

So on the basis of all of these findings, the Chair moves that we grant the Special Permit requested with regard to windows on the condition, again, that the work proceed in accordance with the plans

referred to in the Variance we just approved.

All those in favor please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Relief granted. Good luck.

(Alexander, Sullivan, Green, Monteverde, Wernick.)

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(8:50 p.m.)

(Sitting Members Case No. BZA-017021-2018: Constantine Alexander, Brendan Sullivan, Janet Green, Jim Monteverde, Laura Wernick.)

CONSTANTINE ALEXANDER: The Chair will call case No. 017021, 24 Hubbard Avenue.

Is there anyone here wishing to be heard on this matter?

ATTORNEY JAMES RAFFERTY: Good evening again, Mr. Chair. For the record, James Rafferty appearing on behalf of the applicants seated to my right. I wanted to check the spelling on Ms. Postal's first name. It's Megan without an H; is that correct?

MEGAN POSTAL: Yes.

ATTORNEY JAMES RAFFERTY: So Stephen and Megan Postal. Mr. and Mrs. Postal own this two-family home at 25 Hubbard

Avenue. They reside there with their three children, ages 11, 8, and 6. And this is a proposal to add a deck, but it's a very innovative deck if you've had a chance to see the layout of it. It's a deck that will be accessed off the second floor where the Postals live, but actually have access down to the lower level which will be a play area including a sandbox for their three children. And they have assurances that the first floor tenant won't have any objection with that activity because she happens to be the grandmother of the three children.

So Mr. Postal I should note is known professionally in the culinary world by the name of Nookie Postal, and he operates several restaurants in Cambridge including Commonwealth in Kendall Square. And if you're familiar with the Crema Cafe in Harvard Square. And his recent restaurant is the Revival Cafe on CambridgePark Drive. If you've had a chance to go there, it was heralded for its tomato soup and grilled cheese in the Boston Globe a few weeks ago. Just opened. It's on that stretch of CambridgePark Drive out at Alewife, and it's in the back of an office building. Whole Foods used to have a little cafe in there if you ever found it. But it is open on the weekends which is about the only time one

can safely or conveniently drive to that street. So I commend it to you.

I will say that Mr. Postal did not follow legal advice this evening. If he did, he would have been -- I would have had him at this point put his hand on the table in the direction of Ms. Green and you would see a 2007 Red Sox World Series ring.

CONSTANTINE ALEXANDER: Very important.

ATTORNEY JAMES RAFFERTY: I tried to explain that to him. But he didn't want to exploit his work as the executive chef of the Boston Red Sox and Fenway Park for five years. But he does all of this while residing in Cambridge with his wife who also works in Cambridge as a social worker, works for the City of Cambridge. And this issue, this deck we've spent a lot of time trying to figure out if we can do it as of right. In the C-1 district the setbacks are by formula with the height. We've got multiplane. It takes forever. You give three people the plans, you get three different answers. But at the end of the day, as is often the case, Mr. O'Grady was correct that we do think there's a portion of the deck that's probably not within the setback but the balance of the deck is. If you look at the dimensional form, you don't see a change in the setback

because the portion of the house -- this doesn't exceed the portion of the house, so closest point of the house is already, it's six feet. So it's about -- there's a notch here that's being filled in where the deck would go. There's no GFA -- there is some GFA associated with the deck because of the lower level, but the house is actually below the allowed FAR. That's the notch or corner in question. You have a photo of it. Right.

CONSTANTINE ALEXANDER: Yeah, we do.

ATTORNEY JAMES RAFFERTY: But it is, it is kind of a unique deck. It has some siding on it. It does accommodate the sandbox I guess you'd call it. And there's a little mezzanine play level. It does allow for, particularly when the principal residence is on the second floor, it gives immediate access to the deck for dining, cooking out, family gatherings. So it's, I think one would characterize it as a family style amenity. I know sometimes the Board looks at decks and there's concern about the privacy and you have loud parties. I have -- I am told by Ms. Postal these children are extremely well behaved and when they're on the deck, they would not --

CONSTANTINE ALEXANDER: All mothers believe that

about their children.

LAURA WERNICK: No wild parties. Just wait.

ATTORNEY JAMES RAFFERTY: When you go out some night.

But at any rate, it is an overused word. It is a somewhat modest request, but it really is designed to facilitate this family remaining here. All three children walk to school on Rindge Ave. They can take advantage of the underpass. They love the city. They love the house. They've been in the house for five years. Mr. Postal does contribute greatly to our city with his restaurants and his innovative talent in the kitchen and elsewhere, and we're asking the Board for relief to recognize the hardship needed for some form of outdoor living space for a family that lives on the second floor.

CONSTANTINE ALEXANDER: Have you spoken to the neighbors who are closest to the deck?

ATTORNEY JAMES RAFFERTY: We have. And they are enthusiastic supporters. And I asked Ms. Postal -- they authorized Ms. Postal to give you their name and to indicate their support.

MEGAN POSTAL: So right next-door is David Haig (phonetic) and Anita Prado (phonetic) and they've been our neighbors for the whole time that we've lived there. And they are enthusiastic about the deck. Their door, their front door is on the side and when they come out right now, they look at our air conditioner units and kind of this blank space and they're excited about it having a better look, a much better look.

CONSTANTINE ALEXANDER: Good.

ATTORNEY JAMES RAFFERTY: That would be it.

CONSTANTINE ALEXANDER: Questions from members of the Board?

(No Response.)

CONSTANTINE ALEXANDER: None.

I'll open the matter up to public testimony.

Is there anyone here wishing to be heard on this matter?

(No Response.)

CONSTANTINE ALEXANDER: Apparently not. I'm going to close public testimony.

As indicated, we don't have any letters in our files one way or

another.

So comments from members of the Board? Discussion? Or you ready for a vote?

JANET GREEN: I'm ready.

CONSTANTINE ALEXANDER: I'm ready. Okay, good.

The Chair moves that we make the following findings with regard to the Variance being sought:

That a literal enforcement of the provisions of the Ordinance would involve a substantial hardship. Such hardship being that for a two-family house there is need for some outdoor deck to increase the liveability of the house, and that would apply to whoever occupies the house, you or any successors.

That the hardship is owing to the shape of the lot, which is on a narrow lot which -- relatively narrow lot.

And that relief may be granted without substantial detriment to the public good or nullifying or substantially derogating from the intent or purpose of the Ordinance.

In this regard the Chair would note that there appears to be no

neighborhood opposition.

That the relief being sought is modest in nature. It will allow valuable citizens of the city to continue to live in the city and to provide amenities for their children.

So on the basis of all of this, the Chair moves that we grant the Variance requested on the condition that the work proceed in accordance with plans prepared by Colin, C-O-L-I-N Smith Architecture. And it's dated March 7, 2018.

All those in favor please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Variance granted. Good luck.

(Alexander, Sullivan, Green, Monteverde, Wernick.)

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(9:00 p.m.)

(Sitting Members Case No. BZA-017018-2018: Constantine Alexander, Brendan Sullivan, Janet Green, Andrea A. Hickey, Jim Monteverde, Laura Wernick.)

CONSTANTINE ALEXANDER: The Chair will call case No. 017018, 1500 Cambridge Street.

Is there anyone here wishing to be heard on this matter?

ATTORNEY SARAH RHATIGAN: Hello again. Sarah Rhatigan, Trilogy Law. I'm here for the petitioners. Renie Realty, LLC is the owner. Ms. Pangin is the manager, she's not able to be here with us today. But Walter Hatfield who is down at the far right is a close friend of the family and has been working on the permitting for this project. And he's here with us.

PETER QUINN: My name is Peter Quinn of Peter Quinn

Architects, the architects of record for this project. I'm with Milton Yu of -- my associate who has done most of the zoning analysis for this --

JANET GREEN: I just want to say if you can't hear, can you come -- just come up a little bit closer and you'll be able to hear.

ATTORNEY SARAH RHATIGAN: Is there a way to turn the volume up? I think that's the key.

CONSTANTINE ALEXANDER: Before you go further, are you aware that there's a letter of opposition?

ATTORNEY SARAH RHATIGAN: Yes. Yes, sir. Thank you.

CONSTANTINE ALEXANDER: There it is. We have it here.

ATTORNEY SARAH RHATIGAN: Thanks.

CONSTANTINE ALEXANDER: Go ahead.

ATTORNEY SARAH RHATIGAN: The -- this is both a Variance and a Special Permit application request, and I think it would be helpful for us to just provide a little history of the project as a sort of an overall understanding of how we came to be here today. The -- this is currently a small single-story commercial corner lot located right across

from the Cambridge Hospital. I'm sure probably, I think you often drive by the property so you probably seen what it looks like today. And Ms. Pangin and her family have owned the property for several decades. And the time has come to redevelop or to improve the project, improve the property. And so they undertook a process to look at development as a residential property, which is what's allowed in the district. And with the size of the lot and the zoning with the area, three units is permitted as of right. And Mr. Quinn's office undertook to start creating a project that they thought would be, you know, lovely for the area. It is in the Mid Cambridge Neighborhood Conservation District, and so they commenced a series of hearings with Mid Cambridge that stretched over a period of several months.

PETER QUINN: Four to five months.

ATTORNEY SARAH RHATIGAN: Four to five months. And at this point I was not involved so Mr. Quinn will pick up if any of the details of that are relevant.

But essentially what happened is through that process the Mid Cambridge Neighborhood Conservation District, they both heard from

abutters from folks in the neighborhood about many of their concerns. Again, I was not present at those hearings, but I think that a lot of the neighborhood concern was about sort of the loss of the old restaurant which was a little bit of a failing business with issues with rent payment and sort of a loss of what had been. And the commission was -- directed the owner to reimagine the structures on the lot in order to meet some of the design and the aesthetics of the district with the stretch along Cambridge Street is pretty remarkable for these historic homes that are all on sort of an angle. So as you drive down, they're all angled -- they're quite close to the street but they're all sort of angled along at a, I don't know what the degree angle is along the street, but Mr. Quinn can describe. They went through about three different redesigns of what would be on the lot. They went through the process, they got a Certificate of Appropriateness that was issued in April, and then as Milton Yu was going through --

CONSTANTINE ALEXANDER: Let me stop you there. Just for the record --

ATTORNEY SARAH RHATIGAN: Yes.

CONSTANTINE ALEXANDER: -- and you know this I'm sure, the fact that you got a Certificate of Appropriateness from the Mid Cambridge is not dispositive when it comes to zoning. We have a completely different set of issues and responsibilities. So although it's relevant, it's not controlling by any -- in my opinion anyway, not any way controlling.

ATTORNEY SARAH RHATIGAN: Yes. And the reason I'm describing -- the reason that I think this history is helpful to the Board is for you to understand how we sort of came to be in the position that we're in. And also the constraints and the conflicting interest that may be posed by the fact that we have the Historic Commission's desires and sort of design aesthetic conditions and then the Zoning Ordinance requirements. So these folks are about 90 percent of the way through the construction plans, construction grade plans thinking that they were going to get a building permit, and then they became aware, because ISD noted that the existing curb cuts and driveway locations, which they had thought were grandfathered because they exist now and there's not going to be a change to those, because it's a redevelopment of the use of the lot, that

technically, legally, that it requires that the parking, that we get a Special Permit for the parking. So we need a Special Permit. And then --

CONSTANTINE ALEXANDER: I'm sorry, I don't mean to interrupt you. What's the section that says we can give you the relief you're seeking by a Special Permit? I had trouble finding it.

ATTORNEY SARAH RHATIGAN: For the parking?

CONSTANTINE ALEXANDER: Yeah, for the parking. It's got to be Article 6.

ATTORNEY SARAH RHATIGAN: It is Article 6. It's 6.44.1.a and b. Those are the, those are the parking layout provisions.

CONSTANTINE ALEXANDER: Where's the provision that says that we can modify those by a Special Permit?

ATTORNEY SARAH RHATIGAN: I think I need to look deeper into my notes. I did confirm this with at least one meeting with Ranjit Singanayagam that it can be by Special Permit. Let me just back up.

CONSTANTINE ALEXANDER: I'm sorry, I didn't mean to interrupt your presentation.

ATTORNEY SARAH RHATIGAN: No, no, no, because it's a little complicated. I just want to make sure it's correct.

JOHN HAWKINSON: It's 1g.

CONSTANTINE ALEXANDER: I just found it. Okay.

ATTORNEY SARAH RHATIGAN: 6.44.1.g.

CONSTANTINE ALEXANDER: G. That says you can do it by Special Permit.

ATTORNEY SARAH RHATIGAN: Yeah.

And, again, just trying to provide the history of sort of how we came to be here today. Then in the sort of the next layer of complexity was that there was some questions raised again looking in detail at the plans about two aspects of the dimensional aspects of the buildings and the structures. And I tried to set these out in the application for you as best I could, but the one question is the building separation.

CONSTANTINE ALEXANDER: Yes. Very important.

ATTORNEY SARAH RHATIGAN: Which is important.

And then the second issue is a question of whether window wells are considered structures or are they not considered structures,

because there are a few window wells on the Highland Street front setback as well as on the side setback that's on the right side of the Highland Street building that are within setback limits. Again, if window well -- if window wells are considered structures. And some of the history of this is that from Peter Quinn's office that window wells were never considered structures.

CONSTANTINE ALEXANDER: By whom and under what circumstances?

ATTORNEY SARAH RHATIGAN: By Inspectional Services?

CONSTANTINE ALEXANDER: What happened this time?

ATTORNEY SARAH RHATIGAN: And at this point there was a question raised as to whether or not they were structures. And because we were going to be applying for Special Permit relief, we wanted in the abundance of caution to essentially request the Variance relief if the Board should agree with this, because what we did not want to have happen, which I think has happened perhaps in other files is we go in for the relief that's requested, then they go to pull the building permit and they're told they need additional relief. So that's how, that's why this is



both a Special Permit and a Variance. And apologies for the long history here, but I think it's helpful for you to understand sort of how we came to be in this position.

So if I could just start with the Variance part of the --

CONSTANTINE ALEXANDER: However you want to do it.

ATTORNEY SARAH RHATIGAN: -- of the application.

So the first issue I mentioned is the separation between the buildings. So if you were to look at these two structures -- and, Peter, actually could you show us the site plan? Yes. Okay.

So if you look at the buildings themselves, so there's one building that's at the front on Cambridge Street. That contains two units. So there's Cambridge Street. Right across the street is Cambridge hospital. Okay? And then there's a back building which is off of Highland Street. That has one unit in it. Okay?

Now, there are stairs that are the rear egress for the two units that are located in the Cambridge Street building. Okay? And if you look at just the buildings, the faces of the buildings themselves, the building's separation distance meets zoning requirements.

CHERYL EHRENKRANZ: Say that again?

ATTORNEY SARAH RHATIGAN: If you look at the distance between -- Peter, can you just show everyone? The distance between the two buildings, the building separation is -- I can't see the numbers there.

PETER QUINN: 10.3 and 10.2.

ATTORNEY SARAH RHATIGAN: 10.3 inches?

PETER QUINN: Yeah.

ATTORNEY SARAH RHATIGAN: And 10 point --

PETER QUINN: 2.

ATTORNEY SARAH RHATIGAN: 10.2 inches.

CONSTANTINE ALEXANDER: Let me tell you my concern, this is to me a very serious issue. A Variance for the separation of buildings, and one that I have a lot of problem approving this project with that. The separation of buildings by ten feet is to allow emergency vehicles, fire engines, fire vehicles to go between the two buildings in case of a fire and the like. If you're less than ten feet, vehicles can't go up there. You got to be -- those stairs whatever, ten feet at the beginning

but they cannot go the length of the building.

ATTORNEY SARAH RHATIGAN: So --

CONSTANTINE ALEXANDER: Why don't you put the two buildings together? Or I think I know the answer, for commercial reasons you'll make more money, but the fact of the matter is is that if you put the two buildings together, you wouldn't have this problem. You could still have your three units and you'd have probably a little bit more open space, too.

CHERYL EHRENKRANZ: Amen.

ATTORNEY SARAH RHATIGAN: Well, I think that the -- a couple of responses, okay?

So first just to, you know, to go through the technical aspects of it. So, our understanding and our argument is that the stairs are not part of a structure.

CONSTANTINE ALEXANDER: It blocks a vehicle from going through.

ATTORNEY SARAH RHATIGAN: Well, but fire code issues are not zoning issues, right?

CONSTANTINE ALEXANDER: No, but the reason in the zoning for the ten foot separation is to permit separation between buildings for safety purposes. And be there a staircase --

ATTORNEY SARAH RHATIGAN: Or for density purposes.

CONSTANTINE ALEXANDER: -- or some other part of the structure that prevents a vehicle from going back, in my opinion certainly, that's a problem. And I don't see where the hardship is that allows you to overcome that problem for a Variance.

ATTORNEY SARAH RHATIGAN: So if you look at how the fire department would access this area, let me also back up and just say and it's my understand, and Milton, you can confirm this. It's my understanding that the fire department has signed off on these plans. Okay? And the distance between those buildings and in terms of, if you look at how a fire vehicle would access all the different areas in between these two structures, because there's, there's space on both sides to come at it, there's actually better access than there is in most of the neighborhood. Not that, you know, the neighborhood's very dense. There are some buildings that are probably five feet apart. Not that we're

trying to replicate that.

CONSTANTINE ALEXANDER: Right.

ATTORNEY SARAH RHATIGAN: But I'll just point that out.

Again, the fire department has approved it.

MILTON Yu: They did.

ATTORNEY SARAH RHATIGAN: That was in my notes,  
yes.

So, I would argue that the fire safety issue is one that we have to -- obviously we have to meet state Building Code requirements, we have to meet the fire department code requirements. But, again, from a Zoning Ordinance perspective, the stairs fall in the Zoning Ordinance provision 5.24.1?

CONSTANTINE ALEXANDER: Don't ask me.

ATTORNEY SARAH RHATIGAN: I've got it here. 5.24.2,  
excuse me. With the provision that allows unenclosed steps and unroofed porches and the like which do not project more than ten feet beyond the line of the foundation wall and which are not over four feet of the average level of the adjoining ground may extend beyond the

minimum yard regulations.

And so I would argue that these are not part of the structure, that they're allowed to exist in the yard area between the two buildings under 5.24.2.

CONSTANTINE ALEXANDER: But they're not part of the structure why do you need zoning relief for the ten foot requirement? In other words, if you're right about that --

ATTORNEY SARAH RHATIGAN: If we're right, we don't need zoning relief, correct.

CONSTANTINE ALEXANDER: But ISD doesn't agree with you.

ATTORNEY SARAH RHATIGAN: Well, it's unclear.

CONSTANTINE ALEXANDER: How can it be unclear. The answer -- you ask the question and they either say yes or no.

ATTORNEY SARAH RHATIGAN: We didn't get the answer.

CONSTANTINE ALEXANDER: The relief you wanted.

ATTORNEY SARAH RHATIGAN: No, we didn't get the answer and there was concern about filing the application because we

knew we needed the Special Permit relief, and then there hasn't been a determination from ISD.

BRENDAN SULLIVAN: It's a very salient point.

CONSTANTINE ALEXANDER: I'm sorry?

BRENDAN SULLIVAN: It's a very salient point. Their interpretation. How do we want to base our thoughts and decisions if there is this question that's out there?

CONSTANTINE ALEXANDER: I think the petition is premature. It's premature because you should wait and get your answer from ISD, and then that's very important to us. It would be very important to you as well. But decide tonight with not knowing where ISD stands on this issue, I've got a serious problem. I don't think this case should be heard tonight.

ATTORNEY SARAH RHATIGAN: And just to be clear, you would want to know, you would want ISD to issue their decision on this issue of the rear --

CONSTANTINE ALEXANDER: Yeah.

CHERYL EHRENKRANZ: What is ISD?

ATTORNEY SARAH RHATIGAN: Inspectional Services Department. I'm sorry, that's the commissioner, Ranjit Singanayagam.

CONSTANTINE ALEXANDER: They administer the zoning laws. That's how it works.

INDEMNIFIED MEMBER FROM THE AUDIENCE: Thank you.

CONSTANTINE ALEXANDER: And the building laws, too.

I don't know if others feel the same as I do.

ATTORNEY SARAH RHATIGAN: Well, let me suggest another -- I understand, I understand your position and your concern and your argument. So the question would be if we were to proceed and say, okay, let's assume that they're going to say that it's part of the structure, and is this a case for a Variance to allow the stairs to exist there? So just if it's okay with you, if you could just hear me out about the argument for the Variance. Again, assuming that ISD were to rule that the stairs are part of the structure and that we're violating the building setback.

CONSTANTINE ALEXANDER: You're asking us basically to get advisory opinion from us?



LAURA WERNICK: No, no, no. She's just saying either ISD is going to rule that the stairs don't matter, in which case you don't need a Variance and everything is null and void. Or if the ruling came that, yes, it is -- does require a Variance, she'd like to explain why a Variance should be allowed. Is that --

ATTORNEY SARAH RHATIGAN: Yeah, that is accurate.

LAURA WERNICK: Given that situation.

ATTORNEY SARAH RHATIGAN: So the argument for a Variance in this situation is that the alternative to having the stairs in those locations, there's essentially two possibilities:

One is the one that you mention which is putting the two buildings together. So putting the two buildings together is not a desirable option for a number of reasons, and it's not just the marketing, like, you know, the value. It's also the experience of the people who live in the homes. So instead of having front and back windows, some privacy porches, patios, yard areas, and all of these different, different aspects of both of these structures, you're gonna have one large blob with the units smushed together with less privacy, less windows, less open

area. And frankly, one of the things that we had noted is that the concerns of the neighbor at 1492 Cambridge Street relates -- yep, I understand.

CHERYL EHRENKRANZ: That's me.

ATTORNEY SARAH RHATIGAN: That her concerns about light and air to her backyard will be worse, have a worse impact if there are two structures together.

Right now there is some space between the front and the back where there's, you know, greenery, light, and air coming through here. It's less of a dense blob of a big structure, right?

That's one, that's one result of getting rid of those rear stairs.

The other one is that -- Peter, could you just show where the rear --

BRENDAN SULLIVAN: It makes it less attractive.

ATTORNEY SARAH RHATIGAN: It makes it less attractive.

BRENDAN SULLIVAN: And less desirable.

ATTORNEY SARAH RHATIGAN: Right.

And, Peter, can you describe what happens if you have to

move the rear stairs, the second egress where those show up and the impacts on Cambridge Street?

PETER QUINN: So we could possibly move this stair so that it exits on an interior stairway on a landing to the street here. Again, this was a design review process with Mid Cambridge. And they, they wanted us to avoid having additional doorways here so that it didn't look like townhouses.

JANET GREEN: We need to be able to hear a little bit better.

PETER QUINN: Okay. So that there would just be one door on the Cambridge Street side and one door on the Highland Ave. side. So it's just an architectural thing. If we had to have another door there, it starts to look like townhouses, it's less desirable from the Mid Cambridge point of view.

The other one could possibly be moved to the side yard. So that's something we could do.

But, again, it's, it's a structure, quote/unquote, in a yard which as you know, the criteria there.

ATTORNEY SARAH RHATIGAN: And just to reiterate the

one option for the second egress stairs, again, is at the front of Cambridge Street which imposes issues for Mid Cambridge and for, you know, all the passersby. And then the other, the side egress I actually have even perhaps more concern for the owners and the folks who live at 1492 Cambridge Street, because then there would be an exit with lighting, you know, shining in their windows, so also another not preferable.

CONSTANTINE ALEXANDER: The problem on the street, the entrance of the stairway being on Cambridge Street, what's the negative to that?

ATTORNEY SARAH RHATIGAN: So the negative to that is really from the Mid Cambridge Neighborhood Conservation District's concerns. So when the original, the original set of plans showed, I believe, you had -- did you have two entrances?

PETER QUINN: We did.

ATTORNEY SARAH RHATIGAN: Or maybe that was a second revision. There were second revision of plans. And they had two entrances along Cambridge Street. Mid Cambridge said we really want this to look like one entrance, one main entrance to this front

building. So they did a redesign so there's one entrance on Cambridge Street and then there's one entrance to the building that's off of Highland Street.

So I understand, you know, zoning issues and historic issues are different, but we're a little bit caught in a bind, right?

CONSTANTINE ALEXANDER: Entrances on Cambridge Street but there's no accounting to taste.

ATTORNEY SARAH RHATIGAN: Mr. Hatfield can tell you he doesn't really feel super strongly about that either. But, again, we've gotten a Certificate of Approval. It was a Board of people who really do care about these things. And so we're kind of trying to accommodate it. And so in any event, that's our hardship on the stairs.

And on the window wells, the window wells, the -- our understanding is that if it's a three-foot wide window well, that Inspectional Services will allow that because it's an as-of-right required egress situation. And if it's anything wider than three feet, then they may raise issues about it. And this is from experience again, with Mr. Quinn's office, with folks who've gone through a process and they're trying to get a

building certificate.

CONSTANTINE ALEXANDER: What puzzles me here is that there are a couple of questions we don't know where ISD stands, the window wells and prior to the stairs and the separation of buildings. Why are we hearing this case tonight? Why should you get dispositive answers from the ISD. I would like to hear from them. If they don't have a problem, God bless. But if they do have a problem, I want to know why. I don't understand.

PETER QUINN: With all respect to ISD, they do a fantastic job and it's a very complex zoning by law as you know.

CONSTANTINE ALEXANDER: Yes.

PETER QUINN: But when the use of the basement amendment was put forward, almost two years now by the city.

CONSTANTINE ALEXANDER: Oh, for the apartment? Use the basement for FAR?

PETER QUINN: They exempted FAR in the basement. At that point as you can imagine a lot of developers opened up basements, homeowners opened up basements, and built these sunken wells that

were not just a three-by-three egress light well. And in fact our office has been doing light wells that you could walk downstairs, you could have an outdoor patio in. We've been doing those without any inhibition from the zoning for years by right. So what happened was in their own interpretation, Inspectional Services -- this is how I see it, because I had four jobs that had to get redesigned as a result of this, one of which is in front of you tonight hoping to get a Variance, but it was about the window wells where we were not allowed to use the precedent that we had been using for years and years and had to shrink all these window wells down to these three-by-three wells. That is now the new standard. But there's nothing that changed in the by-law that actually said that, but it was just a way of dealing with this onslaught of large wells that were coming forward from homeowner and developers and everything else.

So that's my history of it.

LAURA WERNICK: So what's the size of the window well?

PETER QUINN: So we have several that are around the building, but Milton can tell you the size of them.

MILTON YU: First name Milton. Last name is Y-U.

And so the window wells are typically 7.7 feet to the outside of the retaining wall by three foot eight. 3.8 feet.

ATTORNEY SARAH RHATIGAN: So that's --

MILTON YU: From the building.

ATTORNEY SARAH RHATIGAN: So that's -- yeah, so 3.8 feet from the building foundation and then seven, seven, seven in width.

MILTON YU: Right.

ATTORNEY SARAH RHATIGAN: And so the window wells that are sort of flagged as potential issues are, there's one window well that's on the front building on Cambridge Street, but the window well is on the Highland Street front yard setback right where Mr. Quinn's indicating. And then there's a window well that is on the boundary, it's actually -- I'm sorry, Peter, the one in between Highland Street and the neighbor. Oh, yes, I'm sorry. There's a window well between the buildings and then there's one that's right on the -- in the side yard to the --

CONSTANTINE ALEXANDER: And Cambridge Historical is not concerned about these window wells?

ATTORNEY SARAH RHATIGAN: They're not. This is part



of the design that they reviewed and they saw.

So I mean, the window well issue, there's nothing in the Ordinance that I see that addresses the issue. That's why I don't necessarily think that we need relief, but I do have concern that ISD may see it differently at the point that we pull a permit.

CONSTANTINE ALEXANDER: Well, if they do see it differently, I'd like to know the reasons why. That's again the reason my problem of why are we hearing this case tonight? When there are so many questions hanging out there that we need input from ISD which we haven't gotten.

BRENDAN SULLIVAN: The absence of that clarity, the absence of a definitive answer colors the entire presentation.

CONSTANTINE ALEXANDER: Yeah.

BRENDAN SULLIVAN: My thought in reviewing this is that you're -- when somebody is starting off with a blank piece of paper, and you're basically starting off with a blank piece of paper, why you can't do something as of right? And obviously it comes down to dollars and cents. Personally myself, I think you have too much building on the site.

CHERYL EHRENKRANZ: Yes.

BRENDAN SULLIVAN: And that I don't see any reason why either you make the building smaller, which makes them less desirable, less marketing, less marketable or that you just put in two units.

CONSTANTINE ALEXANDER: Yes.

BRENDAN SULLIVAN: Then you don't need setback relief, you probably don't need any parking relief. It's that third unit, that second building which is wagging the dog here actually.

CONSTANTINE ALEXANDER: Absolutely right.

BRENDAN SULLIVAN: And I don't, you know, without getting into all the dollars and cents, you know, your costs and so on and so forth, what you want to sell them for, and then the difference. And, you know, whether you make a dollar or a million dollars, really is of no great concern to me other than the fact that that's what's driving this is the bottom line.

CONSTANTINE ALEXANDER: Yeah.

BRENDAN SULLIVAN: And yet -- and the letter of opposition is very valid. And the person has standing, presumed standing. And I

think that that letter is to be considered very seriously. The objection that's raised in it.

So, that's -- for me when somebody's starting off with a blank piece of paper and say this is what we want to do, it's a hard sell.

CONSTANTINE ALEXANDER: And it underscores my concerns, too, here. I mean, the fact of the matter is that this is a lot of building, buildings on this lot and I don't see that just -- zoning justification for it. I see the economic justification, but that ain't relevant to our determination. I mean every time we hit a -- we get zoning relief and new buildings are being built or new additions are being built, it's always the unstated issue is we can make more -- the property can be more valuable, we can make more money if we do what we want to do. And our job as a Zoning Board is to reign that in and say, yes, you can do that but you've got to establish certain standards. And it's not clear you've established them here. But on top of that, I don't want to beat a dead horse, I don't like the fact that we're hearing cases we don't know where ISD stands and on two issues. I think you need to hear from ISD. I think you need maybe to go back and rethink your plans and maybe scale down the relief

that you need. It may cost you economically, but that would make the zoning a lot better and make peace with your neighbor, your abutter.

That's where I'm coming from, frankly. I'm not prepared to vote in favor of this just to be very clear, as presented tonight.

ATTORNEY SARAH RHATIGAN: The one question that I think if the Board would allow us to have some time to consult with our client this evening just before --

CONSTANTINE ALEXANDER: We only have one other case. You have a brief period of time.

ATTORNEY SARAH RHATIGAN: We'll be quick, I just want to be able to speak to him about this idea. But one question is whether the Board would be, would be able to consider a Special Permit relief for the parking situation? I'm just trying to think of --

CONSTANTINE ALEXANDER: Does it make a difference?  
I mean....

ATTORNEY SARAH RHATIGAN: Well, I mean, I just wonder if --

CONSTANTINE ALEXANDER: I really don't like to bifurcate

it. If I'm going to -- speaking for myself. If I'm going to grant a Special Permit for parking, I want to know parking for what? What kind of structures? You know how. Many structures are there? How many dwelling units?

Anyway if you'd like to recess?

ATTORNEY SARAH RHATIGAN: Yeah, if we could recess?

CONSTANTINE ALEXANDER: Of course.

ATTORNEY SARAH RHATIGAN: And you'll take the next case.

CONSTANTINE ALEXANDER: You can recess right back there and come back and see us when you're ready.

ATTORNEY SARAH RHATIGAN: Okay, thank you.

BRENDAN SULLIVAN: And have you had a conversation with the abutter, the person who is --

CONSTANTINE ALEXANDER: Sitting right here.

ATTORNEY SARAH RHATIGAN: Yeah, so --

BRENDAN SULLIVAN: Yes or no I guess.

ATTORNEY SARAH RHATIGAN: -- I'm late to the show.

But I know that -- or at least I understand that you were at the Historic Commission --

CHERYL EHRENKRANZ: I was.

ATTORNEY SARAH RHATIGAN: -- meetings and that there were several discussions.

CHERYL EHRENKRANZ: That's right.

ATTORNEY SARAH RHATIGAN: And some of her concerns were aired at that time.

I got your letter just very recently, but there wasn't any phone number and I didn't want to knock on your door.

BRENDAN SULLIVAN: So your answer is no, you haven't.

ATTORNEY SARAH RHATIGAN: No, we haven't spoken directly.

CHERYL EHRENKRANZ: I have a copy of my letter.

CONSTANTINE ALEXANDER: Okay, why don't you recess and we'll take the next case.

ATTORNEY SARAH RHATIGAN: Okay.

CHERYL EHRENKRANZ: What's happening?

BRENDAN SULLIVAN: They're going to go huddle, all right?

And then they're going to come back. But that's not the end of it.

CONSTANTINE ALEXANDER: They may decide they want to withdraw the case or they may want to continue it. They've got to decide what they want to do next.

CHERYL EHRENKRANZ: Okay.

CONSTANTINE ALEXANDER: And then we decide what we're going to allow.

BRENDAN SULLIVAN: If it proceeds, you will, you'll have your chance to speak.

(Case recessed.)

\* \* \* \* \*

(9:35 p.m.)

(Sitting Members Case No. BZA-017013-2018: Constantine Alexander, Brendan Sullivan, Janet Green, Jim Monteverde, Laura Wernick.)

CONSTANTINE ALEXANDER: The Chair will call case No. 017013, 84 Winthrop Street.

Is there anyone here wishing to be heard on this matter? Sir, your name and address to the stenographer, please.

ATTORNEY ANDREW UPTON: Good evening, Mr. Chairman, members of the Board. Andrew Upton with the applicant with offices at Six Beacon Street in Boston. And with me is Jeff Russell



the national real estate director of Veggie Grill.

CONSTANTINE ALEXANDER: This is not a one off. This is a -- you have other Veggie Grills in other locations.

JEFF RUSSELL: Yes, sir, we do.

CONSTANTINE ALEXANDER: You've answered it.

ATTORNEY ANDREW UPTON: This will be the first one on the east coast.

CONSTANTINE ALEXANDER: Oh, really?

ATTORNEY ANDREW UPTON: Yeah. So thank you for hearing us tonight. Andrew Upton representing the applicant. I want to briefly review why we think we comply with the requirements for Special Permit. And I'll turn things over to Jeff to give you background on the company and product and proposed operation in Harvard Square.

I'm happy to report that we met with and earned the support of the Harvard Square Business Association and the Harvard Square Advisory Council. Hopefully you have both of those letters on file. If you don't, I have copies with me.

CONSTANTINE ALEXANDER: We do.

ATTORNEY ANDREW UPTON: We hope you'll find that this use will not be a detriment to the public interest because it will not cause additional traffic.

The nature of the use is compatible with other building tenants and businesses. This is a unique and appealing food choice for customers.

There would be no adverse or negative effects due to the health and nature of the product and its preparation. The previous occupant of the space was a Waga Mama Restaurant, with many of the same characteristics of Veggie Grill. It didn't cause any detrimental effects.

We hope that you find this use will comply with the fast order food requirements, as it does not create traffic or parking problems. It does not threaten pedestrian safety.

The design fits within the area, and the establishment fulfills a need for unique and popular cuisine that's not readily available in an authentic fresh fast order format.

Our mostly walk-in customers will be served on biodegradable

materials and have convenient, well marked waste and recycling receptacles with designs that will comply with applicable access codes.

Finally, this use will support the citywide urban design objectives as a visually compatible use in a district with many food service options that's pedestrian and bicycle friendly with minimal environmental impact and no increased burden on city infrastructure.

CONSTANTINE ALEXANDER: Can you tell me a little bit about your food offerings? I mean, is it -- Veggie Grill suggests to me that you're grilling vegetables.

JEFF RUSSELL: We do that as well, yes, sir. So Veggie Grill is a --

ATTORNEY ANDREW UPTON: I have some visual aids as we discuss.

JEFF RUSSELL: Veggie Grill is 31 restaurant company. We've been in business a little over, almost 12 years now since 2006. Predominantly on the west coast. Mostly in Southern California, some San Francisco Bay area restaurants, and also Portland area and Seattle. We now opened in Chicago, and we are excited to open here in

Cambridge. So this will be our flagship for the east as we call it.

Our food is technically vegan. So we're a vegan restaurant company, but we don't necessarily position ourselves as vegan in our offerings. 80 percent of our customers do not identify themselves as vegan or vegetarian. And our food is what I call an eclectic, broad spectrum. We have burgers, we have --

CONSTANTINE ALEXANDER: Not with meat though?

JEFF RUSSELL: Everything is plant based. Everything, the cheese, plant based. We use rice bran oil. So you won't find any duck fat in our french fries or anything like that. But it's a really unique concept. Very cravable, very innovative food and it really is food that what I call food the people like to eat. We just made a plant-based version of it.

CONSTANTINE ALEXANDER: And there's nothing like this in Harvard Square now?

JEFF RUSSELL: Not that I'm aware. I know that there are some --

CONSTANTINE ALEXANDER: Vegetarian restaurant, but I

don't think there's anything as extensive or grilling that you will offer.

JEFF RUSSELL: Correct. We have a full kitchen. So we make everything on-site. I know that there are some -- I think there's at least one that's I believe vegan, Clover maybe, but don't quote me on that. And I know their menu offering is not as extensive as ours, but ours is broad based.

CONSTANTINE ALEXANDER: Well, the reason I ask you the question is out of pure curiosity. We have, one of the findings we have to make is that the establishment fulfills a need for such a service in the neighborhood or in the city. Or in the neighborhood there's nothing like yours so there is a need for this.

JEFF RUSSELL: We think so. Our research indicates this, yes, sir.

CONSTANTINE ALEXANDER: Sorry, we interrupted your presentation I think.

ATTORNEY ANDREW UPTON: I was hitting on the technical standards and I was turning it over to Jeff to talk about the concept. And we're glad to give you more detail or answer any questions.

CONSTANTINE ALEXANDER: So how do you satisfy the local requirements for handicapped and disabled persons? Is it that ramp that goes up in front of what's now Staples?

JEFF RUSSELL: Yes, sir.

CONSTANTINE ALEXANDER: So that's how people --

JEFF RUSSELL: That ramp is remaining. The stairway that's off of J.F.K. remains, so we're just using the existing infrastructure although the building is getting renovated.

CONSTANTINE ALEXANDER: And the interior configuration is like Waga Mama or are you going to redesign inside?

JEFF RUSSELL: Totally -- if you go to the space now, you'll see that it's been gutted. So we are redesigning the interior and it has been divided partially I think. And I'll use rough numbers. Waga Mama I think was about 42 or 4100 feet. We're taking about 2300. So there is a small space with access off the lobby area that will be leased to --

CONSTANTINE ALEXANDER: Someone else.

JEFF RUSSELL: -- someone else. I'm not sure who.

CONSTANTINE ALEXANDER: Okay.

Anything else?

JIM MONTEVERDE: Is it strictly takeout?

JEFF RUSSELL: Oh, no, no, no.

JIM MONTEVERDE: So seats inside?

JEFF RUSSELL: Yes. So order at the counter, food will be delivered to your table. Like I said, we're big on the plant base. It's also a sustainability concept as well. So that's a really important thing for our -- better for you, better for the planet.

CONSTANTINE ALEXANDER: I'm curious as to why this is considered a fast order food establishment.

JIM MONTEVERDE: Yeah, exactly.

CONSTANTINE ALEXANDER: Yeah, but Waga Mama was. For some reason ISD has decided that it meets some requirements.

JIM MONTEVERDE: Unless it's the size.

ATTORNEY ANDREW UPTON: Yeah, I think it has to do with the size plus the takeout.

JIM MONTEVERDE: Right.

CONSTANTINE ALEXANDER: Okay.

Any other, any questions from members of the Board?

JIM MONTEVERDE: No.

LAURA WERNICK: I don't recall. How does servicing work for the building? Deliveries? And pick-ups?

JEFF RUSSELL: Deliveries? So my understanding is that there is along Winthrop where trash currently is, there will be -- while there will be an addition of the lobby area for the offices being built on -- about what would now be or soon to be a third and fourth level, that there will be -- yeah, it's going to be tall. There is a trash and delivery entry area there and elevators that service both floors from inside.

LAURA WERNICK: Okay.

ATTORNEY ANDREW UPTON: So we're pretty much doing the same thing that Waga Mama did with the building's existing program for night drops and recycling and composting. We're following the Waga Mama model that's been established by the building.

LAURA WERNICK: And what are the hours of operation?

JEFF RUSSELL: Our typical hours we would open at 10:30 in the morning and generally close anywhere -- sometimes nine o'clock on



a weekday. Weekends open until ten. However, part of our discussions with the various Harvard community groups, there's a desire perhaps to open earlier and stay open later. And that fits well within our spectrum. We have locations that are open until midnight on weekends. We expect to be open late here because it's vibrant.

JANET GREEN: Students.

JEFF RUSSELL: And it's vibrant at all hours. And we're working on a brunch menu to service that component. We don't have that yet but that's work in progress.

BRENDAN SULLIVAN: I think ISD's feeling -- and Sisia, is it how they categorize one food establishment and another is whether or not it has table service?

SISIA DAGLIAN: Yes. It's like the menus and then the amount of like plates and like what are their offering plates. I think because like yours are throw away essentially, right?

JEFF RUSSELL: No. We actually have plate ware but it's both.

SISIA DAGLIAN: It has to do with the percentage. I think

that's how the ordinance is written, right? It has to do with the percentage of one or the other.

BRENDAN SULLIVAN: Yeah, okay.

ATTORNEY ANDREW UPTON: And there was a concern that there is -- I mean, as you can see from the photos, it's where you go, you get your food, you sit down, you go with a group. It's sort of a community positive atmosphere. But because the food is so unique, we expect a big takeout demand. And that's why we're here.

JANET GREEN: So that's why it's fast food because you're going to have a lot of takeout?

BRENDAN SULLIVAN: No, I think the trigger really is table service. I think -- is that correct, table service?

SISIA DAGLIAN: Yeah.

BRENDAN SULLIVAN: And then there are some other ancillary --

SISIA DAGLIAN: Right, the amount of -- I think the percentage of your business that is takeout, that's it.

BRENDAN SULLIVAN: Yeah, all right. Okay.

JOHN HAWKINSON: Does the Board care? The actual triggers are -- there are four:

One, provision of non-disposable plates, cups, and utensils to all patrons.

Two, availability of printed individual menus for all patrons.

Three, provision of 75 percent of the seating --

CONSTANTINE ALEXANDER: Where are you reading from?

JOHN HAWKINSON: -- freestanding tables rather than counters.

And four, at least 80 percent of the revenue from food sales is attributable to food consumed on the premises.

That's from page 2-4 of Article 2, the fast order food establishment.

CONSTANTINE ALEXANDER: Okay, thank you.

JOHN HAWKINSON: So it has to not meet all of those in order to require....

CONSTANTINE ALEXANDER: So it's your representation to

us that you will have -- you'll exceed to the request of the people -- of the Harvard Square Association and have longer hours, certainly later hours? And what about early. Starting earlier? I think that was a request you said they made, too.

JEFF RUSSELL: My recall was it came as a question. As far as the later hours, that's really a function of demand. If there's volume, people are there, we will stay open longer without question. It's just that we don't know yet what the demand is. If there's nobody that shows up after, you know, eight o'clock on Saturday night, we'll be disappointed. But why stay open to midnight if nobody comes in? So as a practical measure. But, no, what attracted us to the market clearly was the 24-hour nature of the community there.

CONSTANTINE ALEXANDER: Okay. Any others questions?

BRENDAN SULLIVAN: No.

JIM MONTEVERDE: No.

CONSTANTINE ALEXANDER: I'll open the matter to public testimony.

Is there anybody here wishing to be heard on this matter?

(No Response.)

CONSTANTINE ALEXANDER: Apparently not. We are in receipt of some communications. We have a letter from the Harvard Square Business Association. (Reading) While we have vegetarian offerings throughout the square, this restaurant is quite unique in that it is entirely vegetarian. It has offerings that are, "meat-like" in their texture and flavor. This distinction, along with lots of healthy choices and Veggie Grill's commitment to being active contributors to our Harvard Square community gives us great confidence that they will be a good fit. Once they get settled, we hope they will actively participate in Harvard Square events; be on a cleanup committee for Winthrop Park and join the Harvard Square Business Association as we endeavor to continue our good stewardship of Harvard Square. We hope the Board will vote affirmatively.

And we do have a letter from the Harvard Square Advisory Committee. It's long and detailed. The bottom line is they are in support. I'm looking for the actual words. By the way, it says you're

going to apply for a beer and wine license?

JEFF RUSSELL: Yes, sir.

CONSTANTINE ALEXANDER: Okay.

Anyway, they must have a support here. I can't just find the words.

ATTORNEY ANDREW UPTON: Last two sentences.

CONSTANTINE ALEXANDER: Oh, yeah, here it is. All members in attendance supported the fast order food Special Permit and find it in conformance with the Harvard Square Overlay District guidelines.

And they make suggestions, something you covered, like longer hours and windows should be open -- remain as remain as open as possible. I don't think you have any --

JEFF RUSSELL: No.

CONSTANTINE ALEXANDER: Why would you do that?

You're encouraged to join the Winthrop Park Association Trust and actively engage in the care of the abutting open space. I would second that, but that's not a zoning issue.

Recycling and composting should be facilitated with clear and

precise directions using photographs of the actual materials.

Do you have an issue with that?

ATTORNEY ANDREW UPTON: There was some concern by one person at the Harvard Square Advisory Committee that she didn't know where to put her recyclables because the bins weren't clearly marked. It said recycling but she wasn't sure how to sort them, and we assured everyone that we would work on that.

CONSTANTINE ALEXANDER: And the applicant is encouraged, this is the Harvard Square Advisory Committee to continue to develop a breakfast menu to increase the offerings and hours of operation.

You don't have a breakfast menu right now?

JEFF RUSSELL: We do not. It's something that's very much in process for locations specifically like this. We haven't developed it yet.

CONSTANTINE ALEXANDER: If you develop one it's in your best interest to offer it.

JEFF RUSSELL: Oh, yes.

CONSTANTINE ALEXANDER: Okay, we also have a letter from Grendel's Den Restaurant and Bar signed by Carl Kuelzer, K-U-E-L-Z-E-R. Actually it's a footnote to the report from Harvard Square Advisory Committee. (Reading) I support the encouragement of longer, later hours, visibility of the interior from the street, engagement with the Winthrop Park Trust, and recycling and composting program. I agree that the use conforms to the district guidelines and replaces a similar operation. I would only add that the applicant should be aware of the vehicle restrictions on Winthrop Street and agree to inform contractors, employees, and vendors that the street is closed and has no parking after eleven a.m.

JEFF RUSSELL: We are aware of this.

CONSTANTINE ALEXANDER: Fair point.

Ready for a vote?

JIM MONTEVERDE: Yep.

CONSTANTINE ALEXANDER: We have to take the vote and alert the folks out in the other room that they're running out of time.

Anyway, the Chair moves that we grant -- we make the



following findings with the request for a fast order food establishment permit:

That the operation will not create traffic problems, reduce available parking, threaten the public safety in the streets or the sidewalks or encourage or produce double parking on the adjacent streets.

The physical design -- we haven't talked about this. The physical design including color and use of materials of the establishment shall be compatible with and sensitive to the visual and physical characteristics or other buildings, public spaces, and uses in a particular location.

What will your physical design, the color and use of materials, what would that be like? Black and white is what you've given us.

JEFF RUSSELL: Well, yeah, that's true. Our color schemes do incorporate a lot of earth tones in them. A lot of products we do are recyclable in terms of building materials and so forth. We do use, by virtue of the name and some of our background we incorporate green.

CONSTANTINE ALEXANDER: Not shocking pink though?

JEFF RUSSELL: There is no shocking pink. There are

touches of orange. I will tell you that in truth.

CONSTANTINE ALEXANDER: So it's consistent with the concept of vegetarian?

JEFF RUSSELL: That's right.

CONSTANTINE ALEXANDER: Okay.

We have to make a finding and I move that we find that the establishment fulfills a need for such a service in the square. Such need being your vegetarian offering are not replicated anywhere in the square and it will bring another dimension to the vegetarian food offerings that are present in the square.

That you will attract patrons primarily from walk-in trade as opposed to drive-in and automobile-related trade. And I think just the nature of where you're located means it's going to be walk-in. There's not going to be much in the way of parking.

The establishment shall, to the greatest extent feasible, utilize biodegradable materials in packaging the food and the utensils and other items provided for consumption thereof. And I think you've addressed that in your comments.

You're going to provide convenient, suitable, and well-marked waste receptacles to encourage patrons properly to dispose of all packaging materials, utensils, and other items available with the sale of food.

Where will your waste disposal places be? On the outside, inside?

JEFF RUSSELL: Inside the restaurant.

CONSTANTINE ALEXANDER: Right.

JEFF RUSSELL: There is a trash receptacle by the main entry doors, which with the top of the stairs, top of the ramp. There are also I think two others located inside the restaurant. One's towards the wall. I guess that would be the west end of the building, if you will. I'll say down JFK, that side. And I think another one that's near the demise wall towards the, what would be our service entrance toward that, seating area where the beverage containers are. My recall is there are three.

CONSTANTINE ALEXANDER: Good.

And that you're going to comply with all state and local requirements applicable to ingress, egress, and the use of all facilities on

the premises for handicapped and disabled persons.

You've already addressed that in terms of the ramp ingress and egress. Inside for bathroom facilities?

JEFF RUSSELL: They must meet ADA requirements. They're appropriately marked, path of travel. Wheelchair accessible tables. So we do all the standards.

CONSTANTINE ALEXANDER: They're all there, good.

We've got to make further findings that apply to all Special Permits, so let me just run down the list:

That the requirements of the Ordinance cannot be met unless we give you the Special Permit that you're seeking.

That traffic generated or patterns of access or egress will not cause congestion, hazard, or substantial change in established neighborhood character. In this regard we would already cite the discussion we've had so far. And further, there's previously been a fast order food establishment here and there were no problems about congestion, hazard, or established change in neighborhood character.

Similarly that the continued operation or development of

adjacent uses will not be adversely affected by what is proposed. And in this regard I would refer to the support from the Harvard Square Business Association and the Harvard Square Advisory Committee which suggests that adjacent uses will not be adversely affected.

No nuisance or hazard will be created to the detriment of the health, safety, and/or welfare of the occupant or the citizens of the city.

And that generally what you're proposing will not impair the integrity of the district or adjoining district or otherwise derogate from the intent and purpose of the Ordinance.

So on the basis of all of these findings, the Chair moves we grant the Special Permit requested.

All those in favor please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Good luck.

(Alexander, Sullivan, Green, Monteverde, Wernick.)

\* \* \* \* \*

(9:55 p.m.)

(Sitting Members Case No. BZA-017018-2018: Constantine Alexander, Brendan Sullivan, Janet Green, Jim Monteverde, Laura Wernick.)

ATTORNEY SARAH RHATIGAN: We have decided that we would like to continue the case. And did we say two weeks?

CONSTANTINE ALEXANDER: Wait. We've got to get --

ATTORNEY SARAH RHATIGAN: Right. Are we ready in two weeks or do we need four weeks? We need four weeks? We

would --

CONSTANTINE ALEXANDER: Four weeks?

ATTORNEY SARAH RHATIGAN: Yes.

SISIA DAGLIAN: Four weeks, that's Arnold Circle and Decatur again.

CONSTANTINE ALEXANDER: We have room on the one two weeks later, December?

SISIA DAGLIAN: There's two cases already, Hampshire and Crescent.

CONSTANTINE ALEXANDER: We could have a third case then.

SISIA DAGLIAN: Yeah.

CONSTANTINE ALEXANDER: What we're saying because of our schedule, I want to ask you -- don't worry. Don't go.

CHERYL EHRENKRANZ: I can't hear you.

CONSTANTINE ALEXANDER: Okay. We're going to suggest December 6th or 7th?

SISIA DAGLIAN: 8th.

CONSTANTINE ALEXANDER: 8th, I'm sorry.

JANET GREEN: November 8th is a Saturday.

ATTORNEY SARAH RHATIGAN: December 6th is the date that we're looking at, right? December 6th?

CONSTANTINE ALEXANDER: I think so. That's what's on the table right now.

SISIA DAGLIAN: December 13th. There's only one hearing in December, it's the 13th.

CONSTANTINE ALEXANDER: I thought we continued a case to earlier tonight?

SISIA DAGLIAN: Yeah, December 13th.

CONSTANTINE ALEXANDER: Was it December 13th? My mistake, I'm sorry.

JANET GREEN: It's the Follen Street that's not heard.

SISIA DAGLIAN: Correct.

CONSTANTINE ALEXANDER: Let me ask you, are you able to attend on the 13th of the December if we --

CHERYL EHRENKRANZ: What day is that?



CONSTANTINE ALEXANDER: Thursday.

CHERYL EHRENKRANZ: And what time would that be?

CONSTANTINE ALEXANDER: Seven o'clock.

CHERYL EHRENKRANZ: Yeah.

CONSTANTINE ALEXANDER: May not be exactly seven.

Can all of our members of the board make it on the 13th? I'm getting nods in favor.

JIM MONTEVERDE: Yes.

CONSTANTINE ALEXANDER: What say you about this?

ATTORNEY SARAH RHATIGAN: December 13th works for us. I'm understanding you're saying that you don't have time earlier on any of the other --

CONSTANTINE ALEXANDER: That's the problem. We have a jammed agenda. Some long cases unfortunately.

ATTORNEY SARAH RHATIGAN: Yeah.

The one thing we were wondering is if it's possible to ask if Ranjit Singanayagam could be in attendance at that hearing in case --

CONSTANTINE ALEXANDER: I mean, it's not up to us to

ask him. I'm sure if you ask him he'll attend.

ATTORNEY SARAH RHATIGAN: Okay, that's what we'll do, great. We'll ask.

CONSTANTINE ALEXANDER: Hopefully we'll have some answers from him before then.

ATTORNEY SARAH RHATIGAN: Exactly.

CONSTANTINE ALEXANDER: Then maybe he doesn't need to be here maybe. Your request will be passed on to Ranjit by Sisia.

ATTORNEY SARAH RHATIGAN: Okay.

CONSTANTINE ALEXANDER: The Chair moves that we continue this case as a case heard until seven p.m. on December 13th subject to the following conditions:

That the petitioner sign a waiver of time for decision. You know that rule.

Two, that the posting sign or a new one anyway, be modified or a new one be put up to reflect the new date, December 13th, and the new time, seven p.m. And that the sign be maintained for the 14 days prior to November -- December 13th as required by our Ordinance.

And lastly, to the extent you modify your plans, and that very well may be the case, those modified plans must be in our files no later than five p.m. on the Monday before December 13th. That's to give us and the neighbors time to study the plans in advance of the hearing.

All those in favor of hearing the case on this basis please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. We'll see you on December 13th.

(Alexander, Sullivan, Green, Monteverde, Wernick.)

(Whereupon, at 10:00 p.m., the

Board of Zoning Appeals Adjourned.)

\* \* \* \* \*

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\_\_\_\_\_

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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 12th day of November, 2018.

---

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

My Commission Expires:  
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145:4**10.3** <sup>[2]</sup> - 144:17,  
144:18**100** <sup>[1]</sup> - 43:9**10:00** <sup>[1]</sup> - 211:4**10:30** <sup>[1]</sup> - 186:12**11** <sup>[1]</sup> - 122:1**11th** <sup>[1]</sup> - 40:6**12** <sup>[2]</sup> - 7:3, 179:10**121** <sup>[1]</sup> - 2:12**12th** <sup>[1]</sup> - 213:8**132/205** <sup>[1]</sup> - 2:13**13th** <sup>[18]</sup> - 34:16,  
83:11, 83:14, 83:18,  
85:8, 85:10, 207:2,  
207:3, 207:6, 207:8,  
207:13, 208:5,  
208:10, 209:17,  
210:5, 210:8,  
210:12, 211:1**14** <sup>[7]</sup> - 43:9, 82:1,  
82:8, 82:16, 84:10,  
84:11, 210:7**147703** <sup>[1]</sup> - 213:11

**1492** [2] - 155:8,  
 158:8  
**1500** [2] - 2:13, 132:7  
**171** [1] - 108:17  
**175** [8] - 2:11, 2:14,  
 95:6, 95:14, 111:13,  
 112:16, 112:18,  
 113:14  
**176** [2] - 113:10,  
 113:12  
**18** [1] - 88:15  
**1923-1925** [3] - 2:9,  
 79:6, 80:18  
**1940** [1] - 45:11  
**1947** [1] - 45:16  
**1982** [1] - 52:7  
**1994** [1] - 113:12  
**1g** [1] - 140:6

## 2

**2** [4] - 112:14, 112:15,  
 145:3, 190:5  
**2-4** [1] - 190:5  
**20** [1] - 93:16  
**200** [2] - 43:11, 43:15  
**2006** [1] - 179:10  
**2007** [1] - 123:16  
**2009** [1] - 112:2  
**2012** [2] - 18:17,  
 72:15  
**2018** [7] - 1:4, 9:4,  
 57:5, 82:6, 93:16,  
 131:3, 213:8  
**2022** [1] - 213:13  
**21** [1] - 9:4  
**22** [1] - 27:5  
**223** [2] - 100:7, 101:4  
**22nd** [1] - 39:16  
**2300** [1] - 183:11  
**24** [2] - 113:15, 121:6  
**24-hour** [1] - 191:9  
**25** [6] - 1:4, 2:4, 2:12,  
 27:6, 101:15,  
 121:18  
**25th** [2] - 40:3, 81:15  
**26** [4] - 2:4, 25:6,  
 26:13, 30:15  
**27** [1] - 57:5  
**29** [1] - 213:13  
**29th** [1] - 82:18

## 3

**3.8** [2] - 163:18, 164:4

**30** [3] - 88:16, 88:17,  
89:17  
**300** [2] - 2:8, 59:6  
**31** [1] - 179:8  
**330** [2] - 2:2, 6:6  
**35-foot** [1] - 89:14  
**36** [1] - 83:8  
**39** [1] - 2:6

## 4

**41** [1] - 2:7  
**410** [1] - 45:2  
**4100** [1] - 183:11  
**42** [2] - 49:2, 183:10  
**426** [2] - 2:10, 86:6  
**44** [3] - 2:7, 41:6, 52:5  
**440** [1] - 45:4  
**46** [2] - 52:1, 52:6

## 5

**5.24.1** [1] - 149:6  
**5.24.2** [2] - 149:9,  
150:1  
**59** [1] - 2:8

## 6

**6** [4] - 2:3, 122:2,  
139:7, 139:9  
**6.44.1.a** [1] - 139:9  
**6.44.1.g** [1] - 140:9  
**617.786.7783/617.63**  
**9.0396** [1] - 1:16  
**626** [2] - 112:13,  
112:15  
**630** [2] - 111:15,  
112:2  
**6409** [1] - 11:3  
**6409(a)** [2] - 18:16,  
72:14  
**675** [1] - 86:16  
**6th** [3] - 206:11,  
206:15, 206:17

## 7

**7** [2] - 43:9, 131:3  
**7.7** [1] - 163:16  
**75** [1] - 189:14  
**79** [1] - 2:9  
**7:00** [2] - 1:4, 3:3  
**7:05** [1] - 6:1  
**7:20** [1] - 25:1  
**7:30** [2] - 39:1, 41:1  
**7:45** [1] - 59:1



**7th** <sup>[1]</sup> - 206:11

## 8

**8** <sup>[1]</sup> - 122:2

**8/31/2018** <sup>[1]</sup> - 117:6

**80** <sup>[2]</sup> - 180:2, 190:2

**806** <sup>[1]</sup> - 1:6

**84** <sup>[3]</sup> - 2:14, 41:16,  
175:6

**86** <sup>[1]</sup> - 2:10

**8:00** <sup>[1]</sup> - 79:1

**8:15** <sup>[1]</sup> - 86:1

**8:30** <sup>[1]</sup> - 95:1

**8:50** <sup>[1]</sup> - 121:1

**8th** <sup>[4]</sup> - 82:17,  
206:12, 206:13,  
206:14

## 9

**90** <sup>[1]</sup> - 138:4

**907** <sup>[1]</sup> - 86:17

**95** <sup>[1]</sup> - 2:11

**966** <sup>[1]</sup> - 41:18

**9:00** <sup>[1]</sup> - 132:1

**9:35** <sup>[1]</sup> - 175:1

**9:55** <sup>[1]</sup> - 205:1

**9th** <sup>[1]</sup> - 84:9

## A

**A-frame** <sup>[1]</sup> - 99:4

**a.m** <sup>[1]</sup> - 196:17

**ability** <sup>[2]</sup> - 37:1,  
43:16

**able** <sup>[9]</sup> - 30:7, 62:11,  
109:18, 132:13,  
133:7, 157:5, 170:6,  
170:8, 207:13

**absence** <sup>[2]</sup> - 166:1,  
166:2

**absolutely**  
<sup>[2]</sup> - 107:8, 167:7

**abundance**

<sup>[1]</sup> - 142:11

**abut** <sup>[1]</sup> - 51:5

**abuts** <sup>[1]</sup> - 112:16

**abutter** <sup>[10]</sup> - 27:13,  
30:18, 31:18, 32:12,  
32:13, 46:16, 49:3,  
49:8, 169:13,  
171:16

**abutters** <sup>[3]</sup> - 27:18,  
35:9, 135:16

**abutting** <sup>[2]</sup> - 49:16,

194:11  
**accept** [1] - 40:9  
**acceptable** [2] - 9:5,  
 13:4  
**access** [17] - 17:6,  
 55:15, 71:3, 87:7,  
 87:8, 88:9, 89:3,  
 89:7, 118:7, 122:6,  
 126:1, 147:14,  
 148:2, 148:6,  
 178:11, 183:12,  
 202:9  
**accessed** [1] - 122:5  
**accessible** [2] - 89:5,  
 201:16  
**accessing** [1] - 92:6  
**accommodate**  
 [2] - 125:15, 160:6  
**accomplish** [1] - 51:2  
**accordance**  
 [8] - 19:4, 37:7, 57:1,  
 73:2, 93:12, 117:4,  
 119:12, 131:1  
**according** [1] - 43:12  
**accounting**  
 [1] - 159:17  
**accurate** [4] - 72:7,  
 154:6, 212:16,  
 213:6  
**accused** [1] - 90:4  
**acquired** [1] - 87:5  
**Act** [5] - 11:8, 18:17,  
 18:18, 72:15, 72:16  
**active** [1] - 192:11  
**actively** [2] - 192:15,  
 194:10  
**activity** [1] - 122:11  
**actual** [4] - 100:15,  
 189:9, 193:6,  
 194:15  
**ADA** [1] - 201:14  
**Adam** [1] - 81:6  
**add** [8] - 43:15, 44:15,  
 46:10, 54:10, 60:8,  
 112:8, 122:2,  
 196:12  
**added** [2] - 44:17,  
 57:13  
**adding** [1] - 64:17  
**addition** [13] - 7:10,  
 26:11, 26:12, 27:2,  
 29:16, 42:13, 44:8,  
 50:17, 52:4, 52:12,  
 53:2, 98:1, 185:13

**additional** <sup>[14]</sup> - 35:4,  
65:2, 65:5, 65:6,  
65:9, 89:17, 98:3,  
102:9, 113:3,  
115:14, 142:18,  
157:3, 177:7

**additions** <sup>[2]</sup> - 98:14,  
168:15

**address** <sup>[8]</sup> - 29:13,  
41:12, 48:17, 59:8,  
86:12, 103:15,  
108:14, 175:8

**addressed**  
<sup>[3]</sup> - 104:1, 200:2,  
201:11

**addresses** <sup>[1]</sup> - 165:9

**adjacent** <sup>[6]</sup> - 17:10,  
71:8, 118:11,  
197:14, 202:18,  
203:5

**adjoining** <sup>[5]</sup> - 18:1,  
71:17, 119:5,  
149:14, 203:13

**Adjourned** <sup>[1]</sup> - 211:5

**administer**  
<sup>[1]</sup> - 152:12

**advance** <sup>[1]</sup> - 210:14

**advantage** <sup>[1]</sup> - 127:2

**adverse** <sup>[1]</sup> - 177:11

**adversely** <sup>[5]</sup> - 17:11,  
71:9, 118:12, 203:1,  
203:5

**advice** <sup>[1]</sup> - 123:13

**advise** <sup>[2]</sup> - 4:8, 84:12

**advisory** <sup>[1]</sup> - 153:15

**Advisory** <sup>[6]</sup> - 176:17,  
193:4, 195:1, 195:8,  
196:6, 203:4

**aesthetic** <sup>[2]</sup> - 103:1,  
138:2

**aesthetics** <sup>[1]</sup> - 136:7

**affect** <sup>[1]</sup> - 14:13

**affected** <sup>[9]</sup> - 17:11,  
34:12, 52:12, 71:9,  
118:12, 118:14,  
118:15, 203:1,  
203:6

**affects** <sup>[1]</sup> - 7:6

**Affidavit** <sup>[3]</sup> - 23:10,  
60:11, 77:9

**affirmatively**  
<sup>[1]</sup> - 193:2

**affluent** <sup>[1]</sup> - 65:6

**afford** <sup>[2]</sup> - 43:5, 46:5

**affords** [1] - 43:16  
**afterwards** [1] - 85:1  
**agenda** [2] - 3:13,  
 208:15  
**agents** [1] - 82:6  
**ages** [1] - 122:1  
**ago** [4] - 31:10, 49:4,  
 60:18, 123:4  
**agree** [6] - 88:4,  
 100:12, 142:13,  
 150:9, 196:10,  
 196:14  
**agreed** [4] - 52:11,  
 61:2, 61:10, 63:15  
**agrees** [1] - 11:1  
**ahead** [2] - 69:12,  
 133:18  
**aids** [1] - 179:7  
**ain't** [1] - 168:12  
**air** [3] - 128:5, 155:12,  
 155:17  
**aired** [1] - 172:13  
**airing** [1] - 53:17  
**alert** [1] - 197:5  
**Alewife** [1] - 123:6  
**Alexander** [26] - 1:8,  
 3:4, 6:3, 24:15,  
 25:3, 38:5, 39:3,  
 40:14, 41:3, 57:10,  
 59:3, 78:12, 79:3,  
 85:13, 86:3, 94:5,  
 95:3, 117:12,  
 119:18, 121:3,  
 131:8, 132:3, 175:3,  
 204:4, 205:3, 211:2  
**ALEXANDER**  
 [274] - 3:7, 4:17, 6:5,  
 6:16, 8:10, 9:6,  
 9:11, 9:15, 10:6,  
 10:11, 11:4, 11:11,  
 12:3, 12:8, 12:13,  
 13:17, 14:3, 14:9,  
 15:10, 15:16, 16:2,  
 16:8, 16:11, 24:11,  
 25:5, 30:18, 31:5,  
 32:4, 32:7, 32:11,  
 32:16, 33:5, 33:8,  
 33:12, 33:17, 34:5,  
 35:14, 37:12, 37:16,  
 38:3, 39:5, 39:10,  
 39:14, 40:12, 41:5,  
 41:11, 43:11, 44:2,  
 45:8, 46:1, 46:6,  
 46:11, 47:2, 48:2,

48:7, 48:10, 48:13,  
50:7, 50:13, 51:11,  
51:16, 53:4, 53:10,  
53:13, 54:2, 54:18,  
55:7, 57:8, 57:15,  
58:1, 58:4, 59:5,  
60:3, 61:3, 61:11,  
61:18, 62:3, 63:18,  
64:2, 64:14, 65:12,  
67:15, 68:2, 68:5,  
68:10, 68:16, 69:3,  
69:8, 69:13, 78:10,  
79:5, 79:9, 79:13,  
80:1, 80:4, 80:10,  
80:17, 81:4, 83:2,  
83:5, 83:9, 83:12,  
83:16, 85:11, 86:5,  
86:10, 87:12, 88:1,  
88:5, 88:16, 89:1,  
89:18, 90:8, 90:12,  
90:15, 91:3, 91:8,  
91:15, 94:3, 95:5,  
95:10, 96:18, 98:7,  
100:8, 101:5,  
101:16, 103:10,  
103:13, 103:18,  
104:5, 104:9,  
104:18, 105:5,  
105:11, 106:5,  
106:9, 107:5,  
107:10, 107:18,  
108:10, 110:15,  
111:1, 111:4, 115:5,  
116:5, 117:10,  
117:14, 119:16,  
121:5, 123:18,  
125:12, 126:10,  
127:11, 128:9,  
128:12, 128:15,  
129:3, 129:10,  
131:6, 132:6,  
133:10, 133:15,  
133:18, 137:2,  
137:5, 138:17,  
139:6, 139:11,  
140:1, 140:7,  
140:10, 141:4,  
142:1, 142:5, 143:7,  
145:5, 145:18,  
146:15, 147:1,  
147:7, 148:11,  
149:7, 150:2, 150:8,  
150:12, 150:17,  
151:8, 151:13,

152:7, 152:12,  
 152:16, 153:14,  
 158:12, 159:16,  
 161:1, 161:14,  
 161:18, 165:1,  
 165:13, 166:4,  
 167:1, 167:7,  
 167:16, 168:7,  
 170:3, 170:11,  
 170:15, 171:7,  
 171:10, 171:18,  
 173:5, 173:12,  
 173:17, 175:5,  
 175:16, 176:2,  
 176:6, 177:3,  
 178:18, 180:6,  
 180:16, 181:2,  
 181:12, 182:3,  
 182:10, 182:15,  
 183:3, 183:14,  
 183:17, 184:10,  
 184:14, 185:3,  
 189:16, 190:7,  
 190:10, 191:11,  
 191:15, 192:2,  
 193:10, 193:15,  
 194:7, 195:6,  
 195:17, 196:2,  
 197:1, 197:4,  
 198:12, 198:17,  
 199:2, 200:11,  
 201:5, 201:18,  
 204:2, 205:8,  
 205:13, 205:17,  
 206:3, 206:6,  
 206:10, 206:13,  
 206:18, 207:4,  
 207:7, 207:12,  
 207:16, 208:1,  
 208:3, 208:8,  
 208:14, 209:3,  
 209:8, 209:11,  
 209:15, 210:18  
**aligned** <sup>[2]</sup> - 9:18,  
 13:7  
**alleviate** <sup>[2]</sup> - 54:4,  
 55:18  
**allow** <sup>[13]</sup> - 30:3,  
 30:11, 81:13, 89:7,  
 114:13, 116:17,  
 125:17, 130:14,  
 145:10, 153:8,  
 160:12, 169:18,  
 173:18

**allowed** <sup>[8]</sup> - 27:9,  
89:16, 101:3, 125:9,  
134:16, 149:17,  
154:4, 162:17

**allows** <sup>[3]</sup> - 106:16,  
147:11, 149:10

**almost** <sup>[3]</sup> - 115:15,  
161:16, 179:10

**alternative**  
<sup>[1]</sup> - 154:10

**Amen** <sup>[1]</sup> - 146:8

**amendment**  
<sup>[1]</sup> - 161:16

**amenities** <sup>[1]</sup> - 130:16

**amenity** <sup>[1]</sup> - 126:4

**amount** <sup>[4]</sup> - 29:10,  
63:2, 187:13, 189:3

**analysis** <sup>[1]</sup> - 133:4

**ancillary** <sup>[1]</sup> - 189:2

**AND** <sup>[1]</sup> - 212:1

**AND/OR** <sup>[1]</sup> - 213:15

**Anderson** <sup>[2]</sup> - 6:12,  
112:12

**Andrea** <sup>[1]</sup> - 132:4

**andrew** <sup>[1]</sup> - 176:8

**ANDREW**  
<sup>[11]</sup> - 175:10, 176:4,  
176:7, 177:4, 179:6,  
182:5, 184:18,  
186:3, 188:5,  
193:13, 194:17

**Andrew** <sup>[1]</sup> - 175:11

**angle** <sup>[2]</sup> - 136:10,  
136:13

**angled** <sup>[2]</sup> - 136:11,  
136:12

**Anita** <sup>[1]</sup> - 127:18

**answer** <sup>[11]</sup> - 65:15,  
66:11, 112:5, 146:2,  
150:13, 150:16,  
151:2, 151:15,  
166:2, 172:17,  
182:8

**answered** <sup>[1]</sup> - 176:2

**answers** <sup>[3]</sup> - 124:14,  
161:6, 209:9

**antenna** <sup>[6]</sup> - 7:3, 7:7,  
60:8, 62:16, 63:2,  
64:17

**antennas** <sup>[10]</sup> - 9:17,  
11:18, 13:6, 13:7,  
13:10, 62:10, 62:12,  
63:4, 63:9, 64:4

**ANY** <sup>[2]</sup> - 213:14,

213:15  
**anyway** [12] - 33:10,  
 34:6, 53:1, 55:3,  
 55:5, 80:17, 106:6,  
 137:12, 171:4,  
 193:11, 197:7,  
 210:4  
**apart** [1] - 148:9  
**apartment** [1] - 162:1  
**apartments** [2] - 47:9,  
 47:13  
**apologies** [1] - 143:2  
**apparent** [1] - 29:11  
**Appeal** [1] - 14:15  
**APPEAL** [1] - 1:1  
**appealing**  
 [1] - 177:10  
**Appeals** [4] - 3:8,  
 211:5, 212:6,  
 212:15  
**appear** [1] - 31:1  
**appearance**  
 [6] - 19:9, 19:16,  
 20:6, 73:6, 73:12,  
 74:2  
**appearing** [2] - 86:18,  
 121:11  
**applicable**  
 [2] - 178:11, 201:7  
**applicant** [6] - 82:11,  
 87:1, 175:12, 176:9,  
 195:6, 196:13  
**applicant's**  
 [3] - 81:14, 81:17,  
 82:6  
**applicants**  
 [1] - 121:11  
**application**  
 [24] - 12:4, 15:9,  
 22:16, 22:17, 23:1,  
 26:8, 26:9, 27:14,  
 40:7, 52:3, 59:17,  
 60:7, 63:7, 64:16,  
 76:13, 76:15, 76:18,  
 81:10, 84:4, 102:1,  
 134:2, 141:2,  
 143:10, 151:3  
**applied** [1] - 111:12  
**applies** [1] - 55:16  
**apply** [7] - 22:13,  
 36:6, 64:11, 76:11,  
 130:2, 193:7, 202:3  
**APPLY** [1] - 213:14  
**applying** [1] - 142:10



**appreciate**

[3] - 110:17, 113:5,  
113:17

**appreciative**

[1] - 35:7

**appropriate**

[4] - 23:18, 47:3,  
77:17, 104:4

**appropriately**

[3] - 9:5, 13:5,  
201:15

**Appropriateness**

[2] - 136:18, 137:7

**Approval** [1] - 160:4**approval** [2] - 11:6,  
112:11**approved** [7] - 10:14,

20:2, 40:5, 73:16,  
110:12, 119:13,  
148:14

**approving** [1] - 145:8**April** [1] - 136:18**april** [1] - 213:13**Arch** [2] - 42:1, 43:18**ARCH** [8] - 44:4,

45:12, 53:7, 53:11,  
53:14, 54:1, 57:12,  
57:18

**architect** [6] - 26:4,

28:1, 39:17, 87:17,  
96:4, 99:1

**architects** [1] - 133:1**Architects** [6] - 26:6,

37:8, 42:2, 57:4,  
93:15, 133:1

**architectural**

[3] - 112:5, 112:10,  
157:10

**Architecture**

[1] - 131:3

**area** [19] - 15:18,

23:12, 77:11, 88:13,  
89:12, 114:8, 122:7,  
134:18, 135:3,  
147:15, 149:18,  
155:6, 178:3,  
179:12, 179:13,  
183:12, 185:13,  
185:17, 201:3

**areas** [2] - 148:3,

155:2

**argue** [2] - 148:18,

149:16

**argument**

[4] - 146:13, 153:4,  
153:10, 154:8

**Arnold** [3] - 83:3,  
83:4, 205:15

**ARRIN** [2] - 49:1

**Arrin** [2] - 49:1, 49:14

**Article** [3] - 139:7,  
139:8, 190:5

**artist** [1] - 63:11

**as-of-right**  
[1] - 160:13

**aspect** [1] - 113:16

**aspects** [6] - 28:5,  
98:4, 140:17,  
140:18, 146:12,  
155:3

**assist** [1] - 4:10

**Assistant** [1] - 1:11

**associate** [1] - 133:3

**Associate** [2] - 1:9,  
1:10

**associated** [1] - 125:7

**Associates** [2] - 96:4,  
117:6

**Association**  
[6] - 176:17, 190:13,  
192:5, 192:18,  
194:10, 203:3

**assume** [2] - 32:14,  
153:6

**assuming** [2] - 66:12,  
153:11

**assurances**  
[1] - 122:9

**assured** [1] - 195:4

**AT&T** [4] - 6:13, 6:15,  
66:3, 67:1

**atmosphere**  
[1] - 188:9

**attached** [1] - 82:4

**attend** [3] - 34:18,  
207:13, 209:5

**attendance**  
[2] - 193:16, 209:2

**attendees** [1] - 4:6

**attention** [2] - 81:17,  
106:14

**attorney** [4] - 25:11,  
59:10, 59:15, 86:15

**ATTORNEY**  
[174] - 6:11, 6:18,  
7:18, 8:3, 8:6, 8:12,  
8:16, 9:2, 9:13,  
10:3, 10:12, 10:18,

11:10, 14:7, 15:7,  
15:13, 15:17, 16:7,  
24:13, 25:9, 26:3,  
26:7, 32:18, 33:2,  
33:7, 41:10, 41:13,  
42:5, 42:9, 43:13,  
45:15, 46:2, 46:14,  
47:5, 48:8, 54:12,  
59:10, 59:13, 60:5,  
61:4, 61:14, 62:2,  
62:6, 64:1, 64:7,  
64:15, 65:18, 66:4,  
66:8, 67:8, 67:13,  
67:17, 68:15, 69:2,  
86:9, 86:13, 87:16,  
88:3, 88:7, 88:17,  
89:2, 90:2, 90:11,  
91:6, 95:9, 95:11,  
96:5, 97:2, 98:8,  
99:9, 99:12, 100:11,  
101:8, 101:17,  
103:11, 103:14,  
104:2, 104:11,  
105:2, 105:7,  
105:18, 106:7,  
106:12, 107:12,  
116:2, 121:9,  
121:16, 124:1,  
125:13, 126:14,  
127:13, 128:10,  
132:10, 133:8,  
133:13, 133:17,  
134:1, 135:9, 137:4,  
137:13, 139:4,  
139:8, 139:14,  
140:3, 140:9,  
140:12, 141:6,  
142:3, 142:7, 143:9,  
144:12, 144:18,  
145:2, 145:4,  
145:17, 146:9,  
146:17, 147:5,  
147:13, 148:12,  
148:16, 149:8,  
150:6, 150:10,  
150:15, 151:1,  
152:3, 152:9, 153:2,  
154:5, 154:8,  
155:11, 156:8,  
156:11, 158:1,  
158:15, 159:4,  
160:1, 164:1, 164:3,  
164:7, 165:4,  
169:17, 170:5,

170:13, 171:5,  
 171:8, 171:13,  
 172:2, 172:4, 172:9,  
 172:12, 173:1,  
 173:7, 175:10,  
 176:4, 176:7, 177:4,  
 179:6, 182:5,  
 184:18, 186:3,  
 188:5, 193:13,  
 194:17, 205:5,  
 205:10, 205:14,  
 206:15, 208:10,  
 208:17, 209:6,  
 209:10, 209:14

**attract** <sup>[1]</sup> - 199:10

**attracted** <sup>[1]</sup> - 191:8

**attractive**

<sup>[3]</sup> - 102:17, 156:7,  
 156:9

**attributable**

<sup>[1]</sup> - 190:3

**Auburn** <sup>[6]</sup> - 2:2, 2:8,  
 6:7, 7:2, 59:6, 59:18

**AUDIENCE** <sup>[9]</sup> - 51:3,

51:9, 79:7, 79:10,

79:17, 80:2, 80:8,

80:15, 152:14

**audio** <sup>[1]</sup> - 3:17

**August** <sup>[2]</sup> - 9:4,

93:16

**authentic** <sup>[1]</sup> - 178:6

**authorities** <sup>[6]</sup> - 21:3,

21:9, 21:14, 74:18,

75:6, 75:11

**authorized**

<sup>[1]</sup> - 127:15

**automobile**

<sup>[1]</sup> - 199:12

**automobile-related**

<sup>[1]</sup> - 199:12

**availability**

<sup>[1]</sup> - 189:12

**available** <sup>[6]</sup> - 64:17,

81:16, 82:13, 178:5,

197:11, 200:7

**Ave** <sup>[5]</sup> - 80:18, 86:16,

86:17, 127:2, 157:9

**Avenue** <sup>[19]</sup> - 1:6, 2:7,

2:9, 2:12, 41:6,

42:14, 49:2, 52:2,

52:5, 52:6, 79:6,

86:6, 87:4, 111:15,

112:2, 112:14,

112:15, 121:6,

121:18

**average** [2] - 45:2,  
149:13

**avoid** [1] - 157:2

**aware** [10] - 27:14,  
27:16, 49:10, 79:11,  
79:13, 133:11,  
138:7, 180:18,  
196:13, 196:18

**awkward** [1] - 46:4

**Aye** [23] - 24:9, 24:10,  
38:1, 38:2, 40:10,  
40:11, 57:6, 57:7,  
78:8, 78:9, 85:9,  
94:1, 94:2, 117:8,  
117:9, 119:14,  
119:15, 131:4,  
131:5, 203:18,  
204:1, 210:16,  
210:17

## B

**background**

[3] - 13:13, 176:12,  
198:11

**backyard** [4] - 34:10,

36:10, 111:18,  
155:12

**balance** [1] - 124:17

**Bar** [1] - 196:4

**barricades**

[2] - 23:18, 77:17

**base** [5] - 18:14,

72:12, 72:13,  
151:11, 184:6

**based** [8] - 19:1, 60:9,

72:17, 102:3, 180:8,  
180:9, 180:15,  
181:11

**basement**

[3] - 161:16, 162:1,  
162:3

**basements**

[2] - 162:4, 162:5

**basis** [12] - 22:7, 24:6,

37:4, 56:17, 76:4,  
78:5, 93:9, 117:1,  
119:8, 130:17,  
203:15, 210:16

**bathroom** [1] - 201:12

**Bay** [1] - 179:12

**Beacon** [1] - 175:12

**bear** [1] - 74:11

**bearing** <sup>[1]</sup> - 43:7  
**beat** <sup>[1]</sup> - 169:5  
**became** <sup>[3]</sup> - 43:4,  
 82:9, 138:7  
**become** <sup>[1]</sup> - 45:4  
**bedroom** <sup>[7]</sup> - 45:5,  
 45:6, 47:9, 47:13,  
 99:17, 100:2,  
 111:16  
**beer** <sup>[1]</sup> - 193:7  
**beginning** <sup>[2]</sup> - 4:5,  
 145:15  
**behalf** <sup>[5]</sup> - 6:12, 13:1,  
 25:12, 87:1, 121:11  
**behaved** <sup>[1]</sup> - 126:8  
**behind** <sup>[5]</sup> - 7:11,  
 13:10, 13:12, 49:14,  
 111:16  
**below** <sup>[6]</sup> - 9:18, 13:7,  
 63:3, 89:9, 89:14,  
 125:9  
**benefit** <sup>[5]</sup> - 47:17,  
 55:3, 56:13, 65:7,  
 67:6  
**benefits** <sup>[1]</sup> - 65:9  
**best** <sup>[4]</sup> - 99:10,  
 107:8, 141:2,  
 195:18  
**better** <sup>[9]</sup> - 7:18, 90:3,  
 128:7, 148:5, 157:6,  
 169:12, 184:8,  
 184:9  
**between** <sup>[13]</sup> - 35:5,  
 51:6, 143:12,  
 144:13, 144:14,  
 145:11, 147:3,  
 148:1, 148:3,  
 149:18, 155:15,  
 164:15, 164:17  
**beverage** <sup>[1]</sup> - 201:3  
**beyond** <sup>[2]</sup> - 149:12,  
 149:14  
**bicycle** <sup>[1]</sup> - 178:15  
**bifurcate** <sup>[1]</sup> - 170:16  
**big** <sup>[5]</sup> - 52:10, 99:3,  
 155:18, 184:6,  
 188:10  
**bigger** <sup>[1]</sup> - 44:4  
**bind** <sup>[1]</sup> - 159:15  
**bins** <sup>[1]</sup> - 195:2  
**biodegradable**  
<sup>[2]</sup> - 178:8, 199:17  
**bit** <sup>[12]</sup> - 44:16, 62:15,  
 88:12, 98:5, 102:12,

103:7, 133:7, 136:2,  
146:7, 157:6,  
159:15, 179:1

**black** <sup>[1]</sup> - 198:5

**Black** <sup>[2]</sup> - 42:2, 57:3

**blank** <sup>[4]</sup> - 128:6,

166:7, 166:8, 168:5

**blending** <sup>[1]</sup> - 13:13

**bless** <sup>[1]</sup> - 161:8

**blob** <sup>[2]</sup> - 155:4,

155:18

**blocks** <sup>[1]</sup> - 146:15

**blown** <sup>[1]</sup> - 44:7

**Board** <sup>[51]</sup> - 3:8, 9:3,

10:8, 10:10, 10:16,

10:18, 11:9, 11:13,

12:6, 12:14, 13:1,

13:3, 14:15, 18:10,

20:11, 22:13, 25:10,

29:2, 48:11, 60:18,

65:13, 68:3, 68:11,

69:1, 74:7, 76:12,

82:12, 86:11, 86:14,

96:12, 97:10, 103:3,

105:12, 107:6,

126:4, 127:8,

128:13, 129:7,

137:15, 142:13,

160:4, 169:1,

169:18, 170:7,

175:11, 185:5,

189:8, 193:1, 211:5,

212:6, 212:15

**board** <sup>[5]</sup> - 55:3,

81:16, 90:13, 91:13,

208:5

**BOARD** <sup>[1]</sup> - 1:1

**body** <sup>[1]</sup> - 80:5

**Boston** <sup>[3]</sup> - 123:4,

124:4, 175:13

**bottom** <sup>[2]</sup> - 167:15,

193:5

**boundary** <sup>[1]</sup> - 164:14

**bounds** <sup>[1]</sup> - 103:5

**box** <sup>[2]</sup> - 98:14, 99:3

**brackets** <sup>[3]</sup> - 13:9,

64:3, 64:9

**Braille** <sup>[1]</sup> - 81:6

**BRAILLARD**

<sup>[1]</sup> - 81:7

**bran** <sup>[1]</sup> - 180:10

**breakfast** <sup>[2]</sup> - 195:9,

195:11

**BRENDAN** <sup>[36]</sup> - 33:1,

33:3, 53:3, 53:16,  
 65:14, 66:2, 66:6,  
 66:17, 67:9, 67:14,  
 68:1, 69:5, 69:12,  
 108:3, 108:9, 151:6,  
 151:9, 156:6,  
 156:10, 166:1,  
 166:5, 166:14,  
 167:2, 167:8,  
 167:17, 171:15,  
 172:3, 172:17,  
 173:9, 174:1, 187:8,  
 188:4, 188:15,  
 189:1, 189:6,  
 191:13

**Brendan** <sup>[14]</sup> - 1:8,  
 3:4, 6:3, 25:3, 39:3,  
 41:3, 59:3, 79:3,  
 86:3, 95:3, 121:3,  
 132:3, 175:3, 205:3

**Brian** <sup>[1]</sup> - 25:13

**brick** <sup>[1]</sup> - 63:12

**brief** <sup>[1]</sup> - 170:4

**briefly** <sup>[3]</sup> - 44:5,  
 96:10, 176:9

**BRIGHENTI**

<sup>[18]</sup> - 59:10, 59:13,  
 60:5, 61:4, 61:14,  
 62:2, 62:6, 64:1,  
 64:7, 64:15, 65:18,  
 66:4, 66:8, 67:8,  
 67:13, 67:17, 68:15,  
 69:2

**Brighenti** <sup>[2]</sup> - 59:11,  
 59:14

**bring** <sup>[2]</sup> - 66:17,  
 199:7

**BRISTOL** <sup>[1]</sup> - 213:3

**broad** <sup>[2]</sup> - 180:4,  
 181:11

**Broadway** <sup>[1]</sup> - 41:18

**brothers** <sup>[1]</sup> - 42:18

**brought** <sup>[2]</sup> - 54:7,  
 81:17

**brunch** <sup>[1]</sup> - 187:5

**BRYAN** <sup>[2]</sup> - 26:1,  
 26:2

**Bryan** <sup>[2]</sup> - 26:1, 34:8

**build** <sup>[4]</sup> - 42:12,  
 43:16, 52:4, 102:9

**building** <sup>[50]</sup> - 20:5,  
 23:6, 27:2, 42:16,  
 44:10, 49:14, 49:16,  
 52:15, 55:14, 56:5,



56:14, 59:16, 60:8,  
 60:12, 61:8, 63:6,  
 64:11, 70:13, 74:1,  
 77:5, 110:9, 123:7,  
 138:7, 141:3,  
 141:14, 142:17,  
 143:17, 144:3,  
 144:7, 144:15,  
 145:16, 152:16,  
 153:13, 159:9,  
 159:12, 160:18,  
 163:12, 164:2,  
 164:4, 164:10,  
 166:12, 166:15,  
 167:5, 168:10,  
 177:9, 183:2, 185:8,  
 186:8, 198:9,  
 200:17

**Building** <sup>[2]</sup> - 53:7,  
 149:2

**building's** <sup>[2]</sup> - 144:9,  
 186:5

**buildings** <sup>[23]</sup> - 66:9,  
 140:18, 143:12,  
 143:16, 144:8,  
 144:9, 144:15,  
 145:7, 145:9,  
 145:12, 146:1,  
 146:4, 147:3, 148:1,  
 148:8, 149:18,  
 154:13, 154:14,  
 161:5, 164:17,  
 168:10, 168:15,  
 198:1

**built** <sup>[8]</sup> - 16:4, 45:11,  
 96:16, 102:9, 162:5,  
 168:15, 168:16,  
 185:14

**bulk** <sup>[1]</sup> - 103:16

**bump** <sup>[1]</sup> - 106:15

**burden** <sup>[1]</sup> - 178:17

**burgers** <sup>[1]</sup> - 180:5

**Business**

<sup>[4]</sup> - 176:16, 192:4,  
 192:17, 203:3

**business** <sup>[9]</sup> - 21:7,  
 22:2, 23:5, 75:5,  
 75:17, 77:4, 136:3,  
 179:9, 189:4

**businesses**

<sup>[1]</sup> - 177:9

**busy** <sup>[1]</sup> - 97:13

**by-law** <sup>[1]</sup> - 163:4

**BZA-016783-2018**

[2] - 2:5, 39:2

**BZA-016957-2018**

[2] - 2:8, 59:2

**BZA-016964-2018**

[2] - 2:2, 6:2

**BZA-016981-2018**

[2] - 2:4, 25:2

**BZA-017011-2018**

[2] - 2:7, 41:2

**BZA-017013-2018**

[2] - 2:14, 175:2

**BZA-017014-2018**

[2] - 2:9, 79:2

**BZA-017016-2018**

[2] - 2:11, 95:2

**BZA-017018-2018**

[3] - 2:13, 132:2,  
205:2

**BZA-017020-2018**

[2] - 2:10, 86:2

**BZA-017021-2018**

[2] - 2:12, 121:2

## C

**C-1** [1] - 124:10

**cables** [1] - 13:9

**Cafe** [2] - 122:18,  
123:1

**cafe** [1] - 123:8

**California** [1] - 179:12

**CAMBRIDGE** [1] - 1:2

**Cambridge** [42] - 1:7,  
2:13, 23:12, 25:12,  
37:3, 42:14, 77:11,  
81:11, 97:6, 114:14,  
122:16, 124:6,  
124:7, 124:8, 132:7,  
134:8, 135:4, 135:6,  
135:14, 136:8,  
137:8, 143:18,  
144:1, 144:2, 144:7,  
155:8, 156:15,  
157:2, 157:8,  
157:13, 158:3,  
158:4, 158:8,  
158:14, 158:16,  
159:7, 159:11,  
159:17, 164:10,  
165:1, 179:15

**CambridgePark**

[2] - 123:1, 123:5

**cannot** [5] - 17:3,  
70:18, 118:5,

145:15, 202:6

**cape** <sup>[1]</sup> - 99:3

**CAPTURING**

<sup>[1]</sup> - 1:16

**care** <sup>[3]</sup> - 160:5,

189:8, 194:11

**carefully** <sup>[1]</sup> - 109:17

**Carl** <sup>[1]</sup> - 196:4

**carriers** <sup>[2]</sup> - 65:16,

67:10

**Carstena** <sup>[1]</sup> - 111:10

**CARSTENA**

<sup>[1]</sup> - 111:10

**Case** <sup>[12]</sup> - 6:2, 25:2,

39:2, 41:2, 59:2,

79:2, 86:2, 95:2,

121:2, 132:2, 175:2,

205:2

**CASE** <sup>[1]</sup> - 2:1

**case** <sup>[52]</sup> - 6:6, 9:7,

9:10, 9:12, 9:14,

25:6, 32:12, 40:1,

40:4, 40:13, 41:6,

54:16, 55:17, 59:6,

79:6, 80:13, 83:13,

83:17, 84:5, 84:16,

85:1, 85:12, 86:6,

90:6, 95:6, 101:11,

106:10, 121:6,

124:15, 132:7,

145:12, 152:2,

153:8, 153:18,

161:5, 165:16,

170:4, 171:9, 173:6,

173:13, 174:3,

175:6, 205:6, 206:4,

207:5, 209:2,

209:16, 210:10,

210:15

**cases** <sup>[9]</sup> - 3:10, 3:14,

5:2, 83:1, 97:9,

169:7, 206:1,

208:16

**categorize** <sup>[1]</sup> - 187:9

**category** <sup>[1]</sup> - 90:7

**Catherine** <sup>[2]</sup> - 213:4,

213:10

**caught** <sup>[1]</sup> - 159:15

**caution** <sup>[1]</sup> - 142:11

**cease** <sup>[2]</sup> - 20:1,

73:15

**Center** <sup>[1]</sup> - 1:5

**center** <sup>[2]</sup> - 63:1, 63:5

**cents** <sup>[2]</sup> - 166:10,

167:9

**certain** <sup>[1]</sup> - 169:3

**certainly** <sup>[3]</sup> - 116:14,  
147:9, 190:14

**certificate**

<sup>[1]</sup> - 160:18

**Certificate**

<sup>[3]</sup> - 136:17, 137:7,  
160:4

**CERTIFICATION**

<sup>[1]</sup> - 213:14

**Certified** <sup>[2]</sup> - 213:4,  
213:11

**certify** <sup>[1]</sup> - 213:5

**CERTIFYING**

<sup>[1]</sup> - 213:15

**chair** <sup>[3]</sup> - 46:14,  
86:14, 121:10

**Chair** <sup>[52]</sup> - 1:8, 1:8,

3:7, 3:16, 4:2, 4:5,

16:17, 19:1, 19:6,

19:12, 25:5, 35:16,

36:15, 37:5, 37:18,

39:5, 40:8, 41:5,

55:8, 56:18, 57:3,

59:5, 69:16, 70:10,

72:2, 72:17, 73:4,

73:9, 78:6, 79:5,

83:16, 84:12, 86:5,

91:17, 93:11, 93:14,

93:18, 95:5, 115:7,

117:2, 117:7,

117:18, 119:9,

121:5, 129:12,

130:11, 130:17,

132:6, 175:5, 197:7,

203:16, 209:15

**Chairman** <sup>[3]</sup> - 25:10,  
41:14, 175:11

**chance** <sup>[3]</sup> - 122:4,  
123:2, 174:2

**Chandoha**

<sup>[1]</sup> - 113:10

**CHANDOHA**

<sup>[1]</sup> - 113:10

**change** <sup>[16]</sup> - 10:8,

16:5, 17:7, 18:13,

29:16, 71:5, 72:11,

80:13, 88:10,

106:13, 118:9,

125:1, 138:11,

202:10, 202:16,

212:6

**CHANGE** <sup>[6]</sup> - 212:8,

212:9, 212:10,  
 212:11, 212:12,  
 212:13

**changed** <sup>[6]</sup> - 18:7,  
 19:7, 70:14, 72:4,  
 105:10, 163:3

**changes** <sup>[6]</sup> - 11:16,  
 35:6, 97:8, 104:14,  
 212:16

**changing**  
<sup>[4]</sup> - 104:15, 104:18,  
 105:3, 105:9

**character** <sup>[10]</sup> - 15:4,  
 17:8, 18:8, 70:8,  
 71:6, 113:1, 114:4,  
 118:9, 202:11,  
 202:16

**characteristics**  
<sup>[2]</sup> - 177:15, 198:1

**characterize**  
<sup>[2]</sup> - 90:5, 126:3

**charge** <sup>[2]</sup> - 23:10,  
 77:9

**CHARLES** <sup>[1]</sup> - 96:3

**Charles** <sup>[1]</sup> - 96:3

**check** <sup>[4]</sup> - 27:14,  
 66:5, 91:5, 121:12

**cheese** <sup>[2]</sup> - 123:4,  
 180:9

**chef** <sup>[1]</sup> - 124:3

**CHERYL**  
<sup>[14]</sup> - 144:11, 146:8,  
 152:8, 155:10,  
 166:13, 172:8,  
 172:11, 173:3,  
 173:8, 173:16,  
 206:9, 207:15,  
 207:17, 208:2

**Chicago** <sup>[1]</sup> - 179:14

**child** <sup>[1]</sup> - 108:4

**children** <sup>[8]</sup> - 29:18,  
 122:1, 122:8,  
 122:12, 126:7,  
 126:11, 127:1,  
 130:16

**choice** <sup>[1]</sup> - 177:10

**choices** <sup>[1]</sup> - 192:10

**chosen** <sup>[1]</sup> - 33:5

**Christ** <sup>[1]</sup> - 93:15

**Cingular** <sup>[1]</sup> - 6:13

**Circle** <sup>[1]</sup> - 205:16

**circumstances**  
<sup>[2]</sup> - 56:3, 142:2

**cite** <sup>[1]</sup> - 202:12

**citizen** <sup>[1]</sup> - 4:12  
**citizens** <sup>[10]</sup> - 17:16,  
 71:14, 79:15, 80:5,  
 114:18, 116:17,  
 119:2, 130:14,  
 203:9  
**CITY** <sup>[1]</sup> - 1:2  
**City** <sup>[4]</sup> - 37:2, 81:11,  
 114:14, 124:7  
**city** <sup>[18]</sup> - 4:12, 17:16,  
 18:8, 47:13, 71:14,  
 72:5, 116:15,  
 116:17, 116:18,  
 119:2, 127:3, 127:5,  
 130:15, 161:17,  
 178:17, 181:16,  
 203:10  
**citywide** <sup>[1]</sup> - 178:13  
**civic** <sup>[1]</sup> - 109:6  
**claimed** <sup>[2]</sup> - 22:7,  
 76:4  
**clarity** <sup>[1]</sup> - 166:2  
**Class** <sup>[2]</sup> - 18:16,  
 72:14  
**Clausen** <sup>[1]</sup> - 52:1  
**CLAUSEN** <sup>[1]</sup> - 52:1  
**cleaned** <sup>[1]</sup> - 54:6  
**cleanup** <sup>[1]</sup> - 192:16  
**clear** <sup>[7]</sup> - 43:4, 62:5,  
 107:16, 152:4,  
 169:4, 169:15,  
 194:14  
**clearly** <sup>[2]</sup> - 191:9,  
 195:3  
**client** <sup>[1]</sup> - 170:1  
**close** <sup>[13]</sup> - 8:2, 8:4,  
 35:11, 44:13, 54:11,  
 64:5, 91:10, 115:2,  
 129:4, 132:15,  
 136:11, 186:12  
**closed** <sup>[1]</sup> - 196:16  
**closer** <sup>[3]</sup> - 29:8, 42:4,  
 133:7  
**closest** <sup>[3]</sup> - 46:16,  
 125:3, 127:12  
**Clover** <sup>[1]</sup> - 181:8  
**coast** <sup>[2]</sup> - 176:5,  
 179:11  
**Code** <sup>[2]</sup> - 53:7, 149:2  
**code** <sup>[12]</sup> - 44:14,  
 47:10, 47:16, 52:17,  
 54:7, 56:15, 87:13,  
 87:18, 89:6, 146:18,  
 149:3

**codes** <sup>[1]</sup> - 178:11  
**Cogswell** <sup>[7]</sup> - 2:7,  
 41:6, 42:13, 49:2,  
 52:1, 52:5, 52:6  
**Colin** <sup>[1]</sup> - 131:2  
**COLIN** <sup>[1]</sup> - 131:2  
**colonial** <sup>[2]</sup> - 99:11,  
 99:13  
**color** <sup>[3]</sup> - 197:16,  
 198:3, 198:7  
**colors** <sup>[1]</sup> - 166:3  
**Comcast** <sup>[1]</sup> - 66:10  
**comfortable**  
<sup>[2]</sup> - 30:11, 31:17  
**coming** <sup>[4]</sup> - 8:15,  
 155:17, 163:6,  
 169:14  
**commenced**  
<sup>[1]</sup> - 135:5  
**commend**  
<sup>[1]</sup> - 123:11  
**comment** <sup>[1]</sup> - 107:7  
**comments**  
<sup>[5]</sup> - 13:15, 91:12,  
 114:2, 129:7, 200:2  
**commercial**  
<sup>[3]</sup> - 66:10, 134:7,  
 146:2  
**Commission**  
<sup>[2]</sup> - 172:7, 213:12  
**commission**  
<sup>[1]</sup> - 136:5  
**Commission's**  
<sup>[1]</sup> - 138:1  
**commissioner**  
<sup>[1]</sup> - 152:11  
**Commissioner**  
<sup>[1]</sup> - 1:11  
**commitment**  
<sup>[1]</sup> - 192:11  
**committee**  
<sup>[1]</sup> - 192:16  
**Committee**  
<sup>[5]</sup> - 193:4, 195:1,  
 195:8, 196:6, 203:4  
**Commonwealth**  
<sup>[1]</sup> - 122:16  
**COMMONWEALTH**  
<sup>[1]</sup> - 213:2  
**communication**  
<sup>[1]</sup> - 93:6  
**communications**  
<sup>[4]</sup> - 65:17, 81:12,  
 93:7, 192:3

**Community**

[1] - 12:18

**community** [5] - 67:6,

186:15, 188:9,

191:10, 192:12

**company**

[3] - 176:13, 179:9,

179:18

**compatible**

[3] - 177:8, 178:14,

197:18

**complement**

[1] - 114:6

**completely**

[1] - 137:9

**completion** [2] - 19:8,

73:5

**complex** [1] - 161:12**complexity**

[1] - 140:15

**compliance**

[2] - 20:9, 74:5

**compliant** [5] - 47:10,

87:13, 87:18, 89:6,

92:7

**complicated**

[1] - 140:4

**complied** [1] - 68:14**comply** [13] - 20:9,

21:17, 23:16, 62:4,

68:14, 68:18, 74:5,

75:14, 77:15,

176:10, 177:18,

178:10, 201:6

**component**

[1] - 187:6

**components**

[1] - 88:11

**composting**

[3] - 186:6, 194:13,

196:10

**concealed** [1] - 13:11**concept** [4] - 180:12,

182:7, 184:7,

198:18

**concern** [15] - 11:9,

20:17, 49:9, 74:13,

93:5, 126:5, 136:1,

145:6, 151:2, 153:4,

158:7, 165:11,

167:14, 188:6,

194:18

**concerned**

[4] - 79:16, 80:6,



80:12, 165:2

**concerning**

[2] - 22:15, 76:13

**concerns** [15] - 31:12,

35:2, 49:17, 54:4,  
56:16, 92:9, 103:15,  
113:8, 114:2,  
135:17, 155:7,  
155:12, 158:17,  
168:8, 172:13

**conclusion** [1] - 28:3

**condensing** [1] - 67:2

**condition** [15] - 20:6,

37:6, 50:8, 50:9,  
55:1, 57:1, 62:2,  
62:3, 63:15, 68:17,  
74:2, 93:12, 117:3,  
119:11, 131:1

**conditioner**

[1] - 128:5

**conditions** [13] - 19:3,

20:10, 20:18, 24:8,  
73:1, 74:6, 74:15,  
78:7, 80:14, 84:1,  
93:10, 138:2,  
209:18

**conduct** [1] - 4:4

**confidence**

[1] - 192:13

**configuration**

[2] - 45:7, 183:4

**confirm** [2] - 139:15,

147:16

**conflicting**

[1] - 137:18

**conformance**

[1] - 193:18

**conforming**

[9] - 44:14, 44:16,  
56:6, 87:14, 92:12,  
115:18, 116:1,  
116:3, 116:6

**conforms** [1] - 196:11

**confused** [1] - 9:6

**congestion** [5] - 17:6,

71:4, 118:8, 202:9,  
202:15

**congratulated**

[1] - 114:16

**connection** [4] - 18:5,

81:10, 105:14,  
111:14

**connections**

[1] - 109:8

**connectivity** <sup>[1]</sup> - 7:5

**Conservation**

[3] - 135:4, 135:15,  
158:17

**consider** <sup>[1]</sup> - 170:8

**considered**

[6] - 141:9, 141:10,  
141:16, 141:18,  
168:2, 184:11

**consistent**

[12] - 13:12, 19:10,  
19:17, 73:7, 73:13,  
109:9, 110:5,  
110:10, 112:9,  
113:1, 114:3,  
198:18

**consists** <sup>[1]</sup> - 7:3

**CONSTANTINE**

[274] - 3:7, 4:17, 6:5,  
6:16, 8:10, 9:6,  
9:11, 9:15, 10:6,  
10:11, 11:4, 11:11,  
12:3, 12:8, 12:13,  
13:17, 14:3, 14:9,  
15:10, 15:16, 16:2,  
16:8, 16:11, 24:11,  
25:5, 30:18, 31:5,  
32:4, 32:7, 32:11,  
32:16, 33:5, 33:8,  
33:12, 33:17, 34:5,  
35:14, 37:12, 37:16,  
38:3, 39:5, 39:10,  
39:14, 40:12, 41:5,  
41:11, 43:11, 44:2,  
45:8, 46:1, 46:6,  
46:11, 47:2, 48:2,  
48:7, 48:10, 48:13,  
50:7, 50:13, 51:11,  
51:16, 53:4, 53:10,  
53:13, 54:2, 54:18,  
55:7, 57:8, 57:15,  
58:1, 58:4, 59:5,  
60:3, 61:3, 61:11,  
61:18, 62:3, 63:18,  
64:2, 64:14, 65:12,  
67:15, 68:2, 68:5,  
68:10, 68:16, 69:3,  
69:8, 69:13, 78:10,  
79:5, 79:9, 79:13,  
80:1, 80:4, 80:10,  
80:17, 81:4, 83:2,  
83:5, 83:9, 83:12,  
83:16, 85:11, 86:5,  
86:10, 87:12, 88:1,

88:5, 88:16, 89:1,  
89:18, 90:8, 90:12,  
90:15, 91:3, 91:8,  
91:15, 94:3, 95:5,  
95:10, 96:18, 98:7,  
100:8, 101:5,  
101:16, 103:10,  
103:13, 103:18,  
104:5, 104:9,  
104:18, 105:5,  
105:11, 106:5,  
106:9, 107:5,  
107:10, 107:18,  
108:10, 110:15,  
111:1, 111:4, 115:5,  
116:5, 117:10,  
117:14, 119:16,  
121:5, 123:18,  
125:12, 126:10,  
127:11, 128:9,  
128:12, 128:15,  
129:3, 129:10,  
131:6, 132:6,  
133:10, 133:15,  
133:18, 137:2,  
137:5, 138:17,  
139:6, 139:11,  
140:1, 140:7,  
140:10, 141:4,  
142:1, 142:5, 143:7,  
145:5, 145:18,  
146:15, 147:1,  
147:7, 148:11,  
149:7, 150:2, 150:8,  
150:12, 150:17,  
151:8, 151:13,  
152:7, 152:12,  
152:16, 153:14,  
158:12, 159:16,  
161:1, 161:14,  
161:18, 165:1,  
165:13, 166:4,  
167:1, 167:7,  
167:16, 168:7,  
170:3, 170:11,  
170:15, 171:7,  
171:10, 171:18,  
173:5, 173:12,  
173:17, 175:5,  
175:16, 176:2,  
176:6, 177:3,  
178:18, 180:6,  
180:16, 181:2,  
181:12, 182:3,

182:10, 182:15,  
 183:3, 183:14,  
 183:17, 184:10,  
 184:14, 185:3,  
 189:16, 190:7,  
 190:10, 191:11,  
 191:15, 192:2,  
 193:10, 193:15,  
 194:7, 195:6,  
 195:17, 196:2,  
 197:1, 197:4,  
 198:12, 198:17,  
 199:2, 200:11,  
 201:5, 201:18,  
 204:2, 205:8,  
 205:13, 205:17,  
 206:3, 206:6,  
 206:10, 206:13,  
 206:18, 207:4,  
 207:7, 207:12,  
 207:16, 208:1,  
 208:3, 208:8,  
 208:14, 209:3,  
 209:8, 209:11,  
 209:15, 210:18

#### **Constantine**

[14] - 1:8, 3:4, 6:3,  
 25:3, 39:3, 41:3,  
 59:3, 79:3, 86:3,  
 95:3, 121:3, 132:3,  
 175:3, 205:3

#### **constraints**

[1] - 137:17

#### **construct** [1] - 26:10

#### **construction**

[3] - 105:1, 138:5

#### **consult** [1] - 170:1

#### **consumed** [1] - 190:4

#### **consumption**

[1] - 200:1

#### **contact** [1] - 63:12

#### **containers** [1] - 201:4

#### **contains** [1] - 143:18

#### **continuance**

[1] - 82:12

#### **continue** [15] - 20:9,

69:6, 74:5, 81:14,

83:5, 83:12, 83:17,

114:13, 116:18,

130:15, 173:14,

192:18, 195:8,

205:6, 209:16

#### **continued** [13] - 3:10,

3:12, 3:14, 5:2,

17:9, 26:8, 40:1,  
71:7, 82:18, 85:12,  
118:10, 202:17,  
207:5

**continuing**  
[3] - 20:14, 70:17,  
74:10

**continuous** [3] - 20:3,  
60:14, 73:17

**contractor** [1] - 6:15

**contractors**  
[1] - 196:15

**contribute** [1] - 127:5

**contributing**  
[1] - 114:13

**contributors**  
[1] - 192:12

**CONTROL**  
[1] - 213:15

**controlling**  
[2] - 137:11, 137:12

**convenient**  
[2] - 178:9, 200:3

**conveniently**  
[1] - 123:10

**conversation**  
[3] - 31:8, 31:13,  
171:16

**cooking** [1] - 126:2

**copies** [2] - 8:8, 177:1

**copy** [1] - 173:3

**corner** [6] - 27:1,  
27:2, 66:18, 112:15,  
125:10, 134:7

**cornice** [2] - 9:18,  
13:8

**correct** [11] - 13:16,  
53:17, 101:8, 101:9,  
121:14, 124:15,  
140:5, 150:7, 181:5,  
188:17, 207:11

**correction** [1] - 212:7

**corrections**  
[1] - 212:16

**correspondence**  
[1] - 69:9

**cost** [1] - 169:11

**costs** [1] - 167:10

**Council** [1] - 176:18

**counsel** [2] - 28:1,  
68:12

**counter** [1] - 184:5

**counters** [1] - 190:1

**country** [2] - 79:15,

80:5  
**couple** [2] - 146:10,  
 161:2  
**course** [1] - 171:7  
**cover** [1] - 15:8  
**covered** [1] - 194:3  
**cramped** [2] - 97:16,  
 99:15  
**cravable** [1] - 180:12  
**create** [5] - 35:4, 47:8,  
 87:7, 178:1, 197:10  
**created** [4] - 17:14,  
 71:12, 118:18,  
 203:7  
**creates** [2] - 88:5,  
 89:3  
**creating** [1] - 135:2  
**Creation** [2] - 18:17,  
 72:15  
**creation** [1] - 87:11  
**Crema** [1] - 122:18  
**Crescent** [1] - 206:2  
**criteria** [1] - 157:18  
**cross** [4] - 99:6, 99:8,  
 99:11, 99:12  
**Crown** [2] - 28:15,  
 28:18  
**cuisine** [1] - 178:5  
**culinary** [1] - 122:14  
**cups** [1] - 189:11  
**curb** [1] - 138:8  
**curiosity** [1] - 181:13  
**curious** [1] - 184:10  
**current** [4] - 61:15,  
 64:18, 87:18, 89:16  
**custom** [1] - 3:9  
**customers**  
 [3] - 177:10, 178:7,  
 180:2  
**cut** [1] - 64:13  
**cuts** [2] - 34:6, 138:8

## D

**Daglian** [1] - 1:11  
**DAGLIAN**  
 [18] - 39:12, 82:17,  
 83:4, 83:8, 83:11,  
 83:15, 85:10,  
 187:12, 187:18,  
 188:18, 189:3,  
 205:15, 206:1,  
 206:5, 206:12,  
 207:2, 207:6,

207:11

**Dan** [3] - 26:4, 26:5  
**DAN** [2] - 26:5, 37:14  
**Darlow** [1] - 93:14  
**DARLOW** [1] - 93:15  
**date** [7] - 3:11, 37:10,  
 81:16, 84:8, 206:16,  
 210:5, 212:7  
**Date** [3] - 2:3, 2:4, 2:6  
**dated** [7] - 37:8,  
 39:16, 45:16, 57:4,  
 93:16, 117:6, 131:3  
**dates** [1] - 37:9  
**David** [1] - 127:18  
**days** [12] - 21:8, 22:3,  
 23:5, 75:5, 75:18,  
 77:4, 82:1, 82:8,  
 82:16, 84:10, 84:11,  
 210:7  
**de** [1] - 26:14  
**dead** [1] - 169:5  
**dealing** [1] - 163:5  
**debate** [1] - 53:14  
**decades** [1] - 134:12  
**Decatur** [1] - 205:16  
**December** [22] - 83:7,  
 83:11, 83:14, 83:18,  
 84:8, 85:7, 85:10,  
 205:18, 206:11,  
 206:15, 206:16,  
 207:2, 207:3, 207:6,  
 207:7, 207:14,  
 208:10, 209:17,  
 210:5, 210:7,  
 210:12, 211:1  
**decide** [5] - 11:5,  
 151:17, 173:12,  
 173:14, 173:18  
**decided** [2] - 184:15,  
 205:5  
**decision** [5] - 10:15,  
 84:3, 86:18, 152:5,  
 210:2  
**decisions** [1] - 151:11  
**deck** [16] - 89:8, 89:9,  
 122:2, 122:3, 122:4,  
 124:8, 124:16,  
 124:18, 125:6,  
 125:7, 125:14,  
 126:1, 126:8,  
 127:12, 128:3,  
 130:1  
**decks** [1] - 126:5  
**deemed** [3] - 23:2,

76:18, 84:5

**deeper** <sup>[1]</sup> - 139:15

**definitive** <sup>[1]</sup> - 166:2

**degree** <sup>[1]</sup> - 136:13

**delivered** <sup>[2]</sup> - 184:5,  
212:3

**deliveries** <sup>[2]</sup> - 185:8,  
185:10

**delivery** <sup>[1]</sup> - 185:17

**demand** <sup>[3]</sup> - 188:11,  
191:1, 191:4

**demise** <sup>[1]</sup> - 201:1

**demolish** <sup>[1]</sup> - 40:4

**Den** <sup>[1]</sup> - 196:3

**denied** <sup>[1]</sup> - 84:5

**dense** <sup>[2]</sup> - 148:8,  
155:18

**density** <sup>[1]</sup> - 147:5

**Department**

<sup>[13]</sup> - 13:1, 21:2,  
21:7, 21:11, 22:5,  
23:9, 74:17, 75:4,  
75:8, 76:2, 77:8,  
152:10, 212:4

**department**

<sup>[4]</sup> - 147:14, 147:17,  
148:13, 149:3

**derogate** <sup>[4]</sup> - 18:1,

71:17, 119:6,  
203:13

**derogating**

<sup>[5]</sup> - 36:13, 56:10,  
92:17, 116:12,  
130:9

**derogation** <sup>[1]</sup> - 47:16

**describe** <sup>[3]</sup> - 96:10,  
136:14, 156:12

**describing**

<sup>[1]</sup> - 137:14

**Design** <sup>[1]</sup> - 42:2

**design** <sup>[18]</sup> - 28:14,  
63:12, 97:18, 99:2,  
102:16, 110:4,  
114:1, 114:2, 114:5,  
136:7, 138:2, 157:1,  
165:5, 178:3,  
178:13, 197:15,  
197:16, 198:3

**designed** <sup>[3]</sup> - 9:5,

13:4, 126:18

**designing** <sup>[1]</sup> - 99:5

**designs** <sup>[3]</sup> - 110:12,  
112:7, 178:10

**desirable**



[4] - 154:14, 156:10,  
157:12, 166:16

**desire** [2] - 87:7,  
186:16

**desires** [1] - 138:2

**detached** [1] - 82:10

**detail** [7] - 22:6,  
22:16, 76:3, 76:14,  
102:2, 140:17,  
182:8

**detailed** [2] - 104:16,  
193:5

**details** [1] - 135:11

**determination**  
[2] - 151:5, 168:13

**detriment**  
[11] - 17:14, 36:12,  
47:11, 56:9, 71:12,  
92:16, 116:11,  
118:18, 130:8,  
177:5, 203:8

**detrimental**

[1] - 177:16

**develop** [2] - 195:8,  
195:17

**developed**

[1] - 195:15

**developers**

[2] - 162:4, 163:7

**development**

[5] - 17:10, 71:8,  
118:11, 134:15,  
202:18

**Development**

[1] - 12:18

**difference**

[2] - 167:12, 170:12

**different** [12] - 37:14,

79:11, 106:18,  
107:1, 117:16,  
124:13, 136:15,  
137:9, 148:3, 155:2,  
159:14

**differently**

[2] - 165:11, 165:14

**dimension** [1] - 199:8

**dimensional**

[2] - 124:18, 140:18

**dimensions**

[3] - 12:1, 18:14,  
72:11

**dining** [1] - 126:1

**direct** [1] - 27:13

**DIRECT** [1] - 213:15

**directed** <sup>[1]</sup> - 136:5  
**direction** <sup>[1]</sup> - 123:15  
**DIRECTION**  
<sup>[1]</sup> - 213:15  
**directions**  
<sup>[1]</sup> - 194:14  
**directly** <sup>[7]</sup> - 34:9,  
52:6, 88:8, 111:15,  
113:13, 173:2  
**director** <sup>[1]</sup> - 175:14  
**disabled** <sup>[2]</sup> - 182:12,  
201:9  
**disappointed**  
<sup>[1]</sup> - 191:6  
**discloses** <sup>[2]</sup> - 22:16,  
76:14  
**disclosing** <sup>[2]</sup> - 22:5,  
76:2  
**discovered**  
<sup>[1]</sup> - 97:15  
**discuss** <sup>[2]</sup> - 31:11,  
179:7  
**discussed** <sup>[2]</sup> - 52:8,  
52:14  
**discussion**  
<sup>[9]</sup> - 13:18, 34:15,  
35:12, 55:5, 62:9,  
91:12, 115:3, 129:8,  
202:12  
**discussions**  
<sup>[2]</sup> - 172:10, 186:15  
**disposable**  
<sup>[1]</sup> - 189:10  
**disposal** <sup>[1]</sup> - 200:8  
**dispose** <sup>[1]</sup> - 200:5  
**dispositive**  
<sup>[2]</sup> - 137:8, 161:6  
**distance** <sup>[4]</sup> - 144:10,  
144:13, 144:14,  
148:1  
**distinction**  
<sup>[1]</sup> - 192:10  
**District** <sup>[4]</sup> - 27:10,  
135:4, 135:15,  
194:1  
**district** <sup>[23]</sup> - 14:4,  
14:12, 14:16, 14:18,  
17:18, 18:1, 60:2,  
70:3, 71:16, 71:17,  
100:6, 100:13,  
100:15, 101:6,  
119:5, 124:10,  
134:17, 136:7,  
178:14, 196:11,

203:12, 203:13

**District's** <sup>[1]</sup> - 158:17

**divided** <sup>[1]</sup> - 183:9

**doctors** <sup>[1]</sup> - 66:13

**DOES** <sup>[1]</sup> - 213:14

**dog** <sup>[1]</sup> - 167:5

**dollar** <sup>[1]</sup> - 167:13

**dollars** <sup>[3]</sup> - 166:10,

167:9, 167:13

**done** <sup>[2]</sup> - 73:4, 133:3

**door** <sup>[11]</sup> - 52:6,

108:16, 109:15,

110:13, 127:17,

128:3, 128:4, 157:8,

157:9, 157:11,

172:16

**doors** <sup>[1]</sup> - 200:13

**doorways** <sup>[1]</sup> - 157:3

**double** <sup>[1]</sup> - 197:13

**doubling** <sup>[1]</sup> - 100:9

**down** <sup>[19]</sup> - 28:7,

51:12, 64:17, 64:18,

65:1, 66:3, 84:17,

97:4, 97:14, 110:16,

122:6, 132:15,

136:10, 163:1,

166:10, 169:10,

188:8, 200:18,

202:4

**downstairs**

<sup>[1]</sup> - 162:8

**drawings** <sup>[4]</sup> - 44:1,

63:7, 110:1, 112:5

**drill** <sup>[1]</sup> - 41:9

**drilled** <sup>[1]</sup> - 28:6

**Drive** <sup>[2]</sup> - 123:2,

123:6

**drive** <sup>[4]</sup> - 123:10,

134:9, 136:10,

199:11

**drive-in** <sup>[1]</sup> - 199:11

**driver** <sup>[1]</sup> - 42:14

**driveway** <sup>[1]</sup> - 138:9

**driving** <sup>[1]</sup> - 167:15

**drops** <sup>[1]</sup> - 186:5

**duck** <sup>[1]</sup> - 180:10

**due** <sup>[2]</sup> - 26:16,

177:12

**during** <sup>[2]</sup> - 23:3, 77:2

**dwelling** <sup>[2]</sup> - 101:2,

171:3

## E

**e-mail** [2] - 66:5, 82:4

**early** [1] - 190:14

**earned** [1] - 176:16

**ears** [1] - 9:1

**earth** [1] - 198:7

**east** [2] - 176:5,  
179:16

**eat** [1] - 180:14

**echo** [1] - 42:7

**eclectic** [1] - 180:4

**economic**

[1] - 168:12

**economically**

[1] - 169:11

**Edrick** [1] - 39:17

**effects** [4] - 20:15,  
74:11, 177:12,  
177:16

**efforts** [1] - 113:6

**egress** [14] - 17:6,

53:9, 55:15, 71:3,  
118:7, 144:6,  
156:14, 158:2,  
158:6, 160:13,  
162:6, 201:8,  
201:12, 202:9

**EHRENKRANZ**

[14] - 144:11, 146:8,  
152:8, 155:10,  
166:13, 172:8,  
172:11, 173:3,  
173:8, 173:16,  
206:9, 207:15,  
207:17, 208:2

**eight** [2] - 163:18,  
191:5

**either** [8] - 39:15,

62:18, 63:11,  
116:10, 150:14,  
153:17, 160:3,  
166:15

**ELDER** [19] - 6:11,

6:18, 7:18, 8:3, 8:6,  
8:12, 8:16, 9:2,  
9:13, 10:3, 10:12,  
10:18, 11:10, 14:7,  
15:7, 15:13, 15:17,  
16:7, 24:13

**Elder** [1] - 6:11

**electromagnetic**

[10] - 20:15, 21:4,  
22:1, 74:12, 75:1,  
75:16, 79:8, 79:12,  
79:14, 80:6

**elements** [1] - 30:17  
**elevator** [4] - 87:11,  
 88:12, 88:13, 92:5  
**elevators** [1] - 185:18  
**eleven** [1] - 196:17  
**eliminate** [2] - 55:18,  
 92:8  
**elsewhere** [1] - 127:7  
**emanating** [2] - 21:4,  
 75:1  
**emergency** [2] - 67:4,  
 145:10  
**emissions** [4] - 21:4,  
 22:1, 75:1, 75:16  
**employ** [1] - 65:16  
**employees**  
 [1] - 196:15  
**employing** [1] - 67:5  
**enclosed** [1] - 28:11  
**encourage**  
 [2] - 197:13, 200:5  
**encouraged**  
 [2] - 194:9, 195:7  
**encouragement**  
 [1] - 196:7  
**end** [3] - 124:14,  
 173:11, 200:17  
**endeavor** [1] - 192:18  
**energy** [6] - 20:16,  
 22:1, 74:12, 75:1,  
 75:16, 80:6  
**enforcement**  
 [5] - 36:1, 55:11,  
 92:2, 115:10,  
 129:15  
**engage** [1] - 194:10  
**engagement**  
 [1] - 196:9  
**engaging** [1] - 109:11  
**engineer's** [1] - 61:16  
**engines** [1] - 145:11  
**enhance** [2] - 64:16,  
 65:1  
**enhanced** [2] - 65:8,  
 66:15  
**enjoy** [1] - 97:14  
**enjoyed** [2] - 109:2,  
 109:7  
**enthusiastic**  
 [2] - 127:14, 128:3  
**entire** [2] - 109:11,  
 166:3  
**entirely** [1] - 192:7  
**entrance** [8] - 30:8,

106:16, 158:13,  
 159:8, 159:9,  
 159:10, 159:11,  
 201:2

**entrances** [3] - 159:2,  
 159:6, 159:16

**entry** [5] - 30:4, 30:7,  
 107:3, 185:17,  
 200:13

**entryway** [1] - 29:1

**environmental**  
 [1] - 178:16

**equipment** [19] - 4:3,  
 7:4, 7:10, 9:8, 16:4,  
 20:2, 20:4, 21:5,  
 21:15, 23:7, 23:11,  
 23:14, 73:16, 73:18,  
 75:2, 75:12, 77:6,  
 77:10, 77:13

**erect** [1] - 14:17

**ERRATA** [1] - 212:1

**Errata** [2] - 212:2,  
 212:7

**escape** [1] - 42:17

**especially** [1] - 97:17

**essentially**  
 [5] - 89:11, 135:13,  
 142:12, 154:11,  
 187:15

**establish** [1] - 169:3

**established**  
 [7] - 17:7, 71:5,  
 118:9, 169:4, 186:7,  
 202:10, 202:15

**establishment**  
 [10] - 178:4, 181:15,  
 184:12, 187:10,  
 190:6, 197:9,  
 197:17, 199:4,  
 199:16, 202:14

**estate** [1] - 175:14

**etcetera** [3] - 7:6,  
 10:1

**evening** [14] - 3:12,  
 6:9, 6:10, 25:9,  
 41:13, 86:13, 87:1,  
 95:9, 95:10, 96:7,  
 121:9, 123:13,  
 170:2, 175:10

**event** [4] - 21:13,  
 75:10, 110:8, 160:7

**events** [1] - 192:16

**evidence** [1] - 64:13

**evident** [1] - 60:10

**exact** <sup>[1]</sup> - 12:1  
**exactly** <sup>[5]</sup> - 10:9,  
 44:1, 184:13, 208:4,  
 209:10  
**exceed** <sup>[2]</sup> - 125:3,  
 190:12  
**except** <sup>[1]</sup> - 212:15  
**excessive** <sup>[2]</sup> - 24:4,  
 78:3  
**excited** <sup>[3]</sup> - 110:3,  
 128:6, 179:14  
**excuse** <sup>[2]</sup> - 87:12,  
 149:9  
**executive** <sup>[1]</sup> - 124:3  
**exempted** <sup>[1]</sup> - 162:2  
**exercise** <sup>[1]</sup> - 110:9  
**exist** <sup>[3]</sup> - 138:10,  
 149:18, 153:9  
**existing** <sup>[12]</sup> - 7:2,  
 10:5, 18:11, 18:14,  
 40:5, 44:8, 72:9,  
 72:12, 81:12, 138:8,  
 183:1, 186:5  
**exists** <sup>[1]</sup> - 107:4  
**exit** <sup>[1]</sup> - 158:9  
**exits** <sup>[1]</sup> - 156:17  
**expand** <sup>[1]</sup> - 98:11  
**expanding**  
<sup>[4]</sup> - 98:11, 98:14,  
 98:17, 99:2  
**expansion** <sup>[2]</sup> - 98:1,  
 112:7  
**expect** <sup>[2]</sup> - 187:1,  
 188:10  
**experience**  
<sup>[2]</sup> - 154:17, 160:16  
**Expires** <sup>[1]</sup> - 213:12  
**explain** <sup>[4]</sup> - 28:2,  
 43:18, 124:2, 154:3  
**explained** <sup>[1]</sup> - 29:14  
**explanatory** <sup>[1]</sup> - 7:13  
**exploit** <sup>[1]</sup> - 124:3  
**exposed** <sup>[1]</sup> - 13:9  
**expressed** <sup>[1]</sup> - 56:16  
**extend** <sup>[1]</sup> - 149:14  
**extending** <sup>[1]</sup> - 105:4  
**extensive** <sup>[3]</sup> - 96:12,  
 181:4, 181:10  
**extensively**  
<sup>[1]</sup> - 31:16  
**extent** <sup>[8]</sup> - 10:14,  
 20:6, 22:11, 74:2,  
 76:9, 85:3, 199:17,  
 210:9

**exterior** <sup>[1]</sup> - 28:9  
**extremely** <sup>[2]</sup> - 97:13,  
 126:7

## F

**facade** <sup>[3]</sup> - 13:12,  
 61:8, 64:5  
**face** <sup>[2]</sup> - 32:2  
**face-to-face** <sup>[1]</sup> - 32:2  
**faces** <sup>[1]</sup> - 144:8  
**facilitate** <sup>[1]</sup> - 126:18  
**facilitated**  
<sup>[1]</sup> - 194:14  
**facilities** <sup>[4]</sup> - 18:6,  
 70:12, 201:8,  
 201:13  
**facility** <sup>[10]</sup> - 14:17,  
 15:3, 15:14, 18:12,  
 18:15, 70:1, 70:7,  
 72:9, 72:13, 81:13  
**facility's** <sup>[2]</sup> - 15:2,  
 70:6  
**fact** <sup>[14]</sup> - 14:11,  
 47:11, 67:9, 89:15,  
 92:11, 101:14,  
 115:17, 137:6,  
 138:1, 146:3, 162:7,  
 167:14, 168:9,  
 169:6  
**facto** <sup>[4]</sup> - 21:11, 22:8,  
 75:8, 76:5  
**facts** <sup>[1]</sup> - 100:15  
**fail** <sup>[1]</sup> - 84:3  
**failing** <sup>[1]</sup> - 136:3  
**fails** <sup>[2]</sup> - 21:17, 75:14  
**failure** <sup>[8]</sup> - 21:9,  
 22:4, 22:6, 22:7,  
 75:6, 76:1, 76:3,  
 76:4  
**fair** <sup>[2]</sup> - 11:10, 197:1  
**fall** <sup>[1]</sup> - 149:5  
**falls** <sup>[2]</sup> - 11:2, 90:6  
**familiar** <sup>[2]</sup> - 14:5,  
 122:17  
**family** <sup>[13]</sup> - 29:17,  
 30:10, 87:4, 96:15,  
 97:3, 121:18, 126:2,  
 126:3, 126:18,  
 127:10, 129:18,  
 132:16, 134:11  
**fantastic** <sup>[1]</sup> - 161:12  
**far** <sup>[7]</sup> - 52:13, 67:15,  
 67:17, 80:11,



132:15, 190:18,  
202:12

**FAR** [7] - 30:14,  
100:5, 101:6,  
102:11, 125:9,  
162:1, 162:2

**fast** [8] - 177:18,  
178:6, 184:11,  
188:12, 190:6,  
193:16, 197:9,  
202:13

**fat** [1] - 180:10

**favor** [28] - 24:9,  
24:11, 38:1, 38:3,  
38:4, 40:10, 40:12,  
46:16, 57:6, 57:8,  
78:8, 78:10, 85:9,  
85:11, 94:1, 94:3,  
117:8, 117:10,  
119:14, 119:16,  
131:4, 131:6,  
169:15, 203:18,  
204:2, 208:6,  
210:15, 210:18

**Fax** [1] - 1:16

**feasible** [2] - 92:6,  
199:17

**federal** [12] - 21:3,  
21:9, 21:14, 22:9,  
23:16, 24:5, 74:18,  
75:6, 75:11, 76:6,  
77:15, 78:4

**Federal** [1] - 80:11

**feedback** [2] - 109:14,  
113:8

**feet** [23] - 26:14, 27:5,  
29:6, 30:15, 43:9,  
43:11, 45:3, 88:16,  
88:18, 89:17, 101:4,  
125:4, 145:10,  
145:13, 145:15,  
148:9, 149:12,  
149:13, 160:14,  
163:17, 163:18,  
164:4, 183:11

**fence** [1] - 34:10

**Fenway** [1] - 124:4

**few** [3] - 106:3, 123:4,  
141:11

**Fi** [1] - 66:9

**figure** [1] - 124:9

**file** [16] - 21:1, 21:9,  
22:4, 23:8, 31:6,  
46:7, 57:14, 57:16,

74:16, 75:7, 76:1,  
77:7, 91:4, 91:9,  
106:2, 177:1

**filed** <sup>[9]</sup> - 19:7, 21:6,  
21:8, 22:17, 23:4,  
75:3, 75:5, 76:15,  
77:3

**files** <sup>[7]</sup> - 21:3, 48:3,  
74:18, 85:6, 129:6,  
142:15, 210:11

**filing** <sup>[1]</sup> - 151:2

**filled** <sup>[1]</sup> - 125:5

**final** <sup>[3]</sup> - 45:6, 112:7,  
114:2

**finally** <sup>[1]</sup> - 178:12

**findings** <sup>[26]</sup> - 16:12,  
16:18, 18:4, 18:9,  
19:1, 35:17, 37:4,  
55:9, 56:17, 69:17,  
72:1, 72:3, 72:17,  
78:5, 91:18, 93:10,  
115:8, 117:1,  
117:16, 118:1,  
119:8, 129:13,  
181:14, 197:8,  
202:2, 203:15

**fine** <sup>[1]</sup> - 68:1

**finish** <sup>[1]</sup> - 63:10

**finishes** <sup>[1]</sup> - 13:11

**Fiore** <sup>[1]</sup> - 112:13

**FIORE** <sup>[1]</sup> - 112:13

**fire** <sup>[16]</sup> - 42:17,  
52:14, 52:16, 54:3,  
55:14, 56:15,  
145:10, 145:11,  
145:12, 146:17,  
147:14, 147:17,  
148:2, 148:13,  
148:18, 149:3

**firm** <sup>[3]</sup> - 41:15, 81:7,  
81:9

**first** <sup>[15]</sup> - 6:5, 16:4,  
16:14, 37:8, 37:17,  
70:11, 109:15,  
115:6, 117:6,  
121:13, 122:9,  
143:11, 146:11,  
163:14, 176:5

**First** <sup>[1]</sup> - 1:6

**fit** <sup>[1]</sup> - 192:14

**fits** <sup>[3]</sup> - 11:7, 178:3,  
186:17

**fitting** <sup>[1]</sup> - 102:18

**five** <sup>[19]</sup> - 24:11,

40:12, 57:8, 78:10,  
 85:7, 85:11, 94:3,  
 109:1, 117:10,  
 119:16, 124:4,  
 127:4, 131:6, 135:8,  
 135:9, 148:9, 204:2,  
 210:12, 210:18

**flagged** <sup>[1]</sup> - 164:8

**flagship** <sup>[1]</sup> - 179:16

**flavor** <sup>[1]</sup> - 192:9

**flexibility** <sup>[1]</sup> - 35:7

**Floor** <sup>[1]</sup> - 1:6

**floor** <sup>[15]</sup> - 6:16, 44:9,  
 87:8, 87:9, 87:10,  
 87:15, 88:10, 89:10,  
 92:7, 92:10, 112:7,  
 122:5, 122:9,  
 125:18, 127:10

**floors** <sup>[2]</sup> - 43:15,  
 185:18

**Flynn** <sup>[1]</sup> - 37:7

**folks** <sup>[6]</sup> - 100:3,  
 135:16, 138:4,  
 158:7, 160:17,  
 197:5

**Follen** <sup>[2]</sup> - 83:8,  
 207:9

**follow** <sup>[2]</sup> - 31:13,  
 123:12

**follow-up** <sup>[1]</sup> - 31:13

**following** <sup>[17]</sup> - 16:18,  
 19:3, 20:18, 35:17,  
 52:16, 55:9, 69:17,  
 73:1, 74:15, 84:1,  
 91:18, 115:8, 118:1,  
 129:13, 186:6,  
 197:8, 209:18

**food** <sup>[24]</sup> - 177:10,  
 177:18, 178:14,  
 179:1, 179:17,  
 180:4, 180:13,  
 180:14, 184:5,  
 184:11, 187:9,  
 188:8, 188:10,  
 188:13, 190:3,  
 190:6, 193:17,  
 197:9, 199:8,  
 199:18, 200:7,  
 202:14

**Foods** <sup>[1]</sup> - 123:7

**foot** <sup>[5]</sup> - 43:10,  
 147:2, 150:4,  
 160:11, 163:18

**footage** <sup>[4]</sup> - 44:17,

88:14, 101:3,  
101:11

**footnote** [1] - 196:5

**footprint** [1] - 43:14

**FOR** [1] - 1:1

**forces** [3] - 79:8,  
79:12, 79:14

**FOREGOING**  
[1] - 213:14

**foregoing** [4] - 76:10,  
82:3, 82:10, 212:15

**foremost** [1] - 109:15

**forever** [1] - 124:12

**forget** [1] - 84:18

**form** [3] - 89:3, 125:1,  
127:9

**format** [1] - 178:6

**formula** [1] - 124:11

**forth** [3] - 167:10,  
198:10, 213:6

**forthcoming**  
[1] - 112:3

**fortunate** [1] - 108:18

**forward** [4] - 33:6,  
108:13, 161:16,  
163:6

**foundation**  
[2] - 149:12, 164:4

**four** [18] - 20:1, 30:1,  
33:3, 38:3, 45:6,  
47:9, 61:3, 61:4,  
135:8, 135:9,  
149:13, 162:13,  
189:9, 190:2,  
205:11, 205:12,  
205:13, 205:15

**fourth** [3] - 63:16,  
63:17, 185:15

**fragmented**  
[1] - 67:12

**frame** [1] - 99:4

**Francisco**  
[1] - 179:12

**frankly** [2] - 155:6,  
169:14

**freestanding**  
[1] - 189:18

**french** [1] - 180:11

**frequency** [2] - 24:4,  
78:4

**fresh** [1] - 178:6

**Friday** [2] - 31:8,  
31:13

**friend** [1] - 132:15

**friendly** <sup>[2]</sup> - 30:10,  
178:16  
**fries** <sup>[1]</sup> - 180:11  
**FROM** <sup>[9]</sup> - 51:3, 51:9,  
79:7, 79:10, 79:17,  
80:2, 80:8, 80:15,  
152:14  
**front** <sup>[20]</sup> - 30:7,  
60:17, 97:9, 106:15,  
106:17, 107:2,  
107:17, 114:5,  
128:4, 141:12,  
143:18, 154:18,  
155:16, 158:3,  
159:9, 162:15,  
164:10, 164:12,  
182:13  
**fulfills** <sup>[3]</sup> - 178:4,  
181:15, 199:4  
**full** <sup>[3]</sup> - 49:5, 99:14,  
181:5  
**function** <sup>[1]</sup> - 191:1  
**functional** <sup>[1]</sup> - 28:8  
**future** <sup>[1]</sup> - 49:6

## G

**gable** <sup>[5]</sup> - 99:6, 99:8,  
99:11, 99:12, 114:6  
**gables** <sup>[1]</sup> - 114:5  
**Garden** <sup>[1]</sup> - 66:18  
**gardens** <sup>[1]</sup> - 35:5  
**gatherings** <sup>[1]</sup> - 126:2  
**GENERAL** <sup>[1]</sup> - 1:3  
**general** <sup>[1]</sup> - 16:15  
**generally** <sup>[5]</sup> - 17:17,  
71:15, 119:3,  
186:12, 203:11  
**generated** <sup>[5]</sup> - 17:5,  
65:3, 71:2, 118:6,  
202:8  
**generations** <sup>[1]</sup> - 97:3  
**gentleman**  
<sup>[2]</sup> - 56:16, 111:7  
**gentlemen** <sup>[1]</sup> - 7:1  
**geographical**  
<sup>[2]</sup> - 23:12, 77:11  
**GFA** <sup>[4]</sup> - 89:10,  
89:16, 125:6, 125:7  
**given** <sup>[3]</sup> - 51:17,  
154:7, 198:5  
**glad** <sup>[1]</sup> - 182:8  
**glass** <sup>[2]</sup> - 29:4, 29:10  
**glazing** <sup>[2]</sup> - 29:4,

29:9

**Globe** <sup>[1]</sup> - 123:4

**God** <sup>[1]</sup> - 161:8

**gonna** <sup>[2]</sup> - 102:15,  
155:3

**Government**

<sup>[1]</sup> - 80:11

**governmental**

<sup>[2]</sup> - 21:18, 75:15

**grade** <sup>[1]</sup> - 138:6

**grandfathered**

<sup>[3]</sup> - 42:17, 53:15,  
138:10

**grandmother**

<sup>[1]</sup> - 122:12

**grandparents**

<sup>[1]</sup> - 96:16

**grant** <sup>[21]</sup> - 14:16,

16:13, 19:2, 24:7,  
37:5, 50:8, 56:18,  
67:2, 68:17, 70:18,  
72:18, 78:6, 82:12,  
93:11, 105:16,  
117:2, 119:9,  
130:18, 170:17,  
197:7, 203:16

**granted** <sup>[24]</sup> - 18:5,

20:12, 21:12, 21:16,  
22:8, 24:12, 36:11,  
56:8, 56:12, 57:9,  
58:5, 72:3, 74:8,  
75:9, 75:13, 76:5,  
78:11, 92:15, 94:4,  
116:9, 117:11,  
119:17, 130:7,  
131:7

**granting** <sup>[3]</sup> - 23:16,

77:15, 114:9

**great** <sup>[6]</sup> - 106:1,

106:12, 110:6,  
167:14, 192:13,  
209:7

**greatest** <sup>[1]</sup> - 199:16

**greatly** <sup>[2]</sup> - 113:5,

127:5

**Green** <sup>[24]</sup> - 1:9, 3:5,

6:4, 24:15, 39:4,  
40:14, 41:4, 57:10,  
59:4, 78:12, 79:4,  
85:13, 86:4, 94:5,  
95:4, 117:12,  
119:18, 121:4,  
131:8, 132:4, 175:4,  
204:4, 205:4, 211:2

**GREEN** <sup>[25]</sup> - 7:14,  
 8:1, 8:5, 8:14, 8:18,  
 10:17, 14:2, 42:3,  
 42:7, 91:14, 95:18,  
 99:8, 107:7, 107:11,  
 107:16, 108:6,  
 109:3, 115:4, 129:9,  
 133:5, 157:5, 187:3,  
 188:12, 206:14,  
 207:9

**green** <sup>[2]</sup> - 123:16,  
 198:11

**greenery** <sup>[1]</sup> - 155:17

**Grendel's** <sup>[1]</sup> - 196:3

**Grill** <sup>[5]</sup> - 175:15,  
 177:16, 179:2,  
 179:5, 179:8

**Grill's** <sup>[1]</sup> - 192:11

**grilled** <sup>[1]</sup> - 123:3

**grilling** <sup>[2]</sup> - 179:3,  
 181:4

**Grills** <sup>[1]</sup> - 175:17

**ground** <sup>[1]</sup> - 149:14

**grounds** <sup>[2]</sup> - 50:9,  
 62:4

**group** <sup>[1]</sup> - 188:8

**groups** <sup>[1]</sup> - 186:16

**guess** <sup>[4]</sup> - 66:6,  
 125:15, 172:3,  
 200:16

**guest** <sup>[1]</sup> - 100:2

**guidelines**  
<sup>[2]</sup> - 194:1, 196:11

**guttled** <sup>[1]</sup> - 183:7

**guys** <sup>[1]</sup> - 66:3

## H

**H-I-S-E-L** <sup>[1]</sup> - 26:6

**Haig** <sup>[1]</sup> - 127:18

**half** <sup>[6]</sup> - 27:5, 31:9,  
 44:18, 45:1, 99:3,  
 99:15

**Half** <sup>[3]</sup> - 28:15,  
 28:17, 44:18

**Hampshire** <sup>[1]</sup> - 206:2

**Hancock** <sup>[3]</sup> - 2:5,  
 39:6, 40:2

**hand** <sup>[4]</sup> - 108:7,  
 109:3, 123:15,  
 213:8

**handicapped**  
<sup>[2]</sup> - 182:11, 201:9

**hanging** <sup>[1]</sup> - 165:17

**happy** <sup>[4]</sup> - 35:3,  
103:15, 110:18,  
176:15

**hard** <sup>[2]</sup> - 45:16,  
168:6

**hardship** <sup>[21]</sup> - 36:3,  
36:8, 55:13, 56:2,  
88:6, 88:8, 92:4,  
92:11, 102:2,  
115:12, 115:17,  
127:8, 129:17,  
130:4, 147:10,  
160:7

**Harvard** <sup>[21]</sup> - 66:18,  
67:4, 122:18,  
176:14, 176:16,  
176:17, 180:17,  
186:15, 190:13,  
192:4, 192:12,  
192:15, 192:17,  
193:1, 193:3,  
193:18, 194:18,  
195:7, 196:6, 203:3,  
203:4

**Hasti** <sup>[1]</sup> - 111:9

**HASTI** <sup>[1]</sup> - 111:9

**Hatfield** <sup>[1]</sup> - 132:14

**hatfield** <sup>[1]</sup> - 160:1

**HAWKINSON**

<sup>[5]</sup> - 59:12, 140:6,  
189:8, 189:18,  
190:8

**hazard** <sup>[9]</sup> - 17:7,  
17:13, 71:4, 71:11,  
118:8, 118:17,  
202:10, 202:15,  
203:7

**head** <sup>[2]</sup> - 88:11,  
89:13

**health** <sup>[8]</sup> - 17:14,  
20:14, 71:12, 74:11,  
80:7, 118:18,  
177:12, 203:8

**healthy** <sup>[1]</sup> - 192:10

**hear** <sup>[13]</sup> - 7:16, 8:18,  
10:17, 42:7, 84:5,  
96:1, 133:6, 133:7,  
153:10, 157:5,  
161:7, 169:8, 206:9

**heard** <sup>[28]</sup> - 6:8,  
12:10, 25:7, 33:14,  
33:18, 39:7, 41:7,  
48:15, 51:13, 59:7,  
68:7, 81:1, 81:5,



83:13, 86:7, 90:18,  
95:7, 108:12, 111:2,  
121:7, 128:18,  
132:8, 135:15,  
152:2, 175:7,  
191:17, 207:10,  
209:16

**hearing** <sup>[20]</sup> - 15:11,  
26:9, 27:11, 27:17,  
34:16, 40:3, 81:15,  
81:16, 82:2, 84:11,  
96:7, 161:5, 165:16,  
169:6, 176:8, 207:3,  
209:2, 210:14,  
210:15, 213:6

**HEARING** <sup>[1]</sup> - 1:3

**Hearing** <sup>[3]</sup> - 2:3, 2:4,  
2:6

**hearings** <sup>[2]</sup> - 135:5,  
135:18

**heart** <sup>[1]</sup> - 83:17

**Heather** <sup>[2]</sup> - 60:12,  
60:15

**heavier** <sup>[1]</sup> - 62:15

**height** <sup>[3]</sup> - 62:14,  
89:14, 124:11

**hello** <sup>[2]</sup> - 42:9,  
132:10

**help** <sup>[1]</sup> - 114:7

**helpful** <sup>[3]</sup> - 134:3,  
137:15, 143:3

**helps** <sup>[2]</sup> - 51:1, 54:4

**heralded** <sup>[1]</sup> - 123:3

**hereby** <sup>[1]</sup> - 212:16

**herein** <sup>[1]</sup> - 213:6

**hereunto** <sup>[1]</sup> - 213:7

**Hickey** <sup>[1]</sup> - 132:4

**Highland** <sup>[7]</sup> - 141:11,  
141:13, 144:4,  
157:9, 159:12,  
164:11, 164:15

**highlighted**

<sup>[1]</sup> - 89:12

**highly** <sup>[1]</sup> - 88:4

**Hills** <sup>[1]</sup> - 83:3

**Hisel** <sup>[5]</sup> - 26:4, 26:5,  
29:15, 37:7

**HISEL** <sup>[2]</sup> - 26:5,  
37:14

**Hisel-Flynn** <sup>[1]</sup> - 37:7

**historic** <sup>[2]</sup> - 136:9,  
159:14

**Historic** <sup>[2]</sup> - 138:1,  
172:6

**Historical** [2] - 27:15,  
165:2

**history** [6] - 134:4,  
137:15, 140:14,  
141:16, 143:2,  
163:8

**hit** [1] - 168:14

**hitting** [1] - 182:5

**Hoffman** [1] - 60:15

**Holworthy** [11] - 2:11,  
95:6, 95:15, 96:14,  
108:17, 111:13,  
112:16, 112:18,  
113:11, 113:12,  
113:14

**home** [22] - 34:13,  
58:5, 96:14, 96:16,  
97:4, 97:7, 97:14,  
97:16, 97:18, 98:1,  
99:4, 100:5, 100:6,  
100:13, 101:2,  
101:15, 104:13,  
106:17, 109:11,  
113:14, 115:13,  
121:18

**homeowner**

[1] - 163:7

**homeowners**

[1] - 162:4

**homes** [9] - 35:5,  
97:8, 100:18, 103:2,  
113:5, 114:7, 114:8,  
136:9, 154:18

**homework**

[1] - 100:17

**hope** [8] - 7:12, 54:6,  
110:12, 110:13,  
177:4, 177:17,  
192:14, 193:1

**HOPE** [6] - 25:9, 26:3,  
26:7, 32:18, 33:2,  
33:7

**Hope** [2] - 25:11

**hopefully** [4] - 96:13,  
103:3, 176:18,  
209:8

**hoping** [1] - 162:15

**horse** [1] - 169:6

**HORST** [8] - 44:4,  
45:12, 53:7, 53:11,  
53:14, 54:1, 57:12,  
57:18

**Horst** [1] - 42:2

**hospital** [4] - 65:9,

65:15, 70:12, 144:2

**Hospital** [3] - 7:2,

59:18, 134:8

**host** [1] - 69:14

**hours** [10] - 112:4,

186:9, 186:11,

187:5, 190:13,

190:14, 190:18,

194:3, 195:10,

196:7

**house** [27] - 37:1,

40:5, 42:13, 45:17,

54:6, 87:5, 88:11,

89:13, 89:16,

100:10, 106:4,

106:15, 111:15,

112:1, 112:8, 113:3,

113:12, 125:2,

125:3, 125:4, 125:8,

127:4, 129:18,

130:2, 130:3

**houses** [3] - 29:7,

54:5, 113:1

**housing** [3] - 37:2,

56:14, 116:15

**Hubbard** [3] - 2:12,

121:6, 121:18

**huddle** [1] - 173:10

**hung** [2] - 81:18, 82:7

**Huron** [4] - 111:15,

112:2, 112:13,

112:15

**husband** [1] - 31:15

## I

**idea** [1] - 170:7

**ideal** [1] - 30:8

**identify** [2] - 28:5,

180:3

**images** [1] - 103:1

**imagine** [1] - 162:3

**immediate** [1] - 126:1

**impact** [12] - 19:9,

19:16, 34:17, 35:6,

50:18, 73:6, 73:12,

80:7, 110:1, 114:9,

155:13, 178:16

**impacted** [1] - 50:1

**impacts** [2] - 13:5,

156:14

**impair** [4] - 17:18,

71:16, 119:4,

203:12

**implication** [2] - 49:4,  
89:11

**implications**

[1] - 88:14

**important** [9] - 28:5,  
49:7, 88:1, 123:18,  
141:5, 141:7,  
151:16, 151:17,  
184:8

**impose** [1] - 4:2

**imposed** [3] - 20:10,  
74:6, 80:14

**imposes** [1] - 158:4

**impressive**

[1] - 110:10

**improve** [5] - 36:18,  
114:8, 116:15,  
134:13, 134:14

**improved** [1] - 89:3

**improves** [1] - 93:2

**improving** [1] - 7:5

**IN** [2] - 213:7, 213:14

**in-kind** [1] - 7:9

**inadequate**

[1] - 55:15

**inasmuch** [5] - 20:14,  
70:1, 74:10, 74:11,  
93:5

**INC** [1] - 1:15

**inches** [2] - 144:18,  
145:4

**include** [1] - 11:1

**included** [1] - 115:16

**includes** [2] - 23:12,  
77:11

**including** [9] - 21:15,  
24:2, 36:9, 75:12,  
78:1, 122:8, 122:16,  
197:16

**inconsistent**

[2] - 15:3, 70:7

**incorporate**

[2] - 198:7, 198:11

**incorporating**

[1] - 28:10

**increase** [9] - 29:3,  
30:14, 65:6, 90:1,  
100:11, 101:12,  
101:14, 130:1,  
195:9

**increased** [2] - 101:3,  
178:17

**INDEMNIFIED**

[1] - 152:14

**indicate** <sup>[1]</sup> - 127:16  
**indicated** <sup>[5]</sup> - 12:15,  
 34:1, 68:13, 69:14,  
 129:5  
**indicates** <sup>[1]</sup> - 182:2  
**indicating**  
<sup>[1]</sup> - 164:13  
**individual**  
<sup>[1]</sup> - 189:12  
**individuals** <sup>[2]</sup> - 24:1,  
 77:18  
**industry** <sup>[1]</sup> - 44:11  
**inform** <sup>[2]</sup> - 4:6,  
 196:15  
**information**  
<sup>[1]</sup> - 100:17  
**informed** <sup>[1]</sup> - 113:18  
**infrastructure**  
<sup>[2]</sup> - 178:17, 183:1  
**ingress** <sup>[2]</sup> - 201:8,  
 201:12  
**inhabitability**  
<sup>[1]</sup> - 93:3  
**inhibition** <sup>[1]</sup> - 162:10  
**initial** <sup>[1]</sup> - 27:17  
**initialed** <sup>[1]</sup> - 19:12  
**initialled** <sup>[10]</sup> - 19:6,  
 19:12, 37:17, 57:3,  
 73:4, 73:9, 93:14,  
 93:17, 117:7  
**innovative**  
<sup>[3]</sup> - 122:3, 127:6,  
 180:13  
**input** <sup>[2]</sup> - 109:14,  
 165:18  
**inside** <sup>[7]</sup> - 183:5,  
 184:3, 186:1, 200:9,  
 200:10, 200:15,  
 201:12  
**Inspectional**  
<sup>[15]</sup> - 21:2, 21:6,  
 21:10, 22:4, 23:9,  
 74:17, 75:4, 75:7,  
 76:1, 77:8, 142:3,  
 152:9, 160:11,  
 162:12, 212:3  
**installation** <sup>[8]</sup> - 7:2,  
 13:2, 23:7, 23:11,  
 54:3, 65:3, 77:6,  
 77:10  
**installed** <sup>[3]</sup> - 23:15,  
 52:16, 77:14  
**installing** <sup>[1]</sup> - 12:1  
**instead** <sup>[3]</sup> - 99:5,

99:15, 154:18

**institutional** <sup>[1]</sup> - 67:6

**INSTRUCTIONS**

<sup>[2]</sup> - 212:1, 212:5

**integrity** <sup>[4]</sup> - 17:18,

71:16, 119:5,

203:12

**intends** <sup>[1]</sup> - 52:15

**intensity** <sup>[1]</sup> - 28:12

**intent** <sup>[9]</sup> - 18:2,

36:14, 56:11, 71:18,

92:18, 116:12,

119:6, 130:10,

203:14

**intention** <sup>[1]</sup> - 50:5

**intercommunication**

<sup>[1]</sup> - 67:11

**interest** <sup>[3]</sup> - 137:18,

177:6, 195:18

**interfere** <sup>[1]</sup> - 4:4

**interior** <sup>[8]</sup> - 28:13,

29:17, 30:9, 105:8,

156:17, 183:3,

183:8, 196:8

**internal** <sup>[3]</sup> - 28:8,

30:1, 65:17

**internally** <sup>[1]</sup> - 66:8

**interpretation**

<sup>[2]</sup> - 151:10, 162:12

**interrupt** <sup>[2]</sup> - 138:18,

140:2

**interrupted**

<sup>[1]</sup> - 182:4

**introduction**

<sup>[1]</sup> - 87:11

**involve** <sup>[5]</sup> - 36:2,

55:12, 92:3, 115:11,

129:16

**involved** <sup>[1]</sup> - 135:10

**involves** <sup>[2]</sup> - 87:10,

96:10

**ipso** <sup>[4]</sup> - 21:11, 22:8,

75:8, 76:5

**IRL** <sup>[1]</sup> - 41:18

**ISD** <sup>[18]</sup> - 106:2,

138:8, 150:8, 151:5,

151:15, 151:18,

152:4, 152:8,

153:11, 153:17,

161:3, 161:7,

161:11, 165:11,

165:18, 169:7,

169:8, 184:15

**ISD's** <sup>[1]</sup> - 187:8

**issue** <sup>[17]</sup> - 29:3, 47:7,  
53:17, 55:2, 124:8,  
141:8, 143:11,  
145:6, 149:1, 152:1,  
152:5, 165:7, 165:9,  
168:16, 194:12,  
194:16

**issued** <sup>[1]</sup> - 136:18

**issues** <sup>[15]</sup> - 28:2,  
28:7, 29:5, 52:14,  
60:10, 136:3,  
137:10, 146:18,  
158:4, 159:13,  
159:14, 160:15,  
164:9, 169:8

**item** <sup>[4]</sup> - 62:7, 62:8,  
63:8, 63:17

**items** <sup>[5]</sup> - 18:3, 61:1,  
85:6, 200:1, 200:6

**iteration** <sup>[1]</sup> - 93:16

**itself** <sup>[2]</sup> - 43:5, 88:10

## J

**J.F.K** <sup>[1]</sup> - 182:18

**JAMES** <sup>[27]</sup> - 45:10,  
45:13, 46:8, 48:5,  
49:12, 50:11, 50:16,  
51:8, 58:3, 58:6,  
86:9, 86:13, 87:16,  
88:3, 88:7, 88:17,  
89:2, 90:2, 90:11,  
91:6, 121:9, 121:16,  
124:1, 125:13,  
126:14, 127:13,  
128:10

**James** <sup>[4]</sup> - 41:17,  
49:3, 86:15, 121:10

**jammed** <sup>[1]</sup> - 208:15

**JANET** <sup>[25]</sup> - 7:14,  
8:1, 8:5, 8:14, 8:18,  
10:17, 14:2, 42:3,  
42:7, 91:14, 95:18,  
99:8, 107:7, 107:11,  
107:16, 108:6,  
109:3, 115:4, 129:9,  
133:5, 157:5, 187:3,  
188:12, 206:14,  
207:9

**Janet** <sup>[13]</sup> - 1:9, 3:5,  
6:3, 39:3, 41:3,  
59:3, 79:3, 86:3,  
95:3, 121:3, 132:3,  
175:3, 205:3

**Jay** <sup>[2]</sup> - 50:1, 51:18

**Jeff** <sup>[3]</sup> - 175:13,  
176:12, 182:7

**JEFF** <sup>[29]</sup> - 176:1,  
179:4, 179:8, 180:8,  
180:18, 181:5,  
182:1, 182:14,  
182:17, 183:6,  
183:15, 184:2,  
184:4, 185:10,  
186:11, 187:4,  
187:16, 190:17,  
193:9, 194:6,  
195:13, 196:1,  
196:18, 198:6,  
198:14, 199:1,  
200:10, 200:12,  
201:14

**JFK** <sup>[1]</sup> - 200:18

**Jim** <sup>[19]</sup> - 1:9, 3:5, 6:4,  
25:3, 39:4, 41:4,  
46:4, 52:3, 52:7,  
52:11, 52:14, 59:4,  
79:4, 86:4, 95:4,  
121:4, 132:4, 175:4,  
205:4

**JIM** <sup>[15]</sup> - 11:14, 12:7,  
14:1, 16:10, 35:13,  
37:11, 184:1, 184:3,  
184:13, 184:17,  
185:2, 185:6,  
191:14, 197:3,  
208:7

**job** <sup>[2]</sup> - 161:12, 169:1

**Job** <sup>[2]</sup> - 18:17, 72:15

**jobs** <sup>[1]</sup> - 162:13

**John** <sup>[1]</sup> - 112:13

**JOHN** <sup>[5]</sup> - 59:12,  
140:6, 189:8,  
189:18, 190:8

**join** <sup>[2]</sup> - 192:17,  
194:9

**Jon** <sup>[1]</sup> - 6:11

**JONATHAN**

<sup>[19]</sup> - 6:11, 6:18,  
7:18, 8:3, 8:6, 8:12,  
8:16, 9:2, 9:13,  
10:3, 10:12, 10:18,  
11:10, 14:7, 15:7,  
15:13, 15:17, 16:7,  
24:13

**judgment** <sup>[2]</sup> - 11:5,  
11:6

**jurisdiction** <sup>[1]</sup> - 11:2



**justification**

[2] - 168:11, 168:12

**K**

**K-O-G-U-T** [1] - 34:2

**K-U-E-L-Z-E-R**

[1] - 196:4

**KATZ** [2] - 49:1, 49:2

**Katz** [1] - 49:1

**keep** [2] - 46:6,

102:16

**Kendall** [1] - 122:17

**kept** [1] - 113:17

**key** [1] - 133:9

**KeywordIndex**

[1] - 2:15

**kids** [1] - 108:16

**kind** [16] - 7:9, 31:11,

51:6, 98:13, 99:4,

102:5, 102:13,

102:17, 102:18,

103:5, 110:9,

125:14, 128:6,

160:6, 171:1

**kitchen** [2] - 127:7,

181:6

**kitchens** [1] - 30:3

**knock** [1] - 172:16

**knowing** [1] - 151:18

**known** [3] - 18:17,

72:16, 122:13

**Kogut** [2] - 34:2, 34:7

**KRAUS** [2] - 96:3,

117:5

**Kraus** [3] - 96:3,

117:5

**Kreiger** [1] - 6:12

**Kuelzer** [1] - 196:4

**L**

**ladies** [1] - 7:1

**landing** [2] - 88:12,

156:18

**large** [2] - 155:4,

163:6

**last** [9] - 20:8, 31:1,

32:13, 35:9, 60:10,

60:13, 60:18,

163:14, 193:13

**lastly** [5] - 23:5, 56:8,

85:3, 113:9, 210:9

**late** [2] - 172:4, 187:2

**LAURA** [10] - 11:15,

46:13, 55:6, 126:12,  
153:16, 154:7,  
163:9, 185:7, 186:2,  
186:9

**Laura** <sup>[14]</sup> - 1:10, 3:5,  
6:4, 25:4, 39:4,  
41:4, 59:4, 79:4,  
86:4, 95:4, 121:4,  
132:4, 175:4, 205:4

**Lauren** <sup>[1]</sup> - 108:16

**Law** <sup>[3]</sup> - 25:11,  
95:12, 132:11

**law** <sup>[10]</sup> - 21:17, 24:5,  
41:15, 53:1, 53:5,  
75:14, 78:4, 81:7,  
161:13, 163:4

**laws** <sup>[2]</sup> - 152:13,  
152:17

**Lawson** <sup>[1]</sup> - 213:4

**layer** <sup>[1]</sup> - 140:15

**layout** <sup>[3]</sup> - 29:17,  
122:4, 139:10

**leased** <sup>[1]</sup> - 183:13

**least** <sup>[7]</sup> - 4:9, 82:1,  
82:8, 139:16, 172:5,  
181:7, 190:2

**left** <sup>[1]</sup> - 4:12

**Legal** <sup>[1]</sup> - 25:11

**legal** <sup>[2]</sup> - 11:8,  
123:13

**legally** <sup>[1]</sup> - 138:13

**length** <sup>[2]</sup> - 13:8,  
145:16

**less** <sup>[14]</sup> - 30:8, 88:15,  
145:13, 155:5,  
155:18, 156:6,  
156:9, 156:10,  
157:12, 166:16,  
166:17

**letter** <sup>[31]</sup> - 9:17,  
12:14, 12:18, 32:3,  
34:1, 39:11, 39:16,  
46:17, 49:12, 49:15,  
50:2, 50:3, 51:17,  
52:2, 68:11, 68:18,  
81:6, 81:14, 111:8,  
111:9, 111:11,  
112:12, 113:9,  
133:11, 167:18,  
168:2, 172:14,  
173:4, 192:4, 193:3,  
196:3

**letters** <sup>[10]</sup> - 35:8,  
48:3, 91:4, 91:9,

103:8, 111:5,  
 114:15, 118:13,  
 129:5, 177:1

**level** [8] - 89:10,  
 99:17, 100:1, 122:7,  
 125:8, 125:17,  
 149:13, 185:15

**levels** [1] - 79:11

**license** [1] - 193:8

**License** [1] - 213:11

**licenses** [2] - 22:9,  
 76:7

**life** [1] - 97:12

**lifestyle** [1] - 97:9

**light** [4] - 155:12,  
 155:17, 162:6,  
 162:8

**lighting** [1] - 158:9

**limit** [1] - 89:14

**limitations**  
 [2] - 97:17, 102:5

**limited** [5] - 21:16,  
 75:13, 87:8, 98:13,  
 98:16

**limiting** [1] - 35:5

**limits** [1] - 141:14

**LINE** [1] - 212:8

**line** [11] - 10:1, 13:8,  
 29:7, 29:8, 63:1,  
 63:3, 63:5, 110:2,  
 149:12, 167:15,  
 193:5

**lines** [1] - 63:13

**list** [1] - 202:4

**literal** [5] - 36:1,  
 55:11, 92:2, 115:10,  
 129:15

**literally** [1] - 97:6

**live** [6] - 52:5, 108:16,  
 122:6, 130:15,  
 154:17, 158:8

**liveability** [1] - 130:1

**lived** [6] - 52:7, 97:3,  
 108:18, 112:1,  
 113:11, 128:2

**lives** [3] - 49:14,  
 49:15, 127:10

**living** [10] - 28:10,  
 28:12, 30:9, 89:4,  
 100:9, 100:12,  
 114:13, 115:14,  
 127:9

**LLC** [2] - 81:10,  
 132:12

**lobby** <sup>[2]</sup> - 183:12,  
 185:13  
**Lobel** <sup>[1]</sup> - 81:8  
**local** <sup>[2]</sup> - 182:11,  
 201:7  
**located** <sup>[7]</sup> - 20:5,  
 74:1, 111:15, 134:8,  
 144:6, 199:13,  
 200:15  
**location** <sup>[9]</sup> - 9:14,  
 15:2, 70:6, 82:10,  
 84:15, 86:18, 105:9,  
 118:2, 198:2  
**locations** <sup>[6]</sup> - 23:18,  
 138:9, 154:11,  
 175:18, 186:18,  
 195:14  
**look** <sup>[25]</sup> - 11:17,  
 16:16, 31:10, 31:11,  
 46:12, 64:18, 101:1,  
 103:1, 103:3, 110:3,  
 124:18, 128:5,  
 128:7, 128:8,  
 134:15, 139:15,  
 143:13, 143:16,  
 144:8, 144:12,  
 147:13, 148:2,  
 157:4, 157:11,  
 159:8  
**looked** <sup>[1]</sup> - 10:7  
**looking** <sup>[11]</sup> - 29:12,  
 43:1, 47:8, 60:6,  
 60:7, 69:10, 88:15,  
 98:10, 140:17,  
 193:6, 206:16  
**looks** <sup>[4]</sup> - 44:1,  
 103:5, 126:4,  
 134:10  
**loss** <sup>[2]</sup> - 136:1, 136:4  
**loud** <sup>[1]</sup> - 126:6  
**love** <sup>[3]</sup> - 98:2, 127:3  
**lovely** <sup>[1]</sup> - 135:3  
**Lowell** <sup>[2]</sup> - 2:4, 25:6  
**lower** <sup>[2]</sup> - 122:7,  
 125:8  
**luck** <sup>[3]</sup> - 119:17,  
 131:7, 204:3  
**LYNCH** <sup>[6]</sup> - 6:10,  
 6:14, 9:9, 10:9,  
 11:18, 13:16  
**Lynch** <sup>[1]</sup> - 6:14

## M

**Mahe**<sup>[3]</sup> - 41:17,  
 42:18, 47:18  
**MAHER**<sup>[10]</sup> - 45:10,  
 45:13, 46:8, 48:5,  
 49:12, 50:11, 50:16,  
 51:8, 58:3, 58:6  
**Mahe**'s<sup>[1]</sup> - 52:3  
**mail**<sup>[3]</sup> - 66:5, 82:4,  
 86:17  
**main**<sup>[3]</sup> - 30:17,  
 159:9, 200:13  
**maintain**<sup>[2]</sup> - 19:15,  
 73:11  
**maintained**  
<sup>[4]</sup> - 23:17, 77:16,  
 84:10, 210:6  
**Mama**<sup>[6]</sup> - 177:14,  
 183:4, 183:10,  
 184:15, 186:4,  
 186:7  
**managed**<sup>[1]</sup> - 110:8  
**manager**<sup>[1]</sup> - 132:13  
**manner**<sup>[1]</sup> - 89:6  
**maple**<sup>[1]</sup> - 52:10  
**March**<sup>[1]</sup> - 131:3  
**marked**<sup>[4]</sup> - 178:9,  
 195:3, 200:4,  
 201:15  
**market**<sup>[1]</sup> - 191:9  
**marketable**  
<sup>[1]</sup> - 166:17  
**marketing**  
<sup>[2]</sup> - 154:16, 166:17  
**Marsh**<sup>[2]</sup> - 28:15,  
 28:18  
**Marsha**<sup>[1]</sup> - 111:13  
**MARTHA**<sup>[3]</sup> - 95:16,  
 95:17, 107:15  
**Martha**<sup>[10]</sup> - 95:16,  
 107:14, 108:17,  
 109:1, 110:7,  
 111:16, 112:2,  
 113:6, 113:17,  
 114:12  
**martha**<sup>[1]</sup> - 95:17  
**Martha**'s<sup>[3]</sup> - 111:17,  
 112:11, 113:13  
**Mass**<sup>[5]</sup> - 2:9, 79:6,  
 80:18, 86:16, 86:17  
**MASSACHUSETTS**  
<sup>[1]</sup> - 213:2  
**Massachusetts**  
<sup>[2]</sup> - 1:6, 1:7  
**master**<sup>[1]</sup> - 99:17

**match** <sup>[2]</sup> - 63:1,  
63:12

**materials** <sup>[8]</sup> - 96:11,  
178:8, 194:15,  
197:17, 198:4,  
198:9, 199:17,  
200:6

**matte** <sup>[1]</sup> - 63:10

**MATTEL** <sup>[3]</sup> - 108:15,  
109:5, 110:18

**Mattel** <sup>[1]</sup> - 108:15

**matter** <sup>[40]</sup> - 6:9, 11:8,  
12:5, 12:9, 12:11,  
20:16, 25:8, 33:13,  
33:15, 39:8, 41:8,  
48:14, 48:16, 51:14,  
53:1, 53:5, 59:8,  
60:9, 68:6, 68:8,  
74:13, 81:2, 86:8,  
90:16, 91:1, 93:8,  
95:8, 96:9, 108:11,  
108:13, 121:8,  
128:16, 129:1,  
132:9, 146:3,  
153:18, 168:9,  
175:8, 191:16,  
191:18

**Matthew** <sup>[1]</sup> - 112:12

**mean** <sup>[12]</sup> - 9:16,  
11:16, 43:14,  
138:18, 140:2,  
165:7, 168:8,  
168:13, 170:13,  
179:1, 188:6, 209:3

**mean...** <sup>[1]</sup> - 170:12

**meaning** <sup>[3]</sup> - 18:15,  
29:1, 72:14

**means** <sup>[4]</sup> - 53:8,  
55:15, 199:13

**measure** <sup>[1]</sup> - 191:8

**meat** <sup>[2]</sup> - 180:6,  
192:9

**meat-like** <sup>[1]</sup> - 192:9

**medium** <sup>[1]</sup> - 4:1

**meet** <sup>[8]</sup> - 16:14, 40:6,  
56:15, 136:6, 149:2,  
149:3, 190:8,  
201:14

**meeting** <sup>[18]</sup> - 3:8,  
3:18, 4:4, 4:5, 4:6,  
4:11, 4:13, 4:15,  
22:15, 28:3, 31:1,  
31:9, 32:1, 32:6,  
34:18, 82:8, 114:17,

139:16

**meetings** <sup>[1]</sup> - 172:9

**meets** <sup>[2]</sup> - 144:10,  
184:16

**Megan** <sup>[2]</sup> - 121:13,  
121:17

**MEGAN** <sup>[2]</sup> - 121:15,  
127:17

**Member** <sup>[3]</sup> - 1:9, 1:9,  
1:10

**MEMBER** <sup>[9]</sup> - 51:3,  
51:9, 79:7, 79:10,  
79:17, 80:2, 80:8,  
80:15, 152:14

**members** <sup>[17]</sup> - 11:13,  
12:6, 25:10, 48:11,  
55:4, 65:13, 68:3,  
86:14, 90:13, 91:13,  
107:6, 128:13,  
129:7, 175:11,  
185:4, 193:16,  
208:4

**Members** <sup>[13]</sup> - 3:4,  
6:2, 25:2, 39:2,  
41:2, 59:2, 79:2,  
86:2, 95:2, 121:2,  
132:2, 175:2, 205:2

**memorized**

<sup>[1]</sup> - 104:17

**mention** <sup>[4]</sup> - 47:18,  
49:9, 107:1, 154:12

**mentioned** <sup>[4]</sup> - 32:1,  
101:12, 102:3,  
143:11

**menu** <sup>[4]</sup> - 181:9,  
187:5, 195:9,  
195:11

**menus** <sup>[2]</sup> - 187:12,  
189:13

**met** <sup>[9]</sup> - 17:3, 27:18,  
35:2, 52:7, 70:18,  
102:14, 118:5,  
176:15, 202:6

**mezzanine**

<sup>[1]</sup> - 125:16

**MICHAEL**

<sup>[11]</sup> - 41:10, 41:13,  
42:5, 42:9, 43:13,  
45:15, 46:2, 46:14,  
47:5, 48:8, 54:12

**Michael** <sup>[1]</sup> - 41:14

**microphone**

<sup>[3]</sup> - 7:15, 42:4,  
109:4

**Mid** <sup>[8]</sup> - 135:4, 135:6,  
135:14, 137:7,  
157:1, 157:12,  
158:4, 158:16

**mid** <sup>[1]</sup> - 159:7

**Middle** <sup>[2]</sup> - 18:16,  
72:14

**middle** <sup>[1]</sup> - 30:6

**midnight** <sup>[2]</sup> - 187:1,  
191:7

**might** <sup>[1]</sup> - 37:14

**Mike** <sup>[1]</sup> - 44:11

**million** <sup>[1]</sup> - 167:13

**MILTON** <sup>[4]</sup> - 148:15,  
163:14, 164:2,  
164:6

**Milton** <sup>[5]</sup> - 133:2,  
137:1, 147:16,  
163:12, 163:14

**mind** <sup>[2]</sup> - 80:13,  
102:16

**minded** <sup>[2]</sup> - 109:6

**mindful** <sup>[1]</sup> - 102:17

**minimal** <sup>[2]</sup> - 50:18,  
178:16

**minimize** <sup>[1]</sup> - 13:5

**minimized** <sup>[1]</sup> - 13:10

**minimum** <sup>[2]</sup> - 47:6,  
149:15

**minus** <sup>[1]</sup> - 26:14

**minor** <sup>[1]</sup> - 35:2

**mistake** <sup>[1]</sup> - 207:8

**Mobile** <sup>[2]</sup> - 66:6, 81:9

**mockup** <sup>[1]</sup> - 61:16

**model** <sup>[1]</sup> - 186:7

**models** <sup>[1]</sup> - 110:1

**modest** <sup>[7]</sup> - 36:18,  
88:15, 90:4, 93:2,  
106:14, 126:17,  
130:13

**modification**

<sup>[10]</sup> - 7:4, 7:10, 11:2,  
18:11, 36:6, 56:6,  
72:8, 92:13, 109:10,  
116:7

**modifications**

<sup>[1]</sup> - 118:15

**modified** <sup>[3]</sup> - 85:4,  
210:4, 210:11

**modify** <sup>[3]</sup> - 81:12,  
139:12, 210:9

**Monday** <sup>[2]</sup> - 85:7,  
210:12

**money** <sup>[2]</sup> - 146:3,



168:18

**monitor** <sup>[1]</sup> - 84:15

**Monteverde** <sup>[26]</sup> - 1:9,

3:5, 6:4, 24:15,

25:4, 38:5, 39:4,

40:14, 41:4, 57:10,

59:4, 78:12, 79:4,

85:13, 86:4, 94:5,

95:4, 117:12,

119:18, 121:4,

131:8, 132:4, 175:4,

204:4, 205:4, 211:2

**MONTEVERDE**

<sup>[15]</sup> - 11:14, 12:7,

14:1, 16:10, 35:13,

37:11, 184:1, 184:3,

184:13, 184:17,

185:2, 185:6,

191:14, 197:3,

208:7

**month** <sup>[1]</sup> - 49:4

**months** <sup>[5]</sup> - 20:3,

73:17, 135:7, 135:8,

135:10

**morning** <sup>[1]</sup> - 186:12

**mortar** <sup>[1]</sup> - 63:13

**most** <sup>[9]</sup> - 34:12,

44:17, 44:18, 66:9,

92:6, 93:15, 118:14,

133:3, 148:6

**mostly** <sup>[2]</sup> - 178:7,

179:11

**mothers** <sup>[1]</sup> - 126:10

**motion** <sup>[4]</sup> - 55:4,

57:9, 69:11, 78:6

**Mount** <sup>[4]</sup> - 6:7, 7:2,

59:6, 59:18

**mount** <sup>[2]</sup> - 64:10,

64:13

**mounted** <sup>[1]</sup> - 64:5

**mounting** <sup>[3]</sup> - 13:9,

64:3, 64:9

**mounts** <sup>[1]</sup> - 10:5

**mouth** <sup>[2]</sup> - 7:15, 8:2

**move** <sup>[8]</sup> - 24:6, 55:5,

55:7, 70:3, 117:15,

156:13, 156:16,

199:3

**moved** <sup>[1]</sup> - 157:14

**movement** <sup>[1]</sup> - 105:8

**movements**

<sup>[1]</sup> - 104:15

**moves** <sup>[22]</sup> - 16:17,

19:2, 35:16, 37:5,

40:8, 55:8, 56:18,  
69:16, 72:18, 78:6,  
83:16, 91:17, 93:11,  
115:7, 117:2,  
117:18, 119:9,  
129:12, 130:18,  
197:7, 203:16,  
209:15

**moving** <sup>[2]</sup> - 86:17,  
105:15

**Mt** <sup>[2]</sup> - 2:2, 2:8

**mudroom** <sup>[5]</sup> - 26:13,  
27:3, 30:4, 30:8,  
30:16

**multiplane**  
<sup>[1]</sup> - 124:12

**must** <sup>[3]</sup> - 193:11,  
201:14, 210:11

## N

**name** <sup>[17]</sup> - 25:15,  
34:6, 41:11, 41:14,  
48:17, 59:8, 86:11,  
86:15, 108:14,  
121:13, 122:14,  
127:16, 132:18,  
163:14, 175:8,  
198:10

**narrow** <sup>[8]</sup> - 46:4,  
56:4, 87:9, 98:5,  
98:9, 98:14, 130:5,  
130:6

**national** <sup>[1]</sup> - 175:14

**nationwide** <sup>[1]</sup> - 7:4

**nature** <sup>[11]</sup> - 26:11,  
26:14, 28:6, 28:18,  
36:18, 93:2, 130:14,  
177:8, 177:12,  
191:9, 199:13

**near** <sup>[1]</sup> - 201:1

**nearby** <sup>[4]</sup> - 24:2,  
24:3, 78:1, 78:2

**necessarily**  
<sup>[2]</sup> - 165:10, 180:1

**necessary**  
<sup>[2]</sup> - 114:11, 115:14

**necessity** <sup>[1]</sup> - 64:18

**need** <sup>[32]</sup> - 11:6, 27:8,  
36:5, 40:6, 42:3,  
47:12, 105:16,  
106:10, 108:8,  
129:18, 138:15,  
139:14, 142:17,

150:3, 150:7,  
 153:18, 157:5,  
 165:10, 165:17,  
 167:2, 167:3, 169:8,  
 169:9, 169:11,  
 178:4, 181:15,  
 181:18, 199:4,  
 199:5, 205:11,  
 205:12, 209:12  
**needed** <sup>[4]</sup> - 98:4,  
 114:12, 127:8,  
 151:3  
**needs** <sup>[2]</sup> - 102:15,  
 105:9  
**negative** <sup>[3]</sup> - 158:14,  
 158:15, 177:11  
**negatively** <sup>[1]</sup> - 34:17  
**neighbor** <sup>[6]</sup> - 46:16,  
 49:15, 113:15,  
 155:7, 164:16,  
 169:13  
**neighbor's** <sup>[1]</sup> - 103:2  
**neighborhood**  
<sup>[39]</sup> - 15:5, 16:5,  
 17:8, 18:7, 27:13,  
 36:16, 47:17, 65:8,  
 70:9, 70:14, 71:5,  
 72:5, 93:5, 97:5,  
 100:16, 100:18,  
 109:6, 109:7, 109:8,  
 109:12, 110:5,  
 110:6, 110:9, 112:9,  
 113:2, 113:5, 114:4,  
 114:9, 114:14,  
 116:16, 118:9,  
 130:12, 135:16,  
 136:1, 148:6,  
 181:16, 181:17,  
 202:11, 202:16  
**Neighborhood**  
<sup>[3]</sup> - 135:4, 135:14,  
 158:17  
**neighborhood's**  
<sup>[2]</sup> - 102:18, 148:7  
**neighbors** <sup>[14]</sup> - 34:7,  
 34:12, 34:18, 48:1,  
 93:7, 102:17, 103:6,  
 113:7, 114:17,  
 118:14, 127:12,  
 128:1, 210:13  
**network** <sup>[1]</sup> - 67:4  
**never** <sup>[2]</sup> - 37:9,  
 141:18  
**new** <sup>[19]</sup> - 22:14, 23:1,

76:12, 76:17, 84:7,  
84:8, 84:9, 84:17,  
84:18, 85:4, 86:10,  
118:7, 163:2,  
168:14, 168:15,  
210:3, 210:4, 210:5  
**next** <sup>[15]</sup> - 52:6, 66:7,  
74:4, 81:16, 82:13,  
82:18, 108:16,  
108:18, 109:15,  
110:13, 127:17,  
140:15, 171:9,  
173:6, 173:15  
**next-door** <sup>[5]</sup> - 52:6,  
108:16, 109:15,  
110:13, 127:17  
**nice** <sup>[2]</sup> - 47:9, 114:15  
**night** <sup>[3]</sup> - 126:15,  
186:5, 191:6  
**nine** <sup>[1]</sup> - 186:13  
**nobody** <sup>[2]</sup> - 191:4,  
191:7  
**noise** <sup>[1]</sup> - 65:5  
**non** <sup>[9]</sup> - 55:1, 56:6,  
87:14, 92:12,  
115:18, 116:1,  
116:3, 116:6,  
189:10  
**non-conforming**  
<sup>[7]</sup> - 56:6, 87:14,  
92:12, 115:18,  
116:1, 116:3, 116:6  
**non-disposable**  
<sup>[1]</sup> - 189:10  
**non-removal**  
<sup>[1]</sup> - 55:1  
**noncode** <sup>[1]</sup> - 92:7  
**none** <sup>[3]</sup> - 90:15,  
104:9, 128:15  
**nonetheless**  
<sup>[2]</sup> - 27:8, 27:16  
**nonresidential**  
<sup>[4]</sup> - 15:1, 15:18,  
60:1, 70:4  
**Nookie** <sup>[1]</sup> - 122:15  
**North** <sup>[1]</sup> - 42:14  
**Northeast** <sup>[1]</sup> - 81:10  
**NOT** <sup>[1]</sup> - 213:14  
**Notary** <sup>[2]</sup> - 213:4,  
213:10  
**notch** <sup>[2]</sup> - 125:5,  
125:9  
**note** <sup>[9]</sup> - 18:4, 29:9,  
36:15, 70:10, 72:2,

82:3, 122:13,  
 130:11, 212:6  
**noted** <sup>[4]</sup> - 52:14,  
 138:8, 155:7,  
 212:16  
**notes** <sup>[3]</sup> - 43:12,  
 139:15, 148:17  
**nothing** <sup>[6]</sup> - 18:7,  
 72:4, 163:3, 165:8,  
 180:17, 181:17  
**notice** <sup>[3]</sup> - 22:15,  
 27:16, 76:13  
**noticed** <sup>[2]</sup> - 29:4,  
 50:14  
**notification** <sup>[4]</sup> - 22:3,  
 75:18, 81:18, 82:7  
**notify** <sup>[2]</sup> - 21:14,  
 75:11  
**notifying** <sup>[1]</sup> - 3:16  
**November**  
<sup>[3]</sup> - 206:14, 210:7,  
 213:8  
**nuisance** <sup>[4]</sup> - 17:13,  
 71:11, 118:17,  
 203:7  
**null** <sup>[1]</sup> - 154:1  
**nullifying** <sup>[5]</sup> - 36:13,  
 56:10, 92:17,  
 116:11, 130:9  
**number** <sup>[5]</sup> - 4:2,  
 16:12, 111:5,  
 154:15, 172:15  
**numbers** <sup>[2]</sup> - 144:16,  
 183:10

## O

**o'clock** <sup>[4]</sup> - 91:7,  
 186:13, 191:5,  
 208:1  
**O'Grady** <sup>[1]</sup> - 124:15  
**O'NEIL** <sup>[4]</sup> - 95:14,  
 96:17, 97:1, 99:11  
**O'Neil** <sup>[3]</sup> - 96:5,  
 107:13, 111:13  
**O'Neil's** <sup>[1]</sup> - 96:15  
**O'Neill** <sup>[1]</sup> - 95:14  
**O-N-E-I-L** <sup>[1]</sup> - 95:15  
**objection**  
<sup>[4]</sup> - 112:17, 113:15,  
 122:10, 168:3  
**objections** <sup>[1]</sup> - 34:14  
**objectives**  
<sup>[1]</sup> - 178:13

**obvious** <sup>[1]</sup> - 43:2  
**obviously** <sup>[6]</sup> - 10:13,  
 10:15, 33:6, 49:6,  
 149:1, 166:10  
**occupant** <sup>[6]</sup> - 17:15,  
 71:13, 115:15,  
 119:1, 177:14,  
 203:9  
**occupants** <sup>[2]</sup> - 24:2,  
 78:2  
**occupies** <sup>[1]</sup> - 130:2  
**occur** <sup>[1]</sup> - 89:13  
**occurred** <sup>[2]</sup> - 22:6,  
 76:3  
**OCTOBER** <sup>[1]</sup> - 1:4  
**October** <sup>[5]</sup> - 39:16,  
 40:3, 40:6, 81:15,  
 82:6  
**odd** <sup>[1]</sup> - 69:9  
**OF** <sup>[6]</sup> - 1:1, 1:2,  
 213:2, 213:14,  
 213:14, 213:15  
**offer** <sup>[3]</sup> - 107:18,  
 181:4, 195:18  
**offering** <sup>[3]</sup> - 181:10,  
 187:14, 199:6  
**offerings** <sup>[6]</sup> - 179:1,  
 180:2, 192:6, 192:8,  
 195:9, 199:8  
**office** <sup>[6]</sup> - 100:2,  
 123:7, 135:1,  
 141:17, 160:16,  
 162:7  
**Offices** <sup>[1]</sup> - 25:12  
**offices** <sup>[3]</sup> - 86:16,  
 175:12, 185:14  
**OFFICIAL** <sup>[1]</sup> - 1:16  
**often** <sup>[4]</sup> - 90:4, 97:9,  
 124:14, 134:9  
**oil** <sup>[1]</sup> - 180:10  
**old** <sup>[2]</sup> - 45:8, 136:2  
**older** <sup>[3]</sup> - 56:5,  
 97:11, 115:13  
**on-site** <sup>[1]</sup> - 181:6  
**once** <sup>[1]</sup> - 192:14  
**One** <sup>[2]</sup> - 39:6, 40:2  
**one** <sup>[86]</sup> - 3:11, 7:7,  
 7:8, 8:11, 9:10,  
 19:4, 26:10, 33:4,  
 33:17, 45:5, 45:6,  
 46:9, 47:9, 47:13,  
 48:1, 48:4, 48:6,  
 61:6, 62:12, 62:16,  
 63:16, 64:17, 65:16,

66:7, 67:1, 67:9,  
 67:10, 73:2, 81:4,  
 82:18, 83:2, 83:6,  
 83:10, 84:17, 84:18,  
 87:14, 88:11, 99:3,  
 107:7, 111:6,  
 123:10, 126:3,  
 129:6, 139:16,  
 141:3, 143:17,  
 144:4, 145:8, 149:1,  
 154:12, 155:4,  
 155:6, 156:2, 156:4,  
 157:8, 157:9,  
 157:14, 158:2,  
 159:8, 159:10,  
 159:11, 162:14,  
 164:9, 164:15,  
 164:17, 169:17,  
 170:3, 170:7,  
 175:16, 176:5,  
 181:8, 181:14,  
 187:9, 188:3,  
 189:10, 194:18,  
 195:18, 201:1,  
 205:18, 207:3,  
 208:18, 210:3,  
 210:4

**one's** <sup>[1]</sup> - 200:16

**one-and-a-half**

<sup>[1]</sup> - 99:3

**one-bedroom**

<sup>[4]</sup> - 45:5, 45:6, 47:9,  
 47:13

**one-story** <sup>[1]</sup> - 26:10

**ones** <sup>[3]</sup> - 12:2, 19:12,  
 44:3

**ongoing** <sup>[2]</sup> - 20:16,

74:13

**onslaught** <sup>[1]</sup> - 163:5

**open** <sup>[27]</sup> - 3:17, 12:5,

12:8, 30:3, 33:12,

48:13, 68:5, 88:13,

90:16, 108:10,

123:9, 128:16,

146:7, 155:6,

179:15, 186:12,

186:14, 186:16,

186:17, 186:18,

187:1, 191:2, 191:7,

191:15, 194:4,

194:11

**opened** <sup>[4]</sup> - 123:5,

162:4, 162:5,

179:14

**operates** <sup>[1]</sup> - 122:15

**operation** <sup>[10]</sup> - 4:3,  
17:9, 71:7, 118:10,  
176:13, 186:10,  
195:10, 196:12,  
197:10, 202:17

**opinion** <sup>[3]</sup> - 137:12,  
147:9, 153:15

**opportunity**  
<sup>[2]</sup> - 29:13, 66:16

**opposed** <sup>[3]</sup> - 48:1,  
107:3, 199:11

**opposing** <sup>[1]</sup> - 28:4

**opposition**  
<sup>[3]</sup> - 130:12, 133:12,  
167:18

**option** <sup>[6]</sup> - 98:12,  
98:15, 98:17,  
154:15, 158:2

**options** <sup>[3]</sup> - 98:11,  
102:10, 178:15

**orange** <sup>[1]</sup> - 198:15

**order** <sup>[13]</sup> - 3:9, 42:12,  
62:7, 136:6, 177:18,  
178:6, 184:4,  
184:11, 190:6,  
190:9, 193:17,  
197:9, 202:13

**Ordinance**  
<sup>[27]</sup> - 16:16, 17:2,  
17:11, 18:2, 36:2,  
36:14, 55:12, 56:11,  
70:18, 71:9, 71:18,  
84:11, 92:3, 92:18,  
115:11, 116:13,  
118:4, 119:7,  
129:16, 130:10,  
138:3, 149:4, 149:5,  
165:8, 202:5,  
203:14, 210:8

**ordinance** <sup>[1]</sup> - 188:1

**original** <sup>[6]</sup> - 62:9,  
101:15, 106:4,  
158:18, 212:2

**Original** <sup>[3]</sup> - 2:3, 2:4,  
2:6

**otherwise** <sup>[6]</sup> - 18:1,  
22:2, 71:17, 75:17,  
119:6, 203:13

**ourselves** <sup>[1]</sup> - 180:1

**outdoor** <sup>[3]</sup> - 127:9,  
130:1, 162:9

**outside** <sup>[4]</sup> - 27:7,  
88:13, 163:17,



200:9

**overall** [2] - 54:8,  
134:5

**overcome**  
[1] - 147:11

**Overlay** [1] - 193:18

**overlooking**  
[1] - 111:17

**overused** [1] - 126:16

**owing** [5] - 36:8, 56:2,  
92:11, 115:17,  
130:4

**own** [4] - 8:18, 66:14,  
121:17, 162:12

**owned** [2] - 113:11,  
134:11

**owner** [3] - 51:4,  
132:12, 136:5

**owners** [4] - 36:7,  
87:3, 112:14, 158:7

## P

**P-E-D-E-R-S-E-N**

[1] - 111:11

**p.m** [21] - 1:4, 3:3,  
6:1, 25:1, 39:1,  
41:1, 59:1, 79:1,  
83:18, 84:9, 85:7,  
86:1, 95:1, 121:1,  
132:1, 175:1, 205:1,  
209:17, 210:6,  
210:12, 211:4

**packaging**  
[2] - 199:18, 200:6

**PAGE** [2] - 2:1, 212:8

**page** [4] - 37:8, 37:17,  
117:6, 190:5

**pages** [2] - 57:2,  
93:13

**painted** [1] - 63:9

**Pamela** [3] - 32:4,  
34:2, 34:7

**panel** [2] - 52:16, 54:4

**Pangin** [1] - 132:13

**pangin** [1] - 134:11

**paper** [4] - 63:12,  
166:7, 166:9, 168:5

**papers** [1] - 12:16

**paragraphs**  
[2] - 76:11, 76:17

**Park** [4] - 124:4,  
192:17, 194:10,  
196:9

**parking** <sup>[16]</sup> - 30:5,  
 30:6, 138:14,  
 138:15, 139:5,  
 139:7, 139:10,  
 167:4, 170:9,  
 170:18, 171:1,  
 178:1, 196:16,  
 197:11, 197:13,  
 199:15  
**parodying** <sup>[1]</sup> - 47:15  
**part** <sup>[17]</sup> - 26:11,  
 26:14, 28:13, 29:2,  
 29:14, 50:17,  
 105:13, 106:8,  
 143:6, 146:14,  
 147:8, 149:17,  
 150:3, 153:7,  
 153:12, 165:5,  
 186:14  
**partially** <sup>[1]</sup> - 183:9  
**participate**  
<sup>[1]</sup> - 192:15  
**particular** <sup>[1]</sup> - 198:2  
**particularly** <sup>[3]</sup> - 93:3,  
 114:5, 125:17  
**parties** <sup>[2]</sup> - 126:6,  
 126:12  
**partly** <sup>[1]</sup> - 26:12  
**pass** <sup>[1]</sup> - 96:1  
**passage** <sup>[1]</sup> - 36:4  
**passed** <sup>[1]</sup> - 209:13  
**passersby** <sup>[1]</sup> - 158:5  
**past** <sup>[2]</sup> - 70:11, 70:15  
**path** <sup>[1]</sup> - 201:15  
**patio** <sup>[1]</sup> - 162:9  
**patios** <sup>[2]</sup> - 34:11,  
 155:1  
**Patrick** <sup>[1]</sup> - 41:15  
**patrons** <sup>[4]</sup> - 189:11,  
 189:13, 199:10,  
 200:5  
**patterns** <sup>[4]</sup> - 17:5,  
 71:2, 118:6, 202:8  
**PAUL** <sup>[3]</sup> - 108:15,  
 109:5, 110:18  
**Paul** <sup>[1]</sup> - 108:15  
**Paula** <sup>[1]</sup> - 113:9  
**payment** <sup>[1]</sup> - 136:3  
**PCS** <sup>[1]</sup> - 6:13  
**peace** <sup>[1]</sup> - 169:12  
**Pedersen** <sup>[1]</sup> - 111:10  
**pedestrian**  
<sup>[2]</sup> - 178:2, 178:15  
**people** <sup>[13]</sup> - 7:16,

96:1, 97:13, 108:1,  
108:7, 109:13,  
124:13, 154:17,  
160:5, 180:14,  
182:16, 190:12,  
191:2

**percent** <sup>[5]</sup> - 101:15,  
138:4, 180:2,  
189:14, 190:2

**percentage**  
<sup>[3]</sup> - 188:1, 188:2,  
189:4

**perhaps** <sup>[4]</sup> - 106:2,  
142:15, 158:7,  
186:16

**period** <sup>[7]</sup> - 20:3,  
23:3, 65:3, 73:17,  
77:2, 135:6, 170:4

**permit** <sup>[9]</sup> - 23:6,  
64:11, 71:8, 77:5,  
138:7, 142:17,  
147:3, 165:12,  
197:9

**Permit** <sup>[53]</sup> - 14:17,  
16:13, 16:15, 19:2,  
20:17, 21:12, 21:16,  
22:8, 22:12, 22:14,  
22:18, 23:15, 24:7,  
24:12, 72:18, 74:14,  
75:9, 75:13, 76:5,  
76:10, 76:12, 76:16,  
77:14, 78:7, 78:11,  
81:11, 96:9, 104:1,  
104:10, 104:12,  
105:17, 114:10,  
117:15, 117:16,  
118:2, 118:5, 119:9,  
134:2, 138:14,  
138:15, 139:2,  
139:13, 139:17,  
140:11, 142:10,  
143:1, 151:4, 170:9,  
170:18, 176:11,  
193:17, 202:7,  
203:16

**Permits** <sup>[3]</sup> - 20:11,  
74:7, 202:3

**permitted** <sup>[2]</sup> - 17:10,  
134:18

**permitting**  
<sup>[1]</sup> - 132:16

**perpetuity** <sup>[1]</sup> - 80:12

**person** <sup>[6]</sup> - 3:16,  
23:10, 77:9, 168:1,

171:16, 194:18

**personally**

[2] - 98:18, 166:11

**persons** [2] - 182:12,  
201:10

**perspective**

[1] - 149:4

**PETER** [12] - 132:18,

135:8, 144:17,

145:1, 145:3,

156:16, 157:7,

159:3, 161:11,

161:15, 162:2,

163:11

**Peter** [8] - 132:18,

133:1, 141:17,

143:13, 144:13,

156:4, 156:12,

164:15

**petition** [5] - 23:2,

23:8, 77:1, 77:7,

151:14

**petitioner**

[34] - 18:12, 19:5,

19:11, 19:14, 20:1,

20:8, 20:12, 21:1,

21:14, 22:2, 22:13,

23:8, 23:11, 51:18,

72:4, 72:10, 73:3,

73:8, 73:10, 73:15,

74:4, 74:8, 74:16,

75:11, 75:17, 76:11,

77:7, 77:10, 84:2,

84:7, 84:12, 85:4,

117:5, 210:1

**petitioner's** [5] - 21:5,

22:9, 68:12, 75:2,

76:6

**petitioners**

[5] - 25:13, 27:18,

95:13, 96:6, 132:12

**petitions** [2] - 23:4,

77:3

**phone** [2] - 31:7,

172:15

**phonetic** [2] - 127:18

**photo** [14] - 7:12, 8:8,

13:15, 19:10, 19:17,

61:11, 61:15, 63:7,

69:5, 69:7, 73:7,

73:13, 85:4, 125:10

**photographs**

[2] - 82:4, 194:15

**photos** [1] - 188:7

**physical** <sup>[11]</sup> - 11:15,  
 18:13, 19:9, 19:16,  
 72:11, 73:6, 73:11,  
 197:15, 197:16,  
 198:1, 198:3  
**pick** <sup>[2]</sup> - 135:11,  
 185:9  
**pick-ups** <sup>[1]</sup> - 185:9  
**picture** <sup>[1]</sup> - 108:6  
**pictures** <sup>[2]</sup> - 46:3,  
 60:13  
**piece** <sup>[3]</sup> - 166:7,  
 166:8, 168:5  
**pink** <sup>[2]</sup> - 198:12,  
 198:14  
**placement** <sup>[2]</sup> - 4:2,  
 109:17  
**places** <sup>[1]</sup> - 200:8  
**plan** <sup>[14]</sup> - 27:1, 30:3,  
 33:1, 44:6, 44:9,  
 45:16, 49:5, 54:14,  
 58:3, 64:8, 64:9,  
 89:12, 143:14  
**planet** <sup>[1]</sup> - 184:9  
**planning** <sup>[2]</sup> - 4:14,  
 109:9  
**Planning** <sup>[9]</sup> - 9:3,  
 10:8, 10:10, 12:14,  
 13:1, 13:3, 60:17,  
 68:11, 69:1  
**plans** <sup>[40]</sup> - 10:7,  
 19:5, 19:7, 27:17,  
 29:12, 31:16, 34:13,  
 34:14, 34:17, 35:1,  
 37:7, 37:16, 52:8,  
 57:2, 57:12, 57:16,  
 58:2, 60:7, 68:16,  
 73:3, 85:4, 93:13,  
 113:7, 113:18,  
 114:1, 114:17,  
 117:4, 119:12,  
 124:13, 131:2,  
 138:5, 138:6,  
 140:17, 147:18,  
 158:18, 159:6,  
 169:10, 210:10,  
 210:11, 210:14  
**plant** <sup>[5]</sup> - 35:4, 180:8,  
 180:9, 180:15,  
 184:6  
**plant-based**  
<sup>[1]</sup> - 180:15  
**plants** <sup>[1]</sup> - 35:4  
**plate** <sup>[1]</sup> - 187:17

**plates** <sup>[3]</sup> - 187:13,  
 187:14, 189:10  
**play** <sup>[2]</sup> - 122:7,  
 125:17  
**pleased** <sup>[1]</sup> - 112:6  
**plot** <sup>[1]</sup> - 54:14  
**plus** <sup>[2]</sup> - 66:13, 185:1  
**point** <sup>[17]</sup> - 29:5,  
 54:13, 93:4, 102:8,  
 104:6, 123:14,  
 125:3, 135:10,  
 142:8, 145:2,  
 148:13, 151:7,  
 151:10, 157:13,  
 162:3, 165:12,  
 197:1  
**points** <sup>[2]</sup> - 67:1, 67:2  
**popular** <sup>[1]</sup> - 178:5  
**porch** <sup>[3]</sup> - 28:9,  
 28:10, 111:17  
**porches** <sup>[2]</sup> - 149:10,  
 155:1  
**portion** <sup>[6]</sup> - 27:7,  
 89:8, 106:4, 124:16,  
 125:2, 125:3  
**Portland** <sup>[1]</sup> - 179:13  
**posed** <sup>[1]</sup> - 137:18  
**position** <sup>[4]</sup> - 137:17,  
 143:4, 153:4, 180:1  
**positive** <sup>[2]</sup> - 114:9,  
 188:9  
**possibilities**  
<sup>[1]</sup> - 154:11  
**possible** <sup>[6]</sup> - 13:11,  
 13:13, 51:1, 64:6,  
 194:4, 209:1  
**possibly** <sup>[2]</sup> - 156:16,  
 157:14  
**post** <sup>[1]</sup> - 60:10  
**POSTAL** <sup>[2]</sup> - 121:15,  
 127:17  
**Postal** <sup>[2]</sup> - 121:17,  
 122:15  
**postal** <sup>[7]</sup> - 121:17,  
 122:13, 123:12,  
 126:7, 127:5,  
 127:15  
**postal's** <sup>[1]</sup> - 121:13  
**Postals** <sup>[1]</sup> - 122:6  
**posted** <sup>[1]</sup> - 82:2  
**poster** <sup>[5]</sup> - 81:18,  
 82:7, 82:9, 108:4,  
 108:5  
**posting** <sup>[6]</sup> - 60:14,

84:8, 84:16, 107:9,  
108:2, 210:3

**potential** <sup>[1]</sup> - 164:9

**practicable** <sup>[2]</sup> - 20:7,  
74:3

**practical** <sup>[1]</sup> - 191:8

**practice** <sup>[1]</sup> - 105:12

**Prado** <sup>[1]</sup> - 127:18

**precedent**  
<sup>[1]</sup> - 162:17

**precise** <sup>[1]</sup> - 194:14

**predominant**  
<sup>[1]</sup> - 67:10

**predominantly**  
<sup>[2]</sup> - 60:1, 179:11

**predominate**  
<sup>[4]</sup> - 14:12, 15:1,  
16:1, 70:5

**preferable**  
<sup>[1]</sup> - 158:11

**preliminary** <sup>[1]</sup> - 60:9

**premature**  
<sup>[2]</sup> - 151:14

**premises** <sup>[2]</sup> - 190:4,  
201:9

**preparation**  
<sup>[1]</sup> - 177:13

**prepared** <sup>[6]</sup> - 37:7,  
57:3, 93:14, 117:5,  
131:2, 169:14

**prepares** <sup>[1]</sup> - 4:11

**presence** <sup>[1]</sup> - 110:6

**present** <sup>[3]</sup> - 28:2,  
135:17, 199:9

**presentation**  
<sup>[4]</sup> - 32:17, 140:2,  
166:3, 182:4

**presented** <sup>[3]</sup> - 60:11,  
61:17, 169:16

**preserve** <sup>[1]</sup> - 98:2

**preserved** <sup>[2]</sup> - 52:11,  
52:12

**presumed** <sup>[1]</sup> - 168:1

**pretty** <sup>[7]</sup> - 11:11,  
96:11, 96:13,  
104:16, 110:10,  
136:8, 186:3

**prevail** <sup>[2]</sup> - 15:4, 70:8

**prevents** <sup>[1]</sup> - 147:8

**previous** <sup>[10]</sup> - 20:11,  
26:8, 27:11, 31:8,  
32:6, 59:17, 72:3,  
72:6, 74:7, 177:13

**previously**

[4] - 19:17, 29:15,  
73:13, 202:13

**primarily** [3] - 26:16,  
28:7, 199:10

**Prince** [1] - 81:7

**principal** [1] - 125:18

**printed** [2] - 34:6,  
189:12

**privacy** [4] - 35:6,  
126:5, 155:1, 155:5

**privately** [1] - 27:18

**problem** [17] - 31:17,  
46:8, 50:4, 50:11,  
55:18, 63:5, 92:9,  
145:8, 146:5,  
147:10, 147:11,  
152:1, 158:12,  
161:8, 161:9,  
165:15, 208:15

**problems** [3] - 178:1,  
197:11, 202:15

**proceed** [10] - 19:4,  
37:6, 57:1, 73:2,  
93:12, 114:11,  
117:3, 119:11,  
131:1, 153:5

**proceedings**  
[1] - 213:6

**proceeds** [1] - 174:1

**process** [11] - 87:6,  
109:10, 109:13,  
112:4, 114:16,  
134:15, 135:14,  
136:17, 157:1,  
160:17, 195:14

**produce** [1] - 197:13

**product** [2] - 176:13,  
177:13

**products** [1] - 198:8

**professionally**  
[1] - 122:14

**program** [2] - 186:5,  
196:10

**progress** [1] - 187:7

**project** [21] - 11:1,  
26:4, 36:16, 39:18,  
40:2, 54:8, 96:4,  
96:10, 97:18,  
105:14, 111:14,  
112:17, 113:16,  
116:14, 132:17,  
133:2, 134:4,  
134:13, 135:2,  
145:9, 149:11



**promptly** <sup>[2]</sup> - 20:4,  
73:18

**pronounce** <sup>[1]</sup> - 34:4

**proper** <sup>[1]</sup> - 106:16

**properly** <sup>[2]</sup> - 82:7,  
200:5

**properties** <sup>[1]</sup> - 51:5

**property** <sup>[26]</sup> - 29:6,  
29:7, 29:8, 29:18,  
31:10, 34:8, 34:9,  
36:7, 49:14, 49:18,  
50:14, 51:6, 52:5,  
52:8, 52:10, 52:13,  
70:16, 81:13, 82:1,  
87:4, 112:16,  
134:10, 134:12,  
134:14, 134:16,  
168:17

**proposal** <sup>[6]</sup> - 13:4,  
29:9, 65:10, 87:10,  
112:18, 122:2

**proposed** <sup>[27]</sup> - 7:3,  
15:2, 17:12, 17:15,  
17:17, 18:12, 19:10,  
19:15, 34:12, 70:5,  
71:10, 71:13, 71:15,  
72:10, 73:7, 73:11,  
89:8, 101:2, 112:17,  
113:16, 114:11,  
118:12, 118:16,  
119:1, 119:3,  
176:13, 203:1

**proposing** <sup>[4]</sup> - 30:2,  
44:15, 71:4, 203:11

**protected** <sup>[2]</sup> - 24:3,  
78:3

**protections** <sup>[2]</sup> - 24:1,  
77:18

**provide** <sup>[7]</sup> - 65:1,  
113:3, 114:12,  
130:16, 134:4,  
140:13, 200:3

**provided** <sup>[6]</sup> - 22:14,  
62:17, 76:12, 82:5,  
103:2, 200:1

**provides** <sup>[2]</sup> - 99:14,  
99:16

**providing** <sup>[1]</sup> - 100:17

**provision**  
<sup>[6]</sup> - 139:12, 149:5,  
149:9, 189:10,  
189:14

**provisions** <sup>[6]</sup> - 36:2,  
55:12, 92:3, 115:11,

129:16, 139:10

**proximity** <sup>[1]</sup> - 54:5

**Public** <sup>[2]</sup> - 213:4,  
213:10

**public** <sup>[31]</sup> - 12:9,  
12:17, 15:11, 15:12,  
22:14, 22:15, 33:13,  
35:11, 36:12, 47:11,  
48:14, 54:11, 56:9,  
56:13, 67:5, 68:6,  
76:13, 81:15, 90:16,  
91:10, 92:16,  
108:11, 115:2,  
116:11, 128:16,  
129:4, 130:8, 177:6,  
191:16, 197:12,  
198:2

**pull** <sup>[4]</sup> - 7:14, 27:1,  
142:16, 165:12

**pure** <sup>[1]</sup> - 181:13

**purpose** <sup>[11]</sup> - 18:2,  
29:16, 36:14, 56:11,  
71:18, 88:9, 92:18,  
116:13, 119:6,  
130:10, 203:14

**purposes** <sup>[2]</sup> - 147:4,  
147:6

**pursuant** <sup>[7]</sup> - 22:12,  
22:18, 23:15, 76:10,  
76:16, 77:14, 82:4

**purview** <sup>[2]</sup> - 28:17,  
29:2

**put** <sup>[17]</sup> - 36:5, 46:18,  
53:1, 55:1, 82:14,  
84:7, 84:13, 84:17,  
84:18, 108:4,  
123:15, 145:18,  
146:4, 161:16,  
166:17, 195:2,  
210:4

**Putnam** <sup>[3]</sup> - 2:10,  
86:6, 87:4

**putting** <sup>[3]</sup> - 18:6,  
154:13

**puzzles** <sup>[1]</sup> - 161:1

## Q

**quadra** <sup>[1]</sup> - 99:6

**quadra-sided**  
<sup>[1]</sup> - 99:6

**quality** <sup>[2]</sup> - 113:4,  
114:8

**questions**

[18] - 11:13, 12:5,  
33:10, 48:11, 65:13,  
68:3, 90:12, 91:12,  
104:5, 107:6, 112:6,  
128:12, 140:16,  
161:2, 165:17,  
182:9, 185:4,  
191:12

**quick** [1] - 170:5

**QUINN** [12] - 132:18,  
135:8, 144:17,  
145:1, 145:3,  
156:16, 157:7,  
159:3, 161:11,  
161:15, 162:2,  
163:11

**Quinn** [4] - 132:18,  
133:1, 135:11,  
136:14

**Quinn's** [4] - 135:1,  
141:17, 160:16,  
164:12

**quite** [11] - 14:14,  
31:16, 42:13, 88:14,  
97:16, 98:5, 102:12,  
103:7, 115:13,  
136:11, 192:7

**quote** [1] - 181:9

**quote/unquote**  
[1] - 157:17

## R

**radiation** [2] - 24:4,  
78:4

**radio** [4] - 24:4, 61:7,  
78:3

### **RAFFERTY**

[17] - 86:9, 86:13,  
87:16, 88:3, 88:7,  
88:17, 89:2, 90:2,  
90:11, 91:6, 121:9,  
121:16, 124:1,  
125:13, 126:14,  
127:13, 128:10

**Rafferty** [2] - 86:15,  
121:10

**raise** [1] - 160:15

**raised** [5] - 49:17,  
52:9, 140:16, 142:8,  
168:3

**ramp** [4] - 182:12,  
182:17, 200:14,  
201:12

**Ranjit** <sup>[4]</sup> - 139:16,  
 152:11, 209:1,  
 209:13  
**rate** <sup>[1]</sup> - 126:16  
**rather** <sup>[4]</sup> - 36:17,  
 63:4, 63:10, 190:1  
**read** <sup>[13]</sup> - 3:15, 9:17,  
 12:17, 22:13, 23:1,  
 24:8, 35:8, 35:10,  
 47:2, 103:12, 111:6,  
 111:7, 212:15  
**readily** <sup>[1]</sup> - 178:5  
**Reading** <sup>[10]</sup> - 13:2,  
 39:18, 41:16, 52:2,  
 81:9, 111:11,  
 112:14, 113:11,  
 192:5, 196:6  
**reading** <sup>[3]</sup> - 34:7,  
 189:17, 212:6  
**ready** <sup>[21]</sup> - 13:18,  
 14:1, 14:2, 16:9,  
 35:12, 35:13, 35:14,  
 69:3, 91:13, 91:14,  
 91:15, 104:3, 115:3,  
 115:4, 115:5, 129:8,  
 129:9, 129:10,  
 171:12, 197:2,  
 205:11  
**real** <sup>[2]</sup> - 102:5,  
 175:14  
**really** <sup>[34]</sup> - 28:14,  
 29:2, 29:16, 30:15,  
 30:16, 43:2, 43:7,  
 45:3, 55:2, 66:11,  
 67:12, 89:15, 92:6,  
 96:18, 97:5, 98:12,  
 101:10, 109:16,  
 110:6, 110:11,  
 126:17, 158:16,  
 159:8, 160:2, 160:5,  
 167:13, 170:15,  
 176:6, 180:12,  
 180:13, 184:8,  
 188:16, 191:1  
**Realty** <sup>[1]</sup> - 132:12  
**rear** <sup>[12]</sup> - 26:18, 29:1,  
 49:13, 49:18, 52:4,  
 52:10, 112:15,  
 144:5, 152:6, 156:3,  
 156:5, 156:13  
**REASON** <sup>[6]</sup> - 212:9,  
 212:10, 212:11,  
 212:12, 212:13,  
 212:14

**reason** [12] - 3:11,  
 66:17, 82:11,  
 105:11, 137:14,  
 147:2, 165:15,  
 166:15, 181:12,  
 184:15, 212:7  
**reasonable** [7] - 4:1,  
 22:5, 22:16, 35:1,  
 76:3, 76:14, 113:2  
**reasonably** [2] - 20:7,  
 74:3  
**reasons** [5] - 101:18,  
 102:2, 146:2,  
 154:15, 165:14  
**Rebecca** [1] - 25:13  
**REBECCA**  
 [7] - 25:17, 25:18,  
 31:3, 31:7, 32:5,  
 32:10, 34:3  
**Rebeccah** [2] - 25:17,  
 34:8  
**rebuild** [1] - 40:5  
**receipt** [7] - 22:3,  
 23:6, 51:17, 75:18,  
 77:5, 111:5, 192:3  
**receive** [1] - 27:15  
**received** [2] - 93:6,  
 103:9  
**recent** [2] - 93:16,  
 122:18  
**recently** [3] - 52:7,  
 87:5, 172:14  
**receptacle**  
 [1] - 200:13  
**receptacles**  
 [2] - 178:10, 200:4  
**recess** [4] - 171:4,  
 171:6, 171:10,  
 173:6  
**recessed** [1] - 174:3  
**recognize** [2] - 32:13,  
 127:8  
**reconfiguration**  
 [1] - 30:9  
**record** [20] - 4:14, 5:1,  
 12:17, 25:11, 25:16,  
 33:8, 47:1, 47:3,  
 50:3, 51:4, 54:15,  
 86:14, 103:12,  
 111:6, 121:10,  
 133:1, 137:3,  
 212:16, 213:6  
**RECORD** [1] - 1:16  
**recorded** [1] - 4:18

**recorder** <sup>[1]</sup> - 4:12  
**recording** <sup>[3]</sup> - 3:17,  
 4:7, 4:13  
**recordings** <sup>[1]</sup> - 4:9  
**records** <sup>[1]</sup> - 4:10  
**recyclable** <sup>[1]</sup> - 198:9  
**recyclables**  
<sup>[1]</sup> - 195:2  
**recycling** <sup>[5]</sup> - 178:9,  
 186:6, 194:13,  
 195:3, 196:10  
**Red** <sup>[2]</sup> - 123:16,  
 124:4  
**redesign** <sup>[2]</sup> - 159:10,  
 183:5  
**redesigned**  
<sup>[1]</sup> - 162:14  
**redesigning**  
<sup>[1]</sup> - 183:8  
**redesigns**  
<sup>[1]</sup> - 136:15  
**redevelop**  
<sup>[1]</sup> - 134:13  
**redevelopment**  
<sup>[1]</sup> - 138:12  
**reduce** <sup>[1]</sup> - 197:11  
**reduced** <sup>[1]</sup> - 29:10  
**refer** <sup>[1]</sup> - 203:2  
**referred** <sup>[3]</sup> - 19:18,  
 73:14, 119:12  
**reflect** <sup>[5]</sup> - 13:15,  
 61:12, 63:6, 114:6,  
 210:5  
**reflecting** <sup>[1]</sup> - 84:8  
**regard** <sup>[36]</sup> - 14:5,  
 16:18, 18:3, 18:6,  
 20:11, 20:12, 21:18,  
 32:12, 35:17, 36:15,  
 55:9, 56:12, 69:17,  
 70:9, 70:16, 72:1,  
 72:3, 74:7, 74:8,  
 75:15, 84:12, 85:5,  
 91:18, 92:9, 93:1,  
 115:8, 116:14,  
 118:1, 118:2,  
 118:13, 119:4,  
 119:10, 129:13,  
 130:11, 202:11,  
 203:2  
**regarding** <sup>[4]</sup> - 21:3,  
 74:18, 79:8, 104:6  
**regular** <sup>[1]</sup> - 3:13  
**regulation** <sup>[2]</sup> - 21:18,  
 75:15

**regulations**

[2] - 100:14, 149:15

**reign** [1] - 169:2**reimagine** [1] - 136:5**reiterate** [1] - 158:2**related** [4] - 52:16,  
87:6, 89:15, 199:12**relates** [2] - 14:11,  
155:8**relating** [1] - 56:3**relatively** [3] - 35:2,  
96:14, 130:6**relevant** [4] - 88:4,  
135:12, 137:11,  
168:13**relief** [65] - 16:18,  
17:3, 18:5, 26:10,  
26:11, 26:12, 26:15,  
26:16, 27:8, 28:6,  
29:1, 30:12, 36:11,  
36:17, 40:1, 40:7,  
42:11, 47:6, 50:8,  
55:17, 56:7, 56:8,  
56:12, 56:18, 58:4,  
68:18, 69:17, 70:2,  
71:1, 72:3, 85:5,  
87:6, 88:2, 89:15,  
90:5, 92:14, 92:15,  
93:1, 93:11, 94:4,  
106:18, 115:1,  
116:7, 116:8, 116:9,  
117:2, 119:17,  
127:8, 130:7,  
130:13, 139:1,  
142:10, 142:12,  
142:16, 142:18,  
150:4, 150:7,  
150:17, 151:4,  
165:10, 167:3,  
167:4, 168:14,  
169:10, 170:9**Relief** [2] - 18:16,  
72:15**rely** [4] - 16:6, 18:8,  
70:13, 70:15**remain** [6] - 9:18,  
13:7, 19:16, 73:12,  
194:4**remaining**

[2] - 126:18, 182:17

**remains** [2] - 89:13,  
182:18**remarkable**

[1] - 136:9

**remiss** [1] - 49:9  
**remodel** [2] - 34:13,  
 34:15  
**remote** [2] - 61:7  
**removal** [1] - 55:1  
**remove** [4] - 20:4,  
 50:10, 61:6, 73:18  
**removing** [1] - 56:14  
**Renie** [1] - 132:12  
**renovated** [1] - 183:2  
**renovating** [1] - 87:6  
**renovation**  
 [7] - 111:14, 112:3,  
 112:17, 113:16,  
 113:18, 114:7,  
 114:11  
**renovations** [1] - 30:2  
**rent** [1] - 136:3  
**repeat** [1] - 15:11  
**repetitive** [4] - 23:2,  
 23:4, 76:18, 77:2  
**replacement** [3] - 7:9,  
 13:6  
**replaces** [1] - 196:12  
**replicate** [1] - 148:10  
**replicated** [1] - 199:6  
**report** [12] - 21:2,  
 21:6, 21:8, 21:10,  
 22:5, 74:17, 75:3,  
 75:5, 75:7, 76:2,  
 176:15, 196:5  
**Reporter** [2] - 213:4,  
 213:11  
**REPORTER**  
 [1] - 213:15  
**REPORTERS**  
 [1] - 1:15  
**representation**  
 [1] - 190:11  
**represented**  
 [1] - 13:14  
**representing**  
 [3] - 41:17, 95:12,  
 176:9  
**represents** [2] - 27:3,  
 81:9  
**REPRODUCTION**  
 [1] - 213:14  
**request** [15] - 13:3,  
 39:18, 52:9, 62:17,  
 63:3, 68:14, 81:14,  
 112:11, 126:17,  
 134:3, 142:12,  
 190:12, 190:15,



197:8, 209:12  
**requested** <sup>[20]</sup> - 17:1,  
 24:7, 26:15, 35:18,  
 37:5, 40:7, 40:9,  
 56:18, 61:1, 62:8,  
 63:8, 63:14, 82:12,  
 114:10, 115:9,  
 117:3, 119:10,  
 130:18, 142:16,  
 203:17  
**requesting**  
<sup>[2]</sup> - 26:10, 101:18  
**requests** <sup>[1]</sup> - 82:11  
**require** <sup>[3]</sup> - 53:5,  
 102:15, 154:3  
**require...** <sup>[1]</sup> - 190:9  
**required** <sup>[7]</sup> - 27:15,  
 81:18, 84:10,  
 102:12, 104:12,  
 160:13, 210:8  
**requirement**  
<sup>[3]</sup> - 15:15, 101:14,  
 150:4  
**requirements**  
<sup>[19]</sup> - 4:1, 16:15,  
 17:2, 21:17, 52:17,  
 70:17, 75:14, 118:4,  
 138:3, 144:10,  
 149:2, 149:3,  
 176:11, 177:18,  
 182:11, 184:16,  
 201:7, 201:15,  
 202:5  
**requires** <sup>[5]</sup> - 53:6,  
 56:6, 92:13, 116:8,  
 138:13  
**research** <sup>[1]</sup> - 182:1  
**reside** <sup>[4]</sup> - 52:1,  
 112:13, 116:18,  
 122:1  
**residence**  
<sup>[1]</sup> - 125:18  
**Residence** <sup>[1]</sup> - 27:10  
**residential** <sup>[7]</sup> - 14:4,  
 14:11, 14:16, 14:17,  
 60:2, 70:3, 134:15  
**residents** <sup>[4]</sup> - 24:2,  
 49:6, 49:7, 78:1  
**resides** <sup>[1]</sup> - 113:10  
**residing** <sup>[1]</sup> - 124:5  
**RESPECT**  
<sup>[1]</sup> - 213:15  
**respect** <sup>[1]</sup> - 161:11  
**respectfully**

[2] - 39:18, 82:11  
**respects** [2] - 20:10,  
 74:6  
**Response** [18] - 4:16,  
 12:12, 32:15, 33:11,  
 33:16, 39:9, 48:12,  
 51:15, 68:4, 68:9,  
 81:3, 90:14, 91:2,  
 104:8, 111:3,  
 128:14, 129:2,  
 192:1  
**responses**  
 [1] - 146:10  
**responsibilities**  
 [1] - 137:10  
**responsibility**  
 [2] - 23:14, 77:13  
**Restaurant**  
 [2] - 177:14, 196:3  
**restaurant** [8] - 123:1,  
 136:2, 179:9,  
 179:18, 181:3,  
 192:6, 200:10,  
 200:16  
**restaurants**  
 [3] - 122:16, 127:6,  
 179:13  
**restore** [2] - 20:5,  
 74:1  
**restrictions**  
 [2] - 42:12, 196:14  
**restructure** [1] - 43:4  
**result** [3] - 100:6,  
 156:2, 162:14  
**resulting** [4] - 71:3,  
 98:12, 102:11,  
 118:7  
**results** [1] - 100:4  
**retaining** [1] - 163:17  
**rethink** [1] - 169:9  
**revenue** [2] - 65:10,  
 190:3  
**review** [3] - 9:3,  
 157:1, 176:10  
**reviewed** [6] - 10:10,  
 13:2, 31:16, 106:2,  
 113:18, 165:5  
**reviewing** [1] - 166:6  
**revision** [2] - 159:5,  
 159:6  
**Revival** [1] - 123:1  
**revoked** [2] - 22:10,  
 76:7

**RHATIGAN**

[92] - 95:9, 95:11,  
 96:5, 97:2, 98:8,  
 99:9, 99:12, 100:11,  
 101:8, 101:17,  
 103:11, 103:14,  
 104:2, 104:11,  
 105:2, 105:7,  
 105:18, 106:7,  
 106:12, 107:12,  
 116:2, 132:10,  
 133:8, 133:13,  
 133:17, 134:1,  
 135:9, 137:4,  
 137:13, 139:4,  
 139:8, 139:14,  
 140:3, 140:9,  
 140:12, 141:6,  
 142:3, 142:7, 143:9,  
 144:12, 144:18,  
 145:2, 145:4,  
 145:17, 146:9,  
 146:17, 147:5,  
 147:13, 148:12,  
 148:16, 149:8,  
 150:6, 150:10,  
 150:15, 151:1,  
 152:3, 152:9, 153:2,  
 154:5, 154:8,  
 155:11, 156:8,  
 156:11, 158:1,  
 158:15, 159:4,  
 160:1, 164:1, 164:3,  
 164:7, 165:4,  
 169:17, 170:5,  
 170:13, 171:5,  
 171:8, 171:13,  
 172:2, 172:4, 172:9,  
 172:12, 173:1,  
 173:7, 205:5,  
 205:10, 205:14,  
 206:15, 208:10,  
 208:17, 209:6,  
 209:10, 209:14

**Rhatigan** [2] - 95:12,  
 132:11

**rice** [1] - 180:9

**rid** [1] - 156:3

**Rindge** [1] - 127:2

**ring** [1] - 123:17

**rise** [1] - 44:15

**risks** [1] - 55:14

**River** [2] - 42:2, 57:3

**Rob** [11] - 108:17,  
 108:18, 110:7,

111:16, 111:17,  
112:2, 112:11,  
113:6, 113:13,  
113:17, 114:12

**ROBERT** <sup>[4]</sup> - 95:14,  
96:17, 97:1, 99:11

**Robert** <sup>[2]</sup> - 95:14,  
111:12

**rock** <sup>[1]</sup> - 8:3

**Rogers** <sup>[1]</sup> - 51:18

**roof** <sup>[7]</sup> - 18:6, 89:8,  
99:7, 110:2, 112:1,  
112:7, 114:4

**roofs** <sup>[1]</sup> - 114:6

**rooftop** <sup>[1]</sup> - 61:9

**room** <sup>[3]</sup> - 7:16,  
197:6, 205:17

**rooms** <sup>[1]</sup> - 105:9

**rough** <sup>[1]</sup> - 183:10

**roughly** <sup>[1]</sup> - 45:8

**RRU** <sup>[1]</sup> - 61:7

**rule** <sup>[3]</sup> - 153:12,  
153:17, 210:2

**rules** <sup>[2]</sup> - 23:17,  
77:16

**ruling** <sup>[1]</sup> - 154:2

**run** <sup>[2]</sup> - 44:14, 202:3

**running** <sup>[1]</sup> - 197:6

**RUSSELL**

<sup>[29]</sup> - 176:1, 179:4,  
179:8, 180:8,  
180:18, 181:5,  
182:1, 182:14,  
182:17, 183:6,  
183:15, 184:2,  
184:4, 185:10,  
186:11, 187:4,  
187:16, 190:17,  
193:9, 194:6,  
195:13, 196:1,  
196:18, 198:6,  
198:14, 199:1,  
200:10, 200:12,  
201:14

**Russell** <sup>[1]</sup> - 175:13

**RYAN** <sup>[6]</sup> - 6:10, 6:14,  
9:9, 10:9, 11:18,  
13:16

**Ryan** <sup>[1]</sup> - 6:14

## S

**S-A-R-A-H** <sup>[1]</sup> - 59:16

**S-E-T-O** <sup>[1]</sup> - 87:2

**S-P-A-R-K-E-S**

[2] - 25:18, 26:2

**safe** [4] - 43:3, 47:12,  
89:5, 90:6

**safely** [1] - 123:10

**safety** [17] - 17:14,  
23:17, 42:15, 47:7,  
49:6, 52:14, 56:15,  
71:12, 77:16, 92:9,  
93:4, 118:18, 147:4,  
148:18, 178:2,  
197:12, 203:8

**sale** [1] - 200:7

**sales** [1] - 190:3

**salient** [2] - 151:6,  
151:9

**SAME** [1] - 213:14

**San** [1] - 179:12

**sandbox** [2] - 122:8,  
125:15

**Sarah** [3] - 59:15,  
95:11, 132:11

**SARAH** [92] - 95:9,  
95:11, 96:5, 97:2,  
98:8, 99:9, 99:12,  
100:11, 101:8,  
101:17, 103:11,  
103:14, 104:2,  
104:11, 105:2,  
105:7, 105:18,  
106:7, 106:12,  
107:12, 116:2,  
132:10, 133:8,  
133:13, 133:17,  
134:1, 135:9, 137:4,  
137:13, 139:4,  
139:8, 139:14,  
140:3, 140:9,  
140:12, 141:6,  
142:3, 142:7, 143:9,  
144:12, 144:18,  
145:2, 145:4,  
145:17, 146:9,  
146:17, 147:5,  
147:13, 148:12,  
148:16, 149:8,  
150:6, 150:10,  
150:15, 151:1,  
152:3, 152:9, 153:2,  
154:5, 154:8,  
155:11, 156:8,  
156:11, 158:1,  
158:15, 159:4,  
160:1, 164:1, 164:3,

164:7, 165:4,  
 169:17, 170:5,  
 170:13, 171:5,  
 171:8, 171:13,  
 172:2, 172:4, 172:9,  
 172:12, 173:1,  
 173:7, 205:5,  
 205:10, 205:14,  
 206:15, 208:10,  
 208:17, 209:6,  
 209:10, 209:14  
**satisfy** <sup>[2]</sup> - 15:14,  
 182:11  
**Saturday** <sup>[2]</sup> - 191:6,  
 206:14  
**saw** <sup>[2]</sup> - 10:8, 165:6  
**scale** <sup>[2]</sup> - 113:2,  
 169:10  
**schedule** <sup>[2]</sup> - 104:17,  
 206:7  
**scheduled** <sup>[2]</sup> - 40:3,  
 81:15  
**schematics**  
<sup>[1]</sup> - 62:17  
**schemes** <sup>[1]</sup> - 198:7  
**school** <sup>[1]</sup> - 127:1  
**scientific** <sup>[2]</sup> - 20:17,  
 74:14  
**screening** <sup>[1]</sup> - 35:5  
**SEAN** <sup>[6]</sup> - 25:9, 26:3,  
 26:7, 32:18, 33:2,  
 33:7  
**Sean** <sup>[1]</sup> - 25:11  
**seated** <sup>[2]</sup> - 87:1,  
 121:11  
**seating** <sup>[2]</sup> - 189:15,  
 201:3  
**seats** <sup>[1]</sup> - 184:3  
**Seattle** <sup>[1]</sup> - 179:13  
**second** <sup>[20]</sup> - 53:8,  
 62:6, 84:7, 87:9,  
 89:9, 99:15, 100:1,  
 111:16, 112:7,  
 122:5, 125:18,  
 127:10, 141:8,  
 156:13, 158:2,  
 159:5, 167:5,  
 194:11  
**section** <sup>[1]</sup> - 138:18  
**Section** <sup>[3]</sup> - 11:3,  
 18:16, 72:14  
**sector** <sup>[1]</sup> - 7:7  
**see** <sup>[23]</sup> - 27:4, 31:5,  
 37:10, 46:3, 49:13,

54:6, 110:2, 122:4,  
 123:16, 125:1,  
 144:16, 147:10,  
 162:13, 165:8,  
 165:11, 165:14,  
 166:14, 168:10,  
 168:11, 171:11,  
 183:7, 188:6, 211:1

**seeking** <sup>[11]</sup> - 16:13,  
 17:3, 26:12, 42:11,  
 71:1, 88:9, 105:13,  
 105:15, 115:1,  
 139:2, 202:7

**self** <sup>[1]</sup> - 7:13

**self-explanatory**  
<sup>[1]</sup> - 7:13

**sell** <sup>[2]</sup> - 167:11,  
 168:6

**selling** <sup>[1]</sup> - 67:1

**Senior** <sup>[1]</sup> - 1:5

**sense** <sup>[2]</sup> - 96:13,  
 103:3

**sensitive** <sup>[1]</sup> - 197:18

**sentences**  
<sup>[1]</sup> - 193:14

**separate** <sup>[1]</sup> - 14:5

**separates** <sup>[1]</sup> - 34:10

**separation**  
<sup>[9]</sup> - 141:3, 143:12,  
 144:9, 144:15,  
 145:7, 145:9, 147:2,  
 147:3, 161:4

**September**  
<sup>[2]</sup> - 34:16, 57:5

**Series** <sup>[1]</sup> - 123:17

**series** <sup>[1]</sup> - 135:5

**serious** <sup>[2]</sup> - 145:6,  
 152:1

**seriously** <sup>[1]</sup> - 168:3

**served** <sup>[1]</sup> - 178:8

**service** <sup>[15]</sup> - 64:16,  
 65:1, 65:8, 66:14,  
 67:3, 67:4, 178:15,  
 181:16, 185:18,  
 187:6, 187:11,  
 188:16, 188:17,  
 199:5, 201:2

**services** <sup>[1]</sup> - 108:1

**Services** <sup>[15]</sup> - 21:2,  
 21:7, 21:10, 22:4,  
 23:9, 74:17, 75:4,  
 75:7, 76:2, 77:8,  
 142:4, 152:10,  
 160:12, 162:12,

212:3

**servicing** <sup>[1]</sup> - 185:8

**sessions** <sup>[1]</sup> - 3:18

**set** <sup>[8]</sup> - 8:13, 8:17,  
102:1, 137:9, 141:1,  
158:18, 213:6,  
213:7

**setback** <sup>[13]</sup> - 26:15,  
27:6, 27:8, 30:12,  
106:17, 124:17,  
125:1, 141:12,  
141:13, 141:14,  
153:13, 164:12,  
167:3

**setbacks** <sup>[7]</sup> - 98:10,  
98:16, 104:13,  
105:1, 105:3, 116:4,  
124:11

**Seto** <sup>[1]</sup> - 87:2

**seto** <sup>[1]</sup> - 87:3

**sets** <sup>[2]</sup> - 57:16, 57:17

**settled** <sup>[1]</sup> - 192:14

**seven** <sup>[9]</sup> - 83:18,  
84:9, 164:5, 208:1,  
208:4, 209:17,  
210:6

**several** <sup>[9]</sup> - 42:12,  
97:3, 103:8, 112:4,  
122:15, 134:12,  
135:7, 163:11,  
172:10

**shall** <sup>[21]</sup> - 14:16,  
19:14, 20:3, 21:1,  
21:6, 21:11, 22:4,  
22:8, 23:1, 23:8,  
73:10, 73:17, 74:16,  
75:3, 75:8, 76:1,  
76:5, 76:18, 77:7,  
197:17, 199:16

**shape** <sup>[8]</sup> - 26:17,  
27:4, 28:16, 30:13,  
36:8, 56:3, 130:4

**shaped** <sup>[1]</sup> - 26:17

**share** <sup>[2]</sup> - 34:10,  
113:6

**sheet** <sup>[2]</sup> - 37:15,  
212:7

**SHEET** <sup>[1]</sup> - 212:1

**Sheet** <sup>[2]</sup> - 212:2,  
212:7

**sheets** <sup>[1]</sup> - 64:13

**Sherry** <sup>[1]</sup> - 87:2

**shining** <sup>[1]</sup> - 158:10

**shocking**



[2] - 198:12, 198:14

### **Shorthand**

[2] - 213:4, 213:11

**show** [8] - 60:14,

64:8, 64:9, 143:14,

144:13, 156:5,

156:14, 172:5

**showed** [4] - 60:7,

62:18, 110:1, 159:1

**showing** [1] - 60:11

**shown** [3] - 54:13,

54:14, 65:11

**shows** [1] - 191:5

**shrink** [1] - 163:1

**side** [18] - 26:15,

49:16, 53:18, 98:9,

98:16, 104:13,

105:2, 107:3, 112:1,

128:4, 141:12,

141:13, 157:8,

157:9, 157:15,

158:6, 164:18,

200:18

**sided** [1] - 99:6

**sides** [4] - 7:8, 98:15,

104:12, 148:5

### **sidewalks**

[1] - 197:13

**siding** [1] - 125:14

**Sign** [1] - 212:7

**sign** [12] - 82:14,

82:16, 84:2, 84:8,

84:9, 84:13, 84:16,

107:9, 210:1, 210:3,

210:6

**signature** [1] - 34:6

### **SIGNATURE**

[1] - 212:1

**signed** [2] - 147:18,

196:4

### **significant**

[1] - 100:12

**signs** [2] - 60:11,

108:2

**similar** [3] - 49:7,

62:13, 196:12

**similarly** [1] - 202:17

**SIMON** [18] - 59:10,

59:13, 60:5, 61:4,

61:14, 62:2, 62:6,

64:1, 64:7, 64:15,

65:18, 66:4, 66:8,

67:8, 67:13, 67:17,

68:15, 69:2

**Simon** [2] - 59:10,  
59:13

**simply** [1] - 42:15

**sims** [2] - 69:6, 69:7

**simulations**  
[11] - 7:12, 8:9,  
13:15, 19:11, 19:17,  
61:12, 61:15, 63:7,  
73:8, 73:13, 85:5

**Singanayagam**  
[3] - 139:17, 152:11,  
209:1

**single** [1] - 134:7

**single-story**  
[1] - 134:7

**Sisia** [5] - 1:11, 39:11,  
83:14, 187:9,  
209:13

**SISIA** [18] - 39:12,  
82:17, 83:4, 83:8,  
83:11, 83:15, 85:10,  
187:12, 187:18,  
188:18, 189:3,  
205:15, 206:1,  
206:5, 206:12,  
207:2, 207:6,  
207:11

**sit** [1] - 188:8

**site** [15] - 6:14, 18:12,  
20:12, 21:5, 21:15,  
27:1, 44:6, 72:10,  
74:8, 75:3, 75:12,  
143:14, 166:12,  
181:6

**sited** [3] - 29:7, 30:5,  
30:6

**sits** [1] - 52:13

**sitting** [2] - 33:4,  
171:18

**Sitting** [13] - 3:4, 6:2,  
25:2, 39:2, 41:2,  
59:2, 79:2, 86:2,  
95:2, 121:2, 132:2,  
175:2, 205:2

**situated** [2] - 23:17,  
77:16

**situation** [4] - 154:7,  
154:9, 160:13,  
170:9

**situations** [1] - 77:17

**six** [3] - 20:3, 73:17,  
125:4

**Six** [1] - 175:12

**size** [12] - 7:9, 26:17,

62:10, 62:13, 100:9,  
104:15, 114:3,  
134:17, 163:9,  
163:13, 184:17,  
185:1

**slanted** <sup>[2]</sup> - 26:18,  
30:14

**slants** <sup>[1]</sup> - 27:4

**slight** <sup>[1]</sup> - 90:5

**slightly** <sup>[3]</sup> - 89:18,  
90:1, 101:7

**slope** <sup>[2]</sup> - 98:7, 98:8

**slow** <sup>[1]</sup> - 97:13

**small** <sup>[21]</sup> - 34:10,  
42:13, 42:15, 43:9,  
45:3, 47:9, 47:12,  
50:17, 52:4, 62:16,  
96:14, 97:16, 98:13,  
100:1, 100:2, 113:3,  
115:13, 134:7,  
183:12

**smaller** <sup>[2]</sup> - 62:16,  
166:16

**smallest** <sup>[2]</sup> - 64:3,  
64:10

**Smith** <sup>[1]</sup> - 131:2

**smoke** <sup>[1]</sup> - 65:5

**smushed** <sup>[1]</sup> - 155:4

**Snell** <sup>[1]</sup> - 59:15

**SNELL** <sup>[1]</sup> - 59:15

**so-called** <sup>[1]</sup> - 7:7

**social** <sup>[1]</sup> - 124:7

**societal** <sup>[2]</sup> - 20:16,  
74:13

**solicit** <sup>[1]</sup> - 113:7

**solicited** <sup>[1]</sup> - 114:1

**solve** <sup>[1]</sup> - 47:7

**someone**

<sup>[2]</sup> - 183:14, 183:15

**Somerville** <sup>[1]</sup> - 42:1

**sometime** <sup>[1]</sup> - 97:14

**sometimes**

<sup>[3]</sup> - 63:11, 126:4,  
186:13

**somewhat** <sup>[2]</sup> - 67:12,  
126:17

**soon** <sup>[1]</sup> - 185:15

**sorry** <sup>[19]</sup> - 8:6, 8:14,  
43:14, 60:15, 61:5,  
63:17, 64:2, 79:9,  
80:1, 93:10, 138:17,  
140:1, 151:8,  
152:10, 164:14,  
164:16, 182:3,

206:13, 207:8  
**sort** <sup>[17]</sup> - 99:2, 99:6,  
 106:15, 106:16,  
 134:5, 136:1, 136:4,  
 136:10, 136:12,  
 137:16, 138:2,  
 140:14, 140:15,  
 143:3, 164:8, 188:9,  
 195:4  
**sought** <sup>[15]</sup> - 36:17,  
 55:10, 55:18, 69:18,  
 70:2, 73:1, 85:6,  
 88:2, 92:1, 93:1,  
 93:11, 104:7, 118:2,  
 129:14, 130:13  
**soup** <sup>[1]</sup> - 123:3  
**Southern** <sup>[1]</sup> - 179:12  
**Sox** <sup>[2]</sup> - 123:16,  
 124:4  
**space** <sup>[24]</sup> - 28:10,  
 28:12, 30:9, 31:10,  
 31:11, 46:5, 89:4,  
 98:3, 99:16, 100:9,  
 100:12, 113:3,  
 114:12, 115:14,  
 127:9, 128:6, 146:7,  
 148:4, 155:15,  
 177:14, 183:7,  
 183:12, 194:11  
**spaces** <sup>[2]</sup> - 100:2,  
 198:2  
**spare** <sup>[2]</sup> - 8:12, 8:16  
**Sparkes** <sup>[5]</sup> - 25:14,  
 25:18, 26:1, 34:8,  
 35:3  
**SPARKES** <sup>[7]</sup> - 25:17,  
 26:1, 31:3, 31:7,  
 32:5, 32:10, 34:3  
**Sparkes's** <sup>[2]</sup> - 34:9,  
 34:12  
**speaking** <sup>[1]</sup> - 170:17  
**Special** <sup>[56]</sup> - 14:16,  
 16:13, 16:15, 19:2,  
 20:11, 20:17, 21:11,  
 21:16, 22:7, 22:11,  
 22:14, 22:18, 23:15,  
 24:7, 24:12, 72:18,  
 74:7, 74:14, 75:8,  
 75:13, 76:5, 76:9,  
 76:12, 76:16, 77:14,  
 78:7, 78:11, 81:11,  
 96:8, 104:1, 104:10,  
 104:12, 105:17,  
 114:10, 117:14,

117:15, 118:1,  
 118:5, 119:9, 134:2,  
 138:14, 138:15,  
 139:2, 139:13,  
 139:17, 140:11,  
 142:10, 143:1,  
 151:4, 170:8,  
 170:18, 176:11,  
 193:17, 202:3,  
 202:6, 203:16  
**specific** <sup>[1]</sup> - 9:10  
**specifically**  
<sup>[1]</sup> - 195:15  
**spectrum** <sup>[2]</sup> - 180:5,  
 186:18  
**Spectrum** <sup>[3]</sup> - 11:8,  
 18:18, 72:16  
**spell** <sup>[1]</sup> - 25:15  
**spelling** <sup>[1]</sup> - 121:12  
**spent** <sup>[3]</sup> - 102:12,  
 112:4, 124:9  
**spoken** <sup>[4]</sup> - 87:17,  
 111:8, 127:11,  
 173:2  
**sprinkler** <sup>[2]</sup> - 52:15,  
 53:12  
**sprinklering** <sup>[1]</sup> - 54:3  
**square** <sup>[15]</sup> - 26:13,  
 27:3, 30:15, 43:9,  
 44:17, 45:2, 88:14,  
 88:18, 101:3, 101:4,  
 101:10, 192:6,  
 199:5, 199:7, 199:9  
**Square** <sup>[19]</sup> - 122:17,  
 122:18, 176:14,  
 176:16, 176:17,  
 180:17, 190:13,  
 192:4, 192:12,  
 192:15, 192:17,  
 193:1, 193:4,  
 193:18, 194:18,  
 195:7, 196:6, 203:3,  
 203:4  
**SS** <sup>[1]</sup> - 213:3  
**staff** <sup>[1]</sup> - 66:13  
**Staff** <sup>[1]</sup> - 13:2  
**stair** <sup>[5]</sup> - 44:12,  
 44:16, 45:1, 156:17  
**staircase** <sup>[6]</sup> - 43:16,  
 46:3, 87:9, 87:13,  
 92:7, 147:4  
**stairs** <sup>[17]</sup> - 46:4,  
 107:2, 107:3, 144:5,  
 145:14, 146:13,

149:5, 153:8,  
 153:12, 153:18,  
 154:10, 156:3,  
 156:13, 158:3,  
 160:8, 161:4,  
 200:14  
**stairway** <sup>[5]</sup> - 42:16,  
 43:6, 156:18,  
 158:13, 182:18  
**standard** <sup>[2]</sup> - 7:4,  
 163:3  
**standards** <sup>[3]</sup> - 169:3,  
 182:6, 201:17  
**standing** <sup>[2]</sup> - 168:1  
**stands** <sup>[3]</sup> - 151:18,  
 161:3, 169:7  
**Staples** <sup>[1]</sup> - 182:13  
**star** <sup>[1]</sup> - 8:3  
**start** <sup>[5]</sup> - 3:10, 5:2,  
 69:11, 135:2, 143:5  
**started** <sup>[3]</sup> - 3:11,  
 43:1, 100:4  
**starting** <sup>[4]</sup> - 166:7,  
 166:8, 168:5,  
 190:15  
**starts** <sup>[1]</sup> - 157:11  
**state** <sup>[2]</sup> - 149:2,  
 201:7  
**State** <sup>[1]</sup> - 41:16  
**statement** <sup>[1]</sup> - 3:15  
**statement(s)**  
<sup>[1]</sup> - 212:17  
**stating** <sup>[2]</sup> - 23:13,  
 77:12  
**station** <sup>[2]</sup> - 18:15,  
 72:13  
**statute** <sup>[1]</sup> - 47:15  
**stay** <sup>[5]</sup> - 30:11,  
 110:13, 186:17,  
 191:2, 191:7  
**steep** <sup>[1]</sup> - 44:13  
**stenographer**  
<sup>[7]</sup> - 4:10, 41:12,  
 48:18, 59:9, 86:12,  
 108:14, 175:9  
**Stephen** <sup>[1]</sup> - 121:16  
**steps** <sup>[1]</sup> - 149:10  
**stewardship**  
<sup>[1]</sup> - 193:1  
**still** <sup>[3]</sup> - 8:14, 27:8,  
 146:5  
**stock** <sup>[3]</sup> - 37:2,  
 56:14, 116:15  
**stop** <sup>[1]</sup> - 137:2

**story** [6] - 26:10,  
 99:3, 99:15, 99:16,  
 102:10, 134:7

**straightforward**  
 [1] - 11:12

**strange** [1] - 98:13

**stream** [1] - 65:10

**street** [11] - 97:4,  
 97:7, 113:13,  
 123:11, 136:12,  
 136:14, 144:2,  
 156:18, 158:13,  
 196:8, 196:16

**Street** [51] - 2:2, 2:4,  
 2:5, 2:8, 2:10, 2:11,  
 2:13, 2:14, 6:7,  
 25:6, 39:6, 40:2,  
 41:16, 59:6, 66:18,  
 83:8, 95:6, 95:15,  
 96:15, 108:17,  
 111:13, 112:16,  
 112:18, 113:11,  
 113:12, 113:14,  
 132:7, 136:8,  
 141:12, 141:14,  
 143:18, 144:1,  
 144:4, 144:7, 155:8,  
 156:15, 157:8,  
 158:4, 158:8,  
 158:14, 159:7,  
 159:11, 159:12,  
 159:17, 164:10,  
 164:11, 164:15,  
 175:6, 175:13,  
 196:14, 207:9

**streets** [2] - 197:12,  
 197:14

**stress** [1] - 47:6

**stretch** [2] - 123:5,  
 136:8

**stretched** [1] - 135:6

**strictly** [1] - 184:1

**strong** [1] - 97:5

**strongly** [1] - 160:3

**structure** [15] - 36:5,  
 43:5, 45:9, 55:16,  
 92:12, 93:3, 115:15,  
 146:14, 147:8,  
 149:17, 150:3,  
 153:7, 153:12,  
 155:18, 157:16

**structures** [15] - 24:3,  
 78:2, 136:6, 141:1,  
 141:9, 141:10,

141:16, 141:18,  
 142:9, 143:13,  
 148:4, 155:3,  
 155:14, 171:1,  
 171:2

**students** <sup>[1]</sup> - 187:3

**study** <sup>[3]</sup> - 20:17,  
 74:14, 210:13

**style** <sup>[2]</sup> - 28:16,  
 126:3

**subdivision**

<sup>[1]</sup> - 45:17

**subject** <sup>[13]</sup> - 4:1,  
 19:2, 20:18, 23:3,  
 23:7, 24:7, 73:1,  
 74:15, 77:1, 77:6,  
 78:7, 83:18, 209:17

**submit** <sup>[1]</sup> - 47:10

**submitted** <sup>[9]</sup> - 19:5,  
 19:11, 49:15, 50:2,  
 50:3, 57:13, 73:3,  
 73:8, 117:4

**subscribe**

<sup>[1]</sup> - 212:16

**subsequent**

<sup>[2]</sup> - 27:17, 36:7

**substantial**

<sup>[16]</sup> - 17:7, 36:3,  
 36:12, 55:13, 56:9,  
 56:13, 71:5, 92:4,  
 92:16, 115:12,  
 116:10, 118:8,  
 129:17, 130:8,  
 202:10

**substantially**

<sup>[7]</sup> - 18:13, 36:13,  
 56:10, 72:11, 92:17,  
 116:12, 130:9

**successors**

<sup>[1]</sup> - 130:3

**sufficient** <sup>[1]</sup> - 84:13

**sufficiently** <sup>[3]</sup> - 24:3,  
 78:3, 82:2

**suggest** <sup>[2]</sup> - 153:3,  
 206:11

**suggestions** <sup>[3]</sup> - 9:8,  
 10:2, 194:2

**suggests** <sup>[2]</sup> - 179:2,  
 203:4

**suitable** <sup>[1]</sup> - 200:4

**SULLIVAN** <sup>[36]</sup> - 33:1,  
 33:3, 53:3, 53:16,  
 65:14, 66:2, 66:6,  
 66:17, 67:9, 67:14,



68:1, 69:5, 69:12,  
 108:3, 108:9, 151:6,  
 151:9, 156:6,  
 156:10, 166:1,  
 166:5, 166:14,  
 167:2, 167:8,  
 167:17, 171:15,  
 172:3, 172:17,  
 173:9, 174:1, 187:8,  
 188:4, 188:15,  
 189:1, 189:6,  
 191:13

**Sullivan** <sup>[26]</sup> - 1:8,  
 3:5, 6:3, 24:15,  
 25:3, 38:5, 39:3,  
 40:14, 41:3, 57:10,  
 59:3, 78:12, 79:3,  
 85:13, 86:3, 94:5,  
 95:3, 117:12,  
 119:18, 121:3,  
 131:8, 132:3, 175:3,  
 204:4, 205:3, 211:2

**summarize** <sup>[1]</sup> - 7:1

**summarized**

<sup>[1]</sup> - 68:12

**sunken** <sup>[1]</sup> - 162:5

**super** <sup>[2]</sup> - 110:3,

160:2

**supplying** <sup>[1]</sup> - 47:12

**support** <sup>[19]</sup> - 27:12,

32:3, 35:10, 36:17,

46:17, 49:5, 49:8,

52:3, 103:7, 111:12,

116:16, 118:13,

127:16, 176:16,

178:12, 193:6,

193:11, 196:7,

203:2

**supported**

<sup>[1]</sup> - 193:16

**supporters**

<sup>[1]</sup> - 127:14

**supportive** <sup>[2]</sup> - 52:9,

54:7

**surface** <sup>[1]</sup> - 64:5

**surrounding**

<sup>[4]</sup> - 15:5, 70:9, 97:4,

114:7

**surveyed** <sup>[1]</sup> - 44:6

**suspended**

<sup>[2]</sup> - 22:10, 76:7

**sustainability**

<sup>[1]</sup> - 184:7

**sworn** <sup>[2]</sup> - 23:9, 77:8

**systems** <sup>[1]</sup> - 54:7

## T

**T-Mobile** <sup>[2]</sup> - 66:6,  
81:9

**table** <sup>[6]</sup> - 123:15,  
184:5, 187:11,  
188:16, 188:17,  
207:1

**tables** <sup>[2]</sup> - 189:18,  
201:16

**takeout** <sup>[5]</sup> - 184:1,  
185:1, 188:11,  
188:14, 189:5

**talent** <sup>[1]</sup> - 127:6

**talks** <sup>[1]</sup> - 44:12

**tall** <sup>[1]</sup> - 185:17

**tape** <sup>[1]</sup> - 4:12

**taste** <sup>[1]</sup> - 159:18

**Tax** <sup>[2]</sup> - 18:16, 72:15

**technical** <sup>[2]</sup> - 146:12,  
182:6

**technically**  
<sup>[3]</sup> - 106:8, 138:13,  
179:17

**technicians** <sup>[1]</sup> - 65:4

**technology** <sup>[2]</sup> - 7:5,  
62:12

**Ted** <sup>[3]</sup> - 50:1, 51:7,  
51:18

**telecom** <sup>[1]</sup> - 108:1

**telecommunication**  
<sup>[2]</sup> - 15:3, 18:11

**telecommunication**  
**s** <sup>[2]</sup> - 70:7, 72:9

**ten** <sup>[14]</sup> - 21:7, 22:2,  
23:5, 29:6, 75:5,  
75:17, 77:4, 145:10,  
145:13, 145:15,  
147:2, 149:11,  
150:4, 186:14

**tenant** <sup>[1]</sup> - 122:10

**tenants** <sup>[1]</sup> - 177:9

**terminate** <sup>[4]</sup> - 21:11,  
22:8, 75:8, 76:6

**terminated**  
<sup>[4]</sup> - 22:10, 22:12,  
76:8, 76:10

**termination**  
<sup>[2]</sup> - 22:18, 76:16

**terms** <sup>[8]</sup> - 7:9, 44:14,  
87:18, 100:14,  
103:5, 148:1, 198:9,

201:11

**testimony** <sup>[13]</sup> - 12:9,  
33:13, 35:11, 48:14,  
54:11, 68:6, 90:17,  
91:11, 108:11,  
115:2, 128:17,  
129:4, 191:16

**texture** <sup>[1]</sup> - 192:9

**THE** <sup>[15]</sup> - 1:1, 1:16,  
51:3, 51:9, 79:7,  
79:10, 79:17, 80:2,  
80:8, 80:15, 152:14,  
213:14, 213:14,  
213:15, 213:15

**themselves** <sup>[4]</sup> - 63:9,  
143:17, 144:9,  
180:3

**thereafter** <sup>[2]</sup> - 20:4,  
73:18

**therefor** <sup>[1]</sup> - 212:7

**therefore** <sup>[7]</sup> - 23:2,  
37:2, 55:16, 77:1,  
92:13, 112:10,  
116:7

**thereof** <sup>[1]</sup> - 200:1

**therewith** <sup>[1]</sup> - 82:5

**they've** <sup>[10]</sup> - 29:18,  
30:1, 60:14, 82:13,  
97:12, 97:15, 103:2,  
127:4, 128:1,  
173:14

**thinking** <sup>[1]</sup> - 138:6

**third** <sup>[13]</sup> - 46:9, 63:8,  
87:7, 87:10, 87:14,  
88:9, 89:9, 92:6,  
92:10, 99:16, 167:4,  
185:15, 206:4

**THIS** <sup>[1]</sup> - 213:14

**thoughts** <sup>[1]</sup> - 151:11

**threaten** <sup>[2]</sup> - 178:2,  
197:12

**three** <sup>[23]</sup> - 7:6, 7:8,  
19:14, 61:1, 66:3,  
122:1, 122:8,  
122:12, 124:13,  
127:1, 134:18,  
136:15, 146:6,  
160:11, 160:14,  
162:6, 163:2,  
163:18, 189:14,  
201:4

**three-by-three**  
<sup>[2]</sup> - 162:6, 163:2

**three-foot**

[1] - 160:11  
**throughout**  
 [1] - 192:6  
**throw** [1] - 187:15  
**Thursday** [2] - 40:3,  
 207:16  
**THURSDAY** [1] - 1:4  
**ties** [1] - 97:6  
**timely** [3] - 21:9, 75:6,  
 84:4  
**tiny** [1] - 42:16  
**TO** [1] - 213:14  
**Toby** [1] - 87:2  
**today** [5] - 91:7,  
 132:14, 134:6,  
 134:11, 140:14  
**together** [6] - 146:1,  
 146:4, 154:13,  
 154:14, 155:5,  
 155:14  
**tomato** [1] - 123:3  
**tomorrow** [1] - 86:16  
**tones** [1] - 198:8  
**tonight** [27] - 9:14,  
 11:7, 17:4, 20:2,  
 21:12, 21:16, 22:8,  
 23:16, 25:12, 41:17,  
 42:1, 42:11, 73:16,  
 75:9, 75:13, 76:5,  
 77:15, 85:2, 93:8,  
 151:18, 152:2,  
 161:5, 162:15,  
 165:16, 169:16,  
 176:8, 207:5  
**top** [3] - 169:5, 200:14  
**topography**  
 [3] - 36:9, 98:9,  
 102:4  
**tops** [1] - 63:4  
**total** [2] - 7:3, 7:6  
**totally** [1] - 183:6  
**touches** [1] - 198:15  
**toward** [1] - 201:3  
**towards** [2] - 200:16,  
 201:2  
**tower** [3] - 18:14,  
 72:12, 72:13  
**town** [1] - 65:7  
**townhouses**  
 [2] - 157:4, 157:12  
**trade** [2] - 199:11,  
 199:12  
**traffic** [8] - 17:5, 65:2,  
 71:2, 118:6, 177:7,

178:1, 197:11,  
202:8

**traits** <sup>[1]</sup> - 112:10

**transcript** <sup>[5]</sup> - 4:11,  
212:2, 212:6,  
212:15, 212:16

**TRANSCRIPT**  
<sup>[1]</sup> - 213:14

**transmission**  
<sup>[2]</sup> - 20:15, 74:12

**transmit** <sup>[1]</sup> - 3:18

**transmitter** <sup>[1]</sup> - 61:8

**trash** <sup>[3]</sup> - 185:12,  
185:17, 200:12

**travel** <sup>[1]</sup> - 201:16

**tree** <sup>[2]</sup> - 52:10, 54:13

**trees** <sup>[9]</sup> - 35:4, 49:10,  
49:13, 49:17, 50:5,  
50:10, 50:14, 54:14,  
55:2

**tried** <sup>[4]</sup> - 102:1,  
102:16, 124:1,  
141:1

**trigger** <sup>[1]</sup> - 188:16

**triggers** <sup>[2]</sup> - 101:13,  
189:9

**Trilogy** <sup>[2]</sup> - 95:12,  
132:11

**trouble** <sup>[1]</sup> - 139:2

**true** <sup>[2]</sup> - 198:6, 213:6

**Trust** <sup>[3]</sup> - 41:18,  
194:10, 196:9

**trust** <sup>[1]</sup> - 51:5

**trustee** <sup>[1]</sup> - 41:18

**truth** <sup>[1]</sup> - 198:16

**try** <sup>[2]</sup> - 63:12, 97:17

**trying** <sup>[10]</sup> - 97:13,  
99:10, 102:6,  
102:13, 124:9,  
140:13, 148:9,  
160:6, 160:18,  
170:10

**turn** <sup>[3]</sup> - 110:8,  
133:9, 176:11

**turnaround** <sup>[1]</sup> - 46:5

**turning** <sup>[1]</sup> - 182:6

**two** <sup>[53]</sup> - 4:9, 19:8,  
23:3, 29:17, 31:9,  
49:13, 49:17, 51:5,  
57:2, 57:16, 57:17,  
60:13, 60:18, 77:2,  
82:14, 82:18, 84:5,  
87:4, 88:10, 91:6,  
93:13, 100:2,

108:16, 116:17,  
 121:18, 129:18,  
 140:17, 143:13,  
 143:18, 144:6,  
 144:14, 145:11,  
 146:1, 146:4, 148:3,  
 149:18, 154:11,  
 154:13, 154:14,  
 155:13, 159:1,  
 159:6, 161:16,  
 166:18, 169:7,  
 189:12, 193:13,  
 200:15, 205:7,  
 205:11, 205:18,  
 206:1, 210:3

**two-and-a-half**

[1] - 31:9

**two-family** [3] - 87:4,

121:18, 129:18

**two-year** [2] - 23:3,

77:2

**type** [1] - 106:18

**typical** [2] - 99:4,

186:11

**typically** [1] - 163:16

## U

**unanimous**

[3] - 27:12, 36:16,

116:16

**unclear** [2] - 150:11,

150:13

**undated** [2] - 37:11,

37:16

**Undated** [1] - 37:12

**under** [10] - 16:15,

24:4, 29:9, 69:8,

78:4, 84:10, 100:5,

101:6, 142:1, 150:1

**UNDER** [1] - 213:15

**underpass** [1] - 127:3

**underscores**

[1] - 168:8

**undersigned**

[1] - 213:4

**undersized**

[2] - 100:13, 101:1

**understood**

[1] - 106:1

**undertook**

[2] - 134:14, 135:1

**unenclosed**

[1] - 149:10

**unfortunately**

[3] - 16:12, 82:9,  
208:16

**UNIDENTIFIED**

[8] - 51:3, 51:9, 79:7,  
79:10, 79:17, 80:2,  
80:8, 80:15

**uniform** [2] - 62:10,

63:4

**unique** [7] - 98:4,

125:14, 177:10,  
178:4, 180:12,  
188:10, 192:7

**unit** [4] - 45:2, 61:7,

144:4, 167:4

**units** [12] - 45:2, 45:5,

45:6, 53:8, 128:5,  
134:18, 144:1,  
144:6, 146:6, 155:4,  
166:18, 171:3

**UNLESS** [1] - 213:15**unless** [4] - 54:10,

70:18, 184:17,  
202:6

**unlike** [1] - 97:8**unobstructed**

[1] - 111:18

**unroofed** [1] - 149:10**unstated** [1] - 168:16**up** [48] - 7:15, 12:5,

12:9, 27:1, 31:13,  
33:13, 44:7, 48:14,  
54:6, 54:7, 54:16,  
60:11, 62:13, 62:14,  
63:1, 66:18, 68:6,  
82:14, 82:16, 84:7,  
84:13, 84:17, 84:18,  
90:16, 98:17, 99:3,  
102:9, 102:11,  
105:4, 107:2, 108:2,  
108:4, 108:11,  
114:3, 128:16,  
133:6, 133:9,  
135:11, 139:18,  
145:13, 147:15,  
156:14, 162:4,  
162:5, 182:13,  
191:5, 209:4, 210:4

**updated** [1] - 112:8**upgrade** [2] - 7:5,

113:4

**upgrades** [1] - 7:11**upgrading** [1] - 67:3**ups** [1] - 185:9

**UPTON** <sup>[11]</sup> - 175:10,  
176:4, 176:7, 177:4,  
179:6, 182:5,  
184:18, 186:3,  
188:5, 193:13,  
194:17

**Upton** <sup>[2]</sup> - 175:11,  
176:8

**urban** <sup>[1]</sup> - 178:13

**usable** <sup>[1]</sup> - 64:10

**useful** <sup>[1]</sup> - 115:1

**uses** <sup>[12]</sup> - 14:12,  
15:1, 15:18, 17:10,  
36:4, 67:1, 70:4,  
71:8, 118:11, 198:2,  
202:18, 203:5

**utensils** <sup>[3]</sup> - 189:11,  
199:18, 200:6

**utilities** <sup>[1]</sup> - 65:7

**utilize** <sup>[4]</sup> - 20:2,  
65:16, 73:16,  
199:17

## V

**valid** <sup>[1]</sup> - 167:18

**valuable** <sup>[2]</sup> - 130:14,  
168:18

**value** <sup>[2]</sup> - 112:8,  
154:16

**Vanbeuzekom**

<sup>[1]</sup> - 39:17

**Variance** <sup>[39]</sup> - 26:9,  
35:17, 37:5, 52:4,  
55:9, 91:18, 96:8,  
101:13, 101:18,  
102:15, 103:17,  
104:6, 105:13,  
105:15, 105:16,  
106:8, 112:11,  
114:10, 115:6,  
115:8, 117:11,  
119:13, 129:13,  
130:18, 131:7,  
134:2, 142:12,  
143:1, 143:6, 145:7,  
147:12, 153:8,  
153:11, 154:1,  
154:3, 154:4, 154:9,  
162:16

**variances** <sup>[1]</sup> - 111:12

**various** <sup>[2]</sup> - 102:10,  
186:15

**vegan** <sup>[5]</sup> - 179:17,



179:18, 180:1,  
180:3, 181:8

**vegetables** <sup>[1]</sup> - 179:3

**vegetarian**  
<sup>[7]</sup> - 180:3, 181:2,  
192:5, 192:8,  
198:18, 199:6,  
199:8

**Veggie** <sup>[6]</sup> - 175:14,  
175:17, 177:15,  
179:2, 179:5,  
192:11

**veggie** <sup>[1]</sup> - 179:8

**vehicle** <sup>[4]</sup> - 146:16,  
147:8, 148:2,  
196:13

**vehicles** <sup>[3]</sup> - 145:10,  
145:11, 145:13

**vendors** <sup>[1]</sup> - 196:15

**Verizon** <sup>[1]</sup> - 66:2

**version** <sup>[2]</sup> - 44:7,  
180:15

**vibrant** <sup>[3]</sup> - 97:11,  
187:2, 187:4

**Vice** <sup>[1]</sup> - 1:8

**vicinity** <sup>[2]</sup> - 15:1,  
70:5

**video** <sup>[1]</sup> - 3:17

**view** <sup>[4]</sup> - 7:11, 93:4,  
111:18, 157:13

**viewed** <sup>[2]</sup> - 50:13,  
113:4

**violate** <sup>[1]</sup> - 106:17

**violating** <sup>[1]</sup> - 153:13

**virtue** <sup>[1]</sup> - 198:10

**visibility** <sup>[1]</sup> - 196:8

**visible** <sup>[2]</sup> - 11:16,  
61:9

**visual** <sup>[7]</sup> - 13:5, 19:9,  
19:16, 73:6, 73:12,  
179:7, 197:18

**visualize** <sup>[1]</sup> - 109:18

**visually** <sup>[1]</sup> - 178:13

**void** <sup>[1]</sup> - 154:1

**volume** <sup>[4]</sup> - 101:12,  
133:9, 191:1, 212:6

**vote** <sup>[17]</sup> - 13:18,  
16:9, 35:12, 35:14,  
55:5, 55:7, 69:4,  
91:13, 91:15, 106:6,  
115:3, 115:5, 129:8,  
169:15, 193:2,  
197:2, 197:5

**voted** <sup>[1]</sup> - 38:4

**votes** <sup>[1]</sup> - 69:15

## W

**Waga** <sup>[6]</sup> - 177:14,

183:4, 183:10,

184:14, 186:4,

186:7

**wagging** <sup>[1]</sup> - 167:5

**wait** <sup>[3]</sup> - 126:13,

151:15, 205:8

**waiver** <sup>[2]</sup> - 84:2,

210:1

**walk** <sup>[7]</sup> - 29:15,

107:2, 127:1, 162:8,

178:7, 199:11,

199:14

**walk-in** <sup>[3]</sup> - 178:7,

199:11, 199:14

**wall** <sup>[6]</sup> - 7:11, 105:4,

149:12, 163:17,

200:16, 201:1

**walls** <sup>[1]</sup> - 43:7

**Walter** <sup>[1]</sup> - 132:14

**ware** <sup>[1]</sup> - 187:17

**waste** <sup>[3]</sup> - 178:9,

200:4, 200:8

**waves** <sup>[7]</sup> - 20:16,

21:4, 22:1, 74:12,

75:1, 75:16, 80:7

**ways** <sup>[1]</sup> - 97:8

**week** <sup>[1]</sup> - 60:18

**weekday** <sup>[1]</sup> - 186:13

**weekends** <sup>[3]</sup> - 123:9,

186:14, 187:1

**weeks** <sup>[12]</sup> - 31:9,

60:13, 60:18, 82:15,

123:4, 205:7,

205:11, 205:12,

205:13, 205:15,

205:18

**welcome** <sup>[2]</sup> - 47:14,

112:10

**welfare** <sup>[4]</sup> - 17:15,

71:13, 119:1, 203:9

**well-marked**

<sup>[1]</sup> - 200:4

**wells** <sup>[16]</sup> - 141:9,

141:11, 141:15,

141:18, 160:9,

160:10, 161:3,

162:5, 162:8,

162:16, 163:1,

163:2, 163:6,

163:16, 164:8,  
165:3

**Wernick** <sup>[26]</sup> - 1:10,  
3:6, 6:4, 24:16,  
25:4, 38:6, 39:4,  
40:15, 41:4, 57:11,  
59:4, 78:13, 79:4,  
85:14, 86:4, 94:6,  
95:4, 117:13, 120:1,  
121:4, 131:9, 132:5,  
175:4, 204:5, 205:4,  
211:3

**WERNICK**

<sup>[10]</sup> - 11:15, 46:13,  
55:6, 126:12,  
153:16, 154:7,  
163:9, 185:7, 186:2,  
186:9

**west** <sup>[2]</sup> - 179:11,  
200:17

**Weston** <sup>[1]</sup> - 41:15

**wheelchair**

<sup>[1]</sup> - 201:16

**WHEREOF** <sup>[1]</sup> - 213:7

**white** <sup>[1]</sup> - 198:5

**who've** <sup>[1]</sup> - 160:17

**Whole** <sup>[1]</sup> - 123:7

**whole** <sup>[8]</sup> - 16:12,  
60:15, 60:16, 69:14,  
89:3, 109:10, 128:1

**Wi** <sup>[1]</sup> - 66:9

**Wi-Fi** <sup>[1]</sup> - 66:9

**wide** <sup>[1]</sup> - 160:11

**widening** <sup>[1]</sup> - 43:6

**wider** <sup>[1]</sup> - 160:14

**width** <sup>[6]</sup> - 13:9,  
44:14, 62:14, 102:4,  
116:3, 164:5

**wife** <sup>[2]</sup> - 108:16,  
124:6

**wife's** <sup>[1]</sup> - 49:9

**WIGGINS** <sup>[11]</sup> - 41:10,  
41:13, 42:5, 42:9,  
43:13, 45:15, 46:2,  
46:14, 47:5, 48:8,  
54:12

**Wiggins** <sup>[1]</sup> - 41:14

**wild** <sup>[1]</sup> - 126:12

**Willard** <sup>[1]</sup> - 41:15

**window** <sup>[24]</sup> - 57:13,  
104:14, 104:16,  
118:15, 141:9,  
141:11, 141:15,  
141:18, 160:9,

160:11, 161:3,  
 162:16, 163:1,  
 163:10, 163:16,  
 164:8, 164:9,  
 164:11, 164:13,  
 164:16, 165:2,  
 165:7  
**windows** <sup>[18]</sup> - 28:16,  
 28:17, 104:15,  
 104:16, 105:8,  
 105:10, 105:15,  
 106:3, 109:17,  
 111:17, 118:3,  
 118:7, 119:4,  
 119:10, 155:1,  
 155:5, 158:10,  
 194:3  
**wine** <sup>[1]</sup> - 193:8  
**Winthrop** <sup>[7]</sup> - 2:14,  
 175:6, 185:11,  
 192:16, 194:9,  
 196:9, 196:14  
**wireless** <sup>[5]</sup> - 6:13,  
 18:14, 72:12, 81:12  
**wise** <sup>[1]</sup> - 67:7  
**wish** <sup>[1]</sup> - 4:8  
**wishes** <sup>[3]</sup> - 33:17,  
 51:13, 81:4  
**wishing** <sup>[20]</sup> - 6:8,  
 12:10, 25:7, 33:14,  
 39:7, 41:7, 48:15,  
 59:7, 68:7, 81:1,  
 86:7, 90:18, 95:7,  
 108:12, 111:2,  
 121:7, 128:18,  
 132:8, 175:7,  
 191:17  
**withdraw** <sup>[2]</sup> - 40:1,  
 173:13  
**withdrawal** <sup>[1]</sup> - 40:9  
**withdrawn**  
<sup>[2]</sup> - 39:13, 40:13  
**withstanding**  
<sup>[1]</sup> - 82:3  
**WITNESS** <sup>[1]</sup> - 213:7  
**wonder** <sup>[1]</sup> - 170:14  
**wondering**  
<sup>[2]</sup> - 50:15, 208:18  
**word** <sup>[1]</sup> - 126:16  
**words** <sup>[3]</sup> - 150:5,  
 193:6, 193:12  
**worker** <sup>[1]</sup> - 124:7  
**works** <sup>[5]</sup> - 43:17,  
 124:6, 124:7,

152:13, 208:11  
**world** <sup>[1]</sup> - 122:14  
**World** <sup>[1]</sup> - 123:16  
**worry** <sup>[2]</sup> - 83:14,  
 206:8  
**worse** <sup>[2]</sup> - 155:13  
**wrestle** <sup>[1]</sup> - 102:13  
**write** <sup>[2]</sup> - 32:2, 34:13  
**writing** <sup>[1]</sup> - 52:2  
**written** <sup>[7]</sup> - 10:15,  
 31:2, 31:4, 50:2,  
 93:6, 96:11, 188:2  
**www.reportersinc.c**  
**om** <sup>[1]</sup> - 1:17

## Y

**Y-U** <sup>[1]</sup> - 163:15  
**yard** <sup>[11]</sup> - 98:10,  
 98:16, 104:13,  
 106:17, 149:15,  
 149:18, 155:1,  
 157:15, 157:17,  
 164:12, 164:18  
**year** <sup>[2]</sup> - 23:3, 77:2  
**years** <sup>[13]</sup> - 30:1,  
 54:5, 70:14, 84:6,  
 109:1, 113:15,  
 124:4, 127:4,  
 161:17, 162:11,  
 162:18, 179:10  
**yesterday** <sup>[1]</sup> - 91:8  
**young** <sup>[1]</sup> - 97:10  
**yourselves**  
<sup>[1]</sup> - 115:15  
**YU** <sup>[3]</sup> - 163:14,  
 164:2, 164:6  
**Yu** <sup>[3]</sup> - 133:2, 137:1,  
 148:15

## Z

**Z-I-R-B-E-L**  
<sup>[1]</sup> - 95:17  
**Zelinski** <sup>[2]</sup> - 213:4,  
 213:10  
**ZIRBEL** <sup>[2]</sup> - 95:16,  
 107:15  
**Zirbel** <sup>[3]</sup> - 95:16,  
 96:6, 111:13  
**ZONING** <sup>[1]</sup> - 1:1  
**Zoning** <sup>[10]</sup> - 3:8,  
 14:15, 52:3, 138:3,  
 149:4, 149:5, 169:1,  
 211:5, 212:6,

212:15

**zoning** <sup>[23]</sup> - 11:6,  
14:18, 40:1, 55:2,  
56:7, 92:13, 116:8,  
133:3, 134:18,  
137:9, 144:10,  
146:18, 147:2,  
150:3, 150:7,  
152:13, 159:13,  
161:13, 162:10,  
168:11, 168:14,  
169:12, 194:12