

BOARD OF ZONING APPEAL
FOR THE
CITY OF CAMBRIDGE

GENERAL HEARING
THURSDAY, JULY 30, 2015
7:00 p.m.

in
Senior Center
806 Massachusetts Avenue
Cambridge, Massachusetts 02139

Constantine Alexander, Chair
Timothy Hughes, Vice Chair
Brendan Sullivan, Member
Douglas Myers, Associate Member
George S. Best, Associate Member
Jim Monteverde, Associate Member

Sean O'Grady, Zoning Specialist

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INDEX

<u>CASE</u>	<u>PAGE</u>
BZA-006869-2015 -- 1350 Mass Avenue	7
BZA-006133-2015 -- 209 Broadway	203
BZA-006922-2015 -- 236 Walden Street	3
BZA-007147-2015 -- 40 Pemberton Street	264
BZA-007159-2015 -- 10 Fayerweather Street	274
BZA-007156-2015 -- 32 Hawthorn Street	290
BZA-007188-2015 -- 55 Magee Street	322
BZA-007185-2015 -- 81-93 Mt. Auburn Street	342
BZA-007226-2015 -- 114 Clifton Street	361
BZA-007211-2015 -- 35 Clay Street	368
BZA-007219-2015 -- 243 Hampshire Street	385
Case No. 10469 -- 9 Oakland Street	398
KeyWord Index	

PROCEEDINGS

(7:00 p.m.)

(Sitting Members Case BZA-006922-2015: Constantine Alexander, Timothy Hughes, Brendan Sullivan, Douglas Myers, George S. Best.)

CONSTANTINE ALEXANDER: The Chair will call this meeting of the Zoning Board of Appeals to order. And as is our custom, we are going to start with continued cases. These are cases that are started at an earlier hearing and for one reason or another have been continued to this evening.

The first case I'm going to call is No. 006922, 236 Walden Street.

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

(No Response.)

CONSTANTINE ALEXANDER: The Chair notes that there is no one wishing to be heard.

The Chair would report that we are

in receipt of a letter from Mahmood Firouzbakht referencing this case, for this case 236 Walden Street. (Reading) I respectfully request a continuance of this case to the Board's August 27, 2015, hearing. I appreciate the Board's accommodation of this request and look forward to the upcoming hearing.

The Chair would move that we continue this case to seven p.m. --

SEAN O'GRADY: August 27th.

CONSTANTINE ALEXANDER: Yes, August 27th. Continue this case until -- Ma'am?

UNIDENTIFIED AUDIENCE MEMBER: Do you have a microphone?

CONSTANTINE ALEXANDER: Unfortunately we don't. It's always been a problem here with the microphones.

Anyway, continue this case until seven p.m. on August 27th on the following conditions:

That the petitioner, having already signed a waiver of notice for time for a decision, must modify the posting sign to reflect the new date, August 27th, and the new time, seven p.m.

And that the sign must be maintained for the 14 days prior to the hearing as required by our Ordinance.

And if the petitioner is going to submit new plans and/or new dimensional forms, they must be in our files no later than five p.m. on the Monday before August 27th.

All those in favor of continuing the case on this basis, say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: This is a
case heard? This is a case heard.

(Alexander, Hughes, Sullivan,
Myers, Best.)

* * * * *

(7:05 p.m.)

(Sitting Members Case BZA-006869-2015:

Timothy Hughes, Brendan Sullivan, Douglas

Myers, George S. Best, Jim Monteverde.)

TIMOTHY HUGHES: The Vice Chair will call case No. 006869, 1350 Mass. Ave.

JAMES WILLIAMSON: So, should I?

TIMOTHY HUGHES: Now that it's open -- you can still come forward. James is going to raise an issue about the posting.

If it's what you said in your letter, I read your letter.

JAMES WILLIAMSON: Right. And so shall I proceed?

TIMOTHY HUGHES: Yes, go ahead, sure. State your case.

JAMES WILLIAMSON: My name is James Williamson. I live at 1000 Jackson Place in Cambridge, and I don't believe that there has been proper public notice for this meeting. And I will just briefly

explain my experience and show you some images, including an image that Harvard provided to the Inspectional Services Department, and I just don't believe that the notice has been adequate according to the Statute and the City Ordinance.

Sunday night, a week ago this past Sunday, which was within the 14-day required notice period, I had been going by the plaza at Harvard Square and had not seen any notice for several days. On that Sunday night -- I didn't even know -- remember that the required notice period was 14 days. I sent an e-mail to several people, including Tom Lucey and Tanya Iatridis at Harvard asking about the seeming lack of notice in the plaza. I got an automated reply that Tom Lucey was on vacation until the following Friday,

which would be last Friday, a week ago, and I got no response from anybody else. I then noticed on that Monday a new sign in the place where the sign for the earlier hearing had been in Holyoke Center Plaza. My understanding is I was told that, that ISD staff were told by Harvard that somebody had torn down the sign. My understanding is that -- it may well be that somebody tore down the sign. My sense of it is that somebody may have torn down that sign a week or two earlier and that nothing was done about it until I sent the e-mail inquiring about it, and they went to the ISD, got the new sign, the replacement sign and posted it. So there was a gap then in the notice in my view from the previous Thursday, Friday, Saturday, Sunday, until the replacement

sign was posted on Sunday.

I think Harvard -- I got an e-mail at quarter of six, I mean, amazing from Mr. Lucey saying that they, they, they posted the sign, and as soon as it was torn down, they posted it immediately. I don't believe that that is the case, although that may be what Harvard believes.

The other issue is the rest of the required notice. On the back side of Harvard there was a notice that was put up, and according to your instructions as I understand it, you all said, take the existing signs, cross out June 25th and put in July 30th, and that will stand as the adequate notice. And I'm ready to believe that that's what Harvard did. The problem is the sign that was on the back

at Mount Auburn Street, and I have images of it that I took, plus the images that Harvard provided to -- not to me in reply, they didn't reply to me. They sent these images to -- so these are the images that I took if you would care to -- this is the sign that's in the -- was on Mount Auburn Street. This sign, as you can see, obscured by a bush, and it is in a place that was in heavy construction zone for the last several weeks. If you remember -- actually, they haven't even finished doing the sidewalk back there on the back side of Holyoke Center. That's now -- the asphalt is completed, but for several weeks there were, there was police tape cordoning off sections of that area. A friend of mine did tell me that he at one point did walk up by the location

where this sign is, but you can barely see it. And it's just, it just seems to me that Harvard had the resources to have done a better job. And I don't, I don't think this really complies with either the spirit of the letter of the regulation. And I went back and looked at the regulation and there's a Mass. General Law version, but there's also Cambridge's own version which says, the panels must be installed at designated locations no later than 14 days prior to the public hearing. Failure to install the panels by this date could result in rescheduling. It's up to you to make that judgment.

And then "f", the panels must be displayed continuously until such time as the notice of decision is filed.

So I'm basically saying they're

two -- and then the other two signs, by the way, on Dunster Street and Holyoke Street, are next to pedestrian ramps that nobody uses and that you'd have to really be vigilantly looking for those to see. They're by the two drive -- by the driveways. And they're placed not nearest the sidewalk, but in the glass case. The glass cases there, and they're placed furthest away from where they could be seen from the sidewalk. So I just think at best Harvard did as little as they possibly could by way of notice, and I don't believe that they complied. And I would ask that -- because this is such an important issue, I think they should be held to the standard that everybody else is presumably held to and that the hearing should be postponed until there has been a

proper period of notice in a way that's visible to the public and we could have a hearing in September.

TIMOTHY HUGHES: I know that certain Members of the Board had gone by and sporadically and periodically checked on the signs have been up. When Sean O'Grady went by, he checked.

Was the placement of the signs adequate as far as ISD's requirements?

SEAN O'GRADY: Yes.

TIMOTHY HUGHES: And you have a comment about the ripped down sign and how long of a lag there might have been between that and the time that it got put up -- put back up?

TANYA IATRIDIS: Since the person who actually did that is right here, Alexandra, do you want to mention when you

put it back up?

ALEXANDRA OFFIONG: Sure.

Alexandra Offiong.

Yes, so we did install the signs originally more than two weeks before the -- on June 8th, which is more than two weeks before the June 25th hearing. They were up continuously. When we -- when we had been -- there were four signs on all four sides of the building. When -- the day after the hearing on June 25th we went out immediately, updated the date, and then we had been eyeballing the signs as often as we could to ensure that all four of them continued to be posted.

As soon as we found out through the e-mail that was referenced that there was a sign removed, that very day we connected with Inspectional Services and the sign

was posted by noontime on that day. So I think -- and it's been continuously posted on all four sides since that time.

TIMOTHY HUGHES: Can I ask people in the audience to show of hands as to who is here on the Harvard case?

(Show of hands.)

TIMOTHY HUGHES: You know, I'm content that the posting was adequate and that there's been enough notice given given the participation from the community here on this case tonight, but I'll defer to my other Board Members as to whether they feel similarly.

Should we go ahead this evening?

BRENDAN SULLIVAN: I have no problems proceeding.

JAMES MONTEVERDE: I'm fine.

DOUGLAS MYERS: Fine.

TIMOTHY HUGHES: All right, I think we're going -- I'm sorry, James, but I think we're going to hear the case.

JAMES WILLIAMSON: No, that's okay. I mean, that example I think speaks for itself that obscured behind a bush, but it's okay. I mean, I did a lot of work to let people know about this and I think that's one of the reasons why many of the people who are here are here, but okay.

UNIDENTIFIED AUDIENCE MEMBER: May I also speak on that issue or have you made a decision?

TIMOTHY HUGHES: I've made a decision on that.

UNIDENTIFIED AUDIENCE MEMBER: The Board has made a decision.

TIMOTHY HUGHES: We're going to

hear the case.

Now would you please identify yourself for the record and then we'll proceed.

TANYA IATRIDIS: Yes. Tanya, T-a-n-y-a Iatridis, I-a-t-r-i-d-i-s.

UNIDENTIFIED AUDIENCE MEMBER:
Can't hear a word. This is not friendly to the hearing impaired.

TANYA IATRIDIS: I'm Tanya Iatridis, T-a-n-y-a I-a-t-r-i-d-i-s and I work for Harvard University.

HENRY MOSS: Henry Moss, executive architect from Bruner Cott, C-o-t-t.

ANDREW BARNETT: Andrew Barnett, B-a-r-n-e-t-t. I'm from Hopkins Architects. We are the design architects.

MICHAEL VAN VALKENBURG: Michael Van Valkenburg, landscape architect.

TANYA IATRIDIS: Should we start?

TIMOTHY HUGHES: I think -- yes, the plans are basically unchanged since the last meeting, correct?

TANYA IATRIDIS: Correct. But there's more analysis.

TIMOTHY HUGHES: There's more analysis? Yes, I know I read that, and I think that's where we should start. We should start with the specific pages that you responded to, the request of the Board that you would, you know, broaden out, elucidate, and --

TANYA IATRIDIS: Sure. And I have copies of it whoever doesn't have copies. And we also have copies for the public in the back if anybody that wants to have the handout.

Do you want to start with the

language first?

TIMOTHY HUGHES: Whatever makes you comfortable.

TANYA IATRIDIS: Yes. Well, let me just start off by saying that we are very pleased to be here tonight. And am I speaking loud enough?

TIMOTHY HUGHES: We'll find out.

TANYA IATRIDIS: Okay.

And as you requested, we will focus the discussion tonight on the particular questions which you raised, the Board raised, at the meeting on June 25th.

After we met, we carefully reviewed our notes and the transcripts and to ensure that we would be responding to all of the questions raised by the Board. As you mentioned, the main issue was that you asked us to memorialize Harvard's

University's commitment regarding public access at the Smith Campus Center. To this end we submitted this specific language, which you have in front of you, and we also added the letter that confirming our commitment to the conditions recommended by the Cambridge Traffic, Parking and Transportation. You also asked us a written commitment regarding chess and game board tables which we included.

As you requested, we also submitted a booklet that provides additional information on the quality of space at the welcome area, including Forbes Plaza and the tenth floor projected bay.

So let me -- if you look at the language at the second page, which is -- everybody's on the second page?

Thank you. I'm not gonna read the language, but I'll hit some high notes and then if you have questions, I could answer them.

As I mentioned at the last meeting, that Harvard is committed to increase the interior public access from 7,000 square feet to 35,000 square feet. And the areas shown in the next page, there's a map attached, a plan that shows the existing areas that are open for public access, which is 7,000. And you will also see the proposed where we are increasing it to 35,000 square feet. So you know the locations of the first and the second floor.

We also commit to have public access seven days a week, year round. There was a question about would we be closing it

for semesters or for the academic calendar? And the answer is no. It will be year round. Ours will be generally similar to the current conditions which we are committing.

The welcome area right now where Au Bon Pain is, its hours are five-thirty to six a.m. and it fluctuates on the day of the week and sometimes of the year depending, they -- for different reasons. And midnight to one a.m. it closes. So we are committing into these hours in the welcome area.

And for the common spaces which is now the arcade, its hours today are five-thirty to seven-thirty a.m. and that fluctuates. And it closes today at ten o'clock, and that kinds of fluctuates depending on the commercial. Like Al's is

open at ten, but two years ago they were open till nine-thirty. So it has changed -- fluctuates a tiny bit.

We will reflect the hours of the commercial food venues that are housed there.

We will have signage to make it clear that the public is welcome and will state the hours of "open to the public."

We did include exceptions in the language that provides some flexibility for safety concerns, maintenance needs, or an event. They're typical operational exemptions, and it's not meant to extend -- to extend the duration, but it is more if it's open a few hours or if it's closed for a few hours or a day because there is an event. It's only meant to have that flexibility, but it's

not meant to extend the duration. That's important of the closing.

Regarding the traffic and parking and transportation, we submitted a letter confirming our commitments to the conditions recommended by the Cambridge Traffic, Parking and Transportation, including working with the City to site the bike racks and installation of the transit screen in the building.

And regarding the chess game board tables, we have written commitment, we're providing and replacing in better form the chess game board tables. We are -- have five fixed outside in the Forbes Plaza, five inside, and four fixed in the Mount Auburn Plaza. So we've increased the amount. And they will be much better and they'll be in the international standards.

That's the feedback we received from the chess players. So we're meeting their, their thoughts on that.

So that's basically what we've put forth in this piece of document you have in front of you. Would you like me to present what's in the booklet or would you like to have a discussion on that? What would be the preference of the Board?

TIMOTHY HUGHES: Any questions from the Board?

BRENDAN SULLIVAN: I have nothing specific at this time anyhow.

JAMES MONTEVERDE: Can I ask two questions?

TANYA IATRIDIS: Sure.

JAMES MONTEVERDE: If I understand the drawings correctly --

TANYA IATRIDIS: Yes.

JAMES MONTEVERDE: -- the proposal to extend the welcome area into Forbes Plaza and the added, the additional FAR required to do that is still being requested?

TANYA IATRIDIS: Yes.

JAMES MONTEVERDE: As before, correct?

TANYA IATRIDIS: Yes.

Nothing -- yes, our proposal is the same. This is to clarify our presentation --

JAMES MONTEVERDE: Okay.

TANYA IATRIDIS: -- and to expand and answer your questions.

JAMES MONTEVERDE: Okay.

And the proposal to add, I forget the top floor, there was some additional FAR for the lantern element of the roof?

TANYA IATRIDIS: Yes.

JAMES MONTEVERDE: That additional height, additional FAR --

TANYA IATRIDIS: The three feet, yes --

JAMES MONTEVERDE: That's being --

TANYA IATRIDIS: And that's in the booklet which is I can present to you.

JAMES MONTEVERDE: That's okay.

TIMOTHY HUGHES: Just for the record, could you tell me how many square feet of Forbes Plaza is going to be enclosed?

TANYA IATRIDIS: I have this -- if you look in the booklet on page 11 you will see the, the plaza and the square footage which you requested. The outdoor plaza is 6,900 square feet on page 11. And the outdoor plaza will be, after our proposal, will be 5,250 square feet. And

actually, I'm sorry, I'm sitting here with the booklets and I haven't handed them out to you. But if you look on page 11, it is on there. I apologize.

JAMES WILLIAMSON: By the way, excuse me, but Tom Lucey e-mailed me saying that there would be additional material for the public.

TANYA IATRIDIS: It's all in the back.

UNIDENTIFIED AUDIENCE MEMBER:
There's 30 copies.

TANYA IATRIDIS: They're all in the back.

Sorry, it was page 11. It has the existing on the left, the proposed on the right. And what it's showing is the square footage of the area of the plaza. It's also showing the seating area. The

one that's orange right now, these are restricted seating. It's only for Au Bon Pain seating. It's patron only. And that was a decision that was made by the Board when Au Bon Pain came in to get their Special Permit.

The proposed seating is on the right and it shows that we're adding outdoor seating from the 190 seats outdoor, we're adding a total of 216. And we are removing the restrictions so it is not by patron only. If that's helpful.

TIMOTHY HUGHES: Yes, that's great.

TANYA IATRIDIS: And also we have the square footage of the area where the seats are. It's pretty much the same. Outdoor is 2,620 now, and it will continue to be 2,620. And the indoor seating is

only patrons for 905 square feet, 90 seats. And what we're doing is we're adding 204 seats and it's in 2,750 square feet, that includes the second floor, too, with the programs that are -- we've presented.

TIMOTHY HUGHES: You're coming to a total of 204 seats. Not adding 204 seats.

TANYA IATRIDIS: Sorry. I didn't --

TIMOTHY HUGHES: Yes.

TANYA IATRIDIS: -- that's what I meant. I apologize. It's the total I was comparing.

TIMOTHY HUGHES: Anything further? Any other questions. Jim?

JAMES MONTEVERDE: No, thank you.

TANYA IATRIDIS: Would you like me

to walk you through the booklet or not?

TIMOTHY HUGHES: How does my Board feel about it? I don't know that it's necessary.

BRENDAN SULLIVAN: I'm all set.

TANYA IATRIDIS: You're okay.

DOUGLAS MYERS: We've looked at it. I've looked at it.

TANYA IATRIDIS: Oh, okay.

TIMOTHY HUGHES: And I've looked at the plans and stuff. I think there was one other question raised by Jim at the last meeting as to why this had to move, expand forward in -- the area had to go forward.

TANYA IATRIDIS: Yes.

TIMOTHY HUGHES: Could you describe the programs with trying to go back?

TANYA IATRIDIS: Yes, I can.

TIMOTHY HUGHES: To expand Au Bon Pain back into the building area?

TANYA IATRIDIS: Right.

So if you see in the plans, and maybe a good way -- stay on the same page at 11, page 11, you will see how the infrastructure is all in the back and there are, the stairs is all, they're mechanical equipment, and that's where the infrastructure is. And behind the wall of the infrastructure there is a ramp that goes down, it's a driveway. So you're really limited in where you could actually have the program.

And also there's a structural element, the -- and maybe the architect can speak more of that or -- and that is that the wall aligns precisely from the

underground garage. There's -- where the building ends, that's where the wall meets. And when bringing that wall out forward approximately eleven feet from where it is right now, the greenhouse, it sits right on Sert's original wall that.

HENRY MOSS: Garage basement retaining wall. All of the structure is there. On that --

ANDREW BARNETT: And it's a fundamental fix. All of the services, vertical services in the building will serve all the other ten floors of the building. Sert arranged them in that dark, darker grey zone. So it's actually fundamentally impossible to get the space to move further back. When you start to look at this building as Tanya said, it has very logical places where you can --

JAMES WILLIAMSON: Can you speak up, please? I can't hear you.

ANDREW BARNETT: Where you can, where you can put structure on top. And where our structure is, whether you align the enclosure is actually on the line of Sert's foundations underneath.

TIMOTHY HUGHES: Any other questions?

JAMES MONTEVERDE: No.

TIMOTHY HUGHES: Any further presentation before I open this up to public testimony?

TANYA IATRIDIS: As long as I've answered all of your questions.

TIMOTHY HUGHES: I think you have. I think we're talking about a net loss of outdoor space of 750 square feet, and we're talking about structurally an

impossibility of moving Au Bon Pain back to make the interior space it would have to move forward into Forbes Plaza. Am I representing what you --

TANYA IATRIDIS: No, no, it's more than. It's 1650 square feet.

TIMOTHY HUGHES: I thought you told me 6900 to 5250.

TANYA IATRIDIS: Sorry. 5250, right. 6900 to 5250. Okay. And what we're doing --

TIMOTHY HUGHES: 1750 square feet. Thank you.

TANYA IATRIDIS: Right. And what we're doing is, a lot of it is within circulation. And we've done circulation studies, too, if you need us to explain that.

TIMOTHY HUGHES: And do you have a

sense of how much of that was actually sitting area and how much of it was just covering up what was already just, you know --

TANYA IATRIDIS: It's circulation.

TIMOTHY HUGHES: Circulation?

TANYA IATRIDIS: Yep.

TIMOTHY HUGHES: How much is that, do you know? We're not losing any seats. We're just putting some --

TANYA IATRIDIS: You're not losing seats. You're gaining seats in the same amount.

TIMOTHY HUGHES: We're not losing any chess boards?

HENRY MOSS: Turn to page 9.

TANYA IATRIDIS: Okay. Sorry, page 9. We're not losing -- this may be a better.

HENRY MOSS: Less numerical.

TANYA IATRIDIS: But I -- but you asked me specifically on how much -- so the 1650 is circulation space which we are, we have done an analysis on circulation. Page 9 shows you where the before and after is on the lines. The green line is -- shows the proposed building enclosure and the red line shows you the existing building enclosure and the difference. And the yellow is the property line. And the dotted lines is the canopy. Is that helpful?

DOUGLAS MYERS: Yes.

TANYA IATRIDIS: Because you requested this drawing and we provided it.

TIMOTHY HUGHES: Okay.

I'm going to open this up to public testimony. I will request that you be as

brief and succinct as possible since there are probably a lot of people that want to speak. If you've written a letter, and please let me know that so I don't have to read the letter or highlight the letter, and if you can highlight it, you know, verbally. And if you've already heard something said, please don't repeat it. You know? I mean, we don't need to hear things more than one time for it to sink in.

All right. Gentleman in the middle.
Yes, you.

PERRY NEUBAUER: Hi. My name is Perry Neubauer. I'm an architect in Cambridge. I live in Cambridge. I rented a GSD. I'm Sert's name. And I -- as I worked architect's collaborative in fact I was president for three years so I've been

around the square and continue to practice architecture in Cambridge.

When I design an addition to a building, I try to make it look like the building that was always there. It was intentional. It was something that Sert might have done if that was the program that Harvard gave him. When I look at these drawings here, I feel like they've been totally ignored. Au Bon Pain is old enough. It's kind of like a wart on the end of your nose you've gotten used to it after a while. The addition, I think it's unfortunate, to say the least, it's not respectful of the existing building. I think that if some future generation would decide that they wanted to restore Sert's building to its former glory, that would be the first thing they would take off.

TIMOTHY HUGHES: Thank you.

Anyone else? The gentleman with the pink tie.

HUGH RUSSELL: Hi. On a personal note --

TIMOTHY HUGHES: Can you identify yourself?

HUGH RUSSELL: My name is Hugh Russell, One Corliss Place. I was a member of the Zoning Board in the 1980s along with Brendan when we granted the permit that allowed Au Bon Pain to replace the clothing store. This was a very significant event because it, it's no longer trajectory of getting more public use. In this particular decision was very specific about there would be public use, there were certain proportionate of tables to be reserved for the public. Harvard of

course committed the plaza which had been there before, had a big, you know, some bushes in the middle. Au Bon Pain replaced that by seating.

Now in hindsight you say, well, maybe you didn't make a very good decision. You only got 20 percent of the seating, but that was 30 years ago. And I would remind you that this is a progress that Harvard is making from being very private to being really very welcoming. And if you look at Harvard Yard, the buildings are sitting in a plane of grass; there are trees, there are buildings. It's, it's been that way for centuries. It's a defensive kind of an arrangement. When I was an undergraduate, we were not allowed to sit on the grass in Harvard Yard. Now you notice there are chairs out

there. That was one of the steps in the progress of Harvard opening up the landscape. I see this project in that trajectory of getting more public use, getting greater care of the public.

I make one other comment. I was for four years worked for Mr. Sert. I worked on the science center which is at the other end of the Yard. It has an arcade in it and Sert had learned in the 12 years between the design of the two buildings that the arcade needed to be enclosed, that they needed to be generous public space. And in the science center there's a lot of public space. It's actually open to the public for the general public, but nobody really knows about it and I think nobody pretty much uses it. But it's a nice place to be in the winter. So, here

it's spanning the building out to create winter garden kind of space to me is a real plus. You maintain the functional areas of the plaza and you get something extra. So that's all I want to say.

TIMOTHY HUGHES: Thank you.

The gentleman with the blue stripe shirt.

JOHN SHAW: My name is John Shaw. I've lived in the square for 20 years. I've had a business in the square for 18 years. And I'm about to open a second business in the square. And I come from a very large family. There's a reason for this. And I have lots of friends who -- I lived in Florida for a few years, who for lots of reasons all come up to Harvard Square to visit me. I've probably in the 20 years given 80 to 100 tours of Harvard

Square and never one time out of those 100 tours -- of all the different businesses or the spaces in the square, have I ever brought people to the Smith Center. And with this change, they'll never be a time that I don't bring people to the Smith Center to sort of show them the sort of the effect that this has on not only residents in the square, on my staff in the square, on my customers in the square, but just on the square itself as a place for people to be -- that's a sort of -- in all kinds of weather and all kinds of circumstances is a huge contribution to not just, you know, Harvard and Harvard University and the students, but to the businesses, to the residents, to the citizens of the square and to the people who are coming to visit in the square, I

couldn't be more supportive of this change.

Thanks.

TIMOTHY HUGHES: Thank you.

The woman with the orange to me.

FRANCISCA AMACHER: I'm Francisca Amacher. I'm an architect and have lived in Cambridge for 40 years. I did my GSD and worked at Sert's shack and I have a real problem with reducing this the amount of space that for the previous addition is making. We in Cambridge don't have enough public space to start with and there is an issue about the proportion of the space. If you start to take away more of this space, it becomes just like a little small front yard and it's not an inviting space for the public in general to interact and to be, to have activities that might not

be planned ahead of time. So I think also that this is a place where the community in general wants to be, not just people affiliated with Harvard. And a welcoming center, even if it has a very transparent wall, still is an implied barrier. So eight months of the year people will hesitate unless they have business inside Harvard to go in. I think Harvard is taking away a public space that has been in the use for the Cambridge community for so many years. I think it's a big mistake. And a welcoming center could easily be put into the Cambridge trust part of the building and might even be a more welcoming center than being set back further.

TIMOTHY HUGHES: Gentleman with the glasses in the blue shirt in front.

DAVID FIXLER: Hi, my name is David Fixler. I am an architect. I work on buildings of this vintage around the country and I lecture on the subject of working on these buildings of this vintage around the world. I've been doing this for about 30 years. Buildings of this ilk often are misunderstood and have things happen to them over the course of time, as has happened to Holyoke Center, which compromise both their original intent and ultimately what they could really be. I entered into sort of looking at this project with a good deal of skepticism being very concerned about what might happen to this building, but having studied it fairly thoroughly over the last few days and have come to the conclusion that it's the right thing to do. With all

great respect to Perry Neubauer, I think the building like this does not deserve this sort of agnesis. It doesn't deserve to be mimicked that you're adding to. You need to do something complementary but different and clearly contemporary.

Something that is of this time, not of its time. And I think that the architectural team has done a very good job in realizing that. And I think the comments about what happens to Forbes Plaza? I would say the fact that the wall is gone, the fact that there's better access, the fact that this opens up and you actually reveal much more of Sert's original intent on this facade architecturally, that these are all things that I think over time will mellow in and will really make this a very effective addition.

Thank you.

TIMOTHY HUGHES: Thank you.

Young man dark hair.

SAM GREENBURG: Hi, I'm Sam Greenburg. I am at 106 Hancock Street. I'm a lifelong Cambridge resident also graduated from Harvard last year, and also I'm working with Sarah here to open up a student-run shelter for young adults at the First Parish Church down the street from this. So I guess I would say as a former student, I think this is desperately needed. Students at Harvard really need a space to congregate and I think as a Cambridge resident, I love the aesthetic and the design. I think it's -- frankly, I don't think I like the design right now and I think it would be a wonderful space to be. And I think most

importantly as somebody who is going to be running a homeless shelter, I'm really excited. My understanding and my expectation of this space is it is open and welcome to the public on the bottom floor and I think second floor for business hours. And I think there are for our student case managers who can only meet with clients outside -- in a public place. This is a perfect place, a welcoming place to sit with the young adults that we're serving and have a cup of coffee in the Harvard student center and work with issues. I think the expansion of the public restrooms is incredibly exciting and desperately needed. And I would say for all of those reasons I'm very much in support of this.

TIMOTHY HUGHES: Thank you.

This gentleman here with the dark Polo shirt.

SUPRATIA BOOSE: My name is Supratia Boose, S-u-p-r-a-t-i-a B-o-o-s-e. I have a letter in but beyond the letter I want to reflect on the facade architecture. I did work for Jose Sert and I did study under him. I was involved in the science center development and the design school, the condo. And so I knew him and I respect him.

And I came to Cambridge to study, study under him, work under him. But that does not mean that when in Paris the Louvre is extending space. It has to copy, the ancient architecture. They put a pyramid, put a pyramid. Now the shape of the pyramid has nothing to do with the Louvre.

Now we have a Fogg Museum that Renzo Piano designed and you can tell from outside if you stand on Cambridge Street, which one -- which part is ancient and which part is new. So there is nothing wrong with making a new addition that is entirely different and fitting to the time rather than have to reflect what Sert would have done in 1965. And it's not necessary.

The second point is the space that is now Au Bon Pain, if I understand correctly, during the summer the front doors would come off. Were removed. So that to call that an interior space during summer is not quite right. Whereas in the wintertime, when the plaza is completely useless, you have an expanded space to sit down and be there. So, I think what is

heated and what is not heated is not enough. It's also the opening of the front that makes it a glass roof, but not an enclosed space like it is today. So in fact, in the summertime all of the current Au Bon Pain and the Forbes Plaza is the open space, semi-open space partly.

That's all.

TIMOTHY HUGHES: Thank you.

Gentleman in the back with the white shirt.

WILLIAM GREENLAW: Yes, sir. Hi, good evening. My name is William Greenlaw. That's green like the color. Law like attorney for the record. I attend Harvard University, and I'm a student representative on campus. A few people have mentioned today that they're worried that Harvard University is

threatening to take away space from the public. I'm afraid I cannot agree with that even objectively so. I was, you know, merely estimating at the previous testimony that I have brought here before, but given the actual plans in my hand, I can now say with certainty that nothing is being removed. Even looking at page 11 we can see that with the indoor seating they're adding literally two, what? Almost 2,000 square feet. And you're adding over 100 additional seats, almost doubling the amount of seating that you can actually have. Even with the outdoor seating, even though it's remained the exact same exact amount of footage, they're still adding more seats. And so if people are worried that this is going to be an intrusive and invasive wall

that's essentially dividing east and west, I am afraid I cannot agree because objectively people are actually having more abilities to convene at this space. After all, the biggest complaint that people have is we want to make it a more vibrant space to actually hang out and be in the Cambridge city space. And seating I'm afraid is a very clear way to do that. People don't want to stand the entire time. If I may also expand on the previous point brought by the gentleman before me on the space on the interior, there have been a couple of comments stating that the new renovations will make it less welcoming for the public. I'm afraid I also have to disagree with that as well. These new renovations, as I'm looking at on page 13, seem to be even

more welcoming than previously, because currently the only space that exists in this particular part of the architecture is Au Bon Pain. I enjoy Au Bon Pain from time to time, but I'm afraid I don't hang out there for a very particular reason. Because hanging out inside of Au Bon Pain requires an obligation to pay. And for a person who just wants to hang out or spend time in the Cambridge square without buying anything, that's a very large barrier to enter. Because few people would be so willing to brazenly walk in and not pay for something while they're at it. By moving Au Bon Pain and actually creating an open welcoming space, it allows people to come in without any obligation to pay and spend time with their families and friends as they so

choose. And it's not even just the first floor. They've also added a second floor to enhance the seating there. I'm afraid even objectively with the additional seating, with the moving of Au Bon Pain, and the removing of the obligation of paying, it seems like the public here has a win/win.

Thank you, I completed my testimony.
Thank you for your time.

TIMOTHY HUGHES: Thank you.

Gentleman in the back.

VINCENT DIXON: My name is Vincent Dixon. Many of you may have seen me with my tricorne hat in the square for about 17 years. So I've seen a lot of changes over the years. Clearly there are different perspectives, but I suggest perhaps part of the problem is the actual operational

nature of what happens in the space.

Harvard itself has both to its credit and to its confusion, at times, changed that.

So the information center migrated from the front window to the back inside concourse added back out to the front, I see two other potential locations here.

The nature of welcoming, of course, is significant and goes beyond just Monday nine to five. And nowadays because of the mystic nature of Harvard and the movies and the other cultural elements, thousands pour in as early at five-thirty or six in the morning and sometimes the office opens at six in the morning and closes at eight-thirty and then reopens at nine.

Who do you serve at what hour of the day?

What is the mentality? Because in fact there are people from every country of the

world now coming on a scale never imagined. There's another aspect of that that Harvard information used to always be open on Saturday day and Harvard would give a small stipend to people who were administrative staff to come out and staff that office, so it was always open. So when there weren't students available, they could continue to have that office open 52 weeks a year. Those of us who are private tour guides or Harvard alumni wind up oftentimes helping people on Saturdays or after five o'clock because Harvard information has closed and is essentially resumed in narrow form of banker hours even in their own information. I think probably if Harvard and other people thought about the operational use of these spaces more specifically than the

architecture, than maybe you can back up to a little more intelligible kind of thing, a commitment that the information and tour offices are maybe open from maybe eight in the morning until six at night with rotating and balanced or mixed staff.

There's a question about the arcade, and ironically enough, the corporation of Harvard which is very open that it is a corporation, is reducing the retail participation in the arcade which helps to pay the bills for this building. Harvard has a long tradition of welcoming small retail and local businesses both as a way to contribute to the financial success and also as a welcoming way who are frankly losing a lot of the small friendly neighborhood type businesses that used to be in the square. Newer owners, I

understand, have jacked up the rent at a very extreme level. Perhaps Harvard in some way could take a role there as well. I think it has to be a cooperative venture, but what I hear and what I have seen in some of these discussions is an argument over architecture which frankly in many ways is fairly inconsequential whether it's an expansion or a reduction or a reconfiguration. What's being lost here is the actual uses. Au Bon Pain provides a use. The chess tables provide a use with other kinds of activities. I think provide a use, the arcade looks like it's converted largely to institutional use. Though I understand that the Board has some limits in terms of what they can do, the fact the public access gives you some opportunity to discuss these issues I

think in some way, and I think there needs to be perhaps a reengagement. I will take sometime in the next week and send you a memo about this, but it seems to me that the glass architecture which happens to be in vogue right now, doesn't really change all that much. There may be a few more spaces. There may be a little less retail. But fundamentally Harvard Square was kind of a crossroads for Cambridge and a crossroads for the world, and that's being lost a little here. Ultimately it sort of looks like Holyoke Center and Forbes Plaza, now Smith Center, of course, still Forbes Plaza, is becoming a little more institutional, a little less retail, and perhaps in some ways that has the risk of driving prices up even further. I think that needs to be addressed in some

way. I hope this helps in some way and I will file a memo with you. I hope you'll take this into consideration. But I think that there needs to be a revisiting of the variety.

One final point, the block that goes from the second building along Brattle Street up to Kirk Street was at one time owned by one particular fellow, and I think the family trust may still own that. He was very clear after World War II, if I remember the detail, to make sure there was one of each type of business so that there would be a variety. Part of the failure, I think, of the Smith Center at this point was that there really are not distinct separate businesses of different types so they don't have a series of draws as a bit of food, a few chairs, a little

bit of information. A sharper set of distinct markets and businesses within this mix, I think would in fact make this more successful, whatever the architectural adjustment may in fact be, and I hope this is helpful.

TIMOTHY HUGHES: Thank you.

STEVE HELFER: Steve Helfer, H-e-l-f-e-r. I've lived in Cambridge approximately 40 years. I worked for the university as a staff library assistant for 20 years and I have many fond feelings towards Harvard, but I think in many ways Harvard is a bureaucracy that seems to want to get bigger and stronger and it takes its employees along with it.

In 1973 a famous economist wrote a book, his name was E.F. Schumacher, called "Small is Beautiful." I don't think that

has really influenced Harvard very much. It seems like no matter how many buildings, no matter how much space it has, it wants more. I've seen so many big buildings. The Wasserstein Center, the Local Commons, Harkness Center, Hollis Library, they're all devoted to social space for students. And now they want to basically turn Forbes Plaza into that again. How can a university this big with this much -- so many buildings wanted more space?

I would like to echo Vince Dixon's idea that perhaps change in the operational, the operations and using the space that Harvard already has, more imaginatively and effectively would be a better idea than what I think is a grandiose project.

And I would also like to echo Harvey Silverglate's Op Ed in the Chronicle this week and he is very afraid that this is another attempt by Harvard, quote, "To redefine life in the square."

I hope this project is rethought and I hope it's done on a smaller scale. Thank you.

TIMOTHY HUGHES: Yes.

PAUL CRONIN: I'm Paul Cronin. I've lived in -- I grew up in Cambridge. I've lived in Cambridge most of my life. My father owns Cronin's Restaurant which was on Dunster Street which preceded the Harvard Center, the Holyoke Center. In fact, he was evicted by the process by building of this -- of the Holyoke Center and ended up moving to Mount Auburn Street where he remained until 1978. So I've

been around all my life. I have a history here and I've been around Au Bon Pain a lot. And I think Au Bon Pain, despite it's a company, it's a -- it serves a public. It's created a nice public space. There's something unique about the interaction of sitting in the cafe and looking at the flow of traffic. It's like a promenade going by and it's a unique interaction. The people walking by, looking at the people in the cafe, the people in the cafe looking at the people going by. It seems to me that this proposal with the planter blocking physical, blocking the physical -- being able to physically see both ends of the pedestrian walk and the cafe takes something, destroys something right there. And I feel that just having a student

center, I don't think the student center, even if you don't have to buy anything, they're not going to throw you out if you go there. It's still a student center. It's not. It's not a place you can buy something. So it's, I think the public will -- whether there's more seating in it or not, I think the practical effect is that the public will feel excluded. And so that I feel, as I see it, and I agree with James and I agree with Harvey Silverglate's letter, this will in fact be institutional encroachment on the public space.

TIMOTHY HUGHES: Thank you.

This woman right here.

MARILEE MEYER: Marilee Meyer.

Marilee, M-a-r-i-l-e-e Meyer, M-e-y-e-r.

I'm going to forego my own personal

comments to read a letter from Lee Farris who could not make it tonight.

(Reading) Dear BZA Members: Harvard proposes a serious 20 percent reduction in public outdoor space of Forbes Plaza. Instead, Harvard offers increased indoor public space, but the indoor space is available for fewer hours to the public than outdoor space which is open around the clock everyday. In addition, outdoor public seating is much -- is in much shorter supply in Harvard Square than indoor space. The indoor space, is not in a qualitative sense, equivalent to the outdoor space. Therefore, this reduction in public open space is not in the public interest and is not acceptable -- accessible. I urge the BZA to reject this part of the proposal. Why

not compromise by just expanding on the second floor with an overhang and leave the intact -- the ground floor that is open to the public? If granted without change the Variance should require the homeless people and other people are able to sit inside for unlimited hours. I don't like the idea of pedestrians filtering through the outdoor seating space because it will reduce the existing feeling of tranquility and make it feel more like seating space in a train station where people do not choose to linger. The plan should be modified to decrease walking through the Forbes Plaza seating area and increase walking through the seating area.

I'm reading it here.

The -- a first floor food

venues -- space on the plaza is sharply reduced. The huge reduction seems likely to change the nature of the food that will be offered. Will it still be hot? Will it still be a large number of choices? Will food prices increase to get adequate profit for a smaller space? Will the rent per square foot increase? Again, if granted, there should be condition that the choice of food options and prices in the cafe on the plaza should be at least as varied and affordable as currently are.

Just to finish up, I think Harvard should be required to end the conditions to keep and make public an annual summary of the items, all or portions, of the indoor common space are closed to the public and we can see how much the enclosures reduce public access. Lee

Farris. And it's in your package.

NADEEM MAZEN: My name is Nadeem Mazen. N-a-d-e-e-m M-a-z-e-n, and I live at 720 Massachusetts Avenue, Cambridge.

I'm going to start by asking why this is happening? Why is this happening? May be baffling to architects or planners or city officials. This is happening because all too often big institutions have a great idea and they truly believe with every ounce of goodness in their hearts that people are gonna love it, and then they arrive and they -- we're trying to do something good, why is this happening? And I think that this is happening because traditionally people have too much of the decision baked before they go to the public. And there wouldn't be this type of outcry if it was happening

several feet or several blocks back from the Harvard Square, but when you're in the public way and you're talking about an existing public benefit, there has to be commensurately more public engagement.

And I think what we're seeing here is what happens a very polite, reasonable response to a lack of sufficient public engagement.

There are people who have good ideas. And the reason they're getting so much pushback is that other good ideas that Harvard wants are standing in the way of what should be an easily consensus-based solution and a more easily

planned -- joined plan process. Some of the obvious problems that have been pointed out that don't have much clarity in the plan are a variety of ground floor retail options for a more liveable and

more vibrant square:

Moderate prices for food.

Easy access to a large public seating establishment which maybe curtailed by the encroachment of the glass boxes.

A planter which may divide the core of the plaza itself from visibility and connection to the heart of the square.

These are the basics. And you'll hear from others probably better than you'll hear from myself, but my concern is just this basis, this feeling that planners ought to be able to come in and do something good and with impunity and I would much rather have all that good energy come with the help and with the support with the community at its back. And I, I, not a Harvard resident and kind

of a passing and hopeful Harvard interest, can name off the top of my head several Harvard Square influences, some are in the room. Why then couldn't Harvard also name those people, meet with those people, and draw them in. And I know they brought many of the stakeholders to the table and that's a great start. I'm just saying there's another level of community planning possible and that is possible with this project as it is with all Harvard and all large corporate projects, and something I hope to see manifested in the next steps of this and going back to the drawing board and improving things is not always the worst. And the components that we see in the plan are not always the worst but there's just, there's obviously more to be done.

Thank you.

TIMOTHY HUGHES: Right here.

BOB RICHARDS: My name is Bob Richards. I'm at 395 Broadway. I've lived in mid-Cambridge for over 75 years. I've been going to Harvard Square for the Tasty's since it was open from 1954 on. So I've done a lot about Harvard Square. I presently every single morning I'm in Cambridge, which is probably 90 percent of the year, I sit in Au Bon Pain. I sit with my back and I look out at everybody going by and it's a wonderful, wonderful thing to see how that whole thing opens up. How the sky opens up. How the people get off the bus. And it's something I think that I very much enjoy. Later on in the day sometimes my wife and I might go up and we sit outside. And I just want

you to -- I think that the Board of Zoning Appeal should put this off for now and let people who have a stake -- I'm not an architect. I know a lot of architects. I speak with them sometimes daily, and I have friends who are very close to me who are architects, but it's not really the building. I do have a problem with the glass enclosure. It's one of the things -- very simply there's no overhang left anymore in front of Au Bon Pain. People who are outside can't get out of the rain. They can go inside, but a lot of people feel uncomfortable going inside that arcade. You know, you have security people. They scare people. Okay?

We know what people feel like a lot when they see security people. I'm not saying they don't have a proper function,

okay? But the point is that that plaza out there has meant a lot to me for a long, long time. Okay?

And I go up there as much as I can. And I just want you to realize, I want as much of that plaza contained as possible.

For instance, taking the trees down, there's gonna be no more shade in there, okay? You know, there's -- the sun comes up and you get a lot of shade from those four big, huge trees and that's part of what people enjoy being on that plaza, okay?

You're gonna put up a barrier. Even if you kept Au Bon Pain, guess what? I'm not gonna see any of those people going by because you're gonna put up this big planter barrier. It's like saying you're out there, all the working class people

who are going by on their busses and going to whatever jobs they have and the rest of you people inside is different. So I want you to really think about this, Harvard in particular. I don't think you've done your job. Harvard does not have all the answers. Sometimes people who live in the community know a little bit more about it. I may not -- I probably may not say this but I was extremely involved with running a meeting or being involved in a meeting of mid-Cambridge at which the Harvard Art Museum now, the Fogg Museum then, came to us and said, we want to build a crossway from the museum to the Sekler, but what they really wanted was to put a museum across there, through which people would go from one building to the other because they were gonna hang all sorts of artwork.

Well, it ended up that Harvard said if we can't get two-thirds, and I think I have my math right, of a community meeting to agree with us, we'll drop the idea. Okay? And guess what? The Harvard art museums now exist in a wonderful way. I've been there. Thank goodness I can go in there for free now. Thank you, Harvard, on that level. Okay?

But in fact, guess what? By listening to us, they didn't have to have the Sekler Museum over there. They now combined all of those museums in one place. What a wonderful happening occurred. I think Harvard did a bad mistake in doing what they wanted to do, and they ended up with something that was fantastic.

So I ask the Zoning Board to at

least put off the decision, and I ask Harvard to reevaluate what it is you really want to do. Okay? I think you are shutting out a lot of the public de facto. That may not be your intention, but in de facto you are shutting out a lot of the public and I see a lot of different type of people cross in front of me.

Thank you very much.

TIMOTHY HUGHES: Thank you. It's been a little over an hour now. I'm wanting to remind you that this is a Zoning Ordinance. We're not talking about the architectural design of this building. We're talking about the specifics of the Zoning that they need relief from which is basically less than 3,000 increase in their square footage, a height relief on two percent of the roof area, which is

less than four feet, and an alteration expansion that does not conform to the structure. But alteration and expansion is those numbers I just talked about. You know, we don't -- we're not here to adjudicate what the front's going to look like. If we make our decision, we make our decision based on whether or not granting relief from the Zoning Ordinance is in the best interest of City of Cambridge and the community and if they meet the standards that are necessary to get the Variance passed.

Now, I'll entertain -- we've never shut off public testimony, never had this much before, but I would appreciate it if you do not repeat comments from some -- that have already been made.

Gentleman in the plaid shirt and

then the gentleman in the green shirt, go ahead.

JOHN PITKIN: My name is John Pitkin, P-i-t-k-i-n. And I live on 18 Fayette Street. I worked in the square for 35 years. I've -- I still go through there on a regular basis. It strikes me that comments about the public and the public use, my sense of looking at these plans is yes, who is the public? And I think the way I see it is that this function feels to me like it's -- the proposal will function as an institutional welcoming center. It is not a hybrid space the way that it is now. And there is -- there's a balance that needs to be struck in order to serve the City of Cambridge and the whole City of Cambridge. I think the Au Bon Pain solution may not

be perfect. It may be possible to improve on it. And I understand the university's need for a front door that's recognizable to tourists and welcoming to tourists and visitors, and I think -- but the visitors and the resident public are really interested in possible (inaudible). And I think the Board would be supportive -- the public is not a homogeneous whole and those two publics are being -- the balance is changing here and what we're seeing is an evolution, I think, if this goes forward, is that Harvard Square will increasingly have an identity of the center of the Harvard campus rather than being center of the Cambridge community.

TIMOTHY HUGHES: Thank you.

Gentleman with the green Polo shirt.

HANSON STEWART: Hanson Stewart.

Just two really quick questions.

First, the rendering on 17, page 17 looks nice and shiny, but I have a detail-oriented question on the placement of the bike parking there. It looks like it's -- if you compared the previous page, page 16, the bikes are parallel to Dunster Street and it looks like the racks are perpendicular to Dunster Street on 17 causing the Harvard student in the red shirt to be tripping over said bike racks. Those details are not shown in the plan along Dunster Street on page 6. And if you look at kind of the scale of a bike shown on the Hubway doc on page 6 it looks like putting bikes perpendicular to Dunster Street might cause some pedestrian circulation issues. So I just -- I think that's something that needs to be

clarified before this moves forward. It looks like based on removing that wall that currently says Holyoke Center on page 16 there be a reduction in the number of bike parking spaces and how that gets resolved.

Second question, I think the publicly accessible restrooms are important but there's nothing in the rendering that would kind of indicate way finding to those restrooms. So I think that would be important along the lines of the questions kind of what does it look like operationally, functionally. I, I think if they were public, they should be said so.

TIMOTHY HUGHES: Thank you.

Yes.

WILLIAM SCHAEFER: My name is

Schaefer, S-c-h-a-e-f-e-r. William. I'm an architect in Cambridge and when speaking about Forbes Plaza we've been doing it in an abstract way. This is Forbes Plaza. This is from the side and I'll put it here so everyone can see. You know, I think that essentially speaking to the issue of the 3,000 square feet that Harvard is requesting relief from for the FAR and they're citing it's a very small proportional segment related to the building, but they're putting in a significant place and they're doing it in a significant way. Essentially they're building a glass box and they're putting it on the front here. So all of this is gone. And this has been here for years. And the easiest way I can state of what I feel Harvard is doing, this is now Harvard

Square and I feel that by doing -- and this, this is Harvard Square as a place in Cambridge. And when Harvard puts their glass block on it, which is, it works for Apple, it was done by Steve Jobs, it's brilliant, but this won't be Harvard Square. This will be Harvard University Square. And Harvard is so big they don't need that. This is a space that's for the city. This is a quiet space. The trees are there, everyone uses it. When you want to -- when you bring in guests, this is a place where you meet them. I can't see myself or other people that I know saying let's go meet at Harvard University. We want to meet at Cambridge places in Cambridge, that's Harvard Square to me.

And I think that they need to do a

better job. If this is their student center, they need -- they have an entry, it doesn't seem to work. It's not prominent enough. Maybe it doesn't even need to be prominent. Anybody who's coming to Harvard, they can find that. So it's unnecessary to take this 3,000 square feet of public space and give it to Harvard. It's not necessary and it takes away something that benefits the entire city. That's my presentation.

TIMOTHY HUGHES: Anyone else?

DENISE JILLSON: Good evening.

Denise Jillson, J-i-l-l-s-o-n. I'm the Executive Director for the Harvard Square Business Association and we're in support of this application.

And I just want to make one comment about Forbes, it's not handicapped

accessible. It's unbelievable to me that so many people here this evening think it's such a good thing when it's not handicapped accessible.

Thank you.

TIMOTHY HUGHES: Thank you.

Anyone else? This lady in the front.

LAURA McMURRAY: My name is Laura McMurray. I live at 334 Harvard street. I would just like to say I like the area the way it is now. It's a very nice open space for people to play music, people to do little bits of acting, very enjoyable. You can eat at Au Bon Pain. I never have a problem worrying about how much I'm paying in there. The trees are nice. The outdoor facilities are nice. I would, I like the idea of some changes there

possibly, but I really feel that a lot more input needs to be taken by Harvard. I do not like the idea of this being a Harvard University welcoming center as other people have explained.

TIMOTHY HUGHES: Thank you.

Gentleman in the back with the black jacket. Dark jacket. There's nobody behind you raising their hand.

DAN FRAINE: Hi, my name is Dan Fraine, F-r-a-i-n-e here on behalf of the Cambridge Savings Bank. For the record, we are abutters and we fully support this project. I think that the world class destination like Harvard Square is worthy of a world class welcome visitor center. And I think that the tourists and the visitors that come should have somewhat of a beacon to -- a place to go to use public

restrooms to duck out of inclement weather, to sit and have a cup of coffee. I also heard mention of, you know, using Forbes Plaza -- as someone who's worked in the square for 15 years, the last place I would go to sit in a tranquil environment is Forbes Plaza. I think more of J.F.K. Memorial Park to get away. That aside, I haven't heard any mention of the improvements to Dunster Street and the fact that the rooftop garden is going to be added on Dunster and that the outdoor seating on the sidewalk and the extra, the added retail on Dunster. I just got a creative vibrancy on that street that is much needed.

And in closing I'd just like to say that we're in full support of this project.

Thank you.

TIMOTHY HUGHES: Thank you.

Go ahead.

CHARLES ROLANDO: My name is Charles Rolando, R-o-l-a-n-d-o. Company named Domus, D-o-m-u-s, architects and planners. And I lived and worked in Harvard Square for 15, 20 years and did a lot of work in master planning for Polaroid and MIT.

JAMES WILLIAMSON: And please try to keep your voice up as much as you can.

CHARLES ROLANDO: And I've done a lot of planning work and I've taken a look -- a lot of my friends have asked me to get involved in this and I've taken a look at your brochure, and there's certain inconsistencies with the brochures. The renderings that I think the ZBA has got to

take into consideration for what you're doing because we actually came out last weekend and we field measured the Forbes Plaza just because of the inconsistencies in the architect's drawings and perspectives.

And sort of going back to a little bit of a history here. Back in 1970 to '82 there was approximately 5400 square feet of plaza space in here. It's all outlined in red. There's the arcade. I think you're pretty familiar with these drawings.

TANYA IATRIDIS: This picture right here.

CHARLES ROLANDO: I wish I had that.

And that as opposed to -- and I've got another Board that brings it a little

more up to date. I suppose what Harvard is proposing now, which is the building in yellow, all the way across, coming out ten feet and reducing the square footage, we're losing 35 percent of the plaza area and you've got about 3500 square feet, not 5400 square feet. And what you're doing is you're turning the focus by eliminating, you know, this wonderful plaza and putting up a barrier here, you're turning away mass planting. When I go to that plaza and sit in that raised plaza, I look outside and my eye doesn't stop at the street line. It goes across the sidewalk, across the street to the Harvard Yard. So I think that's what you're really envisioning.

Next board I wanted to show you from here was -- this is what was done in 1983

when the food court venue came involved, came out and they took ten feet. Each one of these squares, by the way, is about ten feet. It's a grid of ten feet. There's your raised plaza that's there. And this is what they're proposing. Again, we're losing 35 percent of the square feet of the plaza area and we're getting this gigantic glass wall that's here that is two stories.

So you've really gone from about 46 feet down to seven feet here, and 96 feet all the way from top to bottom.

And the other drawing I wanted to show you is because I think you know when we do PowerPoint, we do a lot of presentations and this is all great, but -- and I'm sure there are a lot of architects hanging around in this room.

It's not an exact science. So I think this drawing is disturbing to me in that here we have a wonderful rendering of Sert's great building. And we've outlined in red what really the accurate scale should be coming out from the building, not what the PowerPoint presentation shows which is in this line, but it's coming up.

I think you need a model. I think you've asked for a model before. I think you're going up high, casting shadows. A model that you can actually crowd around and take a look at will show what's really going on and how much space you're actually losing on this.

So going back to the other board here is that what we found is happening is the plaza goes, the raised plaza, which is only 90 inches high by the way, the plaza

goes, the trees go, the barrier's built up here, and we're really turning our back on -- the fun part of Harvard Square, which is sitting there watching the people, the cars, you know, the trolleys, whatever, and you're forcing people to look back into the building itself. And I think Sert would certainly object to that philosophy of doing that.

The other thing is I'm not sure what type of paving you have in this area. You know, it's brick, it's block. It looks like it's concrete. Your brick --

TANYA IATRIDIS: It's brick.

CHARLES ROLANDO: It is brick.

What color?

TANYA IATRIDIS: Very similar to what it is now.

CHARLES ROLANDO: It shows white

in drawings. I'm not -- I don't want to be argumentative. I'm pointing out the inconsistencies in all of the renderings that you can see.

But, you know, last what I think you need to do is I really object to the ten foot vine 96 feet. I think Harvard can live within. They can go up a few stories. They can have just, you know, I'm in favor of this welcoming center, the visitor's center. I think that's all great. I don't think you need to come out 10 feet, 25 or 30 feet high, whatever that dimension is. Keep the plaza the way it is. Handicap I know is an issue. I think in analyzing, walking around there's a portion back here that is actually on the plaza level. So unless you got a complaint from the ADA, I think you're in

compliance now. If you want to change it, there's a remedy. You need to -- you're only going up nine inches. You can put in a ramp, that's ten feet, that's one of these blocks. 43 inches wide. Plenty of passage. Either that or you could take that plaza down flush with this area here so that it's -- every bit of it is handicapped accessible.

You know, the chess players stay where they are. The seating stays where it is. Plant new trees. I know the trees are sort of on their last legs. But replant the other trees and keep the view going out the way Sert intended it to, the way most planners would intend it to. We're not focusing in on the architecture. It's insignificant.

And I strongly recommend that you

ask Harvard to produce a model. Refine their drawings, be more specific. There are some errors here in their dimensions that they're using. Further calculations. I would double check all the figures and a model would be appropriate.

Thanks very much.

TIMOTHY HUGHES: Thank you.

CHARLES ROLANDO: And if you want I would be delighted to leave these boards.

TIMOTHY HUGHES: Well, they're not going to fit in my file.

CHARLES ROLANDO: You want me to e-mail them to you? You can reduce them.

TIMOTHY HUGHES: You can e-mail them to ISD, Inspectional Services.

James.

JAMES WILLIAMSON: Thanks. James

Williamson, 1000 Jackson Place.

I just want to thank so many of the people who came tonight for showing up and for some of you for speaking so to me incredibly eloquently: Paul Cronin, Bob Richards, and others. It's an education I hope for everybody in the room.

I want to first of all start by saying this is not just about what Harvard put in writing to memorialize public access at all. It's very clear from what a number of you said at the last meeting that this is not just about that. This is about whether that and whatever we can interpret. That to me is enough is in the public interest enough to offset what you've been hearing tonight about what's being done to the plaza and the other things that are being done being

detrimental to the public interest. So it's not just about what's in writing about public access. But having said that, if any of you know anything about Harvard, how long do you think that public access is gonna last for the homeless people? Nobody's brought up at Holyoke Center the grates that were put up to keep homeless people from sleeping in the winter on those heating ducts on Holyoke Street.

You care about homeless people? Do something about that.

What's gonna happen when somebody who hasn't bathed for a couple weeks is in the new campus center sitting next to a Harvard student who isn't enlightened and doesn't want to do something for help? Maybe a member of Porcelli (sic) who

doesn't like a stinky person sitting next to him and goes in and complains. How long do you think those people are gonna last in this new campus center? I don't think for very long. If you carefully parse, you know, get some Harvard trained lawyers to really carefully parse the language in the exceptions, operational decisions driven by -- I almost stumbled and said wealth and safety concerns, but operational decisions driven by health and safety concerns, maintenance needs, or other unforeseen circumstances. I think there's plenty of leeway for Harvard to be quite selective about who actually are going to be allowed in and where and for how long and under what circumstances. But let's leave that aside because I don't think that's really what this is all

about. What this is about is taking the public plaza for what essentially amounts to a private use. Harvard wants to have a new campus center. They got some money to do that, fine. They want to have a new tourist destination, a welcome center, a visitor center for Harvard. Now we see groups of 30 and 40 people. I never seen this before, the other day there were -- Harvard Square was just criss-crossed with people, tourists following people with the flags. So they all have a place to go. They can all go to the new visitor's center for Harvard. It's not a public plaza anymore. It's Harvard's new visitor's center and we're gonna be allowed to find a way to sit somewhere there?

The specific issue of them not being

able to go back will -- Au Bon Pain are there now, they seem to be able to function. So the issue of -- that's been touched on earlier about the new visitor's center somehow we can't go back, well, who's asking you to go back? We're not asking -- we're not asking you to change the use to expand and have a giant new visitor center that would require you to go back. The hardship that is being claimed is based on an ambition that nobody's asking Harvard to do. Harvard wants to do it, fine. But the hardship is generated by an overly ambitious program which is not consistent with the public interest. And I want to get in -- just mention just a couple of sentences on what the -- what this history is. And it's from your own -- I went down into the

vault and, you know, and looked through the records from 1983. The Board of Zoning Appeal records from 1983. The case in 1983, and I happened to be here and give testimony. And the first thing -- I didn't remember from back then is a letter on Sert stationery. And in this letter this is responding to this question about whether it was appropriate to have seating out on this public plaza. And the argument was it would be consistent with Sert's intention. And so somebody -- Louie Kane who started Au Bon Pain, whose wife was Kathy Kane under Kevin White asked Sert, the firm to explain what Sert's intentions were.

And so this is Houston Jackson writing back on behalf of Mr. Sert. He says: At one time the university

considered these problems, problems with the -- serious problems resulting from the misuse and abuse of the space, Forbes Plaza, by certain elements of the public. At one time the university considered these problems so difficult that a suggestion was made to eliminate the trees and benches and place a building in the area. This idea was vigorously resisted by Mr. Sert and our office, which insisted it remained an open space.

So there's more to that letter. It's in your file. So I think Mr. Sert's intentions are clear here if that matters. I think they've been misrepresented at some of the hearings that have happened before the case got to the Board of Zoning Appeal. And I'd like to quote from Mr. Russell who is -- there's minutes of

that meeting. I'm not sure to what extent it's an exact transcript. But at that meeting Mr. Russell shared that meeting and he didn't mention that he even been involved when he gave public comments at the Historical Commission meeting about this issue a few weeks ago. Mr. Russell said at that time: It is clear to me when the Holyoke Center was designed, that it was intended to have a plaza in front of it. It is essential we protect the rights of the people to use that private space if the designer of the building intended it to be a public space.

So I think it's pretty clear that at least at one time this was understood to be a -- intended to be a public plaza.

That it was intended to be protected as such. And now we're getting different,

different versions and different accounts from people who've decided that they would like to do something different there.

I want to just say the comments of Francisca Amacher, I think point in the direction of a possible alternative approach. I'm sorry to the person from the bank who's no longer here, but --

DAN FRAINE: I'm here.

JAMES WILLIAMSON: The bank, that could be a great location for a possible welcome center. The dead zone. If there's a dead zone out here in this plaza it's in front of that bank. And so work on something that might be better located there than from where people most enjoy sitting out in the public plaza.

As far as the numbers, I don't trust these numbers at all. The seating

numbers. I think it's a wash. I think it's roughly the same number of seats in their plan than what currently exists, but I think the outdoor seating is actually a diminution of not only the outdoor space and maybe the seating, and maybe we should get a mathematician, an MIT trained mathematician and really take a careful look. There's much more seating there now on the plaza's -- on the outdoor, you know, the bank side of the chess tables. There's a lot more seating there now than is depicted in their version of the existing conditions. So I think that's a problem that should be more carefully looked at.

And I really, I think it's excellent to have a model. We have asked Harvard to do a 3-D model, even just a rough 3-D

model. That's not an issue for Harvard being able to do that. But they haven't. I wonder why. Why should you all and all the rest of us actually have a chance to look at it and have the dimensions accurate?

So the plaza is extremely important. The amenities associated with it. And I guess I'll finally conclude by saying the enjoyment that people get, including people who are students at Harvard, Harvard affiliates, staff, faculty, one of the principal enjoyments that we all have, those of us who haven't given up on Harvard Square altogether, I'm afraid many Cantabrigians have, and I ask you to ask the question why? But for many of us haven't. And as Bob Richards said we enjoy people going by. And what do

Harvard want to do? They want to truncate the plaza, put the seating in between -- put a new planter out parallel to the sidewalk so that if you sit in the new seating area with people streaming through you on their way back and forth to the subway, to the new grand Taj Mahal of the Harvard Visitor Center, you're not going to be able to enjoy being there anymore. And that's detrimental to the public interest if I, you know, and I think you've heard that from enough other people tonight to ask, to conclude that this is not in the public interest.

Harvard haven't demonstrated a hardship, and there isn't an alternative, which Nadeem Mazen so eloquently presented, which is back to the drawing board, bring in people from the community the way you

haven't before, and let's make -- revisit this and make it a plan that's gonna be amenable to the people of Cambridge, not just to the Smith's and Harvard University.

TIMOTHY HUGHES: Thanks, James.

James, could I ask a question?

Would you say that your comments have sufficiently highlighted the number of letters that you've written that are in the file so I don't have to read these, do I?

JAMES WILLIAMSON: I'm not sure.

TIMOTHY HUGHES: I mean, a couple of them are about the -- you know, I mean in both conversations we had. The first one was about whether the posting and the notice was sufficient. And that's two of these letters are actually not --

JAMES WILLIAMSON: Yeah, some of them are just sort of technical --

TIMOTHY HUGHES: Not to the BZA. They came through the BZA but were written to Harvard directly.

JAMES WILLIAMSON: Well, they were meant to be addressed to the BZA because you made the judgment about the signage. But --

TIMOTHY HUGHES: And you did speak to the --

JAMES WILLIAMSON: There is the Sert letter is included there.

TIMOTHY HUGHES: -- Sert's letter. So that's -- yes, okay. All right, thanks. I'm trying to do what I can with this.

Anybody else before I -- all right. This woman in the pink.

PATRICIA SEKLER: My name is Patricia Sekler, S-e-k-l-e-r. And I came to Cambridge for the first time in 1958. I was a graduate student to study 1920 century architecture, and I was driven here. And as we came up Storrow Drive and towards the Anderson Bridge I thought the lovely bridge, the river here, wonderful atmosphere.

UNIDENTIFIED AUDIENCE MEMBER: Can you speak a little louder, please?

PATRICIA SEKLER: There was no road there. We drove right through not realizing this was Harvard Square. Had the privilege as a student in the fall to take courses. I didn't actually take courses but I had the privilege to sit in on the courses being given at the graduate school of design and those were being led

by (Name). Eduard Sekler with guests like Reiter Wits (phonetic). Really. Designers. Quality. And Eduard had world class experience because these were the years post (inaudible). Where the International of Congresses of Modern Architecture with architects all over the world got together years and years try to determine what they could do to make life more humane for all the citizens and Sert was part of that. Very much a part of that. He was concerned with the heart of our cities because city centers were decaying at that time. And it was a wonderful experience for me to hear these people. And I think we should go back a little more to remember Jose Louis Kane because he was small, but in his own brain power quite mighty, and it was wonderful

to listen to him. And if anything he preached it was to make spaces for people, make life more humane. And when you think about what he did in Holyoke Center, he had to put in this enormous office block. He broke it into three pieces so then it could be built in sections. The pieces form long, oblong H, but he held it back on Dunster Street and on Holyoke Street so they had wide sidewalks. You could have street trees.

On Mount Auburn Street it's set back. There's only one low projection. You can sit there. You have grass, plants, trees. And on the Massachusetts Avenue side he created a plaza. And now the plaza was not put bordering Holyoke Street, it was bordering Dunster Street. Why did he do that? Because he wanted

Harvard Square to have character. And by adding Forbes Plaza, Harvard Square gained a shape that it had not had before and function in a place for people. And I think we need to remember that in all that we do in this space. And the trees to me -- I've become a tree lover, the trees to me connect to Harvard Yard. Harvard Yard has its character from beautiful, rigid buildings with the graceful trees growing there. Take the trees away and Harvard Yard is just another (inaudible), very defined in character but the trees give it the humanist that let's us really enjoy the space. And by connecting the Forbes Plaza with greenery to connect it with the Dunster trees -- Dunster Street trees and also visually with the Yard it is to make the connection not just the

passageway of the building and also with the planting. And I think we need to bear that in mind. We have not taken that -- it has not taken sufficient consideration of that really important connection between the Holyoke Center and Harvard Square and the Holyoke Center and the Yard.

Thank you.

TIMOTHY HUGHES: Thank you.

Anyone else? Last time before I close public testimony, anyone else? Is there a hand?

BRENDAN SULLIVAN: One more.

TIMOTHY HUGHES: Two more speakers and that's going to be it.

BRENDAN SULLIVAN: Is Pebble going to speak?

TIMOTHY HUGHES: I think so.

BRENDAN SULLIVAN: She spoke the last time. Unless it's something new.

JAMES WILLIAMSON: Why don't you have John go first?

TIMOTHY HUGHES: Yes, he's going to speak.

BRENDAN SULLIVAN: I don't want to hear the history all over again.

PEBBLE GIFFORD: My name is Pebble Gifford and I live at 15 Hilliard Street and I have spent approximately 50 years in and around Harvard Square.

UNIDENTIFIED AUDIENCE MEMBER:
Louder.

PEBBLE GIFFORD: I'm Pebble Gifford and I spent 50 years living in and around Harvard Square. So I can't obviously count the number of times I've been in Holyoke Center and Forbes Plaza,

but I've watched it change over the years and I just want to comment on -- the Chairman mentioned the hardship. And the issue here really is, is there a hardship for these Variances? And it's rather ironic, it's what the university is asking for is small in volume or numbers or however you measure Variances, but the impact, if they get them, is enormous. It will forever transform and change Holyoke Center and Forbes Plaza and that's the tough one because it doesn't -- but still that's your job is to look at the hardship of the Variance and balance it off with the public good. What is the public good here with these Variances?

So I'm suggesting that first of all, I just start off by saying I hope you will continue this for another hearing. This

is a big a project as I've ever had to look at for all my years doing this in Cambridge and reviewing these projects, and that's even as the President of the Harvard Defense Fund. The other one was a killer was Charles Square. And for the same reason, they're big, they have long histories for and after. They're complicated and many changes over period of time. So we also have for you new letters that were being submitted since the -- what was the last hearing? The date of the last hearing? June 25th?

TIMOTHY HUGHES: June 25th.

PEBBLE GIFFORD: June 25th. You have numerous new letters. I think the public has finally woken up to the changes that are going to happen and started focusing on it and reading about it. And

I know all the copies of a book called
"The End of Cities" or the --

JAMES WILLIAMSON: "Life and Death
of American Cities."

PEBBLE GIFFORD: A book by Jane
Jacobs, "The Life and Death of American
Cities," and I don't think they've been
checked out in ages, but there are three
copies and they're all out of the library
now. I tried to get one. (Inaudible).
But there's all these new letters.
There's new thoughts, people have -- I
think they're ideas are solidified, I've
sort of had a few epiphanies what was
happening -- what was gonna happen out
there, and it made a big difference in my
thinking. For that reason, I would hope
that you would see a way to extend this
for one more hearing, especially after

you've read and digested all this stuff. It's very, very good letters written by designers and architects and planners. And one thing I just -- I didn't get a chance to copy all of this, and I just can't. I thought it was interesting. I went back to Bainbridge and Bunting. I'm sorry, it's Harvard architecture and they have -- I won't read it all to you, but the first sentence is they're talking about Sert and Holyoke Center, and they say Holyoke Center's greatest success is the care with which it relates to and enhances its environment. Forbes Plaza and Mass. Ave. with benches and shade trees is a refuge of just the right size to relieve the crowded, narrow sidewalks and automobile clogged streets of Harvard Square. And it goes on to discuss the

importance of this plaza. And I have been critical of Holyoke Center because of the brutal style of architecture that's been -- having read a lot about it and looked at it. It's slightly differently with more knowledge. Basically I find it a rather amazing building. He knew exactly what he was doing when he created the plaza. He knew exactly what he was doing when he made it X big, and what he wanted in it and what he didn't want in it. When it first went up, it had one tree in the middle, but -- and it didn't have -- it didn't have the raised component with the trees in it, but he believed in people. He believed in trees and plazas, and he believed in canopy. He believed in shade and he believed in coming and going, pedestrians and mobility

of the pedestrians. So as I said, I think he knew what he was doing. And some of these letters, I can give you, you could go over it. Some of them express the same thing. And I just mention --

BRENDAN SULLIVAN: Okay, that's it. Thank you. I think we've heard it.

TIMOTHY HUGHES: Where are we going with this?

PEBBLE GIFFORD: I was going to talk about the hardship.

TIMOTHY HUGHES: Well, that is a Zoning issue. A couple minutes of hardship.

BRENDAN SULLIVAN: I'm asking for a little bit of mercy. We have eight more cases to hear tonight. It is now getting very late. We will be here until probably twelve-thirty, one o'clock. I don't mind

volunteering my time. I don't volunteer my time to be tortured.

PEBBLE GIFFORD: I'm sorry about.

BRENDAN SULLIVAN: And I start to lose it as it gets later on in the night and that's not fair to the other people who are going to be sitting here until midnight for a nine o'clock case. So if you can sum it up.

PEBBLE GIFFORD: We've had lots of hearings like that this year, not here.

TIMOTHY HUGHES: Hardship, please.

DOUGLAS MYERS: Best two or three points.

PEBBLE GIFFORD: One of the -- two of the problems these Variances create which are very, very important is what necessitates the removal of that raised area with the trees on it. And that is

where people want to sit. One reason is because there's trees and shade.

(Inaudible). If you think of Forbes Plaza without those trees and they're all -- the trees are going to be moved upfront right on the property line next to the sidewalk on the public realm and they're going to be in the planter parallel sidewalk, unless they get very big trees and canopy is going to take a long time to grow as big as what we've got now. I will concede that I was told by an arborist that the trees are suffering and they don't have enough soil underneath so maybe you do have to get rid of them. They do not have shade except in that planter and I think this is very important.

TIMOTHY HUGHES: I think it's important also, but it's not a Zoning

issue. This is a design issue.

PEBBLE GIFFORD: Yes, it is. The results of the Zoning --

TIMOTHY HUGHES: They could remove those trees even if they don't expand this building and it wouldn't come before our Board, it's not our purview to decide about the trees and the planters. I understand your concerns about them and I think Harvard will address those concerns when they get a chance to rebut, but it's not something we have to make a decision on. We want to hear testimony about things that we need to make a decision on.

PEBBLE GIFFORD: You do have to make a --

TIMOTHY HUGHES: This is going on too long.

PEBBLE GIFFORD: You have to make

a decision on reduction. They're reducing square footage at the same time that they're adding it in other places.

TIMOTHY HUGHES: I understand that. It has nothing to do with the trees and the planter, though. Those could come and go even if they didn't reduce them. They're not eliminating the whole plaza. There is still an open area there for which they can do, you know, they could cut down dying trees if they want to. I don't want to talk about trees and the planter. I do want you to have a chance to rebut because of the testimony of people, but that's not a -- that's not facts that we need to make a decision on. Can you move to --

PEBBLE GIFFORD: Can I make the point?

TIMOTHY HUGHES: You were going to make a point on hardship and I haven't heard you say it yet.

PEBBLE GIFFORD: The hardship is they don't have a hardship.

TIMOTHY HUGHES: And make --

PEBBLE GIFFORD: They want to make changes.

TIMOTHY HUGHES: Make your point why you think they don't have a hardship.

PEBBLE GIFFORD: Because it has nothing to do with the topography of the land. It has nothing to do with the -- it's not meant financial reasons and that certainly isn't one. The shape of the building. That's -- the building they built and that is not a hardship that they have to want to alter it. It's going to be expensive. I think the -- they

don't have a hardship is what I'm saying and I think it's going to be very hard to find a hardship in this case.

TIMOTHY HUGHES: Well, thank you.

PEBBLE GIFFORD: I am saying with the other criteria that you have to look at is the public good what they're doing. And I'm trying to make the point that it's not in the public good when they're finished. When they remove the trees, when they remove that and change that, it's not going to be in the public's good of the attraction of that plaza is not going to -- that's probably good?

TIMOTHY HUGHES: That's what I'm going to decide as soon as this testimony is over.

PEBBLE GIFFORD: Why are you picking on me so --

TIMOTHY HUGHES: You just happen to go last and you spoke last time, too. You know, so it's like....

PEBBLE GIFFORD: This is new. New.

TIMOTHY HUGHES: It is -- well....

DOUGLAS MYERS: Let's try to be patient. We're in this situation. There are a lot of cases. This is an important case. Let's just try to be patient and conclude matters.

PEBBLE GIFFORD: I think one of the negatives is that they have to do, in order to do what they want to accomplish, is they have to change the orientation of the plaza. 40, 50 years it's faced Harvard Yard Street, what's going on in the street, and that's what people come to plazas to look at. They don't come into a

plaza to look at each other. They want to see what's going on outside.

TIMOTHY HUGHES: So you're testifying that this is a substantial detriment to the public good?

PEBBLE GIFFORD: Yes.

TIMOTHY HUGHES: Okay. Well, thank you.

PEBBLE GIFFORD: They're gonna miss -- they're gonna miss what they don't see. And not only that, all the trees they're putting up, it becomes a visual blockade to what's going on outside.

TIMOTHY HUGHES: We have heard that testified to several times already.

PEBBLE GIFFORD: Have you? Okay, I must have missed it.

Oh. Well, I'd like to show you by removing this -- limiting the

size -- putting that canopy up and taking up more square footage out of the plaza they're creating a traffic nightmare on the plaza.

TIMOTHY HUGHES: You mean the pedestrian traffic?

PEBBLE GIFFORD: Yes, exactly.

TIMOTHY HUGHES: Okay.

PEBBLE GIFFORD: And I think if you look, want to look at the plan that I have in mind -- well, it's interesting. First of all, look at page 15 in this big book and you'll see two pictures of where we started with the plaza and how big it was.

TIMOTHY HUGHES: We just had somebody show us on boards that showed where the plaza was when it was -- the building was first constructed. We've

heard the history of this plaza on two or three times over two meetings already.

PEBBLE GIFFORD: All right.

TIMOTHY HUGHES: WE don't need any more on that.

PEBBLE GIFFORD: Okay. So there are some good pictures here. Another one on 18. And so with the orientation of -- the treatment of the plaza you have to look at the circulation for the public of the new plaza.

TIMOTHY HUGHES: Understandable. Thank you.

PEBBLE GIFFORD: You don't want me to bring that out?

TIMOTHY HUGHES: You just did. Thank you.

PEBBLE GIFFORD: I haven't told you what's going to happen. It's going to

be a traffic jam of people. Just look at page 29. You see the canopy they're showing? Well, that's 20 years down the road, that canopy for the trees, and that's just not on -- the canopy you have now is -- I don't know how it compares to that, but these aren't -- the trees aren't going to come out looking like that. If Harvard wants to spend money, they should spend it on trees. Caliper trees. If you look at this page 29, you'll see that there's two phases here to the expansion of Au Bon Pain. The first one that says food venue, then the next one that says seating area and then this is the part that runs all the way across to the back. Then you're left with -- this takes up 37 percent, that architect said, and you're left with the difference. And this

planter lines right up with the sidewalk. So that you have the planter, then you're gonna have the chess players who on occasion have 10, 20 people standing around looking at them as they play watching. And then you -- they're putting a whole lot of tables in here. I don't know if I counted them. You see them in the next drawing. And this is meant to the passageway now from the kiosk into welcome area. And I would suggest that they're gonna have to get around those tables, get somehow passed the chess players. People will be sitting inside and outside. You have this little narrow area between the new frontage and the trees, which is going to be the main welcoming passageway of Forbes Plaza. They're going to diminish that --

TIMOTHY HUGHES: Okay. I mean, we have these plans. We have all gone over these plans as Board Members. You're just pointing things out to us that we already know.

PEBBLE GIFFORD: Well, I looked at these plans a hundred times and I didn't notice that right away. I didn't study it. So I'm sorry that I'm boring everybody. But I think this is very, very important. This is the heart of Harvard Square 50 years later I can tell you. Harvard Square used to be the engine that ran this city, now it's Kendall Square. But that doesn't mean that we have to write off Harvard Square. And the -- it's important that this is the only really publicly used space in Harvard Square that it be protected, maintained, and that it

be for the public good. And I suggest that Harvard, when they're finished, this is not going to be what they envisioned. It may be a good welcoming center. It may not be a place for the public to enjoy. They're going to cook out there with no shade. And here is what it looks -- I'll give that to you. That's how the original plaza compared to the rest.

All right.

TIMOTHY HUGHES: Thank you.

PEBBLE GIFFORD: And then I wanted to talk to you about the pluses and minuses of indoor space and outdoor space.

TIMOTHY HUGHES: I think that's been approached already tonight from several different people at seven different angles and I think we have enough information as a Board to make a

decision as to whether the tradeoff between the outdoor space and the indoor space is one we're willing to pass on to Harvard so I don't think we need any more testimony about that.

PEBBLE GIFFORD: Okay. All right. All right. I will pack up my papers.

TIMOTHY HUGHES: John, you wanted to wrap this up, please.

PEBBLE GIFFORD: And I will -- can I make a recommendation, because I had to learn a lot about plazas in the --

TIMOTHY HUGHES: I love to read, but it's really not appropriate here and now.

PEBBLE GIFFORD: I'm not going to read it.

TIMOTHY HUGHES: We don't have any more time. Send us an e-mail.

John, step forward, please.

PEBBLE GIFFORD: Thank you.

BRENDAN SULLIVAN: This is the last speaker?

TIMOTHY HUGHES: This is the last speaker.

BRENDAN SULLIVAN: Okay.

JOHN DiGIOVANNI: Good evening.

John DiGiovanni with Trinity -- D-i-G-i-o-v-a-n-n-i of Trinity Properties at 50 Church Street. Represent an abutter -- the other abutter on the Dunster Street in the garage building, member of the Harvard Square Advisory Committee, which the previous speaker was as well, and it was a unanimous vote in support of the project with some concern that this Board mentioned at the end. I'm surprised there's public testimony. I

think you guys have been tolerant to do that. I'll make this one minute.

The fact that Harvard has responded to the openness and accessibility of the space in the hours that they've made clear, I think it's a real benefit. And relative to the Zoning issues as to the Zoning relief, I want to mention, as I mentioned before, this Board provided other Zoning relief that provided second -- second space above the second floor that's accessible where you don't have to purchase anything. This will be the other building in Harvard Square. There's no other place in Harvard Square that has this. The fact that you have that in here and outdoor space, I think is a substantial benefit. There's also substantial benefit that there is public

bathrooms. That's all the members of the community has been asking for. That's an extraordinary benefit. I want you to know the collaboration with Harvard and the businesses and the community, the plaza that's out in front of this area, that's connected to Forbes Plaza, now has public seating. It has approximately 40 more seats that we have put out there that's completely accessible. There was some debate about that. There was a structure on that plaza, the out of town use kiosk area, and people debated and folks felt they should keep the structure of the sculpture that was there and other people don't. I look at this plan and I don't know how anyone says there isn't more public space and more public seating. I actually take Harvard at their word that

these seats are gonna be there. Other folks believe otherwise. Obviously that's clear to the Board.

As an abutter I think the benefit here far outweighs any perceived or real diminution of public space in the winter -- I mean, in the non-winter season.

Thank you very much for your time.

TIMOTHY HUGHES: Thank you. And that brings a close to public testimony.

The Chair is in receipt of correspondence. There are letters in the file. Aside from the people who wrote letters that already spoke, there are letters in oppo -- one, two, three, four, five, six seven, eight, nine letters in opposition. Two from the same person.

There are one, two, three, four

five, six, seven, eight, nine, ten letters in favor of the proposal.

It's a matter of public record, these files. I don't want to read off every name and address that was listed here. I just want to point out that much the same as the testimony that we've heard tonight, the balance in the file is pretty much an even split between people who are opposed to this and people who are in favor of this.

I want to give Harvard a chance to respond to some of the things that were said in public testimony, and then I'll give the Board a chance to ask questions or make comments and then we're going to put it to a vote.

Go ahead.

TANYA IATRIDIS: Thank you. I'm

going to keep it really short because I know it's been long. I want to just express that the extended public process has been since December with these plans out there and we've had a lot of -- we've had public open houses, a lot of discussion that has contributed to even some changes in our, in our plans. We've had three regulatory boards we've been before who have approved the project, and I would like to also point out that this photograph here is the way the plaza was originally designed, and I'll pass it around, with Sert. And you can see that the plaza is not a very welcoming area right now and it's clearly not an inviting gathering space. I can pass this around.

What we have done, Harvard has done over time in the last 50 years, and it's

involved in a piecemeal enhancement, it's never -- we never looked at it comprehensively. We've introduced the cafe. We've introduce the seats. We've introduced livening up the arcade. We've introduced the enclosure because of the weather. And I think where we are today is we are proposing a comprehensive approach embracing all the enhancements that have occurred before and we are going even farther, we're creating, I think, a fantastic civic space and we're improving the civic social experience. And I would like very much the folks who have studied this for two years to just briefly speak on this. And I'll ask Andy from Hopkins and Michael van Valkenburg.

ANDREW BARNETT: I'll just very briefly say we make less physical models

these days in our office. We don't actually look at them in the way that you look to see buildings. The prime reason is now we have the capability to completely accurately computer model our buildings both in terms of the space and in terms of the materials and the looks. So what you see in our renderings is exactly, is exactly the scale and gives you -- and actually gives you a much realer idea what the building will look like from street level and how you perceive it.

And I think actually something like that comparison of 12 and 13 there, actually tells me, speaks to me actually exactly what the issue is here, which is we're not -- in this architecture we're not actually taking away public space. We

are, we're not encroached on Forbes. I think of it personally as we're extending Forbes right to the way the back of the space that we can extend to. You know Au Bon Pain pushes out to the space. But with this new delicate architecture that we're able to create here, we're actually allowing the space as a civic, proper civic space and proper scale to extend all the way to the back. Not only that, but we're making it environmentally appropriate so that we now have these massive openings that we're able to open into the center of that facade to literally, physically, as well as visually, extend that public space to be environmentally flexible and habitable space for everybody for the whole year.

TANYA IATRIDIS: You want to say

anything?

MICHAEL van VALKENBURG: I guess that the one thing that I'd like to talk about are the trees since there's been so much discussion about that this evening. Is that okay?

TANYA IATRIDIS: Is that --

TIMOTHY HUGHES: That would be great.

TANYA IATRIDIS: Just be brief because I don't think they want to hear too much.

MICHAEL van VALKENBURG: I cannot speak at all if you prefer.

DOUGLAS MYERS: Speak.

MICHAEL van VALKENBURG: Well, the trees that are there are at the very end of their life. They have been analyzed by independent arborists and, honestly, if

this project didn't go forward an arborist would probably tell Harvard for reasons of safety the trees should come down now anyway. They've grown into the metal bases at the bottom of the trees. They've been structurally compromised. They're gonna fall over.

Okay, you don't want me to talk about the trees.

TANYA IATRIDIS: It's okay.

MICHAEL van VALKENBURG: What I'm saying is that when the trees go, which will happen whether this project goes forward or not, this project creates a way that new trees, the same number of trees will be planted. The reason that the planter is being raised slightly at the street side is that there is not room in the subsurface condition to have enough

soil for the new trees to not succumb to the same problems that these succumb to in a relatively short period of time. These trees should have lived longer than they did if they had been planted in better soil conditions than they are. So what Harvard is doing is recognizing that these trees are gonna go. I think we all agree that they're nice trees, but they're at the absolute end of their lives. We all wish -- I'm 64, I wish everything was gonna go on forever. I know it isn't. And the trees are in the same shape, and Harvard is saying let's start over because the trees probably more than anything improve the quality of that space and make you feel humane and liveable and comfortable. Yeah, there will be a moment of transition where we lose the trees and

we have new trees but the new trees will grow and they will be there a very long time.

TANYA IATRIDIS: We'll answer your questions.

TIMOTHY HUGHES: Thanks.

Questions from the Board.

BRENDAN SULLIVAN: I just have a couple of bullet points, Tanya. And correct me if I'm wrong --

TANYA IATRIDIS: Sure.

BRENDAN SULLIVAN: -- 75 percent increase in the total indoor/outdoor seating? Is that --

TANYA IATRIDIS: I'm sorry. I'm just gonna --

BRENDAN SULLIVAN: There's going to be a 75 percent increase in the total amount of indoor and outdoor center --

TANYA IATRIDIS: In the Forbes spot in the area?

BRENDAN SULLIVAN: Yes.

TANYA IATRIDIS: No, it is 50 percent if I'm correct.

BRENDAN SULLIVAN: Indoor and outdoor?

TANYA IATRIDIS: Yes. I think it's 50 percent.

BRENDAN SULLIVAN: And Dunster Street total?

TANYA IATRIDIS: She has all the final numbers, I just want to make sure that you get the right number.

ALEXANDRA OFFIONG: So if you can see in the --

BRENDAN SULLIVAN: Total.

ALEXANDRA OFFIONG: It's 50 percent increase in the total

indoor/outdoor seating.

BRENDAN SULLIVAN: Okay. And including on --

TANYA IATRIDIS: Welcome area.

BRENDAN SULLIVAN: Yeah, everywhere.

ALEXANDRA OFFIONG: Oh, yeah, it's for the welcome area, sorry.

BRENDAN SULLIVAN: Okay. So that number is what?

ALEXANDRA OFFIONG: 50 percent.

BRENDAN SULLIVAN: 50 percent. Okay.

We're going from patron only to 100 percent unrestricted seating.

TANYA IATRIDIS: Correct, that's correct.

BRENDAN SULLIVAN: The outdoor seating right now is 80 percent patron

only and that's going to go to 100 percent?

TANYA IATRIDIS: 100 percent.

BRENDAN SULLIVAN: Okay.

The chess boards and the game tables are going to go presently at five and that's going to increase to ten.

TANYA IATRIDIS: Five outdoors. We'll replace those fives.

BRENDAN SULLIVAN: Correct.

TANYA IATRIDIS: We're gonna have five indoor.

BRENDAN SULLIVAN: Five outdoor, five in --

TANYA IATRIDIS: Five indoor and four on the other outside on Mount Auburn --

ALEXANDRA OFFIONG: So 14 total.

TANYA IATRIDIS: Yes, increasing

it.

BRENDAN SULLIVAN: The unrestricted public restrooms. I'm sorry, it's going to go from patron only now to unrestricted public restroom?

TANYA IATRIDIS: Correct.

BRENDAN SULLIVAN: You're going to go -- the number of -- for the facilities, if you will, fixtures are going to go from nine to twelve?

TANYA IATRIDIS: Correct.

BRENDAN SULLIVAN: Okay, now how are we handling the signage or the way finding for that?

TANYA IATRIDIS: Way finding. We will have signage in front of the building, we'll design it to allow -- to explain that this is open to the public and welcome to the public.

BRENDAN SULLIVAN: Public
restrooms --

TANYA IATRIDIS: Yes, public
restrooms. There will be --

BRENDAN SULLIVAN: With a hand
pointing this way or something?

TANYA IATRIDIS: Yes, yes, yes.
Going that way, wherever -- the typical
signs that people put up in the building
will be very clear and will invite people
in and show where the public restrooms
are.

BRENDAN SULLIVAN: And we are
doing -- you are going to make it handicap
accessible?

TANYA IATRIDIS: Absolutely.

BRENDAN SULLIVAN: And there's
going to be 82 seats up on that area?

TANYA IATRIDIS: Right. And it's

going -- whatever we're doing we're making it 100 percent fully accessible for persons with disabilities.

BRENDAN SULLIVAN: Okay. All right.

TANYA IATRIDIS: Is that it?

And oh, I want to -- sorry, stress something that only the 1,500 square feet is the approximate of the 3,500 or GF-- 3,000 GFA for the Variance request in the Forbes Plaza. I just wanted to put that in perspective.

TIMOTHY HUGHES: Anybody else? George? Doug?

DOUGLAS MYERS: One question. What is your response to the point of view that removing the wall on Dunster Street and narrowing the plaza at the Dunster Street end by enlarging the area in front

of Au Bon Pain and having the barrier at the Massachusetts Avenue, what is your response to the argument that those three changes will cause increased pedestrian flow, make a chaotic pedestrian passageway between the T station and the entrance to the Smith Center?

TANYA IATRIDIS: I will -- my response is on page 10, and it's a circulation analysis that compares the existing to the proposed. What we're doing is we're adding an additional entrance from Dun -- on the corner of Dunster Street and Mass. Ave. You can enter the building. And we are eliminating entrances on the far end where the bank is. So what we have done by doing that is changing the flow of -- we have spent a lot of time watching how

people use the space, counting the numbers. And this flow is going to work much better. And people are going to enter it this way and they're going to come across the way it's set up. And we feel very confident that this is going to be better and this is going to work really well.

DOUGLAS MYERS: Do you think what you just said is consistent with the open space as rendered on your page 17 about how that area will actually look in your projections? In other words, do you think the --

TANYA IATRIDIS: Well, the artist --

DOUGLAS MYERS: You have referred to your proposed circulation plan and what you believe the proposed circulation flow

will be with the seats --

TANYA IATRIDIS: Yes.

DOUGLAS MYERS: -- acting to
channel the circulation on your proposed
plan --

TANYA IATRIDIS: Yes.

DOUGLAS MYERS: -- on page 10?

TANYA IATRIDIS: Yes.

DOUGLAS MYERS: Is that consistent
with what is shown in your rendering on
page 17?

TANYA IATRIDIS: Yes.

ANDREW BARNETT: It's accurate.

TANYA IATRIDIS: Yes.

DOUGLAS MYERS: And you believe
that the circulation flow will primarily
be as you've indicated on page 10 between
the chess tables --

TANYA IATRIDIS: Yes.

DOUGLAS MYERS: -- and the tape -- and the food tables or the seating tables on page 17.

TANYA IATRIDIS: Yes, yes, we do. And the entrance will be on the side, yes. And that's one of the reasons -- sorry, we put also -- the architects put the staircase there to show that conductivity and to really draw people in. There was a lot of discussion about that. Sorry.

DOUGLAS MYERS: No, fine.

TANYA IATRIDIS: I know it's late.

DOUGLAS MYERS: No, no, it's fine.

GEORGE BEST: I just have a question. MIT has a similar space in their student center.

JOHN HAWKINSON: Could you speak up, please?

GEORGE BEST: Sure. I said MIT

has a similar space in its student center which is across from 77 Mass. Ave.

TANYA IATRIDIS: I know where it -- I went to MIT.

GEORGE BEST: What would be the difference in the flow of traffic that you're proposing and for this space and how much more welcoming can it be for the other spaces?

TANYA IATRIDIS: You're putting me in a very difficult position. I'm alumni from MIT. I know the space intimately and I do not think it's the same. Sorry. I just feel that this is much clearer. This is a very different organization, and I feel they're two very different spaces. I believe that this is much more welcoming, more transparent, and better organized. And I speak as an MIT alumni.

HENRY MOSS: Tanya, may I speak?

As the student center alterations, the -- it has none of the street level conductivity and views to the interior that this will have. It's just not comparable in that way. I wish it had been.

GEORGE BEST: So then my second question is Charles Plaza, which is the Charles Hotel --

TANYA IATRIDIS: Right, I know that.

GEORGE BEST: -- is an open space, also, and it's not well used. Also we have --

JAMES WILLIAMSON: Can't hear you, sir.

GEORGE BEST: Also we have the science center that's not well used. So

I'm trying to -- I'm trying to be on your side.

TANYA IATRIDIS: Yes, I know.

GEORGE BEST: And I see the obstacles of actually having a space that's not well used as opposed to when it was built.

TANYA IATRIDIS: So I think, I think you're right. Where is the -- this black and white drawing depicts a space that's not well used. Originally Sert designed it. I think the differences are in comparison to the Charles Hotel, my observation is it has to do with the program and the uses around it. The minute the, the minute Harvard put a food use and chairs outside, look at the difference. We've got activated. Things have gotten -- they're used now. They're

activated. It's being used. What we're doing is we're adding and enhancing the amenities and the programs for the public. So we believe that it would be even further used. It will be better used. We don't think we have the condition of Charles Hotel. And I would argue that the science plaza has enhanced its programming and we have been watching it carefully. We even have a camera on it and we have found that it is used much better than it used to just because the programs were enhanced and the design was also enhanced for the programs. So we have, we have been watching it as a pilot, how it's being activated. So we are --

GEORGE BEST: I'm sort of there.

TANYA IATRIDIS: Yes, I, I --

GEORGE BEST: So on the plaza

level on the Charles Hotel there are three restaurants and the jazz club.

TANYA IATRIDIS: Correct.

GEORGE BEST: And nobody seems to go out there.

TANYA IATRIDIS: Yes. This is -- it's visible from the T and it is a very -- it's a major crossroads for -- in Harvard Square, this space here. Where the Charles Hotel is hidden, it's in the back, and the only reason to go there is if you're gonna go eat at those restaurants. This crossroad is exactly the reason why the welcome area is there and we're putting the uses because of that. So we believe this is the right -- unique location for it that's going to be working.

GEORGE BEST: All right. I have

to ponder though.

BRENDAN SULLIVAN: I think it's location, location, location.

TANYA IATRIDIS: Right.

TIMOTHY HUGHES: George, you done?

GEORGE BEST: Yes.

TIMOTHY HUGHES: Jim, anything?

JAMES MONTEVERDE: No.

TIMOTHY HUGHES: We ready for a vote?

DOUGLAS MYERS: I'm not. I would like to, you know, ask the public's patience. This is the only time we have to discuss the case, and I would like to comment and discuss the case and invite my fellow Board Members to do the same.

It seems to me that in discussing the case one of the first subjects we have to mention is that mention by the Chair

about whether we really can discuss design effect on the public interest, the role of the Forbes Plaza, or whether we're limited to the rather technical zoning issues which are the basis for the request of the Variance. And it's my feeling that the very common generally accepted practice of this Board is to say that when a Zoning issue is raised, that all of the issues that accompany the application are, in broad terms, subject to discussion, especially when they're important. So that if a driveway is discussed, you can discuss the setback on the other side. If a hotel wants to come in and change its entrance room, you can discuss other aspects that are non-conforming at the hotel? And this is our practice. So I think it is proper to discuss certainly

the aspects of this application that have an immediate effect on the public interest, and even if they're not directly related to the zoning, the zoning issues that are raised in a narrow sense in the application.

If the majority of the Board Members are ready for a vote tonight, so be it. But I would, I would just like to state my view that if there is a sentiment on this Board that the space of Forbes Plaza should not be reduced or should not be substantially reduced, that Harvard will perforce, I believe, be obligated, find itself in a position it is compelled to redesign this project, at least in those areas that immediately affect the interface between the project and Forbes Plaza. There may well be a ripple effect

and it would cause the project to be redesigned in other areas, but if there is any sentiment on this Board that the Forbes Plaza space should not be reduced, then redesign I think would necessarily follow. And if the project is faced with rejection on the grounds of the space of Forbes Plaza being reduced, then it's very likely that Harvard would choose to redesign it. At which point in Harvard's discretion, it might well consider some of the points raised by the public tonight in any redesign.

My own feeling is that Forbes Plaza is very important and it should not be reduced. It should not be reduced very much. I am not in a position to sit here tonight and say not an inch, not a square foot, not ten square feet, but I do not

believe it should be substantially reduced any way, shape, or form in its square footage.

As for the design aspects of Forbes Plaza, I agree with the sentiment that's been expressed that we should not dictate, we should not impose design elements. We can indicate if Board Members wish to, which design elements are important. And if there is to be a redesign, we can state, we can ask the applicant to consider those. But it seems to me that one of the discussions that has been pervasive tonight is that everyone agrees that openness is good. And the question is what type of openness does the Zoning Ordinance protect and require in the public interest because that's really what's on the table tonight. I think it's

clear that there will be plenty of indoor space, indoor public space in this project regardless of what disposition is made with regard to Forbes Plaza.

No one questions -- the argument that's frequently made in letters to the file is the seasonality approach that by having indoor space, people have a place to go in the winter and the building will be more versatile in its use in that respect. I believe that's going to occur anyway because there's an abundance of indoor space that's not at issue in the discussion of Forbes Plaza and that indoor space will persist and it is of considerable value. And that's not, that's not the question.

The question is what, what do we mean by openness? And I just -- and

I -- one member of the public spoke about the fact that Au Bon Pain will be open in the summer and that that will be a gain of open space. And I think that's a very worthwhile consideration, but it's still going to be an open space that's enclosed by a ceiling. It's going to be limited in that respect. And I guess my view of open space in a city, in the City of Cambridge is -- and I'm sorry if this will strike intelligent people as simplistic, there is nothing like open space to be open space. We're literally the sky is the limit. I don't say that is the only open space, but I say that is the best open space. And where open space is open space that is unequivocally opened to public access as you and I walk along streets, daydream, wander, live our lives, whatever space we

can enter without any further ado, that is public space. And I myself cannot avoid the conclusion that accepting the perspective, and notwithstanding, again, intelligent testimony to cast some doubt on it. I cannot accept, I cannot avoid the conclusion that on page 11 that if this project is going to be adopted, whatever is going to happen to Forbes Plaza, and regardless of how much we say and what percentage, accepting the figures here, roughly in my book approximately 25 percent just in straight arithmetic sense, what we end up with as opposed to the somewhat irregular, inviting unfettered open space that's irregular, it's kind of appealing in a city, what we end up with is a shoe box, is a narrow rectangle of which about half, about half, is going to

be crowded by this two-story pavilion that is going to extend ten feet further toward Mass. Avenue, ten feet further than it does now. And that will not, in my judgment, be offset by the fact that the pavilion doors will be open on the ground level.

So having gone on undoubtedly too long, I just wish to say that in the interest of clearing the air, not as a threat to anyone, but in the interest of clearing the air and expressing my views, I'm not able to vote for this project in its present form based on the deleterious effect that it will have on Forbes Plaza, which in my view is unmistakable and irremediable and will inevitably have a far reaching impact on Harvard Square.

GEORGE BEST: And I just want to

add to that an observation that I've made to this is I can go to East Cambridge to the Cambridgeside Galleria, which is a well used space, but you can go into that food court in any spot, any time, and it's 50 percent full. It looks out to a beautiful waterfall. You could go for a boat ride there. That's a docking station for the boat that goes down the Charles River. Most of the time the people are breaking their neck, I'm not being funny, to get outside to sit outside in that space. I mean that even as hot as it is, I was there Wednesday. And as hot as it is, they're outside when they can be in air conditioned comfort. So that also, it brings a little pause to me because I grew up in Cambridge. This is where I am from. Okay? And it troubles me that you can't

go down Mass. Ave. any further and you have to make a right because that little thoroughfare there, used to be very vibrant. There used to be a jewelry store there and a lot of different other things next to Cambridge Savings Bank. And now what we're doing is we're trying to fit something new, modern in that space and make it a space that is going to be well used, but there is no evidence of that. And if it's only going to be a food court, then I'm concerned that who's going to be in the food court. You know, it's not a multi-use space in terms of not -- the activities going on, but the types of retail stores that are in there or whatever else. You know, it's just, it's not functional to me as a Cambridge resident. I like to see variety. It's

just like -- this is where I'm going to go eat, meet people, and that's it. So I don't know, that's just my thought.

TANYA IATRIDIS: Actually we are, we're going to have a lot more variety because we're increasing overall the commercial entities in the space and in particular the welcome area. There's going to be a lot going on in terms of events, what's going on, you can buy your tickets, you can be sitting, you can get information, you could be eating, and there's street performers, music, exhibition, you know, just be a lot more than what it is now and just designed in a more, we believe, civic and much better space.

Michael, do you want to say something about the Forbes Plaza how it's

going to be?

DOUGLAS MYERS: I don't think rebuttal is part of our deliberation.

TANYA IATRIDIS: Oh, I'm sorry.

DOUGLAS MYERS: Maybe if the Chair wants later, but --

TANYA IATRIDIS: I didn't mean that.

DOUGLAS MYERS: We are deliberating now.

TANYA IATRIDIS: All right.

DOUGLAS MYERS: This is the one chance we get. We can't -- under the laws we can't discuss this case at any time other time among ourselves.

TANYA IATRIDIS: We won't interfere. I'm sorry. I apologize.

DOUGLAS MYERS: That's all right.

BRENDAN SULLIVAN: You know,

George, I go down -- usually go down, drive by it all the time. But actually my wife and I have gone down through here three times. She loves it because she goes to the restaurants, but I purposely go down three times in the last two weeks. And one of the questions I had, really, was why can't -- I had many questions why can't Au Bon Pain get pushed in because the stairway and the Holyoke Center and so that answered that. But the entire space seemed tired to me, seemed dated to me. It seemed like it really needed --

GEORGE BEST: I agree.

BRENDAN SULLIVAN: -- it needed something.

GEORGE BEST: It needs vibrance.

BRENDAN SULLIVAN: It needed something. Is this it? I don't know.

And again, you're going to get -- it's too bad you've had to listen to your critique of your work here, but we could get 100 architects here together and we're going to come up with a 100 different plans and everybody has got their own little thing and so on and so forth. And, you know, a zebra of course is designed by a committee basically. So what's the starting point and what's the ending point? But to me the plaza, everything about it -- it's tired, it's dated. It needs something there. You know, funny I saw a bumper sticker "What Would Jesus Do?" I feel like I should get "What Would Sert Do?" Because I'm not sure Jesus would help me, but Sert would as far as what he would do now. I'm not sure. That was another time, another date, another era. You

know, recently we've gone to the central plaza there in Prague, and it was wonderful, and some new element and so on and so forth. There's a vibrancy to it. Yes, there's an old part of it, but some of the new stuff attracts you, too.

And so the analogy to Charles Square, again, that's off to the side. This is the crossroads and yet I think it needs something.

GEORGE BEST: Something.

BRENDAN SULLIVAN: And I think --

GEORGE BEST: I agree.

BRENDAN SULLIVAN: -- this may be that something. And I think that, again, a lot of this is -- and perfectly, my wife she could care less about this stuff other than she's being treated to dinner, but what happens when it rains? What happens

when it's cold? You know, what happens here? And I say it dies. Everybody runs basically as opposed to a glass enclosure, you know, where people then can go inside. I think the fact that you're pushing -- not pushing, you're putting some of the chess tables inside an enclosure is an attracting point.

You know, and reading through some of the stuff there is going to be monitors for trains and stuff like -- so, you know, it is an attraction, attracting point. I think that the game tables, you know, you'll see the public sitting in there and what have you, and people sitting there. And I don't get the feeling that people are going to be standing off. It says student center on there now, so on and so forth.

So I -- yes, I like variety. We went up and down the arcade and so on and so forth and what have you. But to me I think it's tired and it needs something. And we're not going to design it tonight. A hundred nights from now we're not going to design it because it's going to be all this pulling and pulling. And so, anyhow, not to -- but I think --

GEORGE BEST: Sure. And I can appreciate when you are with the -- it needs something.

BRENDAN SULLIVAN: Right.

GEORGE BEST: Okay? So the concern that I have, again, is what's going to happen once it's built? Who's going to be the -- what is the clientele going to look like?

Remember we always had problems in

Harvard Square until recently when they sort of tapered off. So will we be inviting new element in or what?

DOUGLAS MYERS: Brendan, I'll accept your question it needs something. I'll accept it as a very valid point of departure for a discussion. And my comment is twofold. It's going to have plenty something on Holyoke Street, on Dunster Street, in much of the buildings back on Forbes Plaza. There's going to be plenty something and plenty of indoor space. And I'm not kicking at the glass and the contemporary look and all of that. If you say it needs something, my very respectful answer is one thing it doesn't need is for Forbes Plaza to be reduced. There's plenty something else there.

And I didn't, I questioned but I

didn't kick against or I wasn't adamant about what has to be done with Forbes Plaza. I'm open, you know, I would have things to say, but I agree with you, you can't do it by committee. And we certainly can't make -- as many as intelligent comments as we've heard here tonight, we certainly can't make everybody happy. That's clear. We can design forever and not make everybody happy. But I really do think that there is no need to give up so much forever of precious open space. There's really open to the public on a basis. You don't have to ask anybody's permission. Nobody's asked -- you don't have to look anybody in the eye. Just go there. Do what you want, hang out, watch chess, have coffee, whatever. Nothing like it.

It's going to be different if it's a shoe box, it's different. It's just different. I'm not arguing. You know that.

TIMOTHY HUGHES: Jim, do you want to....

JAMES MONTEVERDE: No, I have the same comments that I had in the first round. I had the two concerns which I think you've expressed about the intrusion into Forbes Park. And I, again, try and go back to the basis of the Variance request. If I recall correctly, it's from additional square footage that then makes you exceed the FAR and the height increase. So I don't find the rationale or reading from the Ordinance I'm searching for, and the description here is that the Board has to find all of the

following: That a literal enforcement would involve a substantial hardship, financial or otherwise, to the petitioner. I can't get to that part.

And the hardship is owing to circumstances relating to the soil conditions, shape, or topography. I don't get to that. That's two.

And the third is the desirable relief may be granted without either substantial detriment to the public good. I at the moment don't get to all three of those as applicable. That there is a hardship, and I don't -- I object to or don't agree with reducing Forbes Plaza. I applaud you for all the renovations that you're proposing and modifications within the building and the other pieces that don't intrude on the public space

currently.

So as I said before, it's the intrusion into Forbes Plaza that I'm concerned about and couldn't support the petition for. And the second reason is the other piece you're asking for is a relief in height, and the small part of the FAR is for the beacon. That one, I don't find a substantial hardship. Nor is the hardship owing to circumstances of soil, shape, or topography. If you want a beacon, you put one on your building. I think the photographs illustrate a number of methods to light as a beacon or other focal point that you could do without the height relief or the FAR relief. So strictly on the square footage related to FAR and height, I don't see the substantial detrimental hardship if it's

denied.

TANYA IATRIDIS: Do I respond?

TIMOTHY HUGHES: Well, I mean, we've had -- Jim's had access to your statements in the file about hardship and stuff.

TANYA IATRIDIS: All right.

TIMOTHY HUGHES: And if you haven't convinced him in the file, I don't think anything you say to him across the table right now is not going to make a difference.

I personally agree with Brendan, that Forbes Plaza is dated and shabby.

I tend to disagree with Doug a little bit about his definition of, you know, the sky's the limit because he doesn't seem to take into consideration the canopy. And if I take into

consideration the canopy, then -- and the circulation space of the 1750 square feet that they're enclosing in, what they're actually taking that's, you know, seat space that sticks outside of the canopy is a small, small percentage of it. If you count this canopy and the circulation space where there are no, there's no seating now, it's just you know, go unprotected from the elements. Let's face it, two thirds of the year we're dealing with something and we're probably going to be dealing with a lot more in the future. I mean, with the weather pattern changes and stuff, not just snow, but rain. And I feel like the small percentage of that 1750 square feet is actually what we're giving up, you know, into Forbes Plaza. I think almost 1600. And then if I count

the canopy and the difference between the new roof and the canopy, I'm really -- we're really talking about a hundred square feet that was an encroachment.

Now you say it's an encroachment in the plaza because it's not open, and that may be true. It's certainly true about the circulation space. There will be a roof over it, but I don't see it that as a bad thing. I see that as a positive thing. It makes moving around easier rather than more difficult. And if your definition of to the sky includes this canopy, then we're really only giving them like 60 to 75 square feet. That's my opinion on the whole thing.

And then I talk -- and then the other amenities that are -- I mean I

think -- I can't stress enough how important it is to have public restrooms in Harvard Square. I mean, there aren't any there now, you know, right there. If you didn't know where the second floor restrooms were in the old Harvard Coop, you had to hold it until you got home, you know, or you had to piss in a bush someplace. You know, this is amenity that I think is very, very important. Not just to the people that sit and play chess but to everybody that mills through there. And I think the population that's going to be milling through there is just going to be getting greater and greater, community-wise, international visitors-wise, domestic visitors-wise, and student-wise. And I, you know, if there's a way to make this a spruced up space and

more, and more accessible to the public and all you have to give up is basically a hundred square feet, I don't have a problem with that.

BRENDAN SULLIVAN: On any change, it's pluses, minuses, pluses minuses. And, you know, I think there are sort of like two columns. And to me living with this the last two or three months or something and really focusing in on it and walking it, to me, I think the pluses do outweigh the minuses for -- and, again, not to keep belaboring the point, but I think Tim is correct that the, yes, they are taking some square footage away. I mean, minimize it but they are taking that away, that open sidewalk if you will, but yet in order to make all of the stuff work, I think the amenities that they're

adding back far outweigh that. And I think that that indoor space that is being created is 365 days of the year. And I think that to me that's a huge benefit.

DOUGLAS MYERS: And, again, my response is it's really not an either/or tradeoff because not that -- of course, if they were, if Harvard did not encroach on Forbes Plaza, it would cause redesign. It would cause expansion. It would cause delay. I understand all of that. But the point is there's going to be lots of indoor space. No one is saying the choice is reduce Forbes Plaza or no restrooms. I mean, there will be restrooms if the project went ahead in a way that limited the encroachment of Forbes Plaza. There will be indoor space. There will be a contemporary look. All of those things

will occur, but to me, when all -- when you strip away all of the verbiage for me, the issue is Forbes Plaza.

BRENDAN SULLIVAN: Well, does it make sense, then, to possibly take another timeout and having them to do -- digest what we have said and then --

JAMES MONTEVERDE: No. We made those points very clear last time. And I don't see any attempt in what's presented this evening to modify that. I see other pieces that absolutely were addressed. But not those two. And if that's the tact taken, then I'd be prepared to vote because why do it again? So I don't -- I understand the point, but again I think the opportunity was there to make that amendment between the initial presentation and now and I don't see it. And

everything I've heard is every explanation why what was proposed initially should remain counter to whatever discussions the public raised or we raised from this table. So I don't see the benefit.

BRENDAN SULLIVAN: Okay.

TIMOTHY HUGHES: I see a benefit in this, in that if we're talking about a redesign that gives back that 1750 square feet of Forbes Plaza, that does not give them back everything they need for FAR relief.

JAMES MONTEVERDE: Right.

TIMOTHY HUGHES: Because they need FAR relief for like 2900 square feet. If we were to continue this case with a redesign, that thought about not encroaching on Forbes Plaza, they still have to come and get a Variance for some

of the other projects they want to do inside the building.

JAMES MONTEVERDE: Understood.

TIMOTHY HUGHES: Now whether or not the redesign would be substantial different enough, substantially different enough from this design to not be considered a repetitive petition and they could just file new plans in a new case given a denial here, then that's, that's something we would have to decide. If we were to continue this case and look at a redesign that satisfied the concerns of at least three members here, two and -- you know, George didn't come right out and say no encroachment on the plaza, but, you know, then if we were to entertain a redesign, we wouldn't have to go through a hearing of a repetitive petition and then

we could, you know, move on a Variance that was a redesign thing. That's the only reason I would consider a continuation. But I wouldn't want to spend any more time on it, you know? But maybe there wouldn't be any more time spent on it. If Forbes Plaza is taken out the equation, you know.

GEORGE BEST: And I just have one question more. Usually there's lines of tour busses in front on Mass. Ave. How is that going to be mitigated when the center opens?

TANYA IATRIDIS: I think there's two busses have -- if I --

ALEXANDRA OFFIONG: Mount Auburn Street.

TANYA IATRIDIS: They're on Mount Auburn Street. And they're not ours.

They're just tour busses that stop there.
And people --

GEORGE BEST: You're not allowing them to stop in the front of the building?

TANYA IATRIDIS: No. I think the tour busses -- I'm not sure. But --

ALEXANDRA OFFIONG: As far as I know the -- the city has designated a tour bus area location on Mount Auburn Street, and I believe there is a planning study underway at the City to look for additional tour bus locations near the Cambridge Common. I'm not sure exactly where that is, but I know that there's been an acknowledgement that there's been a lot.

TIMOTHY HUGHES: I think it's obvious from the deliberations of the panel that this proposal is not going to

carry tonight.

TANYA IATRIDIS: Yes. So I -- I would like to -- what I'm hearing is to request for a continuance to review your comments and to think about them more, come back.

TIMOTHY HUGHES: How does the Board feel?

CONSTANTINE ALEXANDER: Tim, if I may express a view. If you're going to continue this case, I suggest you continue it to a date where there's no other cases on the agenda. Just because we did this, we did this with the affordable housing on Jackson Place, and it makes more sense because it doesn't penalize all the other people.

TIMOTHY HUGHES: That would be great if we have a date like that.

Is that a possibility? Go.

TANYA IATRIDIS: You can speak.
I'm going to let Jim speak.

ATTORNEY JAMES RAFFERTY: Good evening. James Rafferty. I'm an attorney here in Cambridge and I've been working with the applicant. As the Chair noted, there are three aspects to this GFA variance:

One involves the conversion of space in the garage currently used for autos. That will become related to food storage. We heard no criticism of that and it has no impact.

Secondly, another second piece of the GFA Variance involves the conversion of mechanical space in the building to usable space. Similarly no public concern about that.

Clearly the third and most critical element of the GFA Variance involves the new addition in Forbes Plaza, and I think the dialogue with the Board tonight has sent a very clear signal to the applicant. So the request for the continuance wouldn't be to start over. It would be to see it as an opportunity to evaluate the other pieces of the Variance and see if opportunities could exist to come up with a modification. And I think it's a practice that the Board has used before. It's a case where it's a very specific area that I think requires attention, and the Board has on occasion allowed an applicant to select a date. Because given the amount of time it will take to assess this, I would suggest the Board might consider a date where the applicant would

notify the staff and a date could be selected based on the availability of the members and adequately ample notice to interested parties could be provided.

DOUGLAS MYERS: My response is I would be in favor of continuing the case on that basis. I have never taken a position, and I see no good in saying the correct result here is that this proposal is rejected absolutely. But you yourselves have seen, and this is not in any way animus on you, as people you have seen what this Board, what we have struggled with tonight. You have seen all the people from the public in Cambridge come in and speak with -- everyone I think acting in good faith. And I just hope that you will be responsive to what those Board Members have said, have indicated to

you without enumerating a list of A, B, and C. There's a record if you want to consult it. The things that are really important to them that they would expect to see modified when you come back, because it will be a long hearing. There will be -- there are hundreds of people interested. We will have to listen, and there's no, no problem with it. It's very valuable, but it's a process. There will be a lot of public testimony. So I just urge you to be responsive to what Board Members have indicated are their strong preferences and positions.

GEORGE BEST: And I would just say that no one's saying you don't do it, scrap the project. What they're saying is listen to us, be mindful of what we're asking, and we'll help you move it through

and move it forward. And I think everybody has the same opinion here. It needs -- Harvard Square, that spot needs something it's just how it's done.

BRENDAN SULLIVAN: I think it's too important not to get it right.

JAMES MONTEVERDE: I have one comment just to Mr. Rafferty's summary. You're fine.

I agree with your three points. Just the last one I'd ask you please to consider, reconsider is that the beginning of the top and the need to increase the height and that minor increase in the FAR, please.

ATTORNEY JAMES RAFFERTY: If that's the fourth, you're right.

DOUGLAS MYERS: It's a major project, and obviously you are

intelligent, highly motivated people acting in good faith. You've come up with a design project that I've praised. I praised it last time. It's just the nature of things we focus on the controversy, and I really hope and expect to do it again. That's why I'm going to vote for a continuance.

TIMOTHY HUGHES: I'll make a motion for a continuance, but are we going to have it open ended? We're going to have to come up with a date.

BRENDAN SULLIVAN: I think we have to do it date certain.

SEAN O'GRADY: Whatever you want to do.

TIMOTHY HUGHES: The Chair would make a motion that we continue this case to a date to be determined at a time when

Harvard is ready and the same five members can be impanelled on the condition that -- oh, they already signed a waiver, right?

SEAN O'GRADY: Yes.

TIMOTHY HUGHES: And on the condition that the case will be re-advertised for a new date. Okay.

DOUGLAS MYERS: I need a calendar of October. There's one day in October that I'm going to be away.

TANYA IATRIDIS: Hopefully it will be before that.

DOUGLAS MYERS: Before? Okay.

TANYA IATRIDIS: I hope so.

DOUGLAS MYERS: I didn't know how much revision or revisory work will be required.

TANYA IATRIDIS: I don't know.

But I hope we will be expediting to the extent that we can.

TIMOTHY HUGHES: All those in favor of the continuance under the circumstances?

(Aye.)

TIMOTHY HUGHES: That's five.

(Hughes, Sullivan, Myers, Best, Monteverde.)

DOUGLAS MYERS: Make a mental note that the 15th I'm not available. 15th of October.

TANYA IATRIDIS: And you're not here in August?

DOUGLAS MYERS: I'm here, August 30th I am here.

TIMOTHY HUGHES: You might want to come up with a couple of dates. We have to impanel all five of us.

All right case is continued until
who knows when.

* * * * *

(10:00 p.m.)

(Sitting Members Case BZA-006133-2015:
Constantine Alexander, Timothy Hughes,
Brendan Sullivan, Douglas Myers, Jim
Monteverde.)

CONSTANTINE ALEXANDER: The Chair

will call case No. 006133, 209 Broadway.

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

ATTORNEY ANTHONY GALLUCCIO: Thank you, Mr. Chairman. Good evening, Mr. Chairman, Honorable Members of the Board. My name is Anthony Galluccio. I'm a partner with Galluccio and Watson. I represent the applicant for the Variance.

CONSTANTINE ALEXANDER: Keep going.

ATTORNEY ANTHONY GALLUCCIO: Mr. Chair, as you know, we have been before you on this matter before. Initially we proposed a six-unit plan at 209 Broadway. We received a number of comments from the Board. We have spent the last few months addressing those. We've also had a neighborhood meeting. I

know members of the public are here and are anxious to speak, so I want to give them an opportunity to do that. Tonight I want to focus on the revised plan which you --

CONSTANTINE ALEXANDER: I hope in doing so you address the comments we made last time, because speaking for myself I don't see how you addressed them at all.

ATTORNEY ANTHONY GALLUCCIO:

Through you, Mr. Chair, to Members of the Board, as I was saying, we believe that the revised plans address the concerns of the Board. Initially one of the major concerns was the number of units. We were asked to go from six to five, which we did. We were also asked to address what we've been referring to as the prow or the corner of the building which faces

Kendall. I'll let the architect go through the evolution of that point.

The community also asked us to look at open space. Initially we did have a meeting with the neighborhood who obviously have a vested interest in this project. Right now they abut an abandoned gas station which has been somewhat of a blight for a long time. So we met with the community. They had a couple issues, but generally were very supportive of the concept of a residential plan there. They asked us all to look at landscaping and open space. One of the major changes that we've included in this plan is we've withdrawn our request for open space relief. The requested relief now is solely setback. As many of the -- as the Board may know and the public may know, in

the BA Zone the setback requirement is inconsistent for residential and business. While there's an incentive by way of FAR to build residential, the setback is different for business and residential. So if you look at this lot, which I think is sort of a poster child lot that would be warranted -- that would warrant relief, the lot is unique to the district. I couldn't find another lot that had a triangular shape that was as small as this. I couldn't find really another lot that was anything close. And because of the shape of the lot, you cannot take advantage of any of the Zoning Code categories, FAR, lot per dwelling unit. You can comply with every other zoning requirement, but not for the setback requirement because of the shape of the

lot. So, again, I think it, it is sort of the poster child for why you would require relief. We're pleased that we've withdrawn the open space relief because it really narrows the requested relief to setback.

We've been able to conform to some of the setback requirement and we'll show you in the new plans. Along the neighborhood edge we're able to provide a nice green space which we think has gotten a -- pleased that it's gotten a really nice reaction from the community, because along Clark Street where the neighborhood lines up, we're able to provide a nice green space there.

We know that massing was an issue. We've put ten percent of the above grade massing below grade just to reduce the

scale of the building. The building is significantly below what is allowed by height and again conforms to all of the other Zoning categories with the exception of setback.

CONSTANTINE ALEXANDER: The height of the building in your new plans is higher than the building -- the plans that you showed us before when we had problems with massing. If you have -- your building plans you're going -- you're building now will be 36 feet, five inches high, the plans you showed us last time is going to be 35 feet high.

ATTORNEY ANTHONY GALLUCCIO: I'll let the architect address how the modifications which again included increasing open space and reducing the prominence of the prow may have impacted

other parts of the plan. We have an, as I've said in the past, the seller and buyer have attempted to respond to the concerns and keep this deal going. We did lose a unit. There was a cost there. We put ten percent of the above grade below grade at a cost. We've increased open space. The seller has not reduced the price. So all of these burdens were on the buyer which is not your problem, it's just a reality of the economics of the deal. And I -- you know, we're proud that we've attempted to respond to all of this, but I do think it's important to recognize. And I want to let the community speak. I do think there is broad support for a residential project here, and I do want to let the architect speak because I think some of the context

that you see in this new plan that aligns the residential stoops, and really creates continuity of the existing residential neighborhood are really important changes to the plan.

So we've -- new to the presentation tonight are just some highlights of the three, of the evolution of the three iterations; the February/March plan, the May/June plan, and tonight's plan. I'd like to have the architect just run through some of that evolution with respect to areas that we were asked to address.

WILL CHALFANT: Will Chalfant from Khalsa Design.

As Mr. Galluccio has mentioned, we came to this a few times trying to meet what the Board's been looking for.

Originally there was a large curved end to the building. Obviously not like a flat iron, but in an attempt to mimic that, and quite a large decorative cornice. We then later stepped back the third floor, provided a balcony on that, and I understand that was not something that was -- the Board was looking for.

ATTORNEY ANTHONY GALLUCCIO: Can you do it from there and it's a bigger picture.

WILL CHALFANT: So our first, we were originally here with what we had. And we stepped back here with the balcony and that was not liked either. What we've done is tried to minimize the scale of that end, simplified materials, significantly shrunk the cornice on this so it's much less monumental.

The building has slid forward slightly, but that is a result of gaining the significant amount of open space on Clark Street that we've gained because of that. As a result of that and putting some space in the basement, each unit now has a front stoop which abuts all three streets that it's on.

We've got entrances on Broadway. Entrance on Broadway, two on Clark and two on Market.

This landscape, these landscape plans show where we were and where we are now and how we've really gained quite a bit on the side that's facing the residential portion of this part of Broadway because we've got biotech here, some small retail here, and this is really where our neighbors are. So we're trying

to really react to that.

The previous plans had a lot of, a lot of material change at which -- really affected the massing of the building. The building appeared to be a lot larger than it was. We've simplified that, broken it down into three materials. We've got a brick water table, clapboards, and panel and battens up on the third floor. There were previously connecting the two buildings, there were large decks overhanging the parking courtyard, if you will. Those have been removed because we've now got open space for each unit, and now they've just simply got smaller balconies there just so each unit has a little outdoor place in addition to their yard. And, you know, again it's -- we're trying to meet with what the Board's been

looking for. I understand there are still some concerns over it's point towards Kendall, but more than willing to work with you on that if you'd like to see something.

BRENDAN SULLIVAN: Can you flip that back? I think an easy read of the transcripts unless we were not clear or maybe I wasn't clear, but the initial -- when we said that we really wanted maybe a one unit less as a starting point, would have been to take this unit off. I don't know how that was misread. Instead what they did was reduce the back unit from three to two and that will give them their five. Well, that was not really the magic that we were looking for.

What I was looking for is this to be basically stepped down. That gone. So

it's a little disappointing on that.

A little bit more disappointed when it came back and well, let's take that off by putting this in. And even more disappointment when the plans were submitted, to see this which I think looks awful. But at any rate, I don't think that's the best that can be done, but I think it's probably the most that you want to do as far as pulling anything back. You know, initially, and I think it's probably a magic square foot number times X number of dollars or something like that per square foot, originally it was 3875 square feet and then we were at 7838 and now we're at 7796. But I think -- I don't know why the five units said well, all they want is five units so let's give them five units.

WILL CHALFANT: Sure.

BRENDAN SULLIVAN: But we're going to shift the deck chairs around a little bit and we're going to stay with the same square footage because square footage, that gives us some magic number.

WILL CHALFANT: Sure.

BRENDAN SULLIVAN: But I think that's awful. But anyhow.

CONSTANTINE ALEXANDER: And let me -- I agree with that. And let me try to elaborate on this.

You're trying to create a number of units on the property that would justify the price that the seller wants for the property. That's not the way we go about it from a Zoning point of view. I'm very amenable to a residential development on this property, but you're not -- if you

need to get five units -- if the owner needs a price that requires you to have six before and now five units, I say you walk away from the deal. He's over -- in my judgment, an inflated sense of what that property is worth. And our job is not here to let him get his inflated value. You could have two, maybe three units on that same triangular lot, residential, a lot more trees maybe or some bushes, would be a lot more attractive to the neighborhood. It would be residential use, but you're not going to be able to -- I guess, you're not going to be able to pay the price that the owner wants.

WILL CHALFANT: That's not for me to say. That's his decision.

CONSTANTINE ALEXANDER: I know.

It's not for me to say either. That's the problem here. You're -- I think you're -- in my view, you're approaching this backwards. You're starting with a price that you think you have to pay and then you're asking us to allow to you do something that allow you to pay that price. Well, there's something you want us to do is what I, like Brendan, I think this is atrocious.

ATTORNEY ANTHONY GALLUCCIO:

Mr. Chair?

CONSTANTINE ALEXANDER: Yes.

ATTORNEY ANTHONY GALLUCCIO: At our first meeting you asked us to go to the community and a lot of priority was placed on what the community, those who live closest to this project think. And I just, I considered that to be a good faith

request and we went and did that. And I would assume that the Board would want to hear from people who look at this property all the time.

CONSTANTINE ALEXANDER: We do want to hear, but Mr. Galluccio, the point is we wanted you to go to the community because the community wanted residential development there. It is now a commercial property. And I think our Board is very sympathetic to the commercial development. It's just the size and the massing of the commercial development you're proposing.

DOUGLAS MYERS: Residential development.

CONSTANTINE ALEXANDER: I'm sorry residential. The size of the residential is so disproportionate that it troubles us. And the only argument I've heard is

why you need to do this is because you got -- that's the only way we can pay the price of the owner of the property wants.

ATTORNEY ANTHONY GALLUCCIO: With all due respect, I would be fair to argue if the community agreed with your position, you would place a high value on that. We have not heard from the community that that mass, that height, that floor area ratio, which all is in conformity with our Zoning Code -- the sole requested relief here is setback, which if were, again, an inconsistency in the BA Zone which, you know, I know the book that you often refer to that we are guided by happens to incent residential development in every way possible other than setback, which doesn't make a lot of sense, but it's the guide, but we have not

heard from the community that the height, which is below the allowed height, the floor area ratio, which is, which is within the allowed ratio, the lot per dwelling unit, all of those categories conform to the existing residential neighborhood and a Zoning Code. It's just the setback relief because of the shape of that lot. So I would, I would just ask that you consider the views of the community because I think what they see is a three-story residential development all with appropriate parking, all enclosed, appropriate landscaping, and green space that looks consistent with what they see in their neighborhood. And so I, and, again, you're entitled to your opinion but we have not heard our concerns.

CONSTANTINE ALEXANDER: You're

dying for me to have public testimony. You'll have your opportunity. First we wanted to hear your presentation and get preliminary comments from Members of the Board. But....

ATTORNEY ANTHONY GALLUCCIO: And I do, I appreciate what you're saying. We're -- I don't strike these deals. I -- I'm advocating. I believe this project warrants the relief that we've requested, and we have really tried to respond to the issues the Board has had. But there are, there is an economic reality. The economic reality is they -- there is an argument that the floor area that is allowed under the Zoning Code, they should be entitled to. So we weren't trying to be disrespectful when we went from six to five. There is a

cost to that, but we did -- it was, we weren't able to convince the seller that they should, they should not be able to conform to.

DOUGLAS MYERS: And we certainly do not -- we do not intend to be disrespectful to you. We know there's an economic reality and you and your client should understand there is a Zoning reality, too.

ATTORNEY ANTHONY GALLUCCIO:
Right.

DOUGLAS MYERS: And your job is to mediate --

ATTORNEY ANTHONY GALLUCCIO: No, no --

DOUGLAS MYERS: -- between those two understandings because you understand the Zoning Law and you understand the way

this Board works.

ATTORNEY ANTHONY GALLUCCIO: I do. And I have -- I don't do a lot of this type of work because I don't prefer it, but I am very attune to the Zoning Code. In fact, am happy to rewrite it as often as possible to meet the community's needs. But I would say when I look at cases like the Zinc (phonetic) case and I do legal research on this, there is not a better poster child case for relief. This is a unique lot that is uniquely designed which is inconsistent with nearly every other lot in the Zoning District. And albeit but one zoning category setback you are not allowed to take advantage of every other zoning category. Again, so from a legal standpoint, I know you're not as happy as you would like to be, but I could

not have a better legal argument, I don't believe for relief, so we attempted to modify this as best we could. And, again, to the extent that the community who looks out over this gas station and has lived with it for a long time, if they had said three stories is too big, we want two or five units is too much, we only want four, they really said we've waited a long time to get this property improved and we're happy to have a responsible developer and a team that seems to be able to do what they say they're going to do at the table. So we've, you know, that has been a motivating force for us to stay at the table. It wasn't a great first meet in March. I wasn't excited to continue to pursue, but I think the neighborhood wants us to try to finish this.

BRENDAN SULLIVAN: But, again, I think going back, that you know, the cost is what you pay for it. The value of a property is what you can do with it as of right. Now, that's a starting point. Then you have this very unique site, and I will grant you that it does scream for some kind of relief from the tenants of this book which was given to us by the best and brightest, our elected officials, at some point who responded to neighborhood input. And so taking this book from the best and the brightest that we have among us, it's our job to say then when does it warrant relief? And how much does it warrant that relief? And if this is what they can do as of right, does it really make sense? And we can probably be fair and reasonable use of the land is to

say no, it doesn't make sense to put those handcuffs on them because the value of the property is probably more than what they can do with it as of right residentially because you can only get two units on here, I guess, and two pretty small units. But for somebody, whoever, to approach an owner and say we will give you a gazillion dollars. All of a sudden that rings in their head and that's what I want, I want that gazillion dollars, and I don't care how you guys do it. But that's based on us getting six units here. We can sell those six units, our cost is set for so much money and we can walk away with so much money. But that then dictates or requires us to disregard this and that's where the rubber comes in.

TIMOTHY HUGHES: Well, I think the

other aspect of the grommet is if in fact the City Council in their wisdom wants to move commercial properties towards residential properties, they would almost want us to grant this Variance in this case because a commercial property could get built there that equals the massing of the first project that we didn't like as a residential. And that wouldn't be to the liking of the neighborhood. They want a residential place there rather than a commercial building there. And a commercial building would be viable, you know, a guy could sell it and, you know, he could sell the property for what he wants to a commercial developer. So we're also balancing this Variance against a possible hugely massive commercial building on that same property that

doesn't have the setback requirements.
And that would be to the detriment of the
people of the neighborhood --

BRENDAN SULLIVAN: Yes, but
there's a whole bunch of other --

TIMOTHY HUGHES: And a detriment
to the overall, you know, these kinds of
properties into a residential area in
quasi residential, you know, crossover
zones. So I mean there's more to think
about than just, you know, whether he can
make any money off of it at that price. I
mean, they could walk away from it, but I
guarantee if they walk away from it, it's
going to be a commercial building on that
site. Is that what we want to see happen?
I don't know.

ATTORNEY ANTHONY GALLUCCIO:
Mr. Chair, you and I had an interesting

disconnect at the first meeting and I say that with all due respect because my job is to figure out at what point I am disconnected and how to become connected. When I initially said we could do seven units, but we would need parking relief, you sort of laughed. And it was -- I was as serious as I could be. We initially looked at seven units, but we would have only had six parking spaces but we could, we could have conformed to all other areas. I look at -- I take seriously that we're not asking for relief on FAR or height or any of these other categories. But, Mr. Hughes, you raised this is -- I have come across this issue more than once in this BA Zone, even though the Code clearly incents residential conversion. The setback is inconsistent. So you're

right, you could do -- you could put in a, you know, whatever it is, a liquor store and a Honey Dew doughnuts and a lottery. You'd need some other approvals, which hopefully I get hired to do, and you could build that out and you could build it right up to the --

TIMOTHY HUGHES: You could build it as another R&D --

ATTORNEY ANTHONY

GALLUCCIO: -- right up to the property line and no one would be happy.

TIMOTHY HUGHES: It could be another R&D place, you know, it's like all of Kendall Square --

ATTORNEY ANTHONY GALLUCCIO:

Right. And you --

TIMOTHY HUGHES: -- is pushing in that direction anyway.

ATTORNEY ANTHONY GALLUCCIO:

Right.

TIMOTHY HUGHES: I'm sure he wouldn't have any problem selling it to a developer that will do that for him.

ATTORNEY ANTHONY GALLUCCIO: I do think it was appropriate to tell -- ask us to look at open space. I'm not sure we had a great argument to not comply with the open space requirement. I wasn't altogether comfortable with that. And low and behold the new open space happens to line up right on the Clark Street edge which is exactly where the transition to the neighborhood is. So I do think your comments have had an impact on the project. I mean I do. And I know the FAR -- I mean, that wasn't a trick. It was clearly that we were trying to hold

the FAR. But having one less unit, I think it is impactful. It's, it's, you know, it's another -- it's one less living unit. So that was a -- there was a value impact and that was a what we hoped was a respectful response.

BRENDAN SULLIVAN: Going back to the original plan, if we just eliminated this, would it be a viable project? Five units without that. So in other words, you'd have a step down.

ATTORNEY ANTHONY GALLUCCIO: I mean the -- I mean --

BRENDAN SULLIVAN: And I think that was my original question two meetings ago.

ATTORNEY ANTHONY GALLUCCIO: It's about -- I mean --

WILL CHALFANT: I think so, but --

ATTORNEY ANTHONY GALLUCCIO: I think we've -- look, I'd rather never see 209 Broadway again in my life, but it's about floor area. You know, I don't know the exact cost of moving the ten percent below grade, but I understand that -- I know the contractor is here, that that was of some cost. I mean I think the goal would be to keep the floor area intact to try to hold the deal together. So that to the extent you lose FAR, it's a deal breaker I believe. I -- is there another way to do that?

I mean, we don't want to go up to four stories on the back part of the property because that will -- I mean, we have support along Clark Street because we're below, and that, so that was one -- it's sort of counterintuitive.

BRENDAN SULLIVAN: It's basically go back to the original plan and eliminate that.

ATTORNEY ANTHONY GALLUCCIO: Oh, I'm sorry.

JAMES MONTEVERDE: Push back to Clark Street.

ATTORNEY ANTHONY GALLUCCIO: I'm sorry if I didn't read that right.

Do you understand?

WILL CHALFANT: I do. I just have a question.

I know there were concerns about this being a balcony. If that was done, if that was a deck would, that be a huge problem? Because I think if we're losing space, we have to at least provide some sort of space for that unit.

BRENDAN SULLIVAN: Well, I

understand.

TIMOTHY HUGHES: That's a very perceptive question for this particular Board.

BRENDAN SULLIVAN: Do you have the original plan there going back to --

CONSTANTINE ALEXANDER: I have it, yes.

BRENDAN SULLIVAN: Going back to March?

CONSTANTINE ALEXANDER: It says old.

ATTORNEY ANTHONY GALLUCCIO: I do.

BRENDAN SULLIVAN: It's in there because I've been through it today.

CONSTANTINE ALEXANDER: I think that's it. Check just to be sure.

WILL CHALFANT: If you removed those bays and that became -- you want to

take a whole floor off the building.

BRENDAN SULLIVAN: Yeah.

WILL CHALFANT: That changes everything. If you want to take off a whole floor that's up to the owner.

DOUGLAS MYERS: You couldn't find -- in terms of Mr. Sullivan's suggestion you couldn't remove the front part?

WILL CHALFANT: Oh, I think if I removed the --

DOUGLAS MYERS: And, and reduce space in other units to increase or leave the space adequate in the unit where you've removed the front part?

WILL CHALFANT: I think I can relocate space. My concern is if we take a whole third floor off, we're talking about a different project.

CONSTANTINE ALEXANDER: I don't think that's what we're saying.

WILL CHALFANT: He just told me that. I'm saying if you remove 20 feet or so off that third floor, 20 feet at the prow is what we've been calling it, I think there's a chance to make the project viable. I wanted to know if it's considered a horrible idea because --

BRENDAN SULLIVAN: If this here goes?

WILL CHALFANT: Yeah, that's all I'm talking about. Yeah. But, you know, there were concerns over that being a balcony previously. And I think in a lot of cases, you know, people don't want these roof decks for reasons of, you know, neighbors, they don't want people throwing beer cans, cigarette butts, and etcetera.

And we have a biotech on one side. And at that particular point, I don't think we have --

BRENDAN SULLIVAN: I could live with a deck there because it's old.

JIM MONTEVERDE: Decks on the other two proposals.

ATTORNEY ANTHONY GALLUCCIO: I thought, Mr. Sullivan, all you did was put a deck and not change much else. It wasn't the deck in and of itself that was a problem; is that right?

BRENDAN SULLIVAN: That's correct.

ATTORNEY ANTHONY GALLUCCIO: So you translate --

WILL CHALFANT: Well, I believe on the third floor we've got some, especially with this latest scheme, and I don't want to, you know, say this without the owner's

consent on this. But if we were to lose some space on that third floor area, which is currently shown with an office/library area, if that became a terrace.

TIMOTHY HUGHES: It would have a different appeal but it would still have an appeal.

WILL CHALFANT: Right, the client -- you're getting something in that unit. You're not looking at a rubber roof you could do something there.

BRENDAN SULLIVAN: If you did unit one, two, three, four, and five.

WILL CHALFANT: Well, that's a pre --

BRENDAN SULLIVAN: Four, five.

WILL CHALFANT: Now we're talking about a couple things, though. Previously do you want the open space or you want

that front end taken back? We could try to do both, but what you're showing there is we're losing that whole front 30 feet or so.

BRENDAN SULLIVAN: Well, that's -- it's that --

WILL CHALFANT: But you're saying the whole thing because that would be, these are multi-story units I guess is maybe there's a -- misunderstanding.

JAMES MONTEVERDE: That's the current plan. This is the previous?

WILL CHALFANT: You tell me which plan you'd like to work off. But the latest would be the most convenient.

ATTORNEY ANTHONY GALLUCCIO: Mr. Moderator, do you have the one that shows the three iterations on one piece of paper? Did you hand those out?

WILL CHALFANT: The ones I just passed around, the last four pages.

JIM MONTEVERDE: Yes, we're trying to refer to that one.

WILL CHALFANT: I don't have that.

ATTORNEY ANTHONY GALLUCCIO: The original? I have it. Do you need it?

WILL CHALFANT: Well, no, if that's what we want to work off. I'm simply saying with the latest we've gained that open space on Clark Street which we can still try to provide, but if on that plan we're talking about taking it from both ends opposed to just one end.

I think with other current scheme if we were to adjust that front end, and honestly I'll defer to you as far aesthetically how you want to go direction-wise, there's no, you know,

emotional connection to any of these. You know, whatever you would like. I mean, I personally feel that this style is much more fitting for the area, but you know, if there were some items that were too demonstrative with the cornice size, the change of material, we could certainly look at those things. If you don't like any of it, we can change it again.

CONSTANTINE ALEXANDER: Well, I for one like Brendan's suggestion because you come down Broadway coming from Kendall Square, this hits you, right?

WILL CHALFANT: Sure.

CONSTANTINE ALEXANDER: It's smack, you're right in front of you all of a sudden there's three stories of this.

WILL CHALFANT: Well, I'd argue the two, ten-story buildings prior to that

make more of that.

TIMOTHY HUGHES: Might start focusing your vision.

DOUGLAS MYERS: They channel you as it were and this flat iron building or flat iron piece.

WILL CHALFANT: Still only 35 feet but, yeah.

CONSTANTINE ALEXANDER: But if you stepped back --

TIMOTHY HUGHES: I always loved a flat iron building.

WILL CHALFANT: That initial --

CONSTANTINE ALEXANDER: And then it, to me it softens the visual impact.

WILL CHALFANT: I will say that part of the idea of the material change and the color change was to have it step back a little bit. The red and the yellow

was a bit in your face previously.

Although it doesn't show here, it blends in a little more like previous rendering stood out a little more in the street, but I'm, you know, I'm amenable.

CONSTANTINE ALEXANDER: Where are you?

TIMOTHY HUGHES: I think we're looking at another redesign.

CONSTANTINE ALEXANDER: I was going to get to that, yes. I know you want to have the neighborhood -- people from the neighborhood speak and I would like to have that since they, they're here for three hours if they wish. Or we can wait until the redesign comes back.

ATTORNEY ANTHONY GALLUCCIO: No, I think it would be helpful, because many of the neighbors supported it from the

beginning and so many of these concerns are really exclusively the Board. I would like to capture their support. I can't imagine asking them to come to another meeting.

UNIDENTIFIED AUDIENCE MEMBER: I don't want to come back again.

ATTORNEY ANTHONY GALLUCCIO: Remember I said I'd rather lose before Harvard than win after Harvard. You didn't take that literally.

DOUGLAS MYERS: Worked out to neither.

CONSTANTINE ALEXANDER: Let me open this up to public testimony.

ATTORNEY ANTHONY GALLUCCIO: Thank you.

CONSTANTINE ALEXANDER: We can come back to more questions and the like.

PATRICK BARRETT: My name is Patrick Barrett. I live at 234 Broadway. I'm also an attorney. I live across directly from this garage/parking lot/vacant area/you know, eyesore. Awful spot. You know, I appreciate the level of scrutiny that the Board is putting into all of this. I kind of wish that same level of scrutiny was put in when the area was actually designed all around because I've got a biotech building behind there with a huge circular hood. I've got, you know, the Mitsubishi building about eight stories tall and nothing in the whole entire quarter makes a lick of sense, you know, least of all this space. You know, I wasn't here in March because I don't like to come to the BZA if I don't have to. No offense. But it's -- I wish I was

there. I don't have a problem necessarily with the amount of units that's in the building. I don't really have a problem with the project that they've presented now. I have, in fact, they came to my space at 234 Broadway where all the neighbors met and we talked. There was no one there that had any particular issue with this project. I for one am not concerned necessarily by how much money they'll make. I don't really care about that. But what I do care about is when I look out the door when I leave my house and I would like for that to go away. I would like for a building to be there. I think this particular building, and I'm not emotional about the front impact of the structure. I'm more emotional about the fact that in the wintertime it's a big

pile of snow and it's just tagged with graffiti. It's awful. Not that that should be the reward for a better situation, but what about, I think at some point the neighborhood has to be considered.

Commercial is very difficult to work there unless it's R&D which is what it definitely would be. I also work in real estate as a developer. That's the first thing that come to mind, why aren't they doing that? That seems to be the most lucrative use you could have. And I appreciate the effort that they put into it to come and at least talk to us and explain what they're doing, but I really hope -- I know you guys are looking for a redesign. I really hope that there's a project that you can approve here.

Thank you.

CONSTANTINE ALEXANDER: Well, speaking only for myself, I think you can see the sentiment here that yes, we think residential makes sense here, it's where it should go. We're not adverse to that. However, we want to see a project that's designed, in our judgment, as best as possible and particularly the impact on the streetscape and the city, and that's the one concern.

PATRICK BARRETT: The shape of the lot really restrict the issue.

CONSTANTINE ALEXANDER: That's what makes this case go, the shape of the lot. There's not much you can do.

PATRICK BARRETT: I can't think of too many triangular buildings.

CONSTANTINE ALEXANDER: There is a

bit of a massing impact with the three stories in all portions of the lot and what we're trying to work toward with the petitioner is maybe we can soften the impact by, as I say, stepping back. As you go down Broadway, you don't see three stories immediately right in front of you, you see two stories and it's receding back to the --

PATRICK BARRETT: There's a three-story residential structure right in front of me. A triple decker, triple decker that was combined at a later date. The only thing weird about the building is it's on a triangle. So as far as the massing goes for the area, you know, there's the single-story restaurant space that burnt down last Christmas that's been sitting there. And that's like the

ugliest building I think around, and it's -- I'm not sure the fire maybe improved it a little bit. But then next to that you have Dunkin' Donuts and all these other spaces that don't make a lick of sense. I mean, I bought my property there, I moved there about ten years ago with my family so we obviously like the area, but cohesiveness of the Zoning I can't think of a mixed up space. I think it actually makes it better.

Thank you.

CONSTANTINE ALEXANDER: Thank you for taking the time to stick around and talk to us.

Anyone else want to be heard?

PAT JUKOVSKY: My name is Pat Jukovsky. I live at 220 Broadway right across from the derelict lot. The thing I

would say, I don't know much about architecture, but I would say you shouldn't let the best get in the way of good. And I think this is a good project. I think from the way the lawyer just described it, the one thing that doesn't comply with regulations is the setback. So I think that's what -- it seems to me that should be the area of concern as opposed to, you know, lopping off bits of the building to make things more aesthetically pleasing to your particular taste. I truly believe that we -- I've lived there. We moved in what, 17 years ago. I mean, you talk about mass. If you come down, there are huge buildings. They keep coming. Huge buildings, much bigger than this. I mean, coming down from Kendall, from Kendall down to our block,

you have huge R&D buildings, office buildings, commercial space. I -- this seems very much in scale with the neighborhood compared to those huge businesses that are, that are encroaching on the neighborhood. I think this gives a chance for it to continue to be a residential, you know, have residential feel. I think we're the last residential block on Broadway and everything sort of -- businesses are slowly encroaching, you know, the high tech and the biotech and so on are slowly encroaching, and I think this would be a nice entry point to the neighborhood, if you will, signalling that it's, that this is a residential area. And granted, it's I guess zoned for both, but I like the feel of having residential area. And I think it's really

a drag to look out your window and see. I mean, the only positive I suppose is because it's a Dunkin' Donuts nearby, the lot's usually filled up with police cars. So that's a plus for the neighborhood I suppose but, but at least in terms of burglaries and so on. But I think it's a good project and I think, I think the kind of neighborhood that it is, this would be an improvement. And I we also attended the meeting, the neighborhood meeting and there were a lot of other folks there who probably didn't have the patience to sit through three hours waiting for Harvard to voice their opinion, but at that meeting it was pretty solid agreement that it was a good idea.

MARTIN JUKOVSKY: Martin Jukovsky. Same spelling. I look forward to looking

out my window, coming out the front door, and seeing something like that across the street from us. We moved there, as Pat said, 17 years ago and a lot were empty lots and all of these behemoths rose up, they were out of scale with the neighborhood. And I was very relieved to find when we were first told about this project. I had worried what was going to be there where the gas station had been, and I was very relieved to find that it was going to be a residence, a residential unit, and I was even more pleased when I saw the plans. They're very attractive. I think they fit in well with the neighborhood. They're in scale and I hope that this can be resolved as quickly as possible and that it starts being built.

CONSTANTINE ALEXANDER: Thank you.

Comments from Members of the Board at this point?

TIMOTHY HUGHES: I like the more rounded front end but that's just an aesthetic thing.

WILL CHALFANT: I mean, if we are going to come back, I would like to --

DOUGLAS MYERS: I would chime in the same.

CONSTANTINE ALEXANDER: And same here.

DOUGLAS MYERS: The change on the third floor I would prefer. I think that is more aesthetic.

WILL CHALANT: I think it fits the site, you know.

DOUGLAS MYERS: Queen Anne time look in the Cambridge neighborhoods.

CONSTANTINE ALEXANDER: I think

this project needs one more redesign from the comments you heard and I don't think it's major. And I think if you do that and you could come up with some sort of step back as we've suggested, that I think, you know, I think our Board would look very favorably on relief. That's just my personal view.

WILL CHALFANT: Sure.

CONSTANTINE ALEXANDER: Anyone disagrees on the Board please say so now so we don't send these folks off on a fool's error.

TIMOTHY HUGHES: No.

BRENDAN SULLIVAN: Not to hold you to it, but just if draw where you think the line is on this third floor bow front is.

WILL CHALFANT: Are you going to

hold me to this line?

BRENDAN SULLIVAN: No, just a thought. So that as you would just round that off; is that correct?

WILL CHALFANT: I mean if we're gonna go back to the rounded end, then I think that third floor would also be rounded, yes.

BRENDAN SULLIVAN: Right. And so you're back how many feet there roughly?

WILL CHALFANT: I would say 15 to 18 feet. So....

BRENDAN SULLIVAN: Ten feet?

WILL CHALFANT: On the latest scheme the bottom there in between that double window and single window. I'm sorry, here on this. I think we're looking at an area here. If we're applying it there then we're looking at

that.

ATTORNEY ANTHONY GALLUCCIO: One of the challenges to try to keep the new open space -- the part of the response so, you know, it's the no good deed, but I think that's something we'd like to try to hold on to; is that right? I mean, along the neighborhood edge.

WILL CHALFANT: I think we want to keep that open space on Clark Street that we've done with this latest scheme because I think that really does.

CONSTANTINE ALEXANDER: It helps with the neighborhood.

WILL CHALFANT: I think it makes the project nicer honestly because you're not right on the sidewalk.

ATTORNEY ANTHONY GALLUCCIO: And it reduces the amount of setback impact.

It goes to the relief.

WILL CHALFANT: That's as we said, that's the street that abuts neighbors whoever is stepping back further than if I think we maintain the rest of what we've done than obviously we'll go back to the front end that you prefer. I think that's, I think that's doable.

BRENDAN SULLIVAN: Okay.

CONSTANTINE ALEXANDER: Okay.

ATTORNEY ANTHONY GALLUCCIO:
Mr. Chair, for the record, we have a landscape plan. I guess I would rather wait now --

CONSTANTINE ALEXANDER:
Absolutely.

ATTORNEY ANTHONY GALLUCCIO: Okay.
Because the plan -- in the Planning Board's recommendation they had asked that

we provide the -- and you asked that we provide a final landscape plan. So we will include that when we get to a final iteration.

CONSTANTINE ALEXANDER: You have a letter from the Planning Board?

ATTORNEY ANTHONY GALLUCCIO: We have a recommendation from the Planning Board.

CONSTANTINE ALEXANDER: I don't think we have it in our file.

ATTORNEY ANTHONY GALLUCCIO: On the six units. On the original.

CONSTANTINE ALEXANDER: On the original?

ATTORNEY ANTHONY GALLUCCIO: I'll provide it to you. This was --

CONSTANTINE ALEXANDER: We do have it.

ATTORNEY ANTHONY GALLUCCIO: This was the Planning Board recommendation saying that the project was consistent with the residential context and that it was appropriately designed.

CONSTANTINE ALEXANDER: We do have this.

ATTORNEY ANTHONY GALLUCCIO: That was back in March.

CONSTANTINE ALEXANDER: Yes.

How much time you need? When would you want to come back with --

WILL CHALFANT: I mean --

CONSTANTINE ALEXANDER: I'm sorry?

WILL CHALFANT: When's the first time we can be heard again?

SEAN O'GRADY: I can squeeze them in next time.

DOUGLAS MYERS: I can't be here.

That may not be essential.

SEAN O'GRADY: Otherwise you're out to September 24th.

CONSTANTINE ALEXANDER: Well....

DOUGLAS MYERS: It's up to them.

CONSTANTINE ALEXANDER: It's sort of your call. We can do it on the 27th.

SEAN O'GRADY: 13th.

CONSTANTINE ALEXANDER: 13th of August but there would only be four members.

JAMES MONTEVERDE: Three. I can't be here.

CONSTANTINE ALEXANDER: It's moot. We can't do it.

ATTORNEY ANTHONY GALLUCCIO: Okay.

CONSTANTINE ALEXANDER: Then it's the 24th of September?

SEAN O'GRADY: Yes.

DOUGLAS MYERS: 30th is full?

SEAN O'GRADY: Yes.

CONSTANTINE ALEXANDER: Okay?

The Chair would move that this case be continued again as a case heard until seven p.m. on September 24th subject to the following conditions:

That the petitioner modify once again the sign, the signage on the property to reflect the new date and the new time, both date and time.

And that the modified sign be maintained for the 14 days required by our Ordinance.

And that the new plans, which there will be, and any related dimensional form must be in our files no later than five p.m. on the Monday before September 24th. You just can't just bring them down here.

You have to have them in the file.

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

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. So we'll see you on the 24th September.

(Alexander, Hughes, Sullivan, Myers Monteverde.)

ATTORNEY ANTHONY GALLUCCIO: Thank you.

* * * * *

(10:45 p.m.)

(Sitting Members Case BZA-007147-2015:
Constantine Alexander, Timothy Hughes,
Brendan Sullivan, Douglas Myers, George S.
Best.)

CONSTANTINE ALEXANDER: The Chair
will call case No. 007147, 40 Pemberton
Street.

Is there anyone here wishing to be
heard on this matter? Right now you know
the drill.

LISA RAVICZ: Yes.

CONSTANTINE ALEXANDER: For the
record, name and address to the

stenographer, please.

KYLE SHEFFIELD: The name is Lisa Ravicz.

LISA RAVICZ: R-a-v-i-c-z.

KYLE SHEFFIELD: The address is 40 Pemberton Street.

THE STENOGRAPHER: I need your name, though, too.

KYLE SHEFFIELD: Yeah, I know.

My name is Kyle Sheffield,
S-h-e-f-f-i-e-l-d. I'm with LDA
Architecture and Interiors, Cambridge.

CONSTANTINE ALEXANDER: Okay.
Floor is yours. You want a Variance.

KYLE SHEFFIELD: We do. Lisa has
owned the property for --

LISA RAVICZ: Since August of '94.

KYLE SHEFFIELD: She is a resident
there. She lives in the second and third

floor unit. It's a two-family house. She rents the first floor out. The trouble that we are seeking for is the conforming porch and mudroom addition to a non-conforming structure. And the -- what it would entail is to add -- essentially demolish a 20 square foot porch and add 72 square feet of built structure. So a net increase of 52 square feet or .04 FAR. The addition is dimensionally conforming, but unfortunately we are already pre-existing non-conforming to FAR. So our relief that we're requesting is --

CONSTANTINE ALEXANDER: You're going to go slightly -- right now you're at 0.75 in a 0.5 district. And you're going to go to 0.76. It's only 50-something square feet.

KYLE SHEFFIELD: Correct.

CONSTANTINE ALEXANDER: Very slight addition in the FAR.

KYLE SHEFFIELD: Correct.

CONSTANTINE ALEXANDER: And that's the only relief you need.

KYLE SHEFFIELD: Yes, that's the case.

CONSTANTINE ALEXANDER: Okay.

And the purpose of the -- just to elaborate. I know it's in the file.

KYLE SHEFFIELD: The reason for this is that currently the entrance into Lisa's unit you enter into a landing of the stair. There is very little space to maneuver if you're carrying groceries or trying to take off your shoes or especially with this past winter months it was boots and snow boots and shovels and

things like that. And so the relief would be to try and be able to gain better access within to the unit, having access into a mudroom space first. But also to have a little bit more porch coverage for both accesses into both the first floor unit as well as Lisa's unit. Because right now currently the 20 square feet that is there is a shared entry. It's quite small.

CONSTANTINE ALEXANDER: Okay.

Questions from Members of the Board?

TIMOTHY HUGHES: No, I'm good.

CONSTANTINE ALEXANDER: No questions? I'll open the matter up to public testimony.

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

(No Response.)

CONSTANTINE ALEXANDER: No one wishes to be heard.

We do have some letters of support. They're brief so I'm going to read them into the record.

There's a letter from 8 Adalicia A-d-a-l-i-c-i-a D-as-in-dog, Roth and Robert L. Roth. (Reading) We live on Two Warwick Park, apartment No. 1, Cambridge. The proposed addition meets our approval. I think it is consistent with the other buildings in our neighborhood.

There's a letter from Greg Moree, M-o-r-e-e, 25 Fairfield Street. (Reading) I am in favor of Lisa Ravicz creating a wood frame mudroom at 40 Pemberton Street in Cambridge. My house abuts 40 Pemberton Street in the rear and Lisa has been a great and caring neighbor. She always

takes care of her property with consideration and the utmost care. I am sure she will do the same with the mudroom. So that I will also attend the hearing tonight, but I don't think --

LISA RAVICZ: Actually he dropped by the house this morning and said he wouldn't be attending.

CONSTANTINE ALEXANDER: I wouldn't blame him for leaving anyway.

And then we have lastly, a letter from Theoni, T-h-e-o-n-i Giamas, G-i-a-m-a-s resides at 45 Pemberton Street. (Reading) To Whom It May Concern: I am saying yes to the proposition. I will be out of the country so I will not be able to attend the hearing.

And that's all she wrote.

So I think we're ready for a motion.

Okay, just so you know, I'm not sure you've been before our Board before, sir.

KYLE SHEFFIELD: Yes.

CONSTANTINE ALEXANDER: When we grant relief, we tie it to plans. So the condition that you proceed with the plans. Are these the final plans?

KYLE SHEFFIELD: They're ready to be built, yep.

CONSTANTINE ALEXANDER: Otherwise you have to come back before us if you want to modify.

KYLE SHEFFIELD: We're aware of that.

CONSTANTINE ALEXANDER: 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 to the petitioner. Such hardship being that the structure as it is in its current form is inadequate with respect to the entranceways for both units. And the need for a mudroom to protect against the elements.

That the hardship is owing to the fact that this is a non-conforming structure, so any relief requires zoning relief, or 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 the Ordinance.

In this regard the Chair would note that the relief being sought is rather modest. It's not unusual in terms of the

City of Cambridge and it has neighborhood support.

So that the Chair moves that based upon these findings that we grant the Variance being requested on the condition that the work proceed in accordance with plans prepared by LDA Architecture and Interiors, and that the plans are numbered -- each of these plans are initialed by the Chair. They're numbered G100, D100, A100, A200, A300, A301, S001, S002. That's it.

All those in favor of granting the Variance please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Good luck.

(Alexander, Hughes, Sullivan, Myers, Best.)

* * * * *

(10:55 p.m.)

(Sitting Members Case BZA-007159-2015:

Constantine Alexander, Timothy Hughes,

Brendan Sullivan, Douglas Myers, George S.

Best.)

CONSTANTINE ALEXANDER: The Chair will call case No. 007159, 10 Fayerweather Street.

Ist here anyone here wishing to be heard on this matter? Mr. Rafferty.

ATTORNEY JAMES RAFFERTY: Good evening, Mr. Chair, Members of the Board. James Rafferty appearing on behalf of the applicant, Jeannie Suk, J-e-a-n-n-i-e S-u-k. Seated to Ms. Suk's right is her husband Jacob Gersen, G-e-r-s-e-n. And to Mr. Gersen's right Douglas Dick, D-i-c-k. He is the project architect.

Ms. Suk and Mr. Gersen have been here a while. But since it was their employer that took up most of the time this evening, they don't need to criticize what's gone on today.

They live in a house at Ten

Fayerweather Street, a single-family home. A house they're raising their four children in. Unfortunately back in December they experienced a fire in the house. And as part of the work they're doing to complete renovations from the fire, they took a look at the kitchen, and as appealing as the house was, they actually had a kitchen of 64 square feet.

JEANNIE SUK: 74.

ATTORNEY JAMES RAFFERTY: 74

square feet. And I would make room for one more blender I believe.

The proposal is to add a conforming addition. It's a single-story addition.

The case is before the Board because the house is non-conforming since it was constructed, or it was constructed prior to the adoption of Zoning. And it's 14

feet, 2 inches on the right side, 14.2, and it needs to be 15. So the applicant would prefer not to have to shave ten inches off that side of the house in order to get this kitchen. So the hardship is directly related to that structure, its location on the lot.

The proposal enjoys strong support. It's about 531 square foot addition. It's still about 300 or so square feet below the allowable FAR.

The addition itself conforms to setback, has no impact on open space in terms of resulting in any non-conformity. And as I said, it's an opportunity to renovate this entire section of the house resulting from the fire. So for those reasons and the support of all of the abutters, which there are letters in the

file to that effect, we would ask the Board to find this case appropriate for the relief being requested.

CONSTANTINE ALEXANDER: Questions from Members of the Board?

DOUGLAS MYERS: Just one and it's just because I'm tired because I lost the thread a little bit. What was the specific nature of the zoning relief that is required here?

ATTORNEY JAMES RAFFERTY: Oh, it's a Variance to put a conforming addition on to a non-conforming structure.

DOUGLAS MYERS: And why is the Variance required? I lost the thread of that.

ATTORNEY JAMES RAFFERTY: Because in a non-conforming structure, you can add 10 percent as of right, 25 percent by

Special Permit. There have been subsequent additions to the home since it was originally constructed, so the as-of-right 10 percent has been used and the 25 percent by Special Permit as well. So this 500 square feet, although it's within the allowed FAR for the lot, it happens to extend beyond what's permitted as of right for a non-conforming structure which is unfortunately why these structures, when rezoning occurs sometimes and people say well, we've rezoned your neighborhood. Well, there is a consequence to having a non-conforming structure in a property like this. It's related to the fact that it's just shy of the required side yard setback, and that's what puts it into this category so that's why we're seeking the relief through a

Variance.

CONSTANTINE ALEXANDER: In my view it's not relevant to anything, I don't think. I think Cambridge Zoning Ordinance doesn't comply with the state statute. I don't think you should need a Variance.

ATTORNEY JAMES RAFFERTY: Under Section 6, yes.

CONSTANTINE ALEXANDER: Right. But that's how the Ordinance is written and so that's how it's been enforced. In this case I don't think it makes much of a difference.

ATTORNEY JAMES RAFFERTY: Right. And I mean there are -- I understand that thinking and it's been expressed. But I think by -- it's an interesting -- I recall when that was added to the Zoning. So it used to be frankly that if it was a

conforming addition, you didn't create any new violations. Why get zoning relief? And the 25 percent frankly felt a little arbitrary at the time, and there was a councillor from North Cambridge who felt that it was necessary and it got added. So it's not clear to me why 10 percent is as of right and 25 percent when in a case like this, there's --

CONSTANTINE ALEXANDER: Again, I think proper interpretation of the state statute would say you throw out the 10 percent, the 25 percent that Cambridge has imposed and you look to Section 7 I think it is of Chapter 40A --

ATTORNEY JAMES RAFFERTY: Right.

CONSTANTINE ALEXANDER: And that says it isn't any substantially worse to a neighborhood than what's there now.

ATTORNEY JAMES RAFFERTY: I never found it in my financial interest to bring that Constitutional challenge. But Professor Gersen is a professor of Constitutional law, so if he wants to attend the hearing --

DOUGLAS MYERS: I'm sorry I asked a question.

CONSTANTINE ALEXANDER: In any event, that's for another day.

I'll open the matter up to public testimony. Is there anyone here wishing to be heard in on this matter?

(No Response.)

CONSTANTINE ALEXANDER: Apparently no one wishes to be heard. We do have some letters of support.

A letter from David Altire
(phonetic) 30 -- he's writing from his, I

guess his company, tech foundation, 30 Brattle Street, third floor. (Reading) We live at 15 Fayerweather Street, directly across the street from 10 Fayerweather Street. I understand that Jeannie Suk is applying to the Board of Zoning Appeal for a Variance to construct a one-story addition to the back of her house to accommodate a kitchen for her family of six. Having raised young children, we know how helpful it can be to have a kitchen area that the whole family can be in together, and the proposed addition would allow that. We reviewed the plans, we find that the proposed addition is very reasonable, modest, and has no negative impact from our perspective. We support the Variance. We hope you will approve her application.

We have a letter from Pamela Turner, Four Fayerweather Street. (Reading) As a next-door neighbor at Four Fayerweather Street, I have visited Ten Fayerweather Street and know well that my former neighbor renovated the kitchen only to serve or cook for other staff members. She would use the formal dining room adjacent to the kitchen. The kitchen was never designed to serve a family of six. It was a very small, by any standard, galley kitchen. Therefore, it makes great sense that recovering from the fire damage, the Suk-Gersen family would choose also to ameliorate this essential family space both aesthetically and functionally. According to the plans which they have most considerately provided me, this renovation has been carefully considered.

It appears to meet all Zoning requirements. It will in no way affect my property, and will significantly enhance theirs. I fully support this application.

A letter from Paul A. Meader,
M-e-a-d-e-r. (Reading) My wife Gwill,
G-w-i-l-l York and I live at 16
Fayerweather Street, next-door to Ten
Fayerweather Street where Jeannie Suk is
seeking a Variance to build a small
addition while repairing fire damage to
her kitchen. Jeannie has been a
considerate neighbor in regards to some
trash issues we had and plans to further
address the problem in conjunction with
this renovation. We have seen Jeannie's
plans and fully support the project. It
looks like a thoughtful moderate expansion
of the floor space that will have no

affect whatever on our view. We would like to express our hope that the BZA grant the Variance as proposed.

I think there may have been one more. Yes, one more from Frances, F-r-a-n-c-e-s X. Frei, F-r-e-i.

(Reading) We are writing to offer our support for Jeannie Suk and Jacob Gersen whose house was destroyed in part by a fire in December 2014. We have seen the drawings in detail and find the addition request thoughtful, modest, and in keeping with the current property as well as those in the neighborhood. Their project has our full support. And they live by the way, I didn't say, at 22 Fayerweather Street.

And that's all we have. All letters of support. I'm going to close public

testimony.

Ready for a vote?

TIMOTHY HUGHES: Yes.

CONSTANTINE ALEXANDER: 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 to the petitioner. Such hardship being that the petitioner needs additional kitchen space that can only be achieved by making the addition without otherwise substantially impacting the structure by making this addition.

That the hardship is owing to the fact that this is already a non-conforming structure. It's a little too close to the lot line on one side in terms of setbacks.

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 what's being sought is modest in nature and has unanimous neighborhood support.

So on the basis of these findings the Chair moves that we grant the Variance being requested on the condition that the work proceed in accordance with plans prepared by LDA Architecture and Interiors. There are many -- several pages of plans, each of which has been initialled by the Chair.

All those in favor of granting relief --

ATTORNEY JAMES RAFFERTY:

Mr. Chair, I just want to make sure because there was a slight revision -- we got the right date.

CONSTANTINE ALEXANDER: This is old. It says "old" here. I'm not using this one. I'm using these.

ATTORNEY JAMES RAFFERTY: Okay, yes, right. Oh, I thought someone had said something disparaging about one of the members, had written it down. That's refers to the plans.

CONSTANTINE ALEXANDER: Wait a minute. You lost me on this one.

ATTORNEY JAMES RAFFERTY: I want to make sure we have the right plans. It's got the right date.

BRENDAN SULLIVAN: It wasn't lost on me.

ATTORNEY JAMES RAFFERTY: It's

late.

CONSTANTINE ALEXANDER: It's late.
The date is 7/21/2015. Those are the
ones.

ATTORNEY JAMES RAFFERTY: Yes,
thank you.

CONSTANTINE ALEXANDER: All those
in favor of granting the Variance on the
condition I mentioned, please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in
favor.

(Alexander, Hughes, Sullivan,
Myers, Best.)

ATTORNEY JAMES RAFFERTY: Thank
you very much.

DOUGLAS MYERS: Sorry about the
fire. That's no fun.

* * * * *

(11:05 p.m.)

(Sitting Members Case BZA-007156-2015:
Constantine Alexander, Timothy Hughes,
Brendan Sullivan, Douglas Myers, George S.
Best.)

CONSTANTINE ALEXANDER: The Chair

will call case No. 007156, 32 Hawthorn Street.

Is there anyone here wishing to be heard on this matter? Floor is yours.

ATTORNEY BRUCE EMBRY: Good evening. My name is Bruce Embry, E-m-b-r-y. I'm an attorney with the firm of Clark, Hunt, Ahearn, and Embry. We're at 150 CambridgePark Drive here in Cambridge.

We are here tonight to talk about 32 Hawthorn Street. To my right is Holly Levenkron who is the owner of the property. To my left is Tom Stohlman who is the architect who did the renderings which are attached to the application.

This is a pretty straightforward proposition. 32 Hawthorn Street has behind it a modest addition which was

built at a time that we cannot determine. We believe it predates 1930 because we have a map that shows the addition from 1930, and we think it's actually older than that, but there are no records at the Building Department about when the addition may have been constructed or under -- may have undergone renovations in the interim.

Attached to the addition is an even more modest shed which is likewise in the state of disrepair. What Holly would like to do is she would like to take down the addition and remove the shed and rebuild the addition dimensionally the same on the same footprint, no additional volume with perhaps the exception the roof now slants. What we we'd like to do is raise the roof a little bit, put some windows in the

space here, that would add just a marginal, tiny bit of volume. But the, but the perimeter dimensions would stay the same. All of the setbacks would be the same. Basically it would be a replica at least dimensionally of what is currently there.

Additionally, what Holly would like to do is move and add some windows both in the addition and on the side of the building just for aesthetic and lighting reasons. And those, those windows would all be in keeping with the architectural style of the house.

CONSTANTINE ALEXANDER: And that requires a Special Permit?

ATTORNEY BRUCE EMBRY: Right, which we've asked for as well.

CONSTANTINE ALEXANDER: Which is a

different standard.

ATTORNEY BRUCE EMBRY: The addition is not visible from Hawthorn Street.

CONSTANTINE ALEXANDER: Right. I can attest to that.

ATTORNEY BRUCE EMBRY: I don't believe it would offend the neighbors walking up and down the street. We believe that we have support from neighbors and abutters with perhaps one exception which I'm happy to talk about if you like. But basically that's really it. It's not a -- it's not a particularly tricky thing. It's, as I say, it's just a replacement in place of what is there.

CONSTANTINE ALEXANDER: Let me ask you a couple of questions. If by some magic the Building Permit were to turn up

at the Building Department showing that that addition with the shed was properly permitted by the city, would you not need -- am I correct that you would not need any Zoning relief to do what you want to do?

ATTORNEY BRUCE EMBRY: That's my belief. And we had discussed that with Mr. O'Grady. And the reason that we're pursuing the Variance is because we want to determine the existence.

CONSTANTINE ALEXANDER: You can't prove that the structure or the addition was lawfully built?

ATTORNEY BRUCE EMBRY: Correct.

CONSTANTINE ALEXANDER: And absent that the ISD takes the position that you have to start all over again?

ATTORNEY BRUCE EMBRY: And

particularly where you're taking it down completely, you then must conform to current zoning. And what we're asking to do is be able to rebuild without conformity to current zoning.

CONSTANTINE ALEXANDER: And on the Special Permit, which is relocation of the windows, judging from the streetscape, I don't see anybody -- those windows impa -- you got fences on either side of your property, am I right?

ATTORNEY BRUCE EMBRY: It's also heavily --

CONSTANTINE ALEXANDER: It's not a matter of privacy, impacting the privacy?

TOM STOHLMAN: Right.

ATTORNEY BRUCE EMBRY: And there are lots of very mature trees surrounding the property, so it's not a matter of

neighbors looking into --

CONSTANTINE ALEXANDER: Maybe the only concern we have with Special Permit cases for relocation of windows is the impact of the privacy of abutters who may not want you to be able to look in from your new windows into their property. But what I'm hearing, I think, I believe this is the case, that can't be the case here because of the way you have your lot with the fences and the trees.

ATTORNEY BRUCE EMBRY: Right. And in fact to the nearest abutter there is an eight-foot fence that separates the two properties. So, you know, at least at ground level you're not going to be looking into the next-door neighbor's lot.

CONSTANTINE ALEXANDER: Okay. Those are my questions. There is a letter

of -- we'll get to that in a second because we have testimony. Yes, you are correct there is a letter of opposition in the file from an abutter.

ATTORNEY BRUCE EMBRY: Correct.

CONSTANTINE ALEXANDER: And there are several letters which we'll get to in support.

At this point any questions from Members of the Board or should I open it to public testimony?

(No Response.)

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

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

(No Response.)

CONSTANTINE ALEXANDER: The Chair notes there is no one wishing to be heard.

I guess the person who wrote the letter is --

BRENDAN SULLIVAN: Can I see the plan?

CONSTANTINE ALEXANDER: Sure.

ATTORNEY BRUCE EMBRY: If I could add one thing. There's no intention to replace the shed. The shed just goes.

CONSTANTINE ALEXANDER: Yes. But the addition is being replaced with a slightly different sloping ceiling. Got it.

The Chair would note that we have a number of letters in the file. We have letters that -- we have mostly in support, states: I am writing as an abutting neighbor to 32 Hawthorn Street. Holly Levenkron has provided me with plans for upcoming renovations, and I have no issue

with the work represented by Tom Stohlman, Jr., architect, dated March 20, 2015. And is signed by Shikhar, S-h-i-k-h-a-r Ghosti, G-h-o-s-t-i who resides at 31 Hawthorn Street.

From Margaret -- and I can't read her last name, that resides at 36 Hawthorn Street, unit 1.

These are all the same letter.

ATTORNEY BRUCE EMBRY: Same letter.

CONSTANTINE ALEXANDER: A letter from Blair Trippe, T-r-i-p-p-e, 36 Hawthorn Street, unit 2.

The resident at 36 Hawthorn Street, unit No. 3. Cavas, C-a-v-a-s Goldai, G-o-l-d-a-i.

And I think that's it in terms of letters of support. Let's just be sure.

I guess it is.

And we have one letter of opposition written by Alan, A-l-a-n I. Green who lives at 28 Hawthorn Street. (Reading) My wife Frances Cohen and I own the house at 28 Hawthorn Street situated immediately next to the house owned by Doctor Holly Levenkron, located at 32 Hawthorn Street. Our back garden is right next to the proposed addition. The property at 32 Hawthorn Street has been enlarged many times beyond the original plans and footprint for the house. Many of these non-conforming additions encroach on the sunlight and view in our garden. As a result, we are restricted to shade plants. The proposed addition will further increase the volume of the non-conforming addition casting further shadow on our

garden and further disrupting our view. The existing house is very large and indeed Doctor Levenkron rents portions for residential use and uses another portion for a Home Office. Accordingly we do not believe that there will be any undue hardship to denial of the Variance. For these reasons, although we value Doctor Levenkron as an excellent neighbor, we regretfully oppose the Variance.

You want to address the --

ATTORNEY BRUCE EMBRY: I would and I think Tom can pitch in here, too, as well. The objection of Mr. Green is shading essentially. He believes that the replacement addition will add more shade than currently exists into his lot. And respectfully I want to say that he's just wrong. He's wrong intuitively, because if

you've got a structure and you replace that structure, it's not going to be any worse than the former structure, so okay. But Tom, with the magic of technology has been able to do some shadow studies, which he will be happy to share with you. And I think if you look at these shadow.

DOUGLAS MYERS: In explaining the shadow studies, could you explain, throw a light on how far the garden is from the proposed addition as built?

TOM STOHLMAN: Sure.

DOUGLAS MYERS: And the height of the proposed addition in some way with respect to the garden.

HOLLY LEVENKRON: I have some photographs. Or Tom does, too.

TOM STOHLMAN: So I think from the documents you have if you -- you all have

a copy of the plot plan, correct?

CONSTANTINE ALEXANDER: Yes.

TOM STOHLMAN: And actually let me pass these out, too. This is the old map that I found from 1930, but it's substantially the same situation between the two neighbors. So you can refer to this, too.

BRENDAN SULLIVAN: Tom, does the addition sort of face southeast?

TOM STOHLMAN: The addition faces east mostly. Yes, it's a slight tilt.

BRENDAN SULLIVAN: Yes.

TOM STOHLMAN: So it actually faces northeast.

BRENDAN SULLIVAN: Is it northeast?

ATTORNEY BRUCE EMBRY: Well, no, here's the plot plan with the arrow on it.

TOM STOHLMAN: Here.

Here's the, here's the existing addition. You see that on your plot plans.

ATTORNEY BRUCE EMBRY: The addition if you're looking from Hawthorn Street is back left.

TOM STOHLMAN: So if north is up --

CONSTANTINE ALEXANDER: That's here. But I don't see the addition. It's a plot plan.

TOM STOHLMAN: You don't see the addition because it's an existing structure. We're not changing that.

CONSTANTINE ALEXANDER: I figured that out.

TOM STOHLMAN: I could circle it if you like on your plot plan to get you

oriented. But that addition itself comes out from the building towards the northeast, mostly east, though. It's east, northeast.

DOUGLAS MYERS: So Mr. Green owns this whole parcel?

ATTORNEY BRUCE EMBRY: He's at the corner of Hawthorn and Acacia.

DOUGLAS MYERS: I see the parcel. I follow.

TOM STOHLMAN: And so since the house -- I went, I went back looking through old, those wonderful old Sanborn maps and Bromley maps to try to figure out what the story was. And since I believe 1896 was the earliest one I could find, these were virtually the first two houses built on the street. The neighbor has built the letter of opposition and this

house. And for whatever reason they pushed, they pushed this house close to the property line. There's about three feet -- what does it say? Yeah, two to three feet, according to the plot plan between that edge of the house and the property line. And along that property line the neighbor has built an eight foot high fence. So his garden, he actually has a backyard that's mostly lawn as near as I can tell. He has a variety of planting beds near the house. And I'm not sure exactly what garden he's referring to, but because of that eight foot -- and now if we go to the solar studies, because of that eight foot fence for the most part, we'll start with the summer, summer solstice when the sun is as high in the sky as it's going to be, this is three

times during the day. There's virtually no difference between --

DOUGLAS MYERS: Help me, whose house is where in this drawing?

TOM STOHLMAN: Holly's house is actually -- see that big telephone pole?

DOUGLAS MYERS: Like a pillar.

TOM STOHLMAN: That's a big oak tree in the neighbor's yard. So I'm standing in the neighbor's yard. I can do that virtually.

DOUGLAS MYERS: The house on the left.

TOM STOHLMAN: No, the house on the left is Holly's house, and the house on the right is the neighbor's house. And you're actually standing in the neighbor's backyard. And you see that big telephone pole is a big oak tree. And the fence

that I'm talking about is that slab that's just behind the oak tree.

ATTORNEY BRUCE EMBRY: On the left.

TOM STOHLMAN: On the left.

DOUGLAS MYERS: And that was built by the neighbor you say?

TOM STOHLMAN: Yes, built by the neighbor.

ATTORNEY BRUCE EMBRY: Yes. The fence, yes.

DOUGLAS MYERS: So all of this land is the neighbor's land?

TOM STOHLMAN: Correct. You're standing in the neighbor's yard because I wanted to see how this addition was affecting the neighbor, not how is it affecting Holly.

DOUGLAS MYERS: I understand.

TOM STOHLMAN: So are we oriented?

You can see just if you compare left and right, you can see there's a slight change in the roofscape over that fence, but look at the shadows. And this is summer solstice, so the sun is very high in the sky. There's very little shadow being cast on the yard during the summertime at most times of the day. It's more informative to say look at the equinox which is the next one. And you'll see that as the day progresses, the main portion of the house casts that little bump out you see, but there's a slight difference between the two roofscapes if you go back and forth, left to right. But by far and away what's covering that garden and that lawn is that eight-foot fence. The shadow cast by the eight-foot

fence.

And finally in the winter that's the worst case. You don't have much sun and it's a pretty low in the sky. And there's little question that that fence again is really what's casting the majority of the shadow. And there's a little bit of a difference. I'm not going to deny that some shadow is added by the new roof, but it's miniscule. If you go back and forth left to right, I think you can see that.

CONSTANTINE ALEXANDER: I come back to the notion, though, what your neighbor wants you to do is reduce the size of your house. If that addition were legally built and we -- can't be proved. I think there's a pretty good chance it was, because it was pre-zoning or the Building Permit got lost at City Hall.

The neighbor is not any more affected by what you want to do than right now because you're not changing the footprint, you're not changing the size.

ATTORNEY BRUCE EMBRY: Right. As I said, I think intuitively you, you look at the -- I mean, they're going to be virtually identical so the shadows that they cast must likewise be pretty identical.

CONSTANTINE ALEXANDER: Right. I don't see, in my judgment, a reason to force you to reduce the size of your structure.

TOM STOHLMAN: If the fence was lower actually, we would be reducing -- there's a rather large shed attached to this addition, also. And we would be changing the view for the better,

because that shed's going away, but he can't see it because of the fence.

CONSTANTINE ALEXANDER: Questions from Members of the Board or ready for a vote?

TIMOTHY HUGHES: I'm ready for a vote.

DOUGLAS MYERS: I've marked two places on the equinox.

ATTORNEY BRUCE EMBRY: Yes.

DOUGLAS MYERS: I think in view of the way the things are going, we don't have to dwell on the details.

TOM STOHLMAN: You've got it correct. You've got it right.

DOUGLAS MYERS: Those seem to be the major impact.

TOM STOHLMAN: Those are them.

DOUGLAS MYERS: I will say for the

record that I'm completely satisfied that they are, if not de minimus, they are very slight.

TOM STOHLMAN: It's about the size, about the size of the table that we're sitting at, not your tables.

CONSTANTINE ALEXANDER: Okay, the Chair moves with respect to the Variance being sought that we make the following findings:

That a literal enforcement of the provisions of the Ordinance would involve a substantial hardship to the petitioner. Such hardship being that the petitioner has an addition in which they can't demonstrate it was legally constructed. There's no evidence that it was illegally constructed. And that denial of the Variance would cause that structure to

have to be removed, that addition.

That the hardship is owing to the fact that this is a non-conforming lot or not lot, but structure, and it's -- and the shape of that structure. And that lot.

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.

All that's being done effectively is to change slightly the roof line of this addition, but otherwise the addition will be as it was before.

So on the basis of these findings, the Chair moves that we grant the Variance being sought on the condition that the work proceed in accordance with plans

prepared by Thomas Stohlman. They're all -- well, they've been initialed by the Chair. There's one, two, three, four, five, pages. And that plans are dated April 4, 2015.

TOM STOHLMAN: Mr. Chair, I have a request that Holly actually made to me the day as we were preparing for this. If you look at drawing A3, the south elevation, you will see two windows with transoms over them. Holly asked me if that left window could be pushed into the corner and made bigger? It's not going to be a window that's viewed by anybody, even if there is no fence. It's tucked around the corner of the house.

CONSTANTINE ALEXANDER: This relates to the Special Permit, though.

TOM STOHLMAN: Oh, I see. Okay.

CONSTANTINE ALEXANDER: Just hold up for a second.

ATTORNEY BRUCE EMBRY: This is just the Variance.

TOM STOHLMAN: Got it.

CONSTANTINE ALEXANDER: So I think I made the motion that the work proceed in accordance with the plans I just identified.

All those in favor of granting the Variance on this basis say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Variance granted.

(Alexander, Hughes, Sullivan, Myers, Best.)

CONSTANTINE ALEXANDER: Now with respect to the Special Permit. You want to move -- why don't you just mark on

there how you want to --

TOM STOHLMAN: Just increase the size of it.

CONSTANTINE ALEXANDER: While you're doing that I'll start the motion.

With regard to the Special Permit being sought to relocate windows, the Chair moves that the requirements of the -- without the Special Permit the requirements of the Ordinance cannot be met.

That no traffic, 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 development of adjacent uses as permitted in the Ordinance will not be adversely

affected by what is being proposed.

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 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.

Before I make the motion, I thought you were just moving the transom window. Why you --

TOM STOHLMAN: No, the whole thing we like to get bigger. The whole window. I've hashed the whole window side. It's a fixed window.

CONSTANTINE ALEXANDER: So the

window is going to be -- the window to the left as I'm looking at it going to be bigger than the window on the right?

TOM STOHLMAN: Bigger.

CONSTANTINE ALEXANDER: And what's the purpose of this?

TOM STOHLMAN: You have to ask Holly. She wants a bigger window.

CONSTANTINE ALEXANDER: Why?

HOLLY LEVENKRON: There's a huge window that takes up the entire wall in which I don't need it, because I want to be able to sit at the rear portion of that wall where there's now all glass. I want to be able to construct an eating place. Nobody can lean on that glass now. So I've shortened that window in order to put a banquet and wrap it around. But this way you're -- the seating, the Chair would

only come up to here. The window would be on top of it. And then next to it would be a picture window.

ATTORNEY BRUCE EMBRY: Instead of the sliding glass door basically.

HOLLY LEVENKRON: The same size basically as the current left side of the sliding doors looking from the outside. I'm not adding any window. I'm just shortening -- taking away the sliding door.

ATTORNEY BRUCE EMBRY: Making it smaller actually.

HOLLY LEVENKRON: Making two windows, one a picture window and one a smaller window. And --

TOM STOHLMAN: And, again, this window does not face any neighbor. It only faces a --

HOLLY LEVENKRON: It's a design thing more than --

CONSTANTINE ALEXANDER: Okay, going back, I'm a still a little puzzled why, but I'm not puzzled enough to make a fuss about it. Because I think it doesn't face any, as you say, it doesn't face anything. So it won't impact anybody except yourself.

So going back to the motion, I move that we grant the Special Permit being requested with regard to the re -- to the addition of the removal of windows on the condition that the work proceed in accordance with the plan identified before with regard to the Variance. It is plan No. A3 as modified. And that's the only plan that's affected by this.

TOM STOHLMAN: Would you like me

to draft it properly and send it in as
a --

CONSTANTINE ALEXANDER: I think
that's a good idea. I think this is
sufficient for relief tonight but I think
it would be wise.

TOM STOHLMAN: I'll do that.

CONSTANTINE ALEXANDER: All those
in favor of granting the Special Permit,
please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in
favor. Special Permit granted.

(Alexander, Hughes, Sullivan,
Myers, Best.)

* * * * *

(11:30 p.m.)

(Sitting Members Case BZA-07185- 2015:
Constantine Alexander, Timothy Hughes,
Brendan Sullivan, Douglas Myers, George S.
Best.)

CONSTANTINE ALEXANDER: The chair
will call case No. 007188, 55 Magee
Street.

Is there anyone here wishing to be heard on this matter? You should know by now give your name and address to the stenographer.

AMY MARKHAM: I'm Amy Markham at 55 Magee Street. This is my husband Ben Markham. And our architect Adam Glassman.

So I first moved to Cambridge in 2003 and I loved it as a graduate student and then as a young professional and now as a family and as a working mom. We bought our home together in 2010 and so we've lived there for a bit and at the time we were a young couple, and now we have two kids. We still have 750 square feet, so it's tight. We have two kids right now who are at home in the same 10-by-10 bedroom sharing that, we're out a little later than we thought we would be

as I'm sure you are, too. But, yeah, so we have a four-year-old boy and almost two-year-old girl and they're together there. And when our family comes from out of state, they all live out of state, they stay on an air mattress in our living room. We sort of step around each other. Ben's an acoustic's consultant. I work for a non-profit, so we both work at home a lot and we're all like rearranging the dining room table three times a day so we could have our laptops there, the kids' art projects and everything. But we love our home. It's like built in the 1890s. It's charming. It's Cambridge. It's in Riverside. We're close to the water. We're close to everything that we like. We go to the Cambridge Community Center. We're in a baby-sitting co-op. Ben's

office is here in Cambridge.

So, as you know, if you came to see our house, you can't get down Magee Street because they're building a school at the end of it.

CONSTANTINE ALEXANDER: I could testify to that.

AMY MARKHAM: Yes, exactly. If you keep going you have to turn around. So we've been between that big construction project and the Western Ave. construction project. And we really want to still be there when that school opens and, you know, have our kids benefit from that and everything. So we would love to stay, but we're also feeling really tight in our current space.

CONSTANTINE ALEXANDER: The only problem we have -- not problem, but I

think it's worth noting is that the relief, from a zoning point of view the relief you're seeking is substantial in nature. Because your FAR -- you're supposed to be no more than 0.75. You're right now 0.77. You're going to 1.08, which is almost a third more than is permitted by the Ordinance. So that gives, at least gives me some pause. Doesn't mean I'm opposed to the relief. I am pleased to see you got unanimous neighborhood support.

AMY MARKHAM: Exactly. And two or more of them would have been here tonight but it's gotten a bit late.

CONSTANTINE ALEXANDER: Tell me about it.

AMY MARKHAM: They were coming, but you've got some letters there and I've

got one other to add to that as well.

CONSTANTINE ALEXANDER: Give me that and I'll put it in the file.

BRENDAN SULLIVAN: It is a two-family house?

AMY MARKHAM: It is a two family. So Adam and Ben can tell you more about that. But our downstairs neighbors is a couple and then we have the second floor.

CONSTANTINE ALEXANDER: Is it a condo?

AMY MARKHAM: It's a condo.

CONSTANTINE ALEXANDER: Yes, condo. And there is a letter of support from your --

AMY MARKHAM: From them, yeah. And they would be here tonight but they agreed to watch our children so our baby-sitter could go home, because

again....

BRENDAN SULLIVAN: They own the first floor, you own the second floor?

AMY MARKHAM: Right.

CONSTANTINE ALEXANDER: The important thing is you got a letter from them because you might have condo issues.

BEN MARKHAM: They're very supportive.

GEORGE BEST: So you have the grey house when you're going up?

BEN MARKHAM: Ours is the green house.

AMY MARKHAM: The green.

GEORGE BEST: Right next to the center?

BEN MARKHAM: If you're at the community center, the first one you get to is --

AMY MARKHAM: The grey one.

BEN MARKHAM: -- is the little grey one. The next one is a triple decker blue one.

AMY MARKHAM: The blue one.

BEN MARKHAM: And then ours is the little green one next to a triple decker one, the third house in.

AMY MARKHAM: And then there's that whole roll of pitched roof gable houses. And so what we want to do is turn our house -- Adam can tell you.

BEN MARKHAM: Make it look a bit more like all of our neighbors which are kind of down the block toward the school. There's a whole -- six in a row in fact of the -- yeah, this, this photo shows some of them. So most of these are gabled houses with dormers.

AMY MARKHAM: Yeah, this one might show....

BEN MARKHAM: That one shows it as well.

AMY MARKHAM: Shows it better. There's five in a row that are gabled houses with dormers.

BEN MARKHAM: There's a kind of a rhythm established in the street there. Gabled house, gabled house, gabled house, gabled house, gabled house. Then you get to ours, squathed little two-story, then it pops up to the triple decker, then you get maybe to the larger community center.

GEORGE BEST: It was originally a one-family house. I live about -- well I own the house on the corner of -- well, it faces Magee Street. So it's a yellow three decker.

AMY MARKHAM: Oh.

BEN MARKHAM: I know that house.

AMY MARKHAM: On Callendar.

BEN MARKHAM: On Callendar.

GEORGE BEST: Right.

BEN MARKHAM: Oh, sure.

AMY MARKHAM: You can sign the petition, then. You would be disqualified probably.

CONSTANTINE ALEXANDER: 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: No one wishes to be heard.

The Chair would report that we are in receipt of a petition signed, which says: We support the Cambridge Zoning Board approving Ben and Amy Markham's plans to add a third story with a pitched roof and dormers to their home at 55 Magee Street. And it's signed by 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15 persons.

In addition, we have a letter from Francis -- Francois BIRTHUM (phonetic) who resides at 61 Magee Street, No. 2. And this letter is in support.

And there is a letter from the, the other condo owner in the -- I saw it when I read the file before.

BEN MARKHAM: Yes, we have a copy of it.

AMY MARKHAM: And I have the

letter from Tim who's the top unit.

CONSTANTINE ALEXANDER: Yes,
that's what I'm looking for.

BEN MARKHAM: This one is from
next-door.

CONSTANTINE ALEXANDER: Oh, next
door.

BEN MARKHAM: And then we have a
letter also --

AMY MARKHAM: And there's a letter
from the condo --

BEN MARKHAM: -- from the other
unit in the condo.

CONSTANTINE ALEXANDER: Okay, the
Chair would report that we also have a
letter of support from the person
who -- next-door neighbor who resides
at -- it doesn't have their address here.
Oh, yes, here, I'm sorry. 61 Magee

Street, apartment No. 3, in support.

And then there is a letter of support from the other condo owner in the structure. So there's unanimous neighborhood support. I just saw the letter.

The letter is from Andrew Hackett.

AMY MARKHAM: Yes.

BEN MARKHAM: Yes.

AMY MARKHAM: He lives downstairs.

DOUGLAS MYERS: May I ask a question?

CONSTANTINE ALEXANDER: By all means.

DOUGLAS MYERS: I wanted to ask your personal experience whether you or the architect can answer two questions: First, what is the present use in the house -- for example, not each and every

house, but, for example, in the houses shown in this picture, what is the present use of the upper space underneath the gable?

AMY MARKHAM: So there's --

DOUGLAS MYERS: In those houses?

AMY MARKHAM: There's a mix. The one directly to us is just storage. The next two are occupied. They both added dormers and they're big dormers.

BEN MARKHAM: Huge dormers.

AMY MARKHAM: Bigger than what would be permitted today.

This next one doesn't have anything. And then this one they've taken it and they've converted the whole house to a single-family and they use their top floor also.

BEN MARKHAM: Occupied living

space.

AMY MARKHAM: Yes.

DOUGLAS MYERS: Is it fair to say or not that those houses are now two-family or three-family houses? Which would be -- are any of them three-family houses?

AMY MARKHAM: No. The only three-family is the triple decker on our other side.

DOUGLAS MYERS: The flat one?

BEN MARKHAM: This blue one here. That's our immediate next-door.

AMY MARKHAM: The three-family. And then --

BEN MARKHAM: So Francois, the letter writer, owns this building --

AMY MARKHAM: And -- he and his tenants, you know, signed or wrote

letters.

So some of them are occupied by two generations of the same family. Again, in, you know, in there.

BEN MARKHAM: You might know them.

GEORGE BEST: I do I know everybody on the street. And now I just met you.

AMY MARKHAM: You could help answer that. So one of them has been converted to a single-family but the rest pretty much are two families. But --

GEORGE BEST: Originally when I was a kid, they were all one families. All one families. So that lane that made hers back into a single-family it was originally, that family made it a two-family so it could be a family house. And then when her grandparents died, she

turned it into a one-family again.

AMY MARKHAM: Wow. I love to hear the history.

DOUGLAS MYERS: So some do have the gable and the dormers?

BEN MARKHAM: Oh, yes, sir.

AMY MARKHAM: Yeah. You can sort of see it right here and here. But those two both do.

BEN MARKHAM: And the gable on the green house, it's got to be 30 feet long.

AMY MARKHAM: The dormer there.

CONSTANTINE ALEXANDER: And I would report as part of the record is that the dormers you are proposing do comply with the dormer guidelines.

BEN MARKHAM: They do.

CONSTANTINE ALEXANDER: Which we're pleased to see.

By the way, I would note your elevations are mislabelled. The existing elevation compared to the proposed on your plans we have in our file, but that's not -- of no great moment but you put, you're comparing apples to oranges. I'll show you later on. The file later on.

AMY MARKHAM: Apologize.

CONSTANTINE ALEXANDER: Okay. Any questions from Members of the Board or ready for a vote?

TIMOTHY HUGHES: I'm ready for a vote.

CONSTANTINE ALEXANDER: The Chair moves that we grant -- 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 this is a very small house, and with a growing family, additional living space is necessary.

That the hardship is owing to the fact that it is an old house and the shape of the lot is such that any relief, and it's a non-conforming structure, so any modification would require 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 the Ordinance.

In this regard the Chair would note that this project has unanimous neighborhood support, and as one more attempt -- and will enable young couples to stay in the City of Cambridge and not

be forced to move to find more living space.

On the basis of these findings, the Chair moves that we grant the Variance on the condition that the work proceed in accordance with plans prepared by G.C.D. Architects, the first page of which, actually is a plot plan that's been initialed by the Chair.

All those in favor --

DOUGLAS MYERS: Speak up.

ADAM GLASSMAN: Before you vote.

The Markhams asked me to include a sky -- actually to remove a skylight out of their bathroom and then over the hallway in the dormer space, and I didn't do that. I'd like to ask that we put a skylight in that --

CONSTANTINE ALEXANDER: Would it

require separate zoning relief?

ADAM GLASSMAN: No. I just know you like to see -- ISD likes to see --

SEAN O'GRADY: Note it on the plan so that we know later on.

BRENDAN SULLIVAN: It should be on the plan.

CONSTANTINE ALEXANDER: Note it on the plan.

All those in favor of granting the Variance please say "Aye."

(Aye.)

(Alexander, Hughes, Sullivan, Best.)

DOUGLAS MYERS: One opposed. And I'd just like to say, I don't do that in an ungenerous spirit. The hour is late. I am concerned about the excess of the 40 percent increase in FAR. Under ordinary

circumstances where I was not a minority of one, I would ask about the floor plan downstairs and see whether some space might be achieved that would still enable you to stay in the house, some savings of space in rooms might be achieved. But the hour is late. I am perfectly content to cast my vote and let the majority --

CONSTANTINE ALEXANDER: Four in favor passes. Granted.

DOUGLAS MYERS: And I'm not unhappy with the vote.

* * * * *

(11:45 p.m.)

(Sitting Members Case BZA-007185-2015: Constantine Alexander, Timothy Hughes, Brendan Sullivan, Douglas Myers, George S. Best.)

CONSTANTINE ALEXANDER: The Chair

will call case No. 007185, 81-93 Mount
Auburn Street.

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

ATTORNEY JAMES RAFFERTY: Good
evening, Mr. Chair, Members of the Board.
James Rafferty representing the applicant.
There's a corporate entity here called --

CONSTANTINE ALEXANDER: SFJ Group,
LLC.

ATTORNEY JAMES RAFFERTY: You beat
me to it. And this is Mr. John Schawl,
S-c-h-a-w --

CONSTANTINE ALEXANDER: We saw you
earlier.

JOHN SCHAWL: Pardon?

CONSTANTINE ALEXANDER: Didn't you
speak earlier in the Harvard case?

JOHN SCHAWL: I did.

CONSTANTINE ALEXANDER: Okay.

JOHN SCHAWL: I did.

ATTORNEY JAMES RAFFERTY:

Mr. Schawl is a resident of Harvard Square. He lives on Hilliard Street, and he has been the proprietor of the last 18 years of the Fire and Ice Restaurant on Church Street. If you've ever had the good fortune to dine there. And he's applying this evening to operate a Mexican restaurant at this location called El Jefe. H-e-f-f-e?

JOHN SCHAWL: E-l J-e-f-e.

ATTORNEY JAMES RAFFERTY: Oh.

TIMOTHY HUGHES: How's your Spanish?

ATTORNEY JAMES RAFFERTY: Not good.

TIMOTHY HUGHES: He's the boss by

the way.

DOUGLAS MYERS: Franco was referred to as El Jefe. General Franco.

JOHN SCHAWL: Goodell has been compared to his nickname as El Jefe.

DOUGLAS MYERS: Also General Franco.

JOHN SCHAWL: Yeah, yeah. Franco. I like that one way less.

ATTORNEY JAMES RAFFERTY: Apparently Dean Sert didn't like El Jefe and left Spain. But let's not go there. I don't want to add anything irrelevant to our discussion.

JOHN SCHAWL: It can also be translated as "the chef" or "the chief", "the boss."

ATTORNEY JAMES RAFFERTY: So this is a location, I imagine the Board is

familiar with, located in the garage building, as it's called, on the corner of J.F.K. and Mount Auburn Street. There are a series of ground floor retail spaces. This particular location, if you would go by there today, is operated as The Taco Truck which was a Special Permit granted in 2014 by this Board. And what Mr. Schawl intends to do is pretty much maintain that floor plan with some modest alterations. The location itself has had fast food uses, particularly Mexican taco-based fast food uses for nearly 15, 20 years. Fast food for more than 30 years. It was a TCBY. It became a Bruegger's Bagel. It became Felipe's. Felipe's became The Taco Truck. The taco Truck is not remaining so Mr. Schawl is stepping in to operate El Jefe's at the

location. The advisory committee -- the Harvard Square Advisory Committee has been reconstituted, the Board may be aware, so they now meet on a more regular and formal basis. So we did have the opportunity to appear before the advisory committee, and their report arrived today but it was rather late in the day. I don't know if everyone had a chance to see it. But the advisory committee voted in favor of it. There was a discussion around a particular aspect of the criteria, and that is the need as contained in the Fast Food Special Permit Section of the Ordinance, and there was some attempt to address the need here as well. It was pointed out that it isn't a question of need for a particular product but the need for patrons who are looking for uses. It's a popular spot

with workers, with students. It's a smaller space, so it lends itself to this type of operation and there was a lot of discussion about the need for spaces like this in the Harvard Square area to accommodate students, visitors, and workers. And it was noted that this doesn't represent any increase in the number of fast food uses because this fast food use has been constant as I said for nearly three decades.

CONSTANTINE ALEXANDER: A letter from the advisory committee says: Members of the advisory committee had a brief discussion of the sign plan which will be to replace the existing signage package with similar signs with the new name. Do you add -- I didn't see anything in the file about signage.

ATTORNEY JAMES RAFFERTY: There isn't. And the comment at that point was that it will be conforming signage. There's no, there's no there's no relief being sought for the sign. The building has a series of blade and wall signs you can see depicted here.

CONSTANTINE ALEXANDER: You're not proposing any protruding signs?

ATTORNEY JAMES RAFFERTY: Yes. I think there are a series of existing blade signs that get -- you can see in the photo that do get changed out. And you can see that Felipe's -- that isn't even the current photo. So The Taco Truck took over the Felipe's blade sign, and there's a uniformity to these signs. They were approved as part of a Variance a long time ago for the building. There's a

consistent sign ban along the entire stretch of Mount Auburn Street in this location, and then a series of blade signs that extends out from the building. So, yes, that was the conversation about signage, that the facade is unchanged. It's a mostly glass front with a single point of entry. And the floor plan as depicted in the drawings is very, very much -- there is interior access into the overall garage where there actually is a food court. There are a number of other uses. There's a Subway's. There's a Ben and Jerry's. There's a few other things, and this is part of that collective of similar uses.

CONSTANTINE ALEXANDER: What about trash receptacles and the trash? What are you going to do about that to make sure

people don't go out on Mount Auburn Street and throw their wrappers on the ground?

JOHN SCHAWL: Right. There is a trash receptacle right at the door as you're going --

CONSTANTINE ALEXANDER: From Mount Auburn Street?

JOHN SCHAWL: From Mount Auburn Street, right. And there's another trash receptacle as you're going into the food court as well.

ATTORNEY JAMES RAFFERTY: The landlord is -- it's an actively managed property by Trinity Properties, very concerned about conditions in Harvard Square. So there are a series of food uses there. So it's a -- it's something the landlord pays particularly close attention to. I think the track record

for these food uses in this particular building --

CONSTANTINE ALEXANDER: I'm going through the checklist that we have that are required under our Ordinance.

DOUGLAS MYERS: The trash cans that you just referred to, are they city-sponsored trash cans?

JOHN SCHAWL: No, they're in our location.

DOUGLAS MYERS: Inside the restaurant?

JOHN SCHAWL: Yes.

ATTORNEY JAMES RAFFERTY: Yes.

And then there a series of trash cans in the public way on the sidewalk, but there are two.

CONSTANTINE ALEXANDER: Do you plan to utilize biodegradable materials in

packaging your food?

JOHN SCHAWL: Yes. It's the heavy condensed sort of cardboard which will be the packaging left, it will --

CONSTANTINE ALEXANDER: It is biodegradable?

JOHN SCHAWL: Yes.

ATTORNEY JAMES RAFFERTY: Which I think translates these days to mostly not Styrofoam.

CONSTANTINE ALEXANDER: Yes, basically you're right.

And what about handicap accessible?

ATTORNEY JAMES RAFFERTY: The space is completely handicapped accessible. It has been handicap accessible for sometime and like I said, the existing infrastructure is unchanged.

CONSTANTINE ALEXANDER: Okay.

DOUGLAS MYERS: Hours of operation?

JOHN SCHAWL: We are going to be applying in our -- when our common victualler's license to be open until four a.m.

CONSTANTINE ALEXANDER: Four a.m.?

JOHN SCHAWL: We'll have the same hours as Tasty Burger which is right next to it. So it's already a sort of a destination for late night, and rather than -- and we want to, and we want to give them -- people another option other than burgers and hot dogs for late night dining.

CONSTANTINE ALEXANDER: Okay. For the record --

JOHN SCHAWL: And we would also open early. It will be a breakfast,

lunch, and dinner and late night.

CONSTANTINE ALEXANDER: And there are no residences there so it no one will be disturbed by people who are out at four o'clock in the morning.

BRENDAN SULLIVAN: An occasional attorney might walk by.

ATTORNEY JAMES RAFFERTY: I used to know attorneys who used to eat unhealthy food until they changed their ways.

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

(No Response.)

CONSTANTINE ALEXANDER: I'll open the matter up to --

DOUGLAS MYERS: Do you have a beer and wine license?

JOHN SCHAWL: No, there's not a

beer and wine license there.

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: The Chair notes there is no one wishing to be heard.

We have no correspondence other than the letter referred to by Mr. Rafferty from the Harvard Square Advisory Committee. As Mr. Rafferty pointed out, the committee did spend sometime talking about the need -- I'll just read that relevant paragraph. (Reading) The Harvard Square Advisory Committee had some discussion about the standard of need found in Section 11.31 and discussed the finding in terms of fast order food versus

specifically Mexican food. With the student and tourist population, along with those who work in the Harvard Square, all types of food options are needed. It was agreed that this location was within the garage building is a concentration of budget price food choices.

And we've talked about signage and we've identified that.

And the letter concludes: (Reading)
The advisory committee voted to support the Board of Zoning Appeal use Special Permit for the fast order food as appropriate for this location and to support a local operator who has a successful track record in the food business in the neighborhood. Ten members of the committee voted in favor, one voted against. And that's about it.

Questions from Members of the Board
or ready for a vote?

TIMOTHY HUGHES: Ready for a vote.

CONSTANTINE ALEXANDER: Okay.

With regard to the Special Permit being sought which is required for a fast order food enterprise, that the only way you can comply with the Ordinance for such an enterprise is to get a Special Permit. That traffic --

ATTORNEY JAMES RAFFERTY: In this case, Mr. Chair --

CONSTANTINE ALEXANDER: Yes.

ATTORNEY JAMES RAFFERTY: -- to the extent that it's relevant, had Mr. Schawl simply had acquired the stock of the existing corporation, he may not have needed to come here. We discussed that. But as you know, this provision of

the Ordinance says if an operator changes. So the food product really isn't essentially changing, but it's the new operator.

CONSTANTINE ALEXANDER: The operator, yes.

ATTORNEY JAMES RAFFERTY: So a new corporation, but otherwise it's very consistent with the findings in the 2014 case.

CONSTANTINE ALEXANDER: Okay.

ATTORNEY JAMES RAFFERTY: That the Board unanimously found.

CONSTANTINE ALEXANDER:
Unanimously?

ATTORNEY JAMES RAFFERTY: I believe you might have been missing.

TIMOTHY HUGHES: Gus might have had a question about the need.

DOUGLAS MYERS: You don't miss these cases.

ATTORNEY JAMES RAFFERTY: 2868, January of 2014. This says it was approved unanimously.

CONSTANTINE ALEXANDER: Was I sitting on that case?

ATTORNEY JAMES RAFFERTY: I don't have the decision. But maybe....

CONSTANTINE ALEXANDER: All right. So the Chair moves that we make the following findings:

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

That the traffic generated or patterns of access or egress will not cause congestion, hazard, or substantial

change in established neighborhood character. As pointed out by the counselor for the petitioner, this is an area replete with other food enterprises, fast food -- fast order food enterprises.

That the condition -- the continued operation or development of adjacent uses will not be adversely affected by what is being proposed. You're just continuing the kind of Mexican restaurant that -- a Mexican restaurant that was there before.

And that 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 the proposed use will not impair the integrity of the district or adjoining district or otherwise derogate from the intent and purpose of the

Ordinance.

On the basis of these findings, the Chair moves that the Special Permit being sought be granted.

All those in favor please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Four in favor.

(Hughes, Sullivan, Myers, Best.)

CONSTANTINE ALEXANDER: One against.

(Alexander.)

CONSTANTINE ALEXANDER: Motion carries.

* * * * *

(12:00 a.m.)

(Sitting Members Case BZA-007226-2015:
Constantine Alexander, Timothy Hughes,
Brendan Sullivan, Douglas Myers, George S.
Best.)

CONSTANTINE ALEXANDER: The chair
will call case No. 007226, 114 Clifton
Street.

Is there anyone here wishing to be
heard on this matter? Good evening, sir.
You're seeking a Special Permit to install
some windows in a setback?

RAFAEL CLEMENTE: We are, yes.

CONSTANTINE ALEXANDER: Okay, why?
So we have a record --

RAFAEL CLEMENTE: Okay, sure. We
are --

THE STENOGRAPHER: Can you please
identify yourself for the record?

CONSTANTINE ALEXANDER: Oh, I'm sorry.

RAFAEL CLEMENTE: My first is name is Rafael. That's R-a-f-a-e-l. Last name is Clemente, C-l-e-m-e-n-t-e.

We are seeking to remodel our first floor. It was a -- we bought the house in 2011. It was a two-family and we converted it into a single-family. And as part of that, we are opening up the first floor level to include -- which will include adding two windows on the left side of the house -- the right side of the house. Two windows in the downstairs. And we've -- when we bought the house and remodeled upstairs, we took out one window and added one window and we'd like to add that window that we took out upstairs back. And they had one new window

downstairs and moving the existing window to center it so it wouldn't be off center.

I have plans if you're interested.

CONSTANTINE ALEXANDER: We have plans here I think.

RAFAEL CLEMENTE: Okay.

CONSTANTINE ALEXANDER: Hopefully they're the same.

RAFAEL CLEMENTE: I have some colored versions if you like them as well.

CONSTANTINE ALEXANDER: I don't need those.

RAFAEL CLEMENTE: Okay.

CONSTANTINE ALEXANDER: Did you talk to your neighbor?

RAFAEL CLEMENTE: We did. Our neighbor on the said that's impacted, Moe Salla (phonetic). I don't know if he wrote a letter. But he was going to come

tonight but was unable to show. But he is fine with it. He said he saw the plans, didn't have any objections and had volunteered to come tonight to talk to you folks but was unable to make it.

CONSTANTINE ALEXANDER: We have one letter in the file that is from the property owners at 104 Clifton Street.

RAFAEL CLEMENTE: Okay.

CONSTANTINE ALEXANDER: Suzanne Plosiniski, P-l-o-s-i-n-s-k-i. (Reading) Please be advised that we have absolutely no opposition to the petition of our neighbors Ray and Kay Clemente to make improvement to their home as indicated.

RAFAEL CLEMENTE: Great.

CONSTANTINE ALEXANDER: Questions from Members of the Board?

TIMOTHY HUGHES: 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: Nobody wishes to be heard. I'll close public testimony.

I think we're ready for a vote.

The Chair moves that with regard to the Special Permit being requested that the requirements of the Ordinance require that a Special Permit be granted since the relocated windows will be in the prohibited setback.

That the 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 development of adjacent uses will not be permitted in the district will not be adversely affected by what is being proposed.

In this regard, you've represented to us that the neighbors who would be affected --

RAFAEL CLEMENTE: Yes.

CONSTANTINE ALEXANDER: -- are not in opposition.

RAFAEL CLEMENTE: Right.

CONSTANTINE ALEXANDER: No nuisance or hazard will be created to the detriment of the health, safety, or welfare of the occupant or the citizens of the city.

And that the proposed -- what is

being proposed will not impair the integrity of the district or adjoining district or otherwise derogate from the intent and purpose of the Ordinance.

On the basis of these findings, the Chair moves that we grant the Special Permit being sought on the condition that the work proceed in accordance with plans numbered A2.1 and A2.0, both of which have been initialed by the Chair.

All those in favor say "Aye."

(Aye.)

(Alexander, Hughes, Sullivan, Myers, Best.)

CONSTANTINE ALEXANDER: Five in favor.

RAFAEL CLEMENTE: Thank you.

* * * * *

(12:05 a.m.)

(Sitting Members Case BZA-007211-2015:
Constantine Alexander, Timothy Hughes,
Brendan Sullivan, Douglas Myers, George S.
Best.)

CONSTANTINE ALEXANDER: Okay, the
Chair will call case No. 007211, 35 Clay
Street.

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

CAMPBELL ELLSWORTH: My name is
Campbell Ellsworth. I'm the architect for
the clients Ken and Suzanne Elkind to my
right. Ken and Suzanne live at 35 Clay

Street. We've described they've lived there since 2012, but in Cambridge for about 15 years. They have two children. And we are requesting two variances tonight:

One is to create a non-conforming addition, and there's a reason for that request, based on the structure of the house.

And then the second Variance is that given that this is a non-conforming structure, we are requesting an increase in the GFA that is over the 25 percent allowable with Special Permit.

The -- so the first Variance is requesting that we can -- well, first of all, let me just start, this house -- the base house is about 1400 square feet. In the 80's a very odd and elongated and sort

of oddly used tail was added to that. For an elderly gentleman it contained a bedroom and a bathroom so that he could live on a single floor. It's an awkward space. It doesn't help the first floor at all, and the Elkins would like to take that down and then create these two additions; one is non-conforming and one is conforming.

The non-conforming addition is non-conforming with respect to the same non-conforming south side setback for the following reasons:

The framing, if you can see this diagram, this is in a red. This is the outline of the second floor. This is one of these older homes, 1890 I believe, where the rafters come down and they clip the corners of the -- so each room, you

know, the rooms on the sides going all the way front to back on the main part of the house have these clipped corners. What we are -- would like to do is add that addition, keeping the ridge continuous. You can see that on the roof plan. And basically bringing this in until we get an addition that actually eliminates that clip and comes straight back. It will simplify the framing and the construction of it enormously, but what it, what it creates is a non-conforming south side setback that is 6.8 feet versus the required 7.5. So we're about nine inches off.

The Elkind's, they'll talk about this, they've talked to everybody in the neighborhood. This is an amazing family with two lovely daughters. In fact, in

tradition of Cambridge backyards, they put a gate in on their back fence so that kids could migrate. They do a lot of play here. They've also spoken to that neighbor to the south and have a letter of support from them which is not yet in the record.

CONSTANTINE ALEXANDER: Thank you.

CAMPBELL ELLSWORTH: So that's the, that's the first Variance of the non-conforming addition which would make a lot of sense from a construction standpoint.

The second is because this house is relatively modest for the allowable GFA on this lot, as I said only about 1400 square feet, the addition of these two new additions -- so this is the house. This is the house here. This is the new

addition to the back which is a two-story, and then also a two-story addition here. Plus the request to add GFA in the basement level here. That kicks us over, significantly over the 25 percent.

You can see on the dimensional form that this house conforms in every other respect. In fact, we don't -- we're still 228 square feet from the maximum allowable GFA for the lot.

It's a single-family home in a two-family -- what could be a two-family zone. It could be a two-family if it were developed as such. And I think that about sums it up.

BRENDAN SULLIVAN: The existing first floor addition, the tail piece that you reference, what is the length of that?

CAMPBELL ELLSWORTH: That is about

24 feet.

BRENDAN SULLIVAN: And the new addition is less than that which comes in at 20 --

CAMPBELL ELLSWORTH: No. The new addition -- the addition comes in at 17.6.

BRENDAN SULLIVAN: Right. So in other words you're reducing --

CAMPBELL ELLSWORTH: Yes, we're pulling back.

BRENDAN SULLIVAN: -- the amount of house.

CAMPBELL ELLSWORTH: That's right.

BRENDAN SULLIVAN: You're putting in a little deck there, but anyhow, you're pulling back the amount of house by six and a half feet or so.

CAMPBELL ELLSWORTH: That's correct.

And I mean I didn't talk about the plan. By the way, this is currently a three -- you know, a modest three-bedroom house. It will still be a three-bedroom house when we're done because of having to take space to get into that back addition up on the second floor.

BRENDAN SULLIVAN: So the first floor is going to be family room, second floor is going to be master bedroom?

CAMPBELL ELLSWORTH: That's correct. So family room, right now, if you can, if you can see this, right now essentially the -- that odd addition does that. Okay?

BRENDAN SULLIVAN: Yes.

CAMPBELL ELLSWORTH: And you can see the existing plans are there. Right now also there's a wall here with a small

door. So the kitchen is really jammed into here. There's a little deck off the side. This is a dining room. Again, it's a sort of a classical old, old house; room to room to room to room. And of course we want to sort of open it up, open it up this way, get the view out. I mean it's a fabulous -- these are one of these North Cambridge B Zone 6,000 square foot lots, you know, and I think that this is sort of respectful of that, of the open space. We're way over -- we're way over in our required open space. I mean --

CONSTANTINE ALEXANDER: Yes. As you point out, it's just one side yard setback.

CAMPBELL ELLSWORTH: That's correct.

CONSTANTINE ALEXANDER: If it were

not for that, you wouldn't need any relief at all.

CAMPBELL ELLSWORTH: That's correct.

DOUGLAS MYERS: Does the request for Variance include the new GFA for the basement?

CAMPBELL ELLSWORTH: Yes.

DOUGLAS MYERS: So a Variance is required for that?

CAMPBELL ELLSWORTH: I mean, in total, yes.

DOUGLAS MYERS: In terms of the floor plan there can you describe the basement? I saw there are bathroom facilities.

CAMPBELL ELLSWORTH: Yes.

DOUGLAS MYERS: What are the basement conditions in that new 7.3

section?

CAMPBELL ELLSWORTH: I mean fully finished. Fully finished. This would be -- I mean the Elkind's can speak to it. Just to summary is that -- at this late hour, would be -- I think they may be possibly looking for an au pair space in the future for their kids as they grow up and then possibly an in-law. So it's not, you know, we're not looking at or thinking about it as a second unit by any means, but it is, it's completely connected to that upper living space, but provides some, you know, some, you know, another bedroom or a guest bedroom for example. And then there would be a walk out --

DOUGLAS MYERS: Access to that basement is through the back stairs?

CAMPBELL ELLSWORTH: Well, no,

there's an exterior stair that would go down, and then there's an interior stair. So from the first floor there's a stair that goes down and arrives down here. There's also a front stair, existing front stair here that goes down and arrives down in the basement as well. This is a -- this is a six foot --

DOUGLAS MYERS: In the unfinished section?

CAMPBELL ELLSWORTH: This is completely unfinished. Six foot three. It's an old house.

DOUGLAS MYERS: What type of a floor?

KENNETH ELKIND: In here, it's concrete. It's poured.

CAMPBELL ELLSWORTH: Older.

KENNETH ELKIND: It's poured.

It's dry.

DOUGLAS MYERS: Good.

KENNETH ELKIND: Dry is good.

Clay Street it could be worse.

CAMPBELL ELLSWORTH: I mean you could see these were the photos that were in -- so this is, that single story addition --

CONSTANTINE ALEXANDER: That's the tail.

CAMPBELL ELLSWORTH: -- in the back. Historical Commission has signed off said that's not significant --

CONSTANTINE ALEXANDER: I hope so.

CAMPBELL ELLSWORTH: -- in any way. So they've got no issue with that. And so we think, you know, it really will create a home for them to stay in for a long time and let their girls grow up.

CONSTANTINE ALEXANDER: Are these the plans by the way? I want to make sure.

CAMPBELL ELLSWORTH: Yes, and I updated last -- we got Maria plans over -- before last Monday for sure.

CONSTANTINE ALEXANDER: Okay. I'm going to initial these and we're going to tie them --

CAMPBELL ELLSWORTH: I can check to make sure.

CONSTANTINE ALEXANDER: While you're doing that. The Chair would -- does anyone here wishing to be heard on this matter?

(No Response.)

CONSTANTINE ALEXANDER: The Chair would -- no one wishes to be heard.

The Chair would report that we do

have a letter from Edward and Maureen Hallett, H-a-l-l-e-t-t who reside at 31 Clay Street. (Reading) Our neighbor Ken Elkind has shown us the plans for the renovation and the addition to 35 Clay Street. We have no objection to the project and support its implementation.

And that's all we have.

SUZANNE ELKIND: Those are the neighbors that are on the side.

CONSTANTINE ALEXANDER: Where you're too close to the lot?

SUZANNE ELKIND: Right.

CONSTANTINE ALEXANDER: The most directly affected in other words?

KENNETH ELKIND: Right.

CAMPBELL ELLSWORTH: These are the plans.

CONSTANTINE ALEXANDER: Okay.

CAMPBELL ELLSWORTH: There are -- yes, these are the updated plans. You have two sets of them here. And then --

CONSTANTINE ALEXANDER: Okay. I only need one set.

CAMPBELL ELLSWORTH: Right. And the rest of -- so those would have last week replaced those three drawings that would have been in the original set. But of course --

CONSTANTINE ALEXANDER: So A1.1, A1.2, A3.13. Just three pages?

CAMPBELL ELLSWORTH: That's it. Ready for a vote?

TIMOTHY HUGHES: Yes.

CONSTANTINE ALEXANDER: Okay.

The Chair moves that with respect to the Variance being sought that we make the

following findings:

That a literal enforcement of the provisions of the Ordinance would involve a substantial hardship to the petitioner. Such hardship being that the petitioner needs additional living space and cannot achieve it without the Variance.

That the hardship is owing to the fact that this is already a non-conforming structure and, therefore, any relief requires Zoning approval or a Variance.

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 Chair would note that the relief being sought is modest in nature and that the neighbor most affected

by this is in support.

On the basis of these findings the Chair moves that we grant the Variance being requested on the condition that the work proceed in accordance with the plans prepared by Ellsworth Associates, Inc. dated July 16th of this year and initialled by the Chair. Plans numbered A1.1, A1.2, and A3.1.

All those in favor of granting the Variance please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Variance granted.

(Alexander, Hughes, Sullivan, Myers, Best.)

* * * * *

(12:15 a.m.)

(Sitting Members Case BZA-007219-2015:

Constantine Alexander, Timothy Hughes,
Brendan Sullivan, Douglas Myers, George S.
Best.)

CONSTANTINE ALEXANDER: The Chair
will call case No. 007219, 243 Hampshire
Street.

Hello. I bet you wish you were at
the restaurant rather than being here.

BRONWYN WIECHMANN: Well,
hopefully everything is going okay.

DOUGLAS MYERS: What are your hours of operation?

CONSTANTINE ALEXANDER: Which one?

TIM WIECHMANN: So I'm Tim Wiechmann. This is my wife Bronwyn. And we are interested in having a fast food restaurant.

CONSTANTINE ALEXANDER: As defined by our Ordinance.

TIM WIECHMANN: As defined by your Ordinance so that we could have our bakery goods taken off premise. We're taking over the Rosie's Bakery space and we're keeping it a bakery but focusing on sandwiches. And we have two other restaurants so we're experienced operators in Cambridge and Somerville. Both of those have alcohol licenses. This one is a non-alcohol license. We really want to

keep it simple and our hours are -- we may do breakfast, but we're not sure but we'd like to have the option but we're not interested in doing late night dining. Nine o'clock we're done.

CONSTANTINE ALEXANDER: And most of the food, there's very few minimal seating.

TIM WIECHMANN: Minimal seating.

CONSTANTINE ALEXANDER: Same amount of seating that Rosie's had before?

TIM WIECHMANN: Same seating. There's no large renovations happening. We're really trying to do it as simple as possible.

CONSTANTINE ALEXANDER: Okay.

We have to make certain findings because you're classified as a fast order food enterprise.

That basically you're not going to create traffic problems, reduce available parking, threaten the public safety in the streets, or encourage or produce double parking.

People, you expect people would walk to your place basically?

TIM WIECHMANN: Yeah. And there are parking spaces right in front.

CONSTANTINE ALEXANDER: There's on street parking.

TIM WIECHMANN: There's a lot.

CONSTANTINE ALEXANDER: And around the corner there's a public lot.

TIM WIECHMANN: Right.

CONSTANTINE ALEXANDER: By the Mexican restaurant.

TIM WIECHMANN: Right.

BRONWYN WIECHMANN: And also from

what we're hearing it's having another
lunch location in the square --

TIM WIECHMANN: Right.

BRONWYN WIECHMANN: -- for people
that do work in the square. It seems like
people are really interested in that.

CONSTANTINE ALEXANDER: Well,
especially with considering the kind of
quality dining experience you provide for
people, I'm not surprised.

TIM WIECHMANN: Thank you very
much.

DOUGLAS MYERS: You have a present
location?

TIM WIECHMANN: Yeah, we have two.

DOUGLAS MYERS: I'm not familiar.

TIM WIECHMANN: T.W. Food which is
a French restaurant in Huron Village.
We've been there for eight years.

CONSTANTINE ALEXANDER: Off the corner of Walden Street and Concord Avenue.

TIM WIECHMANN: Yeah.

And then we own Bronwyn in Somerville which is in Union Square.

CONSTANTINE ALEXANDER: And have you any thoughts about your signage you're going to put on the building?

BRONWYN WIECHMANN: We're keeping the -- there's a -- right now Rosie's has a perpendicular or a blade sign --

CONSTANTINE ALEXANDER: Right.

BRONWYN WIECHMANN: -- we're keeping the existing structure. We're just sliding out the panes of acrylic and also keeping it white and putting our logo on it. And then we'll have a decal on the glass. So we're not going to be changing

any of the existing --

CONSTANTINE ALEXANDER: So no illumination?

BRONWYN WIECHMANN: That sign that's perpendicular is illuminated.

CONSTANTINE ALEXANDER: Yes, but no neon lights flashing in the window?

BRONWYN WIECHMANN: No, we actually did take their little neon espresso one out of the window.

CONSTANTINE ALEXANDER: Okay.

Are you going to use the -- it says, one of the requirements is that you will, to the greatest extent feasible, utilize biodegradable materials in packaging your food. And then the utensils and other items provided for consumption.

TIM WIECHMANN: Yes.

BRONWYN WIECHMANN: Absolutely.

CONSTANTINE ALEXANDER: Okay.

TIM WIECHMANN: Trash service we have multiple pickups planned so that we don't -- just --

CONSTANTINE ALEXANDER: I assume there will be some sort of trash barrel or whatever you're going to call it, in the restaurant so people can --

BRONWYN WIECHMANN: Oh, for sure. Compost, landfill, and recycling.

CONSTANTINE ALEXANDER: Okay.

And you're going to comply with all state and local requirements applicable to access, ingress and use of facilities for handicapped and disabled persons?

TIM WIECHMANN: We don't have a handicap bathroom --

CONSTANTINE ALEXANDER: Okay.

TIM WIECHMANN: -- now. So --

CONSTANTINE ALEXANDER: But
neither did Rosie's before.

TIM WIECHMANN: Right.

CONSTANTINE ALEXANDER: I think we
can live with that.

Okay. I'll open it to public
testimony.

Is there anybody here wishing to be
heard on this matter? Someone does. If
you wait this long you might as well be
heard.

KEVIN GRINBERG: Kevin Grinberg,
G-r-i-n-b-e-r-g, 27 Prospect Street. And
so I'm in the neighborhood. Just wanted
to speak in support of this venture.
I'm -- I think one of the elements in the
Ordinance was community need, and
certainly want to speak to that and I look
forward to well, eating there.

CONSTANTINE ALEXANDER: Thank you.
Sir, you want to speak, too?

GREG PERACOSE: I'd like to
express my support for the restaurant.

CONSTANTINE ALEXANDER: We need
your name and address.

GREG PERACOSE: I'm Greg Peracose
(phonetic), 115 Wyman Street, Medford.

I was a resident of Inman Square for
ten years and I currently still work in
Inman Square, and I think it would be a
nice addition to the area. I'm a customer
at their other restaurants and they're
well loved in the community so they've
been a nice addition.

CONSTANTINE ALEXANDER: Thank you
for taking the time to stick around for
this.

TIM WIECHMANN: I have some other

letters of support for your --

CONSTANTINE ALEXANDER: Sure, I'll put it in the file.

TIM WIECHMANN: These guys were all here, they just put that together.

BRONWYN WIECHMANN: Our landlords Eliot and Judy.

TIM WIECHMANN: Our landlord.

BRONWYN WIECHMANN: Judy. Our neighbors from Urban Oasis who are also big supporters of us coming into the neighborhood.

TIM WIECHMANN: And I have another one.

BRONWYN WIECHMANN: They had to leave.

DOUGLAS MYERS: Understandably.

CONSTANTINE ALEXANDER: We'd like to leave, too.

TIM WIECHMANN: And another customer.

CONSTANTINE ALEXANDER: The Chair would report that we do have letters of support. I'm not going to read them into the file at this late hour, but they do support the relief being sought.

Ready for a vote I trust?

DOUGLAS MYERS: Yes.

CONSTANTINE ALEXANDER: The Chair moves that with respect to the Special Permit being sought we make the following findings:

That the requirements of the Ordinance are such that you must get a Special Permit to operate your fast order food -- I never get that right -- fast order food enterprise.

That traffic generated or patterns

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

In fact, that the premise has previously been used for food operations and so this is not a dramatic change to the premises or to the neighborhood.

That the continued operation or development of adjacent uses 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 or the citizens of the city.

And that the -- what is being proposed 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 these findings the Chair moves that we grant you the Special Permit being requested.

All those in favor say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor.

(Alexander, Hughes, Sullivan, Myers, Best.)

* * * * *

(12:25 p.m.)

(Sitting Members Case No. 10469:

Constantine Alexander, Timothy Hughes, Brendan Sullivan, Douglas Myers, George S. Best.)

CONSTANTINE ALEXANDER: The Chair will call case number -- well, we don't have a case number. But oh, yes, case No. 10469, 9 Oakland Street in Cambridge.

The Chair would report that we are in -- we granted a, I think it was a Special Permit before. Here it is. A Special Permit with regard to allow them to build a studio apartment facing Oak Street without off street parking. We now have a letter from the petitioner, Dori Aspuru, A-s-p-u-r-u- Takata, T-a-k-a-t-a and Allen Aspuru-Guzik, G-u-z-i-k. A letter addressed to the Inspectional Services Department. (Reading) We are writing to request an extension of the

permission granted to build on our property at 9 Oakland Street, Cambridge. We have plans which were approved and include a Variance -- and not really a Variance, it's a Special Permit -- include a Variance allowing us to maintain one parking spot. This permission is due to expire soon on September 11, 2015. We are in the process of securing a contractor and finding enough financing to begin construction. For this reason we are requesting an extension of six months in order to begin construction.

And then they attached the plans which are not necessary.

DOUGLAS MYERS: Does Sean have an opinion or recommendation on this about any facts?

SEAN O'GRADY: No.

CONSTANTINE ALEXANDER: I think it's standard. We get the people just can't get their act together from a financing point of view or a contractor point of view and time runs out on this. We've had this before.

All those in favor of granting an extension please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Extension granted.

(Alexander, Hughes, Sullivan, Myers, Best.)

* * * * *

(Whereupon, at 12:30 a.m., the
Board of Zoning Appeals
Adjourned.)

ERRATA SHEET AND SIGNATURE INSTRUCTIONS

The original transcript and Errata Sheet has been delivered to Inspectional Services Department.

INSTRUCTIONS

After reading this volume of the Zoning Board of Appeals transcript, note any change or correction and the reason therefor on this sheet. Sign and date this Errata Sheet.

PAGE	LINE	
_____	_____	CHANGE:
_____		REASON:

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REASON:

I have read the foregoing transcript of the Zoning Board of Appeals, and except for any corrections or changes noted above, I hereby subscribe to the transcript as an accurate record of the statement(s) made by me.

C E R T I F I C A T E

**COMMONWEALTH OF MASSACHUSETTS
BRISTOL, SS.**

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

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

IN WITNESS WHEREOF, I have hereunto set my hand this 13th day of August, 2015.

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

My Commission Expires:
April 29, 2022

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006133 [1] - 203:7

006869 [1] - 7:6

006922 [1] - 3:16

007147 [1] - 264:7

007156 [1] - 290:7

007159 [1] - 274:7

007185 [1] - 342:7

007188 [1] - 322:7

007211 [1] - 368:7

007219 [1] - 385:7

007226 [1] - 361:7

02139 [1] - 1:7

04 [1] - 266:4

1

1 [3] - 268:19, 299:6,
331:7

1,500 [1] - 153:5

1.08 [1] - 325:10

10 [13] - 2:7, 95:2,
132:7, 154:5,
155:18, 156:9,
274:7, 278:1, 278:5,
280:6, 280:11,
282:2, 331:7

10-by-10 [1] - 323:5

100 [9] - 43:6, 43:7,
53:3, 149:16, 150:3,
150:4, 152:19,
175:10, 175:12

1000 [2] - 7:18, 97:6

104 [1] - 364:7

10469 [3] - 2:14,

398:2, 398:7

106 [1] - 48:5

10:00 [1] - 203:1

10:45 [1] - 264:1

10:55 [1] - 274:1

11 [10] - 27:17, 28:1,
28:6, 28:18, 32:2,
32:3, 52:19, 169:4,

331:7, 399:8
11.31 [1] - 355:7
114 [2] - 2:11, 361:7
115 [1] - 393:15
11:05 [1] - 290:1
11:30 [1] - 322:1
11:45 [1] - 342:1
12 [3] - 41:17, 143:4,
 331:8
12:00 [1] - 361:1
12:05 [1] - 368:1
12:15 [1] - 385:1
12:25 [1] - 398:1
12:30 [1] - 400:13
13 [3] - 54:8, 143:4,
 331:8
1350 [2] - 2:3, 7:6
13th [3] - 261:4,
 261:5, 402:8
14 [7] - 5:13, 8:14,
 12:7, 150:18, 262:8,
 276:4, 331:8
14-day [1] - 8:9
14.2 [1] - 276:5
1400 [2] - 369:11,
 372:4
147703 [1] - 402:12
15 [10] - 88:6, 89:6,
 115:10, 129:18,
 256:11, 276:6,
 281:19, 331:8,
 345:13, 368:16
150 [1] - 290:14
15th [2] - 201:17
16 [3] - 81:18, 82:13,
 284:3
1600 [1] - 185:9
1650 [2] - 34:19,
 36:15
16th [1] - 383:19
17 [9] - 56:2, 81:13,
 82:1, 155:5, 156:3,
 156:14, 251:1,
 253:6
17.6 [1] - 373:13
1750 [4] - 35:6,
 184:12, 185:7,
 190:11
18 [5] - 42:17, 79:17,
 130:12, 256:11,
 343:12
1890 [1] - 370:9
1890s [1] - 323:19

1896 [1] - 305:7
190 [1] - 29:11
1920 [1] - 110:11
1930 [3] - 291:7,
 291:8, 303:1
1954 [1] - 73:10
1958 [1] - 110:10
1965 [1] - 51:4
1970 [1] - 90:5
1973 [1] - 62:16
1978 [1] - 64:16
1980s [1] - 39:19
1983 [4] - 91:12,
 102:1, 102:2

2

2 [4] - 276:4, 299:11,
 331:7, 331:11
2,000 [1] - 53:2
2,620 [2] - 29:19, 30:1
2,750 [1] - 30:4
20 [15] - 40:15, 42:16,
 43:5, 62:11, 66:17,
 89:6, 131:8, 132:7,
 236:3, 236:4, 266:1,
 267:19, 298:19,
 345:13, 373:11
2003 [1] - 322:15
2010 [1] - 322:19
2011 [1] - 362:8
2012 [1] - 368:16
2014 [4] - 285:3,
 345:8, 357:13,
 358:7
2015 [7] - 1:4, 4:9,
 298:19, 314:4,
 322:2, 399:8, 402:8
2022 [1] - 402:14
204 [3] - 30:3, 30:8
209 [4] - 2:4, 203:7,
 204:1, 232:5
216 [1] - 29:12
22 [1] - 285:9
220 [1] - 250:6
228 [1] - 372:16
234 [2] - 244:15,
 245:17
236 [3] - 2:5, 3:16, 4:6
24 [1] - 373:8
243 [2] - 2:13, 385:7
24th [5] - 260:18,
 261:13, 262:1,
 262:13, 263:1

25 ^[10] - 95:2, 169:9,
269:5, 278:2, 278:6,
280:2, 280:7,
280:12, 369:6,
372:11

25th ^[7] - 10:13, 15:2,
15:6, 20:6, 117:11,
117:12, 117:13

27 ^[2] - 4:9, 393:1

27th ^[6] - 4:15, 4:17,
5:5, 5:10, 5:19,
261:3

28 ^[2] - 300:1, 300:2

2868 ^[1] - 358:6

29 ^[3] - 131:6, 131:15,
402:14

2900 ^[1] - 190:16

3

3 ^[3] - 299:13, 331:7,
332:18

3,000 ^[4] - 78:14,
83:16, 85:12, 153:6

3,500 ^[1] - 153:6

3-D ^[2] - 106:14

30 ^[11] - 1:4, 28:15,
40:16, 46:8, 95:2,
100:9, 239:1,
281:17, 281:18,
337:3, 345:14

300 ^[1] - 276:13

30th ^[3] - 10:14,
202:3, 261:15

31 ^[2] - 299:2, 380:18

32 ^[7] - 2:8, 290:7,
290:16, 291:4,
298:15, 300:5,
300:7

334 ^[1] - 86:13

35 ^[9] - 2:12, 79:19,
90:18, 91:18,
208:10, 242:3,
368:7, 368:14,
381:2

35,000 ^[2] - 21:18,
22:4

3500 ^[1] - 90:19

36 ^[4] - 208:9, 299:5,
299:10, 299:12

365 ^[1] - 188:7

37 ^[1] - 132:2

3875 ^[1] - 215:2

395 ^[1] - 73:7

4

4 [2] - 314:4, 331:7
40 [11] - 2:6, 44:12,
 62:9, 100:9, 128:4,
 138:4, 264:7,
 264:19, 269:7,
 269:8, 341:5
40A [1] - 280:14
43 [1] - 95:12
45 [1] - 270:3
46 [1] - 92:3

5

5 [1] - 331:7
5,250 [1] - 28:3
50 [12] - 115:11,
 115:16, 128:4,
 133:13, 136:10,
 141:11, 148:8,
 148:13, 149:3,
 149:13, 149:14,
 170:19
50-something
 [1] - 266:12
500 [1] - 278:7
52 [2] - 57:13, 266:3
5250 [3] - 35:2, 35:3,
 35:4
531 [1] - 276:12
5400 [2] - 90:6, 91:1
55 [4] - 2:9, 322:7,
 322:12, 331:6

6

6 [4] - 82:5, 82:7,
 279:8, 331:7
6,000 [1] - 375:13
6,900 [1] - 28:1
6.8 [1] - 371:4
60 [1] - 186:4
61 [2] - 331:11,
 332:18
617.786.7783/617.63
9.0396 [1] - 1:16
64 [2] - 146:16,
 275:12
6900 [2] - 35:2, 35:4

7

7 [2] - 280:13, 331:7
7,000 [2] - 21:17, 22:2

7.3 ^[1] - 377:1
7.5 ^[1] - 371:4
7/21/2015 ^[1] - 288:10
72 ^[1] - 266:2
720 ^[1] - 69:13
74 ^[2] - 275:14,
 275:15
75 ^[4] - 73:8, 147:16,
 148:3, 186:4
750 ^[2] - 34:12, 323:3
77 ^[1] - 157:13
7796 ^[1] - 215:3
7838 ^[1] - 215:2
7:00 ^[2] - 1:5, 3:3
7:05 ^[1] - 7:1

8

8 ^[2] - 268:16, 331:7
80 ^[2] - 43:6, 150:2
80's ^[1] - 369:11
806 ^[1] - 1:6
81-93 ^[2] - 2:10, 342:7
82 ^[1] - 152:16
8th ^[1] - 15:1

9

9 ^[7] - 2:14, 36:9,
 36:11, 36:16, 331:7,
 398:8, 399:2
90 ^[3] - 30:2, 73:13,
 93:10
905 ^[1] - 30:2
96 ^[2] - 92:4, 94:16

A

a.m ^[9] - 22:16, 22:19,
 23:4, 352:17,
 352:18, 361:1,
 368:1, 385:1,
 400:13
A1.1 ^[2] - 382:7, 384:2
A1.2 ^[2] - 382:8, 384:2
A100 ^[1] - 272:16
A2.0 ^[1] - 367:4
A2.1 ^[1] - 367:4
A200 ^[1] - 272:16
A3 ^[2] - 314:8, 320:6
A3.1 ^[1] - 384:2
A3.13 ^[1] - 382:8
A300 ^[1] - 272:17
A301 ^[1] - 272:17
abandoned
^[1] - 205:10

abilities ^[1] - 53:13
able ^[25] - 65:11,
 67:17, 71:19, 101:1,
 101:2, 106:15,
 108:2, 143:14,
 144:1, 170:7, 207:6,
 207:9, 207:13,
 216:18, 216:19,
 221:18, 222:1,
 224:6, 267:13,
 270:6, 295:4, 296:6,
 301:19, 318:5,
 318:7
absent ^[1] - 294:16
absolute ^[1] - 146:15
absolutely
^[6] - 152:14, 189:15,
 197:3, 258:14,
 364:11, 391:8
abstract ^[1] - 83:12
abundance
^[1] - 167:11
abuse ^[1] - 102:18
abut ^[1] - 205:10
abuts ^[3] - 211:18,
 258:2, 269:8
abutter ^[5] - 136:10,
 136:11, 138:18,
 296:13, 297:4
abutters ^[4] - 87:15,
 277:2, 293:11,
 296:5
abutting ^[1] - 298:14
Acacia ^[1] - 304:19
academic ^[1] - 22:10
accept ^[3] - 169:3,
 179:6, 179:8
acceptable ^[1] - 67:10
accepted ^[1] - 163:12
accepting
^[2] - 168:19, 169:7
access ^[22] - 20:13,
 21:17, 22:2, 22:7,
 47:13, 59:19, 69:9,
 71:9, 97:15, 98:6,
 98:9, 168:14,
 183:17, 267:14,
 267:15, 316:9,
 349:5, 359:1,
 365:15, 377:17,
 392:3, 396:5
accesses ^[1] - 267:17
accessibility

[1] - 137:2

accessible

[13] - 67:11, 82:17,
86:5, 86:8, 95:16,
137:9, 138:6,
152:13, 152:19,
187:6, 352:6, 352:8,
352:9

accommodate

[2] - 282:6, 347:4

accommodation

[1] - 4:10

accompany

[1] - 163:14

accomplish

[1] - 128:2

accordance

[8] - 272:12, 287:3,
313:19, 315:6,
320:4, 339:14,
367:3, 383:18

according [4] - 8:6,

10:11, 283:13,
305:15

accordingly

[1] - 301:1

accounts [1] - 104:16

accurate [5] - 92:15,

106:19, 156:5,
401:17, 402:6

accurately

[1] - 142:14

achieve [1] - 383:1

achieved [3] - 286:5,

341:10, 341:12

acknowledgement

[1] - 193:11

acoustic's

[1] - 323:13

acquired [1] - 357:2

acrylic [1] - 390:5

act [1] - 400:2

acting [4] - 86:17,

155:15, 197:9,
199:10

activated [3] - 160:6,

160:7, 161:2

actively [1] - 350:7

activities [3] - 45:4,

59:15, 172:7

actual [3] - 52:17,

56:6, 59:13

ADA [1] - 95:8

Adalicia ^[1] - 268:16

ADALICIA

^[1] - 268:17

Adam ^[3] - 322:14,

326:10, 328:13

ADAM ^[2] - 340:1,

340:9

adamant ^[1] - 180:2

add ^[17] - 27:1,

170:14, 266:1,

266:2, 275:18,

278:1, 292:5,

292:12, 298:6,

301:12, 326:4,

331:4, 344:14,

347:14, 362:17,

370:15, 372:10

added ^[12] - 20:16,

26:8, 55:9, 56:11,

88:12, 88:14,

279:17, 280:5,

309:14, 334:6,

362:16, 369:13

adding ^[15] - 29:10,

29:12, 30:3, 30:8,

47:5, 53:1, 53:3,

53:8, 113:4, 124:13,

154:8, 160:8, 188:5,

319:1, 362:11

addition ^[76] - 38:12,

39:3, 44:15, 47:19,

51:1, 67:4, 195:16,

213:6, 265:18,

266:4, 266:15,

269:1, 275:19,

276:12, 276:15,

277:14, 279:19,

282:5, 282:10,

282:12, 284:6,

285:4, 286:5, 286:7,

291:5, 291:8,

291:11, 291:14,

291:18, 291:19,

292:13, 293:4,

294:3, 294:13,

298:9, 300:7,

300:13, 300:15,

301:12, 302:7,

302:10, 303:6,

303:7, 303:17,

303:18, 304:4,

304:7, 304:13,

308:5, 310:1, 311:1,

312:17, 313:3,
 313:14, 320:3,
 331:9, 369:1, 370:2,
 370:15, 370:18,
 371:19, 372:5,
 372:7, 372:9, 373:5,
 373:10, 373:13,
 374:12, 375:1,
 379:7, 381:2,
 393:19, 394:3

additional ^[15] - 21:5,
 26:8, 27:2, 27:5,
 27:6, 28:10, 53:3,
 55:11, 154:8,
 181:11, 193:8,
 286:4, 292:1,
 338:14, 383:1

additionally

^[1] - 292:11

additions ^[4] - 278:3,
 300:10, 369:19,
 372:6

address ^[15] - 124:1,

139:18, 204:11,
 204:17, 205:1,
 208:13, 210:8,
 264:14, 264:19,
 284:9, 301:7,
 322:10, 332:17,
 346:14, 393:13

addressed

^[5] - 60:19, 109:16,
 189:15, 204:13,
 398:17

addressing

^[1] - 204:3

adequate ^[6] - 8:6,
 10:15, 14:4, 16:4,
 68:16, 235:13

adequately

^[1] - 196:15

adeu ^[1] - 168:17

adjacent ^[5] - 283:5,

316:13, 359:9,
 365:19, 396:13

adjoining ^[4] - 317:3,

360:1, 366:16,
 397:2

Adjourned

^[1] - 400:14

adjudicate ^[1] - 79:2

adjust ^[1] - 240:13

adjustment ^[1] - 62:4

administrative
 [1] - 57:10

adopted [1] - 169:5

adoption [1] - 276:4

adults [2] - 48:9, 49:9

advantage
 [2] - 206:15, 223:10

adverse [1] - 247:15

adversely
 [4] - 316:14, 359:10,
 366:2, 396:14

advertised
 [1] - 200:14

advised [1] - 364:11

Advisory [4] - 136:13,
 346:1, 355:1, 355:5

advisory [6] - 345:19,
 346:5, 346:9,
 347:10, 347:11,
 355:18

advocating
 [1] - 221:8

aesthetic [4] - 48:14,
 254:7, 254:16,
 292:14

aesthetically
 [3] - 240:14, 250:18,
 283:12

affect [3] - 165:1,
 283:17, 284:14

affected [10] - 212:13,
 310:6, 316:14,
 320:8, 359:10,
 366:2, 366:5,
 381:12, 383:13,
 396:14

affecting [2] - 308:5,
 308:6

affiliated [1] - 45:7

affiliates [1] - 107:6

affordable [2] - 69:2,
 194:10

afraid [8] - 52:13,
 53:11, 53:18, 54:6,
 54:13, 55:10, 63:19,
 107:9

again... [1] - 327:2

agenda [1] - 194:9

ages [1] - 118:6

agnosis [1] - 47:4

ago [10] - 8:8, 9:2,
 23:8, 40:16, 104:3,
 231:19, 249:14,

251:1, 253:7,
 348:14
agree ^[14] - 52:13,
 53:11, 66:5, 77:2,
 146:14, 166:5,
 175:2, 176:18,
 180:5, 182:11,
 184:5, 199:1,
 215:17
agreed ^[3] - 219:8,
 326:19, 355:12
agreement ^[1] - 253:1
agrees ^[1] - 166:14
ahead ^[7] - 7:15,
 16:10, 45:4, 79:15,
 89:2, 140:11,
 188:19
Ahearn ^[1] - 290:14
air ^[4] - 170:5, 170:6,
 171:9, 323:12
AI's ^[1] - 23:7
Alan ^[1] - 299:19
ALAN ^[1] - 299:19
albeit ^[1] - 223:9
alcohol ^[2] - 386:10,
 386:11
ALEXANDER
^[237] - 3:8, 4:1, 4:16,
 5:1, 6:4, 194:5,
 203:6, 203:16,
 204:10, 208:3,
 215:16, 217:4,
 217:16, 218:7,
 218:18, 220:19,
 234:8, 234:12,
 234:16, 235:19,
 241:6, 241:11,
 242:5, 242:10,
 243:1, 243:5, 244:8,
 244:12, 247:11,
 248:4, 248:9, 250:1,
 254:2, 254:12,
 255:2, 255:11,
 257:12, 258:9,
 258:14, 259:2,
 259:6, 259:10,
 259:14, 260:2,
 260:6, 260:10,
 260:19, 261:2,
 261:5, 261:9,
 261:12, 261:17,
 262:19, 264:6,
 264:13, 265:8,

266:9, 266:14,
266:17, 267:2,
268:2, 268:5,
268:11, 269:18,
270:12, 270:18,
271:4, 273:2, 274:6,
277:6, 279:2, 279:9,
280:9, 280:16,
281:7, 281:13,
285:15, 287:12,
288:1, 288:9,
288:13, 288:17,
290:6, 292:17,
293:2, 293:6,
293:18, 294:12,
294:16, 295:6,
295:14, 296:2,
296:18, 297:6,
297:13, 297:18,
298:4, 298:8, 299:9,
302:17, 304:3,
304:9, 309:17,
310:14, 311:5,
312:9, 314:15,
314:18, 315:4,
315:10, 315:14,
316:1, 317:12,
317:17, 318:2,
319:13, 320:11,
320:16, 321:1,
322:6, 324:11,
325:3, 325:19,
326:5, 326:13,
326:16, 327:6,
330:10, 330:13,
330:18, 332:1,
332:5, 332:13,
333:11, 337:5,
337:10, 338:1,
338:6, 340:7,
340:15, 341:15,
342:6, 342:15,
343:1, 343:4, 343:7,
347:9, 348:4,
349:11, 349:19,
350:15, 351:11,
351:17, 352:4,
352:12, 352:18,
353:7, 353:12,
354:2, 354:5,
354:11, 354:16,
356:10, 356:18,
357:9, 357:15,

357:18, 358:9,
 358:13, 360:8,
 360:11, 360:13,
 361:6, 361:14,
 362:1, 363:3, 363:6,
 363:10, 363:13,
 364:5, 364:9,
 364:16, 364:19,
 365:5, 366:7,
 366:10, 367:10,
 368:6, 371:16,
 375:18, 376:2,
 379:8, 379:13,
 379:19, 380:5,
 380:10, 380:14,
 381:8, 381:11,
 381:16, 382:1,
 382:7, 382:12,
 384:6, 385:6,
 385:15, 386:1,
 386:17, 387:1,
 387:7, 388:1, 388:4,
 388:7, 388:17,
 389:10, 389:15,
 390:2, 390:10,
 390:14, 390:19,
 391:9, 391:13,
 391:19, 392:7,
 392:9, 392:12,
 393:8, 393:12,
 394:4, 394:8, 395:5,
 395:9, 395:16,
 397:9, 398:5,
 399:19, 400:8

Alexander ^[23] - 1:8,
 3:5, 6:6, 203:3,
 263:3, 264:3, 273:4,
 274:3, 288:19,
 290:3, 315:12,
 321:3, 322:3, 341:1,
 342:3, 360:12,
 361:3, 367:8, 368:3,
 384:8, 385:3,
 397:11, 398:3

alexander

^[1] - 400:10

Alexandra ^[2] - 14:14,
 14:16

ALEXANDRA

^[8] - 14:16, 148:19,
 149:3, 149:9,
 149:13, 150:18,
 192:13, 193:4

align ^[1] - 33:18
aligns ^[2] - 32:14,
 209:16
Allen ^[1] - 398:16
allow ^[5] - 151:16,
 217:10, 282:11,
 398:12
allowable
^[4] - 276:14, 369:6,
 372:3, 372:16
allowed ^[11] - 40:2,
 41:6, 99:18, 100:17,
 196:9, 207:19,
 220:3, 220:4,
 221:14, 223:10,
 278:8
allowing ^[3] - 143:15,
 192:19, 399:5
allows ^[1] - 55:5
almost ^[7] - 53:2,
 53:4, 99:11, 185:9,
 226:14, 323:8,
 325:10
alter ^[1] - 126:8
alteration ^[2] - 78:17,
 78:18
alterations
^[2] - 158:13, 345:11
alternative
^[2] - 105:2, 108:8
altogether ^[2] - 107:9,
 230:15
Altire ^[1] - 281:16
alumni ^[3] - 57:15,
 158:3, 158:11
AMACHER ^[1] - 44:10
Amacher ^[2] - 44:11,
 105:1
amazing ^[3] - 10:2,
 120:3, 371:8
ambition ^[1] - 101:10
ambitious
^[1] - 101:13
ameliorate
^[1] - 283:11
amenable
^[3] - 108:13, 216:4,
 242:19
amendment
^[1] - 190:1
amenities ^[4] - 107:2,
 160:9, 186:7, 188:4
amenity ^[1] - 186:15

American [2] - 118:2,
118:4

amount [13] - 25:3,
36:6, 44:14, 53:4,
53:7, 148:3, 196:10,
211:14, 245:13,
257:18, 373:18,
374:4, 387:1

amounts [1] - 100:4

ample [1] - 196:15

AMY [33] - 322:12,
324:13, 325:16,
326:2, 326:9,
326:15, 326:18,
327:5, 327:15,
328:2, 328:6,
328:10, 329:2,
329:6, 330:1, 330:3,
330:7, 331:18,
332:9, 333:6, 333:8,
334:2, 334:4, 334:9,
334:17, 335:3,
335:9, 335:13,
336:2, 336:13,
336:18, 337:4,
337:19

Amy [2] - 322:12,
331:4

analogy [1] - 176:12

analysis [4] - 18:18,
19:1, 36:16, 154:6

analyzed [1] - 145:5

analyzing [1] - 95:5

ancient [2] - 50:11,
50:18

AND [1] - 401:1

AND/OR [1] - 402:16

Anderson
[1] - 110:14

ANDREW [5] - 18:8,
33:4, 33:16, 142:9,
156:5

Andrew [2] - 18:8,
333:5

Andy [1] - 142:7

angles [1] - 134:18

animus [1] - 197:4

Anne [1] - 254:19

annual [1] - 69:6

answer [7] - 21:14,
22:11, 26:18, 147:8,
179:17, 333:15,
336:2

answered [2] - 34:9,
174:18

answers [1] - 76:6

ANTHONY

[41] - 203:10,
203:17, 204:14,
208:12, 211:2,
217:14, 217:17,
219:6, 221:5, 222:7,
222:10, 222:16,
228:7, 229:16,
230:3, 230:7,
230:11, 231:16,
232:1, 232:4, 233:5,
233:9, 234:13,
237:6, 237:12,
239:13, 240:3,
243:12, 244:2,
244:10, 257:1,
257:17, 258:10,
258:15, 259:4,
259:8, 259:12,
259:16, 260:4,
261:11, 263:5

Anthony [1] - 203:13

anxious [1] - 204:6

ANY [2] - 402:15,
402:16

anyhow [4] - 25:18,
178:11, 215:15,
374:3

anyway [5] - 5:4,
145:9, 167:10,
230:6, 269:19

apartment

[3] - 268:19, 332:18,
398:13

apologize [4] - 28:7,
30:12, 174:6,
337:19

appeal [2] - 238:4,
238:5

Appeal [5] - 74:4,
102:1, 103:14,
282:4, 355:19

APPEAL [1] - 1:1

appealing

[2] - 169:13, 275:11

Appeals [4] - 3:10,
400:14, 401:6,
401:15

appear [1] - 346:5

appeared [1] - 212:14

appearing

[1] - 274:13

applaud [1] - 182:12**Apple** [1] - 84:11**apples** [1] - 337:17**applicable**

[2] - 182:10, 392:2

applicant

[9] - 166:11, 195:2,

195:18, 196:9,

196:12, 203:15,

274:14, 276:6,

342:13

application [7] - 86:2,

163:15, 164:5,

164:9, 282:16,

283:19, 291:2

APPLY [1] - 402:15**applying** [4] - 256:18,

282:3, 343:15,

352:15

appreciate [6] - 4:10,

79:11, 178:14,

221:6, 244:18,

247:4

approach [4] - 105:2,

141:19, 167:6,

225:18

approached

[1] - 134:17

approaching

[1] - 217:7

appropriate

[9] - 96:12, 102:7,

135:14, 143:18,

220:13, 220:14,

230:12, 277:5,

356:1

appropriately

[1] - 260:1

approval [2] - 269:1,

383:6

approvals

[1] - 229:11

approve [2] - 247:9,

282:15

approved [4] - 141:2,

348:13, 358:7,

399:3

approving [1] - 331:3**approximate**

[1] - 153:6

April [1] - 314:4

april ^[1] - 402:14
arbitrary ^[1] - 280:3
arborist ^[2] - 123:4,
 145:7
arborists ^[1] - 145:6
arcade ^[10] - 23:3,
 41:16, 41:18, 58:10,
 58:14, 59:16, 74:16,
 90:8, 141:16, 178:5
architect ^[19] - 18:7,
 18:12, 32:12, 38:5,
 44:11, 46:4, 74:6,
 83:10, 132:3, 205:4,
 208:13, 209:14,
 210:6, 274:18,
 291:1, 298:19,
 322:14, 333:15,
 368:12
architect's ^[2] - 38:8,
 90:3
Architects ^[2] - 18:9,
 339:15
architects
^[10] - 18:10, 69:16,
 74:6, 74:9, 89:5,
 92:10, 111:12,
 118:19, 156:18,
 175:10
architectural
^[4] - 47:9, 62:3,
 78:11, 292:16
architecturally
^[1] - 47:16
architecture
^[14] - 38:11, 50:3,
 50:12, 54:12, 58:4,
 59:9, 60:6, 96:5,
 110:12, 119:5,
 119:18, 143:7,
 143:14, 250:9
Architecture
^[4] - 111:12, 265:6,
 272:13, 287:4
area ^[59] - 11:14,
 21:6, 22:14, 23:1,
 26:7, 29:2, 29:3,
 29:17, 31:12, 31:18,
 35:14, 68:7, 68:8,
 78:16, 86:14, 90:19,
 91:19, 94:1, 95:15,
 103:5, 107:17,
 122:11, 124:19,
 131:19, 132:13,

132:18, 138:2,
 138:8, 141:7, 148:6,
 149:7, 149:10,
 152:16, 153:16,
 155:6, 161:19,
 172:19, 193:6,
 196:7, 219:11,
 220:3, 221:14,
 227:17, 232:7,
 232:12, 237:19,
 238:1, 240:19,
 245:3, 249:5,
 249:15, 250:15,
 252:2, 252:4,
 256:17, 282:9,
 347:3, 359:5,
 393:19
area/you [1] - 244:17
areas [7] - 21:18,
 22:1, 42:9, 164:19,
 165:4, 210:7,
 228:19
argue [3] - 160:13,
 219:7, 241:14
arguing [1] - 181:2
argument [8] - 59:8,
 102:9, 153:18,
 167:4, 219:2,
 221:13, 223:14,
 230:14
argumentive
 [1] - 94:11
arithmetic
 [1] - 169:10
arranged [1] - 33:8
arrangement
 [1] - 41:5
arrive [1] - 70:2
arrived [1] - 346:6
arrives [2] - 378:4,
 378:6
arrow [1] - 303:14
Art [1] - 76:12
art [2] - 77:4, 323:18
artist [1] - 155:9
artwork [1] - 76:18
as-of-right [1] - 278:5
aside [3] - 88:10,
 100:1, 139:8
aspect [3] - 57:6,
 226:11, 346:11
aspects [4] - 164:2,
 164:4, 166:4, 195:3

asphalt ^[1] - 11:11
Aspuru ^[2] - 398:15,
 398:16
ASPURU ^[1] - 398:15
Aspuru-Guzik
^[1] - 398:16
assess ^[1] - 196:11
assistant ^[1] - 62:10
Associate ^[3] - 1:9,
 1:10, 1:10
associated ^[1] - 107:2
Associates
^[1] - 383:19
Association ^[1] - 86:1
assume ^[2] - 218:4,
 391:13
atmosphere
^[1] - 110:15
atrocious ^[1] - 217:13
attached ^[5] - 21:19,
 291:2, 291:14,
 310:19, 399:13
attempt ^[5] - 64:1,
 189:13, 210:16,
 339:8, 346:14
attempted
^[3] - 208:18, 209:9,
 223:15
attend ^[4] - 52:8,
 269:13, 270:6,
 281:4
attended ^[1] - 252:14
attending ^[1] - 269:17
attention ^[2] - 196:8,
 350:12
attest ^[1] - 293:7
attorney ^[5] - 52:8,
 194:19, 244:16,
 290:13, 353:17
ATTORNEY
^[102] - 194:18, 199:6,
 203:10, 203:17,
 204:14, 208:12,
 211:2, 217:14,
 217:17, 219:6,
 221:5, 222:7,
 222:10, 222:16,
 228:7, 229:16,
 230:3, 230:7,
 230:11, 231:16,
 232:1, 232:4, 233:5,
 233:9, 234:13,
 237:6, 237:12,

239:13, 240:3,
 243:12, 244:2,
 244:10, 257:1,
 257:17, 258:10,
 258:15, 259:4,
 259:8, 259:12,
 259:16, 260:4,
 261:11, 263:5,
 274:11, 275:15,
 277:13, 277:19,
 279:7, 279:13,
 280:15, 280:19,
 287:9, 287:15,
 288:3, 288:8,
 288:11, 289:2,
 290:11, 292:19,
 293:4, 293:8, 294:7,
 294:15, 294:19,
 295:12, 295:17,
 296:12, 297:5,
 298:5, 299:8, 301:8,
 303:13, 303:18,
 304:18, 307:12,
 307:18, 310:9,
 311:12, 315:1,
 318:15, 319:3,
 342:11, 342:17,
 343:9, 343:19,
 344:2, 344:12,
 344:19, 347:16,
 348:6, 350:6, 351:7,
 352:1, 352:7,
 353:18, 356:16,
 356:19, 357:11,
 357:16, 357:19,
 358:6, 358:11

attorneys ^[1] - 353:19

attracting

^[2] - 177:12, 177:16

attraction ^[2] - 127:2,
 177:16

attractive

^[2] - 216:16, 253:16

attracts ^[1] - 176:11

attune ^[1] - 222:19

Au ^[30] - 22:14, 29:5,
 29:7, 31:17, 34:14,
 38:19, 40:2, 40:11,
 51:6, 51:17, 54:12,
 54:15, 55:3, 55:12,
 59:13, 64:17, 64:18,
 73:14, 74:12, 75:15,
 80:12, 86:18, 101:1,

102:11, 131:17,
 143:12, 153:16,
 167:19, 174:16

au ^[1] - 377:7

Auburn ^[16] - 2:10,
 10:17, 11:5, 25:2,
 64:15, 112:15,
 150:17, 192:13,
 192:16, 193:6,
 342:7, 345:4,
 348:16, 349:14,
 350:1, 350:2

audience ^[1] - 15:19

AUDIENCE ^[8] - 4:18,
 17:6, 17:11, 17:19,
 28:14, 110:16,
 115:13, 243:19

August ^[11] - 4:9,
 4:15, 4:16, 5:5,
 5:10, 5:18, 202:1,
 202:2, 261:6,
 265:12, 402:8

automated ^[1] - 8:18

automobile
^[1] - 119:14

autos ^[1] - 195:5

availability
^[1] - 196:14

available ^[4] - 57:12,
 67:2, 201:17,
 387:12

Ave ^[7] - 7:6, 119:11,
 154:10, 157:13,
 171:14, 192:9,
 324:16

Avenue ^[7] - 1:6, 2:3,
 69:13, 112:18,
 153:18, 169:18,
 389:11

avoid ^[2] - 168:18,
 169:3

aware ^[2] - 271:2,
 346:3

awful ^[4] - 214:13,
 215:15, 244:18,
 246:12

awkward ^[1] - 369:16

Aye ^[25] - 6:2, 6:3,
 201:12, 262:17,
 262:18, 272:19,
 273:1, 288:15,
 288:16, 315:8,
 315:9, 320:18,

320:19, 340:18,
 340:19, 360:6,
 360:7, 367:6, 367:7,
 384:4, 384:5, 397:7,
 397:8, 400:6, 400:7

B

B-a-r-n-e-t-t ^[1] - 18:9
B-o-o-s-e ^[1] - 50:1
BA ^[3] - 206:2,
 219:14, 229:5
baby ^[2] - 324:5,
 327:1
baby-sitter ^[1] - 327:1
baby-sitting
^[1] - 324:5
backwards ^[1] - 217:7
backyard ^[2] - 306:1,
 307:7
backyards
^[1] - 371:10
bad ^[3] - 77:13, 175:8,
 185:18
baffling ^[1] - 69:16
Bagel ^[1] - 345:15
Bainbridge
^[1] - 119:4
baked ^[1] - 70:6
bakery ^[2] - 386:4,
 386:7
Bakery ^[1] - 386:6
balance ^[4] - 80:9,
 81:3, 116:13, 140:2
balanced ^[1] - 58:9
balancing ^[1] - 227:7
balconies ^[1] - 213:5
balcony ^[4] - 210:18,
 211:6, 233:15,
 236:13
ban ^[1] - 348:15
Bank ^[2] - 87:14,
 171:18
bank ^[5] - 105:3,
 105:6, 105:10,
 106:6, 154:12
banker ^[1] - 57:19
banquet ^[1] - 318:10
barely ^[1] - 11:17
Barnett ^[1] - 18:8
BARNETT ^[5] - 18:8,
 33:4, 33:16, 142:9,
 156:5
barrel ^[1] - 391:14

BARRETT

[4] - 244:14, 248:2,
248:7, 248:18

Barrett [1] - 244:15

barrier [6] - 45:10,
54:19, 75:14, 75:18,
91:4, 153:17

barrier's [1] - 93:11

base [1] - 369:10

based [10] - 71:1,
79:4, 82:12, 101:10,
170:8, 196:14,
226:4, 272:9,
345:13, 369:2

basement [8] - 33:1,
211:17, 372:10,
376:8, 376:16,
377:1, 377:18,
378:6

bases [1] - 145:10

basics [1] - 71:15

basis [17] - 6:2, 71:18,
80:1, 163:10,
180:13, 181:10,
196:19, 262:17,
286:19, 313:16,
315:8, 339:12,
346:4, 360:3,
366:19, 383:15,
397:4

bathed [1] - 98:18

bathroom [4] - 340:4,
369:15, 376:16,
392:6

bathrooms
[1] - 137:16

battens [1] - 212:18

bay [1] - 21:8

bays [1] - 234:19

beacon [4] - 88:1,
183:3, 183:7, 183:9

bear [1] - 114:3

beat [1] - 342:17

Beautiful [1] - 62:18

beautiful [2] - 113:11,
171:1

became [5] - 234:19,
238:2, 345:15,
345:16

become [3] - 113:9,
195:6, 228:12

becomes [2] - 45:1,
128:19

becoming [1] - 60:16

bedroom [7] - 323:5,
369:14, 374:9,
374:10, 374:16,
377:14

beds [1] - 306:2

beer [3] - 236:17,
354:7, 354:9

begin [2] - 399:10,
399:12

beginning [2] - 199:3,
243:14

behalf [3] - 87:13,
102:15, 274:13

behemoths

[1] - 253:8

behind [6] - 17:1,
32:6, 87:10, 245:4,
291:4, 307:10

behold [1] - 230:16

belaboring

[1] - 187:17

belief [1] - 294:8

believes [2] - 10:7,
301:11

below [7] - 207:17,
207:19, 209:3,
220:2, 232:8,
232:19, 276:13

Ben [4] - 322:13,

326:10, 331:4,
349:8

BEN [24] - 327:9,

327:13, 327:18,
328:3, 328:7,
328:14, 329:4,
329:9, 330:2, 330:4,
330:6, 331:16,
332:3, 332:7,
332:11, 333:7,
334:8, 334:16,
335:7, 335:11,
335:18, 336:17,
337:2, 337:9

Ben's [2] - 323:13,
324:5

benches [2] - 103:4,
119:11

benefit [10] - 70:12,
137:4, 137:14,
137:15, 137:18,
138:18, 188:8,
190:7, 190:9,

324:19
benefits ^[1] - 85:14
best ^[11] - 7:4, 13:7,
79:6, 122:6, 168:12,
214:14, 223:16,
225:2, 225:5,
247:17, 250:10
BEST ^[28] - 157:6,
157:11, 157:16,
158:18, 159:3,
159:8, 159:12,
161:4, 161:6,
161:10, 162:5,
162:11, 170:14,
175:2, 175:5,
176:16, 176:18,
178:13, 178:17,
192:7, 192:19,
198:6, 327:11,
327:16, 329:16,
330:5, 335:19,
336:6
Best ^[23] - 1:10, 3:7,
6:7, 201:14, 264:5,
273:5, 274:5, 289:1,
290:5, 315:13,
321:4, 322:5, 341:1,
342:5, 360:10,
361:5, 367:9, 368:5,
384:9, 385:5,
397:12, 398:4,
400:11
bet ^[1] - 385:9
better ^[23] - 11:19,
24:18, 25:4, 36:11,
47:13, 63:15, 71:16,
85:6, 105:11,
146:11, 154:16,
155:1, 158:10,
160:11, 160:17,
173:8, 223:5,
223:14, 246:13,
249:18, 267:14,
311:2, 329:6
between ^[19] - 14:9,
41:17, 107:15,
114:6, 132:18,
135:2, 140:3, 154:2,
156:9, 165:1,
185:10, 190:1,
222:12, 256:15,
303:2, 305:16,
306:11, 309:2,

324:15
beyond ^[4] - 50:2,
56:14, 278:9, 300:8
big ^[25] - 40:10,
45:15, 63:3, 63:9,
69:18, 75:12, 75:17,
84:14, 116:19,
117:6, 118:13,
120:6, 123:1, 123:2,
129:18, 130:1,
224:1, 246:11,
306:15, 306:17,
307:8, 324:15,
334:7, 394:16
bigger ^[9] - 62:14,
211:3, 251:4,
314:11, 317:9,
317:14, 317:16,
318:1, 334:9
biggest ^[1] - 53:14
bike ^[5] - 24:13,
81:16, 82:3, 82:6,
82:14
bikes ^[2] - 81:18, 82:7
bills ^[1] - 58:15
biodegradable
^[3] - 351:12, 351:18,
391:4
biotech ^[4] - 212:8,
236:19, 245:4,
251:17
Birthing ^[1] - 331:10
bit ^[23] - 23:10, 61:18,
61:19, 76:7, 90:4,
95:15, 121:10,
184:8, 212:5, 214:9,
215:9, 242:15,
248:10, 249:10,
267:16, 277:10,
292:4, 292:5,
309:12, 323:1,
325:18, 328:14
bits ^[2] - 86:17,
250:17
black ^[2] - 87:9,
159:17
blade ^[5] - 348:2,
348:7, 348:12,
348:18, 390:1
Blair ^[1] - 299:10
blame ^[1] - 269:19
blender ^[1] - 275:17
blends ^[1] - 242:17

blight [1] - 205:11
block [7] - 61:6,
84:10, 94:2, 112:9,
251:6, 251:14,
328:16
blockade [1] - 128:19
blocking [2] - 65:10
blocks [2] - 70:9,
95:12
blue [5] - 42:13, 46:2,
328:4, 328:6, 335:7
Board [86] - 3:9,
13:19, 16:8, 17:12,
19:4, 20:5, 20:10,
25:14, 25:16, 29:7,
30:19, 39:19, 59:18,
74:3, 77:16, 80:19,
90:14, 102:1,
103:14, 123:17,
133:5, 135:1,
136:16, 137:6,
138:17, 140:8,
147:11, 163:1,
163:12, 164:10,
164:13, 165:5,
166:8, 181:16,
194:3, 195:17,
196:5, 196:8,
196:11, 197:5,
197:10, 198:4,
203:12, 204:2,
204:15, 204:17,
206:1, 211:1, 218:5,
218:12, 221:4,
221:11, 222:15,
234:5, 243:16,
244:19, 254:3,
255:8, 255:12,
259:3, 259:5,
259:17, 268:3,
270:10, 274:12,
276:1, 277:4, 277:7,
282:4, 297:10,
311:6, 330:11,
331:3, 338:2,
342:12, 345:1,
345:8, 346:2, 354:3,
355:19, 356:7,
357:17, 364:17,
400:14, 401:6,
401:15
BOARD [1] - 1:1
board [7] - 21:2,

24:16, 24:19, 72:18,
91:11, 93:7, 108:10

Board's [5] - 4:9,
4:10, 210:13, 213:8,
258:16

boards [5] - 36:8,
96:16, 130:3, 141:1,
150:6

boat [2] - 171:2, 171:3

BOB [1] - 73:6

Bob [3] - 73:6, 97:10,
107:11

Bon [30] - 22:14, 29:5,
29:7, 31:17, 34:14,
38:19, 40:2, 40:11,
51:6, 51:17, 54:12,
54:15, 55:4, 55:12,
59:13, 64:18, 73:14,
74:12, 75:15, 80:12,
86:18, 101:1,
102:11, 131:17,
143:12, 153:16,
167:19, 174:16

book [8] - 62:17,
117:18, 118:3,
129:18, 169:8,
219:15, 225:1,
225:4

booklet [5] - 21:5,
25:12, 27:11, 27:17,
30:18

booklets [1] - 28:4

BOOSE [1] - 49:19

Boose [1] - 50:1

boots [2] - 267:11

bordering [2] - 113:1

boring [1] - 133:11

boss [2] - 344:3,
344:18

bottom [4] - 49:3,
92:5, 145:11,
256:15

bought [4] - 249:13,
322:18, 362:7,
362:14

bow [1] - 255:18

box [3] - 84:3, 169:14,
181:1

boxes [1] - 71:11

boy [1] - 323:8

brain [1] - 112:4

Brattle [2] - 61:7,
281:18

brazingly ^[1] - 55:2

breaker ^[1] - 232:14

breakfast

^[2] - 353:10, 386:13

breaking ^[1] - 171:5

BRENDAN

^[87] - 16:11, 25:17,

31:3, 114:14,

114:17, 115:1,

115:7, 121:1, 121:9,

121:17, 136:2,

136:6, 147:12,

147:16, 148:2,

148:7, 148:10,

148:14, 149:2,

149:5, 149:8,

149:11, 149:14,

150:1, 150:5,

150:11, 150:14,

151:1, 151:6,

151:11, 151:19,

152:4, 152:11,

152:15, 153:2,

162:7, 174:8, 175:3,

175:6, 176:17,

176:19, 178:16,

187:10, 189:7,

190:8, 198:15,

200:2, 213:13,

215:8, 215:14,

224:13, 227:13,

231:11, 231:18,

233:3, 234:1, 234:6,

234:10, 234:14,

235:2, 236:9, 237:2,

237:11, 238:10,

238:14, 239:2,

255:16, 256:2,

256:9, 256:13,

258:8, 288:6, 298:2,

303:5, 303:9,

303:12, 326:7,

327:3, 340:13,

353:16, 373:4,

373:9, 373:14,

373:18, 374:2,

374:14, 375:2

Brendan ^[17] - 1:9,

3:6, 7:3, 40:1,

179:6, 184:5, 203:4,

217:12, 264:4,

274:4, 290:4, 322:4,

342:4, 361:4, 368:4,

385:4, 398:3
Brendan's ^[1] - 241:7
brick ^[5] - 94:2, 94:3,
94:4, 94:5, 212:16
Bridge ^[1] - 110:14
bridge ^[1] - 110:14
brief ^[4] - 37:11,
144:16, 268:14,
347:11
briefly ^[3] - 8:2,
142:6, 142:10
brightest ^[2] - 225:2,
225:5
brilliant ^[1] - 84:12
bring ^[6] - 43:11,
84:18, 108:10,
131:1, 262:14,
281:1
bringing ^[2] - 32:16,
370:17
brings ^[3] - 90:14,
139:5, 171:10
BRISTOL ^[1] - 402:3
broad ^[2] - 163:15,
209:12
broaden ^[1] - 19:5
Broadway ^[14] - 2:4,
73:7, 203:7, 204:1,
211:19, 212:1,
212:7, 232:6, 241:8,
244:15, 245:17,
248:15, 250:6,
251:15
brochure ^[1] - 89:15
brochures ^[1] - 89:16
broke ^[1] - 112:10
broken ^[1] - 212:15
Bromley ^[1] - 305:6
BRONWYN
^[12] - 385:11,
388:10, 388:14,
389:18, 390:3,
390:12, 390:16,
391:8, 391:17,
394:12, 394:15,
395:2
Bronwyn ^[2] - 385:17,
389:13
brought ^[5] - 43:9,
52:16, 54:2, 72:10,
98:10
BRUCE ^[24] - 290:11,
292:19, 293:4,

293:8, 294:7,
 294:15, 294:19,
 295:12, 295:17,
 296:12, 297:5,
 298:5, 299:8, 301:8,
 303:13, 303:18,
 304:18, 307:12,
 307:18, 310:9,
 311:12, 315:1,
 318:15, 319:3

Bruce ^[1] - 290:12

Bruegger's

^[1] - 345:15

Bruner ^[1] - 18:7

brutal ^[1] - 119:18

budget ^[1] - 355:14

build ^[8] - 76:13,

206:5, 229:12,

229:13, 229:14,

284:6, 398:12,

399:1

Building ^[4] - 291:10,

294:1, 294:2, 310:4

building ^[86] - 15:5,

24:15, 31:18, 32:15,

33:6, 33:7, 33:12,

36:19, 37:1, 38:13,

38:14, 39:5, 39:7,

42:7, 45:17, 46:17,

47:3, 58:15, 61:7,

64:13, 74:9, 76:17,

78:11, 83:19, 84:3,

90:16, 92:14, 92:16,

93:16, 103:5, 104:9,

114:2, 120:3,

123:16, 126:6,

130:4, 136:12,

137:11, 143:1,

151:15, 152:8,

154:10, 167:8,

182:14, 183:8,

191:2, 193:1,

195:11, 205:3,

207:18, 208:4,

208:5, 208:7, 208:8,

210:14, 211:12,

212:13, 212:14,

227:2, 227:3, 227:8,

228:5, 235:1, 242:1,

242:8, 245:4, 245:6,

245:14, 246:6,

246:8, 249:3, 249:8,

250:17, 292:13,

304:14, 324:9,
 335:12, 345:2,
 348:1, 348:15,
 348:19, 350:14,
 355:13, 389:17
buildings ^[21] - 41:1,
 41:3, 41:18, 46:5,
 46:7, 46:9, 63:1,
 63:3, 63:9, 113:11,
 142:13, 142:15,
 179:12, 212:19,
 241:15, 248:8,
 251:3, 251:4, 251:7,
 269:3
built ^[19] - 93:11,
 112:11, 126:6,
 159:15, 178:19,
 226:16, 254:1,
 266:2, 270:17,
 291:5, 294:14,
 302:7, 305:9,
 305:10, 305:18,
 307:14, 307:16,
 310:1, 323:19
bullet ^[1] - 147:13
bump ^[1] - 309:1
bumper ^[1] - 176:1
bunch ^[1] - 227:14
Bunting ^[1] - 119:4
burdens ^[1] - 209:5
bureaucracy
^[1] - 62:13
Burger ^[1] - 353:1
burgers ^[1] - 353:5
burglaries
^[1] - 252:10
burnt ^[1] - 249:6
bus ^[3] - 73:18, 193:5,
 193:8
bush ^[3] - 11:6, 17:1,
 186:15
bushes ^[2] - 40:11,
 216:16
Business ^[1] - 86:1
business ^[8] - 42:17,
 42:18, 45:11, 49:4,
 61:13, 206:4, 206:6,
 356:4
businesses ^[9] - 43:8,
 44:3, 58:17, 59:2,
 61:16, 62:1, 138:1,
 251:10, 251:15
busses ^[5] - 76:1,

192:9, 192:12,
 192:17, 193:3
but... [1] - 221:4
butts [1] - 236:18
buy [3] - 65:16, 65:19,
 173:2
buyer [2] - 208:18,
 209:5
buying [1] - 54:18
BZA [7] - 66:16,
 67:11, 109:12,
 109:13, 109:16,
 245:11, 284:16
BZA-006133-2015
 [2] - 2:4, 203:2
BZA-006869-2015
 [2] - 2:3, 7:2
BZA-006922-2015
 [2] - 2:5, 3:4
BZA-007147-2015
 [2] - 2:6, 264:2
BZA-007156-2015
 [2] - 2:8, 290:2
BZA-007159-2015
 [2] - 2:7, 274:2
BZA-007185-2015
 [2] - 2:10, 342:2
BZA-007188-2015
 [1] - 2:9
BZA-007211-2015
 [2] - 2:12, 368:2
BZA-007219-2015
 [2] - 2:13, 385:2
BZA-007226-2015
 [2] - 2:11, 361:2
BZA-07185 [1] - 322:2

C

C-l-e-m-e-n-t-e
 [1] - 362:5
C-o-t [1] - 18:7
cafe [6] - 65:3, 65:7,
 65:8, 65:12, 69:1,
 141:14
calculations
 [1] - 96:10
calendar [2] - 22:10,
 200:16
caliper [1] - 131:14
Callendar [2] - 330:3,
 330:4
CAMBRIDGE [1] - 1:2
Cambridge [66] - 1:7,

7:19, 20:18, 24:11,
 38:6, 38:11, 44:12,
 44:16, 45:14, 45:17,
 48:6, 48:14, 50:8,
 50:17, 53:17, 54:18,
 60:11, 62:8, 64:8,
 64:9, 69:13, 73:8,
 73:12, 76:11, 79:6,
 80:11, 81:8, 83:10,
 84:9, 85:3, 87:14,
 108:14, 110:10,
 117:1, 168:7,
 170:16, 171:12,
 171:18, 172:11,
 193:9, 195:1, 197:7,
 255:1, 265:7,
 268:19, 269:8,
 272:7, 279:4, 280:4,
 280:12, 290:15,
 322:15, 324:1,
 324:4, 324:6, 331:3,
 339:10, 368:16,
 371:10, 375:13,
 386:9, 398:8, 399:2

Cambridge's

[1] - 12:5

CambridgePark

[1] - 290:15

Cambridgeside

[1] - 170:17

camera [1] - 160:16

CAMPBELL

[27] - 368:11,
 371:17, 373:7,
 373:12, 373:16,
 374:1, 374:6,
 374:17, 375:3,
 376:1, 376:5, 376:9,
 376:12, 376:18,
 377:2, 377:19,
 378:10, 378:17,
 379:4, 379:10,
 379:14, 380:2,
 380:8, 381:14,
 381:17, 382:3,
 382:9

Campbell [1] - 368:12

Campus [1] - 20:14

campus [5] - 52:10,

81:7, 98:19, 99:6,
 100:5

cannot [11] - 52:13,

53:11, 144:19,

168:18, 169:2,
 169:3, 206:15,
 291:6, 316:7,
 358:18, 383:1

canopy ^[14] - 37:4,
 120:12, 123:1,
 129:8, 131:7, 131:8,
 131:10, 184:10,
 184:11, 184:15,
 184:17, 185:10,
 185:11, 186:3

cans ^[4] - 236:17,
 350:18, 351:1,
 351:8

Cantabrigians
^[1] - 107:9

capability ^[1] - 142:14

capture ^[1] - 243:17

CAPTURING
^[1] - 1:16

cardboard
^[1] - 351:15

care ^[10] - 11:3,
 41:12, 98:15, 119:9,
 177:3, 226:3, 246:3,
 246:4, 269:10,
 269:12

careful ^[1] - 106:4

carefully ^[6] - 20:7,
 99:8, 99:9, 106:11,
 160:15, 283:15

caring ^[1] - 269:10

carries ^[1] - 360:14

carry ^[1] - 193:15

carrying ^[1] - 267:9

cars ^[2] - 93:14, 252:8

Case ^[13] - 2:14, 3:4,
 7:2, 203:2, 264:2,
 274:2, 290:2, 322:2,
 342:2, 361:2, 368:2,
 385:2, 398:2

CASE ^[1] - 2:2

case ^[68] - 3:15, 4:6,
 4:8, 4:14, 4:17, 5:4,
 6:2, 6:5, 7:6, 7:16,
 10:6, 13:4, 16:1,
 16:7, 16:17, 17:14,
 49:5, 102:2, 103:14,
 122:2, 126:12,
 127:16, 162:19,
 163:1, 163:4, 174:3,
 190:17, 191:9,
 191:11, 194:7,

196:6, 196:18,
 200:7, 200:14,
 202:7, 203:7, 223:4,
 223:5, 226:15,
 248:5, 261:18,
 261:19, 262:17,
 264:7, 267:1, 274:7,
 276:1, 277:4,
 279:11, 280:7,
 290:7, 296:8, 296:9,
 309:8, 322:7, 342:7,
 343:5, 356:17,
 357:14, 358:10,
 361:7, 368:7, 385:7,
 398:6, 398:7

cases ^[10] - 3:11,
 3:12, 13:4, 121:11,
 127:16, 194:8,
 223:3, 236:14,
 296:4, 358:5

cast ^[5] - 169:2,
 308:14, 309:6,
 310:12, 341:13

casting ^[3] - 93:2,
 300:15, 309:11

casts ^[1] - 308:19

categories
^[4] - 206:16, 208:2,
 220:6, 229:3

category ^[3] - 223:9,
 223:11, 278:19

Catherine ^[2] - 402:4,
 402:11

causing ^[1] - 82:1

Cavas ^[1] - 299:13

CAVAS ^[1] - 299:13

ceiling ^[2] - 168:4,
 298:10

Center ^[29] - 1:6, 9:5,
 11:11, 20:14, 43:10,
 43:12, 46:12, 60:14,
 60:15, 61:15, 63:4,
 63:5, 64:12, 64:14,
 82:13, 98:11, 104:5,
 108:1, 112:8, 114:7,
 114:8, 115:19,
 116:10, 119:8,
 119:17, 154:3,
 174:17, 324:4

center ^[43] - 41:15,
 42:2, 45:8, 45:16,
 45:18, 49:10, 50:5,
 56:9, 65:15, 65:18,

80:7, 81:7, 81:8,
 85:6, 87:6, 87:18,
 94:19, 98:19, 99:7,
 100:5, 100:8,
 100:14, 100:16,
 101:4, 101:8, 105:8,
 134:5, 144:1, 148:4,
 157:8, 157:12,
 158:13, 159:9,
 178:2, 192:10,
 327:17, 327:19,
 329:15, 362:19,
 363:1

Center's ^[1] - 119:8

centers ^[1] - 111:18

central ^[1] - 176:7

centuries ^[1] - 41:4

century ^[1] - 110:11

certain ^[6] - 13:18,
 40:7, 89:15, 102:19,
 200:3, 387:8

certainly ^[9] - 93:17,
 126:5, 164:4, 180:6,
 180:8, 185:16,
 222:2, 241:3, 393:5

certainty ^[1] - 52:18

CERTIFICATION

^[1] - 402:15

Certified ^[2] - 402:4,
 402:12

certify ^[1] - 402:5

CERTIFYING

^[1] - 402:17

Chair ^[58] - 1:8, 1:8,
 3:8, 4:1, 4:4, 4:13,
 7:5, 139:6, 163:5,
 173:14, 195:2,
 200:6, 203:6,
 261:18, 264:6,
 271:4, 272:4, 272:9,
 272:15, 274:6,
 285:16, 287:1,
 287:6, 290:6,
 297:18, 298:11,
 312:10, 313:17,
 314:2, 316:4,
 318:12, 331:1,
 332:14, 338:6,
 339:6, 339:13,
 339:17, 342:6,
 354:16, 358:14,
 360:4, 365:9, 367:1,
 367:5, 368:7,

380:11, 380:14,
 380:16, 382:13,
 383:11, 383:16,
 384:1, 385:6, 395:9,
 395:16, 397:5,
 398:5, 398:9

chair ^[12] - 203:18,
 204:15, 217:15,
 228:8, 258:11,
 274:12, 287:9,
 314:5, 322:6,
 342:12, 356:17,
 361:6

Chairman ^[3] - 116:2,
 203:11, 203:12

chairs ^[4] - 41:8,
 61:18, 160:5, 215:9

CHALANT

^[1] - 254:17

CHALFANT

^[38] - 210:9, 211:4,
 215:7, 215:13,
 217:2, 232:3,
 233:12, 234:18,
 235:3, 235:9,
 235:15, 236:2,
 236:11, 237:14,
 238:6, 238:12,
 238:15, 239:4,
 239:10, 239:17,
 240:2, 240:5,
 241:10, 241:14,
 242:3, 242:9,
 242:12, 254:8,
 255:10, 255:19,
 256:5, 256:11,
 256:14, 257:8,
 257:14, 258:1,
 260:9, 260:11

Chalfant ^[1] - 210:9

challenge ^[1] - 281:2

challenges ^[1] - 257:2

chance ^[11] - 106:18,
 119:1, 124:2, 125:4,
 140:5, 140:8, 174:2,
 236:6, 251:12,
 310:3, 346:8

CHANGE ^[6] - 401:8,
 401:9, 401:10,
 401:11, 401:12,
 401:13

change ^[29] - 43:10,
 44:6, 60:7, 63:12,

67:16, 68:12, 95:9,
 101:7, 116:1, 116:9,
 127:1, 128:3, 164:1,
 187:10, 212:12,
 237:8, 241:3, 241:5,
 242:13, 242:14,
 254:14, 308:11,
 313:13, 316:11,
 359:2, 365:16,
 396:6, 396:10,
 401:6

changed ^[4] - 23:9,
 56:9, 348:9, 354:1

changes ^[13] - 56:3,
 87:3, 117:7, 117:15,
 125:17, 140:19,
 153:19, 185:5,
 205:17, 209:19,
 235:3, 357:6,
 401:16

changing ^[8] - 81:3,
 154:13, 304:8,
 310:7, 310:8, 311:1,
 357:7, 390:8

channel ^[2] - 155:15,
 241:19

chaotic ^[1] - 154:1

Chapter ^[1] - 280:14

character ^[7] - 113:3,
 113:11, 113:15,
 316:11, 359:3,
 365:17, 396:7

CHARLES ^[7] - 89:3,
 89:11, 90:12, 94:5,
 94:9, 96:15, 96:19

Charles ^[10] - 89:3,
 117:4, 158:19,
 159:1, 160:2,
 160:13, 161:7,
 161:15, 171:4,
 176:12

charming ^[1] - 324:1

check ^[3] - 96:11,
 234:17, 380:8

checked ^[3] - 14:1,
 14:3, 118:6

checklist ^[1] - 350:16

chef ^[1] - 344:17

chess ^[15] - 21:2,
 24:16, 24:19, 25:6,
 36:8, 59:14, 95:17,
 106:7, 132:6,
 132:16, 150:6,

156:9, 177:11,
180:17, 186:17

chief ^[1] - 344:17

child ^[3] - 206:8,
207:2, 223:5

children ^[4] - 275:6,
282:7, 327:1,
368:17

chime ^[1] - 254:10

choice ^[2] - 68:19,
188:17

choices ^[2] - 68:15,
355:14

choose ^[4] - 55:8,
68:5, 165:11,
283:11

Christmas ^[1] - 249:7

Chronicle ^[1] - 63:18

Church ^[3] - 48:10,
136:10, 343:13

cigarette ^[1] - 236:18

circle ^[1] - 304:11

circular ^[1] - 245:5

circulation
^[16] - 35:10, 35:17,
35:18, 36:15, 36:16,
82:9, 130:15, 154:6,
155:11, 155:12,
155:16, 156:8,
184:12, 184:17,
185:17

circumstances
^[7] - 43:19, 99:15,
99:19, 182:3, 183:6,
201:11, 341:7

cities ^[1] - 111:17

Cities ^[3] - 117:19,
118:2, 118:5

citing ^[1] - 83:17

citizens ^[6] - 44:3,
111:15, 316:19,
359:17, 366:13,
396:18

city ^[16] - 53:17,
69:16, 84:16, 85:14,
111:18, 133:15,
168:6, 169:13,
193:5, 247:19,
294:4, 316:19,
350:19, 359:17,
366:13, 396:18

City ^[11] - 8:7, 24:13,
79:6, 80:10, 80:11,

168:7, 193:8,
 226:12, 272:7,
 310:5, 339:9

CITY [1] - 1:2

city-sponsored
 [1] - 350:19

civic [5] - 142:3,
 142:4, 143:15,
 143:16, 173:7

claimed [1] - 101:10

clapboards
 [1] - 212:17

clarified [1] - 82:11

clarify [1] - 26:15

clarity [1] - 71:5

Clark [9] - 207:12,
 211:14, 212:1,
 230:18, 232:19,
 233:8, 240:8, 257:9,
 290:13

class [4] - 75:19,
 87:16, 87:18, 111:9

classical [1] - 375:9

classified [1] - 387:9

Clay [6] - 2:12, 368:7,
 368:14, 379:2,
 380:18, 381:2

clear [17] - 23:13,
 53:18, 61:10, 97:16,
 103:11, 104:4,
 104:11, 137:3,
 138:16, 152:9,
 166:18, 180:9,
 189:12, 195:18,
 213:15, 213:16,
 280:6

clearer [1] - 158:6

clearing [2] - 170:5,
 170:6

clearly [6] - 47:7,
 56:4, 141:8, 195:14,
 229:6, 231:4

CLEMENTE
 [12] - 361:13,
 361:16, 362:3,
 363:5, 363:8,
 363:12, 363:15,
 364:8, 364:15,
 366:6, 366:9,
 367:12

Clemente [2] - 362:5,
 364:13

client [2] - 222:5,

238:6
clientele [1] - 179:1
clients [2] - 49:6,
 368:13
Clifton [3] - 2:11,
 361:7, 364:7
clip [2] - 370:10,
 370:19
clipped [1] - 370:14
clock [1] - 67:3
clogged [1] - 119:14
close [12] - 74:8,
 114:11, 139:5,
 206:14, 285:11,
 286:10, 305:13,
 324:2, 324:3,
 350:12, 365:6,
 381:9
closed [3] - 24:3,
 57:18, 69:8
closes [3] - 22:19,
 23:5, 57:1
closest [1] - 218:1
closing [3] - 22:9,
 24:7, 88:17
clothing [1] - 40:2
club [1] - 161:8
co [1] - 324:5
co-op [1] - 324:5
Code [6] - 206:16,
 219:12, 220:7,
 221:14, 222:19,
 229:5
coffee [3] - 49:10,
 88:4, 180:17
Cohen [1] - 300:2
cohesiveness
 [1] - 249:16
cold [1] - 177:6
collaboration
 [1] - 137:19
collaborative
 [1] - 38:8
collective [1] - 349:10
color [3] - 52:7, 94:6,
 242:14
colored [1] - 363:9
columns [1] - 187:13
combined [2] - 77:10,
 249:2
comfort [1] - 171:10
comfortable
 [3] - 19:15, 147:3,

230:16

coming ^[14] - 30:7,
44:5, 57:5, 85:10,
90:17, 92:16, 92:18,
120:13, 241:8,
251:3, 251:5, 253:4,
326:2, 394:17

commensurately

^[1] - 70:12

comment ^[8] - 14:8,
41:13, 86:3, 116:2,
162:19, 179:9,
198:18, 347:17

comments

^[18] - 47:11, 54:4,
66:14, 79:12, 80:2,
104:1, 104:19,
108:18, 140:9,
180:7, 181:6, 194:1,
204:2, 204:11,
221:4, 231:1, 254:3,
255:4

commercial

^[15] - 23:7, 23:12,
172:18, 218:11,
218:13, 218:14,
226:13, 226:16,
227:2, 227:3, 227:6,
227:8, 228:4,
246:16, 251:7

Commission

^[3] - 104:2, 379:11,
402:13

commit ^[1] - 22:7

commitment

^[5] - 20:13, 20:17,
21:1, 24:17, 58:6

commitments

^[1] - 24:10

committed

^[2] - 21:16, 40:9

Committee

^[4] - 136:13, 346:2,
355:1, 355:5

committee

^[10] - 175:15, 180:5,
346:1, 346:6, 346:9,
347:10, 347:11,
355:2, 355:18,
356:5

committing

^[2] - 22:13, 22:19

Common ^[1] - 193:9

common ^[4] - 23:2,
69:7, 163:11,
352:15

Commons ^[1] - 63:4

COMMONWEALTH
^[1] - 402:2

community
^[30] - 16:6, 45:6,
45:14, 72:3, 72:13,
76:7, 77:2, 79:7,
81:8, 108:11,
137:17, 138:1,
187:2, 205:6,
205:12, 207:12,
209:11, 217:19,
218:1, 218:9,
218:10, 219:8,
219:10, 220:2,
220:11, 223:17,
327:19, 329:15,
393:5, 394:2

Community
^[1] - 324:4

community's
^[1] - 223:2

community-wise
^[1] - 187:2

company ^[3] - 64:19,
89:4, 281:18

comparable
^[1] - 158:16

compare ^[1] - 308:9

compared ^[5] - 81:17,
134:9, 251:9,
337:14, 344:8

compares
^[2] - 131:11, 154:6

comparing
^[2] - 30:13, 337:17

comparison
^[2] - 143:4, 160:1

compelled
^[1] - 164:18

complains ^[1] - 99:5

complaint ^[2] - 53:14,
95:7

complementary
^[1] - 47:6

complete ^[1] - 275:9

completed
^[2] - 11:12, 55:15

completely
^[8] - 51:11, 138:5,

142:14, 295:2,
 312:3, 352:8,
 377:11, 378:11

compliance [1] - 95:8

complicated
 [1] - 117:7

complied [1] - 13:9

complies [1] - 12:1

comply [7] - 206:17,
 230:14, 250:13,
 279:5, 337:7,
 356:13, 392:1

component
 [1] - 120:10

components
 [1] - 73:1

compost [1] - 391:18

comprehensive
 [1] - 141:19

comprehensively
 [1] - 141:14

compromise
 [2] - 46:12, 67:12

compromised
 [1] - 145:12

computer [1] - 142:15

concede [1] - 123:3

concentration
 [1] - 355:14

concept [1] - 205:14

Concern [1] - 270:4

concern [8] - 71:17,
 136:16, 178:17,
 195:12, 235:16,
 248:1, 250:16,
 296:3

concerned
 [7] - 46:16, 111:17,
 172:5, 182:18,
 246:1, 341:5, 350:9

concerns [15] - 23:18,
 99:12, 99:14,
 123:19, 124:1,
 181:7, 191:13,
 204:17, 204:18,
 208:19, 213:10,
 220:18, 233:14,
 236:13, 243:15

conclude [3] - 107:3,
 108:6, 127:17

concludes
 [1] - 355:17

conclusion

[3] - 46:19, 168:19,
169:3

Concord [1] - 389:11

concourse [1] - 56:11

concrete [2] - 94:3,
378:16

condensed
[1] - 351:15

condition [15] - 68:19,
146:6, 160:12,
200:10, 200:14,
270:14, 272:11,
287:2, 288:15,
313:18, 320:4,
339:14, 359:8,
367:2, 383:17

conditioned
[1] - 171:10

conditions [11] - 5:6,
20:18, 22:13, 24:10,
69:5, 106:9, 146:11,
182:4, 262:2, 350:9,
377:1

condo [9] - 50:6,
326:14, 326:15,
326:16, 327:8,
331:14, 332:10,
332:12, 333:2

conductivity
[2] - 156:19, 158:14

confident [1] - 154:19

confirming
[2] - 20:17, 24:10

conform [5] - 78:18,
207:6, 220:6, 222:1,
295:2

conformed
[1] - 228:18

conforming
[30] - 164:2, 265:17,
265:18, 266:5,
266:6, 271:16,
275:18, 276:2,
277:14, 277:15,
278:1, 278:10,
278:15, 279:19,
286:9, 300:10,
300:15, 313:5,
338:19, 347:18,
368:19, 369:4,
369:19, 370:1,
370:2, 370:3, 370:4,
371:3, 371:19,

383:4

conformity

[3] - 219:12, 276:17,
295:4

conforms [3] - 208:1,
276:15, 372:14

confusion [1] - 56:8

congestion

[4] - 316:10, 359:2,
365:16, 396:5

congregate

[1] - 48:13

Congresses

[1] - 111:11

conjunction

[1] - 284:10

connect [2] - 113:9,
113:18

connected

[4] - 15:13, 138:3,
228:12, 377:12

connecting

[2] - 113:17, 212:19

connection

[4] - 71:14, 114:1,
114:6, 240:16

consensus [1] - 71:1

consensus-based

[1] - 71:1

consent [1] - 237:18

consequence

[1] - 278:14

consider [6] - 165:13,

166:11, 192:2,
196:12, 199:2,
220:10

considerable

[1] - 167:14

considerate

[1] - 284:8

considerately

[1] - 283:14

consideration

[7] - 61:3, 89:18,
114:5, 168:3,
184:10, 184:11,
269:11

considered

[7] - 102:16, 103:2,
191:7, 218:2, 236:7,
246:15, 283:16

considering

[1] - 388:18

consistent

[9] - 101:14, 102:9,
 155:4, 156:1,
 220:15, 259:18,
 269:2, 348:15,
 357:13

constant [1] - 347:7**Constantine**

[11] - 1:8, 203:3,
 264:3, 274:3, 290:3,
 322:3, 342:3, 361:3,
 368:3, 385:3, 398:2

constantine [1] - 3:5**CONSTANTINE**

[237] - 3:8, 4:1, 4:16,
 5:1, 6:4, 194:5,
 203:6, 203:16,
 204:10, 208:3,
 215:16, 217:4,
 217:16, 218:7,
 218:18, 220:19,
 234:8, 234:12,
 234:16, 235:19,
 241:6, 241:11,
 242:5, 242:10,
 243:1, 243:5, 244:8,
 244:12, 247:11,
 248:4, 248:9, 250:1,
 254:2, 254:12,
 255:2, 255:11,
 257:12, 258:9,
 258:14, 259:2,
 259:6, 259:10,
 259:14, 260:2,
 260:6, 260:10,
 260:19, 261:2,
 261:5, 261:9,
 261:12, 261:17,
 262:19, 264:6,
 264:13, 265:8,
 266:9, 266:14,
 266:17, 267:2,
 268:2, 268:5,
 268:11, 269:18,
 270:12, 270:18,
 271:4, 273:2, 274:6,
 277:6, 279:2, 279:9,
 280:9, 280:16,
 281:7, 281:13,
 285:15, 287:12,
 288:1, 288:9,
 288:13, 288:17,
 290:6, 292:17,

293:2, 293:6,
293:18, 294:12,
294:16, 295:6,
295:14, 296:2,
296:18, 297:6,
297:13, 297:18,
298:4, 298:8, 299:9,
302:17, 304:3,
304:9, 309:17,
310:14, 311:5,
312:9, 314:15,
314:18, 315:4,
315:10, 315:14,
316:1, 317:12,
317:17, 318:2,
319:13, 320:11,
320:16, 321:1,
322:6, 324:11,
325:3, 325:19,
326:5, 326:13,
326:16, 327:6,
330:10, 330:13,
330:18, 332:1,
332:5, 332:13,
333:11, 337:5,
337:10, 338:1,
338:6, 340:7,
340:15, 341:15,
342:6, 342:15,
343:1, 343:4, 343:7,
347:9, 348:4,
349:11, 349:19,
350:15, 351:11,
351:17, 352:4,
352:12, 352:18,
353:7, 353:12,
354:2, 354:5,
354:11, 354:16,
356:10, 356:18,
357:9, 357:15,
357:18, 358:9,
358:13, 360:8,
360:11, 360:13,
361:6, 361:14,
362:1, 363:3, 363:6,
363:10, 363:13,
364:5, 364:9,
364:16, 364:19,
365:5, 366:7,
366:10, 367:10,
368:6, 371:16,
375:18, 376:2,
379:8, 379:13,

379:19, 380:5,
 380:10, 380:14,
 381:8, 381:11,
 381:16, 382:1,
 382:7, 382:12,
 384:6, 385:6,
 385:15, 386:1,
 386:17, 387:1,
 387:7, 388:1, 388:4,
 388:7, 388:17,
 389:10, 389:15,
 390:2, 390:10,
 390:14, 390:19,
 391:9, 391:13,
 391:19, 392:7,
 392:9, 392:12,
 393:8, 393:12,
 394:4, 394:8, 395:5,
 395:9, 395:16,
 397:9, 398:5,
 399:19, 400:8

Constitutional

[2] - 281:2, 281:3

construct [2] - 282:5,
 318:8

constructed

[7] - 130:5, 276:3,
 278:5, 291:11,
 312:18, 312:19

construction

[7] - 11:7, 324:15,
 324:16, 371:1,
 372:1, 399:10,
 399:12

consult [1] - 197:13

consultant

[1] - 323:14

consumption

[1] - 391:6

contained [3] - 75:7,
 346:12, 369:14

contemporary

[3] - 47:7, 179:15,
 189:3

content [2] - 16:4,
 341:13

context [2] - 209:15,
 259:19

continuance [6] - 4:8,
 193:19, 195:19,
 199:16, 199:18,
 201:11

continuation

[1] - 192:2
continue [14] - 4:13,
 4:17, 5:4, 29:19,
 38:10, 57:13,
 116:18, 190:17,
 191:11, 194:7,
 200:7, 224:10,
 251:12
continued [9] - 3:11,
 3:14, 15:9, 202:7,
 261:19, 316:12,
 359:8, 365:18,
 396:12
continuing [4] - 6:1,
 196:18, 262:16,
 359:11
continuity
 [1] - 209:17
continuous
 [1] - 370:16
continuously
 [3] - 12:13, 15:3,
 15:16
contractor
 [3] - 232:10, 399:9,
 400:3
contribute [1] - 58:18
contributed
 [1] - 140:18
contribution
 [1] - 43:19
CONTROL
 [1] - 402:16
controversy
 [1] - 199:14
convene [1] - 53:13
convenient
 [1] - 239:12
conversation
 [1] - 348:19
conversations
 [1] - 109:6
conversion
 [3] - 195:4, 195:10,
 229:6
converted [4] - 59:16,
 334:13, 336:3,
 362:8
convince [1] - 221:18
convinced [1] - 184:2
cook [2] - 134:7,
 283:3
Coop [1] - 186:13

cooperative ^[1] - 59:6

copies ^[6] - 19:8,
19:9, 28:15, 117:18,
118:7

copy ^[4] - 50:11,
119:2, 302:16,
331:16

cordoning ^[1] - 11:13

core ^[1] - 71:12

Corliss ^[1] - 39:18

corner ^[9] - 154:9,
205:3, 304:19,
314:11, 314:14,
329:18, 345:3,
388:5, 389:11

corners ^[2] - 370:10,
370:14

cornice ^[3] - 210:17,
211:10, 241:2

corporate ^[2] - 72:16,
342:14

corporation

^[4] - 58:11, 58:13,
357:3, 357:12

correct ^[28] - 18:16,
18:17, 26:12,
147:13, 148:9,
149:18, 149:19,
150:11, 151:5,
151:10, 161:9,
187:18, 197:1,
237:11, 256:4,
266:13, 266:16,
294:5, 294:15,
297:2, 297:5,
302:16, 308:3,
311:17, 374:6,
374:17, 376:1,
376:5

correction ^[1] - 401:7

corrections

^[1] - 401:16

correctly ^[3] - 26:4,
51:6, 181:11

correspondence

^[2] - 139:7, 354:18

cost ^[7] - 209:1,
209:3, 221:17,
224:14, 226:5,
232:8, 232:11

Cott ^[1] - 18:7

Council ^[1] - 226:12

councillor ^[1] - 280:4

counselor ^[1] - 359:4
count ^[3] - 115:17,
 184:16, 185:9
counted ^[1] - 132:11
counter ^[1] - 190:5
counterintuitive
^[1] - 233:2
counting ^[1] - 154:15
country ^[3] - 46:5,
 57:5, 270:5
couple ^[12] - 54:4,
 98:18, 101:16,
 109:4, 121:8,
 147:13, 202:5,
 205:13, 238:16,
 293:19, 323:2,
 326:11
couples ^[1] - 339:9
course ^[8] - 40:9,
 46:11, 56:13, 60:15,
 175:14, 188:11,
 375:10, 382:6
courses ^[3] - 111:2,
 111:3, 111:4
court ^[6] - 91:13,
 170:18, 172:4,
 172:6, 349:6, 350:5
courtyard ^[1] - 213:2
coverage ^[1] - 267:16
covering ^[2] - 35:15,
 309:4
create ^[9] - 42:7,
 122:9, 143:14,
 215:19, 279:19,
 368:19, 369:18,
 379:16, 387:12
created ^[8] - 65:1,
 112:18, 120:4,
 188:7, 316:16,
 359:15, 366:11,
 396:16
creates ^[3] - 146:1,
 209:17, 371:2
creating ^[4] - 55:4,
 129:9, 142:2, 269:6
creative ^[1] - 88:15
credit ^[1] - 56:8
criss ^[1] - 100:11
criss-crossed
^[1] - 100:11
criteria ^[2] - 126:15,
 346:11
critical ^[2] - 119:17,

195:14
criticism ^[1] - 195:7
criticize ^[1] - 275:3
critique ^[1] - 175:9
CRONIN ^[1] - 64:7
Cronin ^[2] - 64:7,
 97:10
Cronin's ^[1] - 64:10
cross ^[2] - 10:13, 78:4
crossed ^[1] - 100:11
crossover
^[1] - 227:18
crossroad
^[1] - 161:18
crossroads
^[4] - 60:11, 161:14,
 176:14
crossway ^[1] - 76:13
crowd ^[1] - 93:3
crowded ^[2] - 119:13,
 169:16
cultural ^[1] - 56:17
cup ^[2] - 49:10, 88:4
current ^[11] - 22:12,
 51:17, 239:9,
 240:12, 271:11,
 285:6, 295:2, 295:4,
 318:18, 325:2,
 348:10
curtailed ^[1] - 71:10
curved ^[1] - 210:14
custom ^[1] - 3:10
customer
^[2] - 393:19, 395:8
customers ^[1] - 43:15
cut ^[1] - 125:1

D

D-as-in-dog
^[1] - 268:17
D-i-c-k ^[1] - 274:17
D100 ^[1] - 272:16
daily ^[1] - 74:7
damage ^[2] - 283:10,
 284:7
DAN ^[2] - 87:12,
 105:5
Dan ^[1] - 87:12
dark ^[4] - 33:8, 48:3,
 49:17, 87:10
darker ^[1] - 33:8
date ^[22] - 5:10, 12:9,
 15:7, 90:15, 117:10,

176:6, 194:8,
 194:14, 196:9,
 196:12, 196:13,
 200:1, 200:3, 200:8,
 200:15, 249:2,
 262:5, 262:6,
 287:11, 288:5,
 288:10, 401:7
dated [6] - 174:19,
 175:18, 184:6,
 298:19, 314:4,
 383:19
dates [1] - 202:5
daughters [1] - 371:9
DAVID [1] - 46:3
David [2] - 46:3,
 281:16
daydream
 [1] - 168:15
days [10] - 5:13, 8:12,
 8:14, 12:7, 22:8,
 46:19, 142:11,
 188:7, 262:8, 352:2
de [3] - 78:1, 78:2,
 312:4
dead [2] - 105:8,
 105:9
deal [6] - 46:15,
 208:19, 209:7,
 216:9, 232:13,
 232:14
dealing [2] - 185:2,
 185:3
deals [1] - 221:7
Dean [1] - 344:13
Dear [1] - 66:16
Death [2] - 118:1,
 118:4
debate [1] - 138:6
debated [1] - 138:9
decades [1] - 347:8
decal [1] - 390:7
decaying [1] - 111:18
December
 [3] - 140:16, 275:7,
 285:3
decide [4] - 39:6,
 123:17, 127:5,
 191:11
decided [1] - 104:17
decision [19] - 5:9,
 12:14, 17:8, 17:10,
 17:12, 29:6, 40:6,

40:14, 70:6, 77:17,
79:3, 79:4, 124:3,
124:5, 124:11,
125:6, 135:1, 217:3,
358:12

decisions [2] - 99:11,
99:13

deck [7] - 215:9,
233:16, 237:3,
237:8, 237:9, 374:3,
375:7

decker [7] - 249:1,
328:4, 328:8,
329:14, 329:19,
335:4

decks [3] - 213:1,
236:15, 237:4

decorative
[1] - 210:17

decrease [1] - 68:6

deed [1] - 257:4

Defense [1] - 117:3

defensive [1] - 41:4

defer [2] - 16:7,
240:14

defined [3] - 113:14,
386:1, 386:3

definitely [1] - 246:18

definition [2] - 184:8,
186:2

delay [1] - 188:14

deleterious
[1] - 170:9

deliberating
[1] - 173:17

deliberation
[1] - 173:12

deliberations
[1] - 193:14

delicate [1] - 143:13

delighted [1] - 96:16

delivered [1] - 401:3

demolish [1] - 266:1

demonstrate
[1] - 312:17

demonstrated
[1] - 108:7

demonstrative
[1] - 241:2

denial [3] - 191:9,
301:3, 313:1

denied [1] - 183:14

DENISE [1] - 85:17

Denise ^[1] - 85:18
deny ^[1] - 309:13
Department ^[5] - 8:5,
 291:10, 294:2,
 398:18, 401:4
departure ^[1] - 179:8
depicted ^[3] - 106:8,
 348:2, 349:3
depicts ^[1] - 159:18
derelict ^[1] - 250:7
derogate ^[4] - 317:3,
 360:1, 366:17,
 397:2
derogating
^[5] - 272:2, 286:14,
 313:10, 339:4,
 383:9
describe ^[2] - 31:14,
 376:15
described
^[2] - 250:12, 368:15
description
^[1] - 181:15
deserve ^[2] - 47:3,
 47:4
design ^[21] - 18:10,
 38:12, 41:18, 48:15,
 48:16, 50:6, 78:11,
 111:5, 123:11,
 151:16, 160:19,
 163:6, 166:4, 166:7,
 166:9, 178:8, 178:9,
 180:9, 191:7,
 199:11, 319:11
Design ^[1] - 210:10
designated ^[2] - 12:7,
 193:5
designed ^[11] - 50:16,
 104:5, 141:5,
 159:19, 173:7,
 175:15, 223:7,
 245:3, 247:17,
 260:1, 283:6
designer ^[1] - 104:9
designers ^[2] - 111:8,
 118:19
desirable ^[1] - 182:6
desperately
^[2] - 48:12, 49:13
despite ^[1] - 64:19
destination
^[3] - 87:17, 100:7,
 353:2

destroyed [1] - 285:2

destroys [1] - 65:13

detail [3] - 61:11,
81:15, 285:4

detail-oriented
[1] - 81:15

details [2] - 82:3,
311:15

determine
[3] - 111:14, 291:6,
294:11

determined
[1] - 200:8

detriment
[13] - 128:12, 182:8,
227:11, 227:15,
272:1, 286:13,
313:9, 316:17,
339:3, 359:15,
366:11, 383:8,
396:16

detrimental [3] - 98:4,
108:3, 183:14

developed [1] - 373:2

developer [4] - 224:5,
227:6, 230:10,
246:19

development
[12] - 50:6, 216:5,
218:10, 218:13,
218:14, 218:17,
219:17, 220:12,
316:13, 359:9,
365:19, 396:13

devoted [1] - 63:6

Dew [1] - 229:10

diagram [1] - 370:7

dialogue [1] - 195:17

Dick [1] - 274:17

dictate [1] - 166:6

dictates [1] - 226:7

died [1] - 336:12

dies [1] - 177:7

difference [11] - 37:2,
118:14, 132:4,
157:17, 160:5,
184:4, 185:10,
279:12, 306:11,
309:2, 309:12

differences
[1] - 160:1

different [28] - 22:18,
43:8, 47:6, 51:2,

56:4, 61:17, 76:3,
78:4, 104:15,
104:16, 104:18,
134:18, 158:7,
158:8, 171:17,
175:12, 180:19,
181:1, 181:2, 191:5,
191:6, 206:6,
235:18, 238:4,
293:3, 298:10

differently ^[1] - 120:1

difficult ^[4] - 103:3,
158:3, 186:2,
246:16

digest ^[1] - 189:9

digested ^[1] - 118:17

DiGiovanni
^[2] - 136:7, 136:8

DIGIOVANNI
^[1] - 136:9

dimension ^[1] - 95:3

dimensional
^[3] - 5:16, 262:11,
372:13

dimensionally
^[3] - 266:5, 291:19,
292:9

dimensions
^[3] - 96:9, 106:19,
292:7

diminish ^[1] - 133:2

diminution
^[2] - 105:19, 139:1

dine ^[1] - 343:14

dining ^[6] - 283:5,
323:16, 353:6,
375:8, 386:16,
388:19

dinner ^[2] - 177:4,
353:11

DIRECT ^[1] - 402:16

direction ^[3] - 105:2,
230:6, 240:15

DIRECTION
^[1] - 402:16

direction-wise
^[1] - 240:15

directly ^[7] - 109:14,
164:7, 244:16,
276:9, 282:1, 334:5,
381:12

Director ^[1] - 85:19

disabilities ^[1] - 153:1

disabled ^[1] - 392:4

disagree ^[2] - 54:7,
184:7

disagrees
^[1] - 255:12

disappointed
^[1] - 214:9

disappointing
^[1] - 214:8

disappointment
^[1] - 214:12

disconnect
^[1] - 228:9

disconnected
^[1] - 228:11

discretion
^[1] - 165:12

discuss ^[9] - 60:1,
119:15, 162:18,
162:19, 163:6,
163:18, 164:1,
164:4, 174:3

discussed
^[4] - 163:18, 294:8,
355:7, 357:4

discussing
^[1] - 163:3

discussion
^[13] - 20:4, 25:13,
140:18, 144:11,
157:2, 163:16,
167:12, 179:9,
344:15, 346:10,
347:2, 347:11,
355:6

discussions
^[3] - 59:8, 166:12,
190:5

disparaging
^[1] - 287:17

displayed ^[1] - 12:13

disposition
^[1] - 167:2

disproportionate
^[1] - 219:1

disqualified
^[1] - 330:8

disregard ^[1] - 226:8

disrepair ^[1] - 291:16

disrespectful
^[2] - 221:16, 222:3

disrupting
^[1] - 300:16

distinct [2] - 61:16,
 62:1
District [1] - 223:8
district [11] - 206:10,
 266:11, 317:2,
 317:3, 359:19,
 360:1, 366:1,
 366:16, 397:1,
 397:2
disturbed [1] - 353:14
disturbing [1] - 92:12
divide [1] - 71:12
dividing [1] - 53:10
DIXON [1] - 55:19
Dixon [1] - 56:1
Dixon's [1] - 63:11
doable [1] - 258:7
doc [1] - 82:6
docking [1] - 171:3
Doctor [3] - 300:4,
 300:18, 301:4
document [1] - 25:10
documents
 [1] - 302:15
DOES [1] - 402:15
dog [1] - 268:17
dogs [1] - 353:6
dollars [3] - 214:19,
 225:19, 226:2
domestic [1] - 187:3
Domus [1] - 89:4
DOMUS [1] - 89:5
done [30] - 9:12,
 11:19, 35:10, 36:16,
 38:16, 47:9, 51:3,
 64:4, 73:3, 73:10,
 76:5, 84:11, 89:11,
 91:12, 98:3, 98:4,
 141:10, 154:12,
 162:10, 180:3,
 198:14, 211:7,
 214:15, 233:15,
 257:10, 258:4,
 313:12, 374:11,
 386:16
Donuts [2] - 249:11,
 252:7
door [14] - 80:15,
 246:4, 253:4,
 282:19, 284:4,
 296:17, 318:16,
 319:2, 332:4, 332:6,
 332:15, 335:8,

349:17, 375:5
doors [3] - 51:7,
 170:1, 318:19
Dori [1] - 398:15
dormer [3] - 337:4,
 337:8, 340:5
dormers [8] - 329:1,
 329:8, 331:5, 334:6,
 334:7, 334:8,
 336:16, 337:7
dotted [1] - 37:3
double [3] - 96:10,
 256:15, 387:14
doubling [1] - 53:4
doubt [1] - 169:2
Doug [2] - 153:11,
 184:7
doughnuts
 [1] - 229:10
Douglas [14] - 1:9,
 3:6, 7:3, 203:4,
 264:4, 274:4,
 274:17, 290:4,
 322:4, 342:4, 361:4,
 368:4, 385:4, 398:4
DOUGLAS
 [93] - 16:14, 31:5,
 37:5, 122:6, 127:14,
 145:2, 153:12,
 155:3, 155:10,
 155:15, 155:18,
 156:1, 156:7,
 156:12, 157:3,
 157:5, 162:16,
 173:11, 173:14,
 173:17, 174:1,
 174:7, 179:6, 188:9,
 196:17, 199:8,
 200:16, 201:2,
 201:4, 201:16,
 202:2, 218:16,
 222:2, 222:8,
 222:12, 235:6,
 235:11, 241:19,
 244:6, 254:10,
 254:14, 254:19,
 260:15, 261:1,
 261:15, 277:8,
 277:16, 281:5,
 289:4, 302:4, 302:9,
 304:16, 305:1,
 306:12, 306:16,
 307:2, 307:14,

308:1, 308:7,
 311:10, 311:13,
 311:18, 312:2,
 333:9, 333:13,
 334:3, 334:18,
 335:6, 336:15,
 339:19, 341:2,
 341:17, 344:5,
 344:9, 350:18,
 351:4, 352:13,
 354:7, 358:4, 376:6,
 376:10, 376:14,
 376:19, 377:17,
 378:8, 378:13,
 379:1, 385:13,
 389:3, 389:6, 395:4,
 395:15, 399:15

down ^[45] - 9:8, 9:10,
 9:11, 10:4, 14:8,
 32:8, 48:10, 51:12,
 75:8, 92:4, 95:14,
 101:18, 125:1,
 131:8, 145:9, 171:3,
 171:13, 174:9,
 174:11, 174:13,
 178:5, 212:15,
 214:7, 231:15,
 241:8, 248:14,
 249:6, 251:2, 251:5,
 251:6, 262:14,
 287:18, 291:17,
 293:10, 295:1,
 324:8, 328:16,
 369:18, 370:10,
 378:1, 378:4, 378:6

downstairs
^[5] - 326:11, 333:8,
 341:9, 362:14,
 362:18

draft ^[1] - 320:10

drag ^[1] - 252:5

dramatic ^[1] - 396:10

draw ^[3] - 72:10,
 157:1, 255:17

drawing ^[9] - 37:7,
 72:18, 92:6, 92:12,
 108:10, 132:12,
 159:18, 306:13,
 314:8

drawings ^[9] - 26:4,
 38:18, 90:3, 90:9,
 94:10, 96:8, 285:4,
 349:4, 382:5

draws ^[1] - 61:18
drill ^[1] - 264:11
drive ^[2] - 13:2, 174:9
Drive ^[2] - 110:13,
 290:15
driven ^[3] - 99:11,
 99:13, 110:12
driveway ^[2] - 32:8,
 163:17
driveways ^[1] - 13:2
driving ^[1] - 60:18
drop ^[1] - 77:3
dropped ^[1] - 269:15
drove ^[1] - 110:19
dry ^[2] - 378:19, 379:2
duck ^[1] - 88:2
ducts ^[1] - 98:13
due ^[3] - 219:7,
 228:10, 399:7
Dun ^[1] - 154:9
Dunkin' ^[2] - 249:11,
 252:7
Dunster ^[19] - 12:17,
 64:11, 81:18, 82:1,
 82:4, 82:8, 88:11,
 88:13, 88:15,
 112:12, 113:2,
 113:18, 136:11,
 148:14, 153:14,
 153:15, 154:9,
 179:11
duration ^[2] - 24:2,
 24:6
during ^[4] - 51:7,
 51:9, 306:10,
 308:15
dwel ^[1] - 311:15
dwelling ^[2] - 206:17,
 220:5
dying ^[2] - 125:1,
 220:19

E

E-m-b-r-y ^[1] - 290:12
e-mail ^[7] - 8:15, 9:13,
 10:1, 15:12, 97:1,
 97:2, 135:18
e-mailed ^[1] - 28:9
E.F ^[1] - 62:17
earliest ^[1] - 305:8
early ^[2] - 56:18,
 353:10
easier ^[1] - 186:1

easiest [1] - 84:6
easily [3] - 45:16,
 71:1, 71:2
East [1] - 170:16
east [4] - 53:11,
 303:8, 304:15
easy [2] - 71:9,
 213:14
eat [4] - 86:17,
 161:18, 172:13,
 353:19
eating [3] - 173:4,
 318:8, 393:7
echo [2] - 63:11,
 63:17
economic
 [3] - 221:12, 222:4
economics
 [1] - 209:7
economist [1] - 62:16
Ed [1] - 63:18
edge [4] - 207:8,
 230:18, 257:7,
 305:16
Eduard [2] - 111:6,
 111:9
education [1] - 97:11
Edward [1] - 380:17
effect [7] - 43:13,
 66:3, 163:6, 164:6,
 165:3, 170:9, 277:3
effective [1] - 47:18
effectively [2] - 63:15,
 313:12
effort [1] - 247:4
egress [4] - 316:9,
 359:1, 365:15,
 396:5
eight [14] - 45:10,
 57:1, 58:7, 121:10,
 139:11, 139:14,
 245:6, 296:14,
 305:18, 306:5,
 306:6, 309:5, 309:6,
 389:9
eight-foot
 [3] - 296:14, 309:5,
 309:6
eight-thirty [1] - 57:1
either [6] - 12:1,
 95:13, 182:7, 211:7,
 217:5, 295:10
either/or [1] - 188:10

EI ^[5] - 343:17, 344:6,
344:8, 344:13,
345:18

EL ^[1] - 343:18

elaborate

^[2] - 215:18, 267:4

elderly ^[1] - 369:13

elected ^[1] - 225:2

element ^[5] - 27:3,

32:11, 176:8, 179:5,
195:15

elements ^[7] - 56:17,

103:1, 166:7, 166:9,
184:19, 271:14,
393:4

elevation ^[2] - 314:8,

337:14

elevations

^[1] - 337:13

eleven ^[1] - 32:17

eliminate ^[2] - 103:4,

233:4

eliminated

^[1] - 231:12

eliminates

^[1] - 370:18

eliminating ^[3] - 91:3,

124:18, 154:11

Eliot ^[1] - 394:13

ELKIND ^[6] - 378:15,

378:18, 379:2,

381:6, 381:10,

381:13

Elkind ^[2] - 368:13,

380:19

Elkinds ^[3] - 369:17,

371:6, 377:4

ELLSWORTH

^[27] - 368:11,

371:17, 373:7,

373:12, 373:16,

374:1, 374:6,

374:17, 375:3,

376:1, 376:5, 376:9,

376:12, 376:18,

377:2, 377:19,

378:10, 378:17,

379:4, 379:10,

379:14, 380:2,

380:8, 381:14,

381:17, 382:3,

382:9

Ellsworth

[2] - 368:12, 383:19

elongated

[1] - 369:12

eloquently

[2] - 97:10, 108:9

elucidate [1] - 19:5

embracing

[1] - 141:19

EMBRY [24] - 290:11,

292:19, 293:4,

293:8, 294:7,

294:15, 294:19,

295:12, 295:17,

296:12, 297:5,

298:5, 299:8, 301:8,

303:13, 303:18,

304:18, 307:12,

307:18, 310:9,

311:12, 315:1,

318:15, 319:3

Embry [2] - 290:12,

290:14

emotional

[3] - 240:16, 246:8,

246:10

employees [1] - 62:15

employer [1] - 275:1

empty [1] - 253:7

enable [2] - 339:9,

341:10

enclosed [5] - 27:15,

41:19, 51:16, 168:4,

220:13

enclosing

[1] - 184:13

enclosure [7] - 33:19,

36:19, 37:1, 74:10,

141:17, 177:8,

177:12

enclosures [1] - 69:9

encourage

[1] - 387:14

encroach

[2] - 188:12, 300:11

encroached

[1] - 143:9

encroaching

[4] - 190:18, 251:10,

251:16, 251:18

encroachment

[6] - 66:7, 71:11,

185:13, 185:14,

189:1, 191:15

end ^[20] - 20:14, 39:1,
41:15, 69:5, 136:16,
145:4, 146:15,
153:15, 154:11,
169:10, 169:13,
210:14, 211:8,
238:18, 240:11,
240:13, 254:6,
256:6, 258:5, 324:9

End ^[1] - 117:18

ended ^[4] - 64:14,
76:18, 77:14,
199:19

ending ^[1] - 175:16

ends ^[3] - 32:15,
65:12, 240:10

energy ^[1] - 72:2

enforced ^[1] - 279:11

enforcement

^[6] - 181:17, 271:7,
285:19, 312:13,
338:10, 382:16

engagement

^[2] - 70:13, 70:16

engine ^[1] - 133:15

enhance ^[2] - 55:10,
283:18

enhanced

^[3] - 160:14, 160:18,
160:19

enhancement

^[1] - 141:12

enhancements

^[1] - 142:1

enhances ^[1] - 119:10

enhancing ^[1] - 160:9

enjoy ^[8] - 54:12,

73:19, 75:13,
105:12, 107:12,
108:2, 113:16,
134:6

enjoyable ^[1] - 86:17

enjoyment ^[1] - 107:4

enjoyments

^[1] - 107:7

enjoys ^[1] - 276:11

enlarged ^[1] - 300:8

enlarging ^[1] - 153:16

enlightened ^[1] - 99:1

enormous ^[2] - 112:9,
116:8

enormously

^[1] - 371:2

ensure [2] - 15:9,
 20:8
entail [1] - 265:19
enter [5] - 55:1,
 154:10, 154:17,
 168:16, 267:7
entered [1] - 46:14
enterprise
 [4] - 356:13, 356:14,
 387:10, 396:3
enterprises
 [2] - 359:6, 359:7
entertain [2] - 79:9,
 191:16
entire [7] - 53:19,
 85:14, 174:18,
 245:7, 276:19,
 318:4, 348:16
entirely [1] - 51:1
entities [1] - 172:18
entitled [2] - 220:17,
 221:15
entity [1] - 342:14
entrance [6] - 154:3,
 154:8, 156:16,
 164:1, 212:1, 267:6
entrances
 [2] - 154:11, 211:19
entranceways
 [1] - 271:12
entry [4] - 85:7,
 251:19, 268:1,
 349:3
enumerating
 [1] - 197:12
environment
 [2] - 88:8, 119:10
environmentally
 [2] - 143:18, 144:4
envisioned
 [1] - 134:4
envisioning
 [1] - 91:10
epiphanies
 [1] - 118:12
equals [1] - 226:17
equation [1] - 192:6
equinox [2] - 308:17,
 311:11
equipment [1] - 32:5
equivalent [1] - 67:8
era [1] - 176:6
ERRATA [1] - 401:1

Errata [2] - 401:2,
401:7

error [1] - 255:14

errors [1] - 96:9

especially
[5] - 118:16, 163:16,
237:15, 267:10,
388:18

espresso [1] - 390:17

essential [3] - 104:7,
260:16, 283:11

essentially
[9] - 53:10, 57:18,
83:15, 84:2, 100:4,
266:1, 301:11,
357:7, 374:19

established
[5] - 316:11, 329:10,
359:3, 365:17,
396:6

establishment
[1] - 71:10

estate [1] - 246:19

estimating [1] - 52:15

etcetera [1] - 236:18

evaluate [1] - 196:2

evening [16] - 3:14,
16:10, 52:6, 85:17,
86:6, 136:7, 144:11,
189:14, 194:19,
203:11, 274:12,
275:2, 290:11,
342:12, 343:15,
361:10

event [4] - 23:19,
24:4, 40:3, 281:8

events [1] - 173:1

everyday [1] - 67:4

everywhere
[1] - 149:8

evicted [1] - 64:13

evidence [2] - 172:3,
312:18

evolution [4] - 81:4,
205:5, 210:3, 210:7

exact [5] - 53:6, 53:7,
92:11, 103:17,
232:7

exactly [12] - 120:3,
120:5, 129:13,
142:18, 143:5,
161:19, 193:10,
230:18, 306:3,

324:13, 325:16
example [4] - 16:19,
 333:17, 333:18,
 377:15
exceed [1] - 181:12
excellent [2] - 106:12,
 301:5
except [3] - 123:7,
 319:18, 401:15
exception [3] - 208:2,
 292:2, 293:12
exceptions
 [2] - 23:16, 99:10
excess [1] - 341:5
excited [2] - 49:1,
 224:10
exciting [1] - 49:13
excluded [1] - 66:4
exclusively
 [1] - 243:16
excuse [1] - 28:9
Executive [1] - 85:19
executive [1] - 18:6
exemptions [1] - 24:1
exhibition [1] - 173:5
exist [2] - 77:4, 196:4
existence [1] - 294:11
existing [26] - 10:13,
 22:1, 28:19, 37:1,
 39:5, 68:2, 70:11,
 106:9, 154:7,
 209:17, 220:6,
 266:6, 300:17,
 303:16, 304:7,
 337:13, 347:13,
 348:7, 352:10,
 357:2, 362:19,
 373:4, 375:4, 378:5,
 390:4, 390:9
exists [3] - 54:11,
 105:18, 301:13
expand [6] - 26:17,
 31:11, 31:17, 54:1,
 101:7, 123:15
expanded [1] - 51:12
expanding [1] - 67:13
expansion
 [7] - 49:11, 59:11,
 78:17, 78:19,
 131:16, 188:14,
 284:13
expect [3] - 197:15,
 199:14, 387:16

expectation [1] - 49:2
expediting [1] - 201:8
expensive [1] - 126:9
experience [6] - 8:2,
 111:9, 111:19,
 142:4, 333:14,
 388:19
experienced
 [2] - 275:8, 386:9
expire [1] - 399:7
Expires [1] - 402:13
explain [6] - 8:2,
 35:11, 102:13,
 151:16, 247:5,
 302:5
explained [1] - 87:7
explaining [1] - 302:4
explanation
 [1] - 190:4
express [5] - 120:18,
 140:14, 194:6,
 284:15, 393:10
expressed
 [3] - 166:6, 181:8,
 279:15
expressing
 [1] - 170:7
extend [10] - 24:1,
 24:2, 24:6, 26:7,
 118:16, 143:12,
 143:16, 144:3,
 169:17, 278:9
extended [1] - 140:15
extending [2] - 50:11,
 143:10
extends [1] - 348:18
extension
 [4] - 398:19, 399:11,
 400:6, 400:9
extent [6] - 103:17,
 201:8, 223:16,
 232:13, 357:1,
 391:3
exterior [1] - 378:1
extra [2] - 42:10,
 88:14
extraordinary
 [1] - 137:18
extreme [1] - 59:4
extremely [2] - 76:9,
 107:1
eye [2] - 91:7, 180:16
eyeballing [1] - 15:8

eyesore ^[1] - 244:18

F

F-r-e-i ^[1] - 284:19

fabulous ^[1] - 375:12

facade ^[4] - 47:16,
50:3, 144:2, 349:1

face ^[6] - 185:1,
242:16, 303:6,
319:9, 319:16,
319:17

faced ^[2] - 128:4,
165:8

faces ^[5] - 205:3,
303:7, 303:10,
319:10, 329:18

facilities ^[4] - 87:1,
151:7, 376:17,
392:3

facing ^[2] - 212:6,
398:13

fact ^[33] - 38:8, 47:12,
47:13, 51:16, 57:4,
59:19, 62:2, 62:4,
64:12, 66:7, 77:8,
88:11, 137:1,
137:13, 167:18,
170:1, 177:9,
222:19, 226:11,
245:16, 246:10,
271:15, 278:16,
286:8, 296:13,
313:4, 328:17,
338:16, 371:9,
372:15, 383:3,
396:8

facto ^[2] - 78:1, 78:2

facts ^[2] - 125:5,
399:17

faculty ^[1] - 107:6

failure ^[2] - 12:8,
61:14

fair ^[4] - 121:19,
219:7, 225:10,
334:18

Fairfield ^[1] - 269:5

fairly ^[2] - 46:18,
59:10

faith ^[3] - 197:9,
199:10, 218:3

fall ^[2] - 111:2, 145:12

familiar ^[3] - 90:9,
345:1, 389:6

families [4] - 55:7,
336:5, 336:7, 336:8

family [38] - 43:1,
61:9, 249:15,
265:15, 275:5,
282:7, 282:9, 283:7,
283:10, 283:12,
322:18, 323:10,
326:8, 326:9,
329:17, 334:14,
334:19, 335:1,
335:2, 335:4, 335:9,
335:16, 336:4,
336:9, 336:10,
336:11, 336:12,
338:14, 362:8,
362:9, 371:8,
372:18, 372:19,
373:1, 374:15,
374:18

famous [1] - 62:16

fantastic [2] - 77:15,
142:3

far [13] - 14:5, 105:14,
138:19, 154:11,
170:12, 176:4,
188:5, 193:4,
214:16, 240:14,
249:4, 302:6, 309:3

FAR [24] - 26:8, 27:2,
27:6, 83:17, 181:12,
183:3, 183:11,
183:12, 190:13,
190:16, 199:5,
206:5, 206:16,
229:2, 231:3, 231:5,
232:14, 266:4,
266:7, 266:15,
276:14, 278:8,
325:8, 341:6

Farris [2] - 66:14,
69:10

fast [14] - 345:12,
345:13, 345:14,
347:6, 347:7, 355:8,
356:1, 356:12,
359:6, 385:18,
387:9, 396:2, 396:3

Fast [1] - 346:12

father [1] - 64:10

favor [33] - 6:1, 94:18,
139:14, 140:4,
196:18, 201:10,

262:16, 263:1,
 269:6, 272:18,
 273:3, 287:7,
 288:14, 288:18,
 315:7, 315:11,
 320:17, 321:2,
 339:18, 340:17,
 341:16, 346:9,
 356:5, 360:6, 360:9,
 367:6, 367:11,
 384:3, 384:7, 397:7,
 397:10, 400:5,
 400:9

favorably ^[1] - 255:8

Fax ^[1] - 1:16

Fayerweather

^[11] - 2:7, 274:7,
 275:5, 282:1, 282:2,
 282:18, 282:19,
 283:1, 284:3, 284:4,
 285:9

Fayette ^[1] - 79:18

feasible ^[1] - 391:3

February/March

^[1] - 210:4

feedback ^[1] - 25:6

feelings ^[1] - 62:11

feet ^[73] - 21:17,
 21:18, 22:4, 27:7,
 27:15, 28:1, 28:3,
 30:2, 30:4, 32:17,
 34:12, 34:19, 35:6,
 53:2, 70:9, 78:16,
 83:16, 85:12, 90:6,
 90:17, 91:1, 91:14,
 91:15, 91:16, 91:19,
 92:4, 94:16, 95:2,
 95:12, 153:5, 166:1,
 169:17, 169:18,
 184:13, 185:7,
 185:12, 186:4,
 187:8, 190:12,
 190:16, 208:9,
 208:10, 215:2,
 236:3, 236:4, 239:1,
 242:3, 256:10,
 256:12, 256:13,
 266:2, 266:4,
 266:12, 267:19,
 275:13, 275:16,
 276:4, 276:13,
 278:7, 305:14,
 305:15, 323:3,

337:3, 369:11,
371:4, 372:5,
372:16, 373:8,
374:5
Felipe's ^[4] - 345:16,
348:10, 348:12
fellow ^[2] - 61:9,
163:1
felt ^[3] - 138:9, 280:2,
280:4
fence ^[13] - 296:14,
305:19, 306:6,
307:9, 307:19,
308:11, 309:5,
309:6, 309:10,
310:17, 311:4,
314:13, 371:11
fences ^[2] - 295:10,
296:10
few ^[15] - 24:3, 24:4,
43:3, 46:19, 52:10,
55:1, 60:8, 61:18,
94:17, 104:3,
118:11, 204:3,
210:12, 349:8,
386:18
fewer ^[1] - 67:2
field ^[1] - 90:1
figure ^[2] - 228:11,
305:6
figured ^[1] - 304:9
figures ^[2] - 96:11,
169:8
file ^[24] - 61:2, 96:18,
103:10, 109:1,
139:8, 140:2, 167:5,
183:18, 184:2,
191:8, 259:7,
262:15, 267:4,
277:3, 297:3,
298:12, 326:6,
331:15, 337:15,
337:18, 347:15,
364:6, 394:9,
395:12
filed ^[1] - 12:14
files ^[3] - 5:17,
139:17, 262:12
filled ^[1] - 252:8
filtering ^[1] - 67:19
final ^[5] - 61:6,
148:17, 258:18,
259:1, 270:15

finally [3] - 107:3,
117:15, 309:7

financial [4] - 58:18,
126:4, 181:18,
281:1

financing [2] - 399:9,
400:2

findings [17] - 271:5,
272:10, 285:17,
286:19, 312:12,
313:16, 338:8,
339:12, 357:13,
358:15, 360:3,
366:19, 382:15,
383:15, 387:8,
395:18, 397:4

fine [8] - 16:13, 16:14,
100:6, 101:12,
157:3, 157:5,
198:19, 363:19

finish [2] - 69:4,
224:12

finished [5] - 11:9,
126:18, 134:3,
377:3

Fire [1] - 343:12

fire [8] - 249:9, 275:8,
275:10, 277:1,
283:10, 284:6,
285:3, 289:5

firm [2] - 102:13,
290:13

Firouzbakht [1] - 4:5

First [1] - 48:9

first [48] - 3:15, 19:13,
22:5, 39:8, 55:8,
68:10, 81:13, 97:13,
102:3, 109:6,
110:10, 115:4,
116:16, 119:6,
120:7, 129:17,
130:5, 131:17,
163:4, 181:6, 211:4,
217:18, 221:2,
224:9, 226:17,
228:9, 246:19,
253:10, 260:11,
265:16, 267:15,
267:17, 305:9,
322:15, 327:4,
327:19, 333:15,
339:16, 362:3,
362:6, 362:10,

369:8, 369:9,
 369:17, 371:18,
 373:5, 374:14,
 378:3
fit [3] - 96:18, 172:1,
 253:17
fits [1] - 254:17
fitting [2] - 51:2,
 240:19
five [44] - 5:18, 22:15,
 23:3, 24:19, 25:1,
 56:15, 56:18, 57:16,
 139:10, 139:13,
 150:7, 150:9,
 150:13, 150:14,
 150:15, 150:16,
 200:9, 201:13,
 202:6, 204:19,
 208:9, 214:3, 215:4,
 215:5, 216:6, 216:8,
 221:17, 224:1,
 231:13, 238:11,
 238:14, 262:12,
 262:19, 273:2,
 288:17, 314:3,
 315:10, 321:1,
 329:7, 367:10,
 384:6, 397:9, 400:8
five-thirty [3] - 22:15,
 23:3, 56:18
fives [1] - 150:10
fix [1] - 33:5
fixed [3] - 25:1, 25:2,
 317:11
FIXLER [1] - 46:3
Fixler [1] - 46:4
fixtures [1] - 151:8
flags [1] - 100:13
flashing [1] - 390:15
flat [5] - 210:15,
 242:1, 242:8, 335:6
flexibility [2] - 23:17,
 24:5
flexible [1] - 144:4
flip [1] - 213:13
floor [57] - 21:7, 22:6,
 27:2, 30:5, 49:3,
 49:4, 55:9, 67:13,
 67:15, 68:10, 71:6,
 137:8, 186:12,
 210:18, 212:18,
 219:11, 220:3,
 221:13, 232:7,

232:12, 235:1,
 235:5, 235:17,
 236:4, 237:15,
 237:19, 254:15,
 255:18, 256:7,
 265:8, 265:15,
 265:16, 267:17,
 281:19, 284:13,
 290:10, 326:12,
 327:4, 334:14,
 341:8, 345:5,
 345:10, 349:3,
 362:7, 362:10,
 369:16, 369:17,
 370:8, 373:5,
 374:13, 374:15,
 374:16, 376:15,
 378:3, 378:14
floors ^[1] - 33:7
Florida ^[1] - 43:3
flow ^[7] - 65:4, 154:1,
 154:13, 154:16,
 155:12, 156:8,
 157:17
fluctuates ^[4] - 22:16,
 23:4, 23:6, 23:9
flush ^[1] - 95:14
focal ^[1] - 183:10
focus ^[4] - 20:3, 91:2,
 199:13, 204:8
focusing ^[5] - 96:4,
 117:16, 187:15,
 241:18, 386:7
Fogg ^[2] - 50:15,
 76:12
folks ^[6] - 138:9,
 138:15, 142:5,
 252:16, 255:13,
 364:3
follow ^[2] - 165:8,
 305:2
following ^[13] - 5:5,
 8:19, 100:12,
 181:17, 262:2,
 271:5, 285:16,
 312:11, 338:8,
 358:15, 370:5,
 382:15, 395:18
fond ^[1] - 62:11
food ^[44] - 23:12,
 61:18, 68:10, 68:13,
 68:15, 68:19, 71:8,
 91:13, 131:17,

156:13, 160:4,
 170:18, 172:4,
 172:6, 195:6,
 345:12, 345:13,
 345:14, 347:6,
 347:7, 349:6, 350:4,
 350:10, 350:13,
 351:13, 353:19,
 355:8, 355:9,
 355:11, 355:14,
 356:1, 356:3,
 356:12, 357:6,
 359:6, 359:7,
 385:18, 386:18,
 387:10, 391:5,
 396:2, 396:3, 396:9

Food [2] - 346:12,
 389:7

fool's [1] - 255:13

foot [16] - 68:17,
 94:15, 165:19,
 214:18, 215:1,
 266:2, 276:12,
 296:14, 305:18,
 306:5, 306:6, 309:5,
 309:6, 375:14,
 378:7, 378:11

footage [14] - 27:18,
 29:2, 29:17, 53:7,
 78:15, 90:18,
 124:12, 129:9,
 166:3, 181:12,
 183:12, 187:19,
 215:11

footprint [3] - 292:1,
 300:9, 310:8

FOR [1] - 1:2

Forbes [59] - 21:7,
 25:1, 26:7, 27:15,
 34:16, 47:11, 51:18,
 60:14, 60:15, 63:7,
 66:18, 68:7, 83:11,
 83:12, 86:4, 88:5,
 88:8, 90:1, 102:19,
 113:4, 113:17,
 115:19, 116:10,
 119:11, 122:15,
 133:1, 138:3, 143:9,
 143:10, 148:5,
 153:7, 163:8,
 164:14, 165:2,
 165:6, 165:10,
 165:15, 166:4,

167:3, 167:12,
 169:6, 170:10,
 173:10, 179:12,
 179:18, 180:3,
 181:8, 182:12,
 182:18, 184:6,
 185:8, 188:13,
 188:17, 189:1,
 189:6, 190:12,
 190:18, 192:5,
 195:16
force [2] - 224:8,
 310:15
forced [1] - 339:10
forcing [1] - 93:16
forego [1] - 66:13
foregoing [1] - 401:15
FOREGOING
 [1] - 402:15
forever [4] - 116:9,
 146:17, 180:9,
 180:12
forget [1] - 27:1
form [8] - 24:18,
 57:19, 112:11,
 166:2, 170:8,
 262:11, 271:11,
 372:13
formal [2] - 283:5,
 346:4
former [4] - 39:8,
 48:11, 283:2,
 301:18
forms [1] - 5:17
forth [9] - 25:10,
 107:18, 175:14,
 176:9, 178:3, 178:5,
 309:3, 309:15,
 402:6
fortune [1] - 343:14
forward [15] - 4:11,
 7:9, 31:12, 32:17,
 34:15, 81:5, 82:11,
 135:19, 145:7,
 145:19, 198:11,
 211:12, 253:3,
 393:6
foundation
 [1] - 281:18
foundations [1] - 34:1
Four [2] - 282:18,
 282:19
four [25] - 15:4, 15:9,

15:16, 25:2, 41:14,
 75:11, 78:16,
 139:10, 139:13,
 150:17, 224:2,
 232:16, 238:11,
 238:14, 239:18,
 261:6, 275:6, 314:3,
 323:8, 341:15,
 352:16, 352:18,
 353:14, 360:8

four-year-old

[1] - 323:8

fourth [1] - 199:7

FRAINE [3] - 87:12,
 87:13, 105:5

Fraine [1] - 87:13

frame [1] - 269:7

framing [2] - 370:6,
 371:1

Frances [2] - 284:18,
 300:2

FRANCES

[1] - 284:18

Francis [1] - 331:10

FRANCISCA

[1] - 44:10

Francisca [2] - 44:10,
 105:1

Franco [4] - 344:5,
 344:6, 344:9,
 344:10

Francois [2] - 331:10,
 335:11

frankly [5] - 48:15,
 58:19, 59:9, 279:18,
 280:2

free [1] - 77:6

Frei [1] - 284:19

French [1] - 389:8

frequently [1] - 167:5

Friday [3] - 9:1, 9:17

friend [1] - 11:14

friendly [2] - 18:1,
 59:1

friends [4] - 43:2,
 55:7, 74:8, 89:13

front [39] - 20:16,
 25:11, 45:1, 46:2,
 51:7, 51:15, 56:10,
 56:11, 74:12, 78:4,
 80:15, 84:4, 86:11,
 104:6, 105:10,
 138:2, 151:15,

153:16, 192:9,
 193:1, 211:17,
 235:8, 235:14,
 238:18, 239:1,
 240:13, 241:12,
 246:9, 248:16,
 249:1, 253:4, 254:6,
 255:18, 258:5,
 349:2, 370:12,
 378:5, 387:19

front's ^[1] - 79:2

frontage ^[1] - 132:18

full ^[4] - 88:18,
 170:19, 261:15,
 285:7

fully ^[6] - 87:15,
 152:19, 283:19,
 284:12, 377:2,
 377:3

fun ^[2] - 93:13, 289:5

function ^[5] - 75:1,
 80:5, 80:6, 101:2,
 113:6

functional ^[2] - 42:9,
 172:10

functionally

^[2] - 83:4, 283:13

Fund ^[1] - 117:3

fundamental

^[1] - 33:5

fundamentally

^[2] - 33:9, 60:10

funny ^[2] - 171:6,
 175:19

furthest ^[1] - 13:5

fuss ^[1] - 319:15

future ^[3] - 39:6,
 185:4, 377:7

G

G-e-r-s-e-n

^[1] - 274:16

G-o-l-d-a-i

^[1] - 299:14

G-u-z-i-k ^[1] - 398:17

G.C.D ^[1] - 339:15

G100 ^[1] - 272:16

gable ^[4] - 328:11,
 334:1, 336:16,
 337:2

gabled ^[7] - 328:19,

329:7, 329:11,
 329:12

gain [2] - 168:1,
 267:13
gained [4] - 113:5,
 211:15, 212:5,
 240:7
gaining [2] - 36:5,
 211:13
Galleria [1] - 170:17
galley [1] - 283:8
GALLUCCIO
 [41] - 203:10,
 203:17, 204:14,
 208:12, 211:2,
 217:14, 217:17,
 219:6, 221:5, 222:7,
 222:10, 222:16,
 228:7, 229:16,
 230:3, 230:7,
 230:11, 231:16,
 232:1, 232:4, 233:5,
 233:9, 234:13,
 237:6, 237:12,
 239:13, 240:3,
 243:12, 244:2,
 244:10, 257:1,
 257:17, 258:10,
 258:15, 259:4,
 259:8, 259:12,
 259:16, 260:4,
 261:11, 263:5
galluccio [2] - 210:11,
 218:8
Galluccio
 [2] - 203:13, 203:14
game [5] - 21:2,
 24:16, 24:19, 150:6,
 177:17
gap [1] - 9:16
garage [7] - 32:14,
 33:1, 136:12, 195:5,
 345:2, 349:5,
 355:13
garage/parking
 [1] - 244:17
garden [10] - 42:8,
 88:12, 300:6,
 300:12, 300:16,
 302:6, 302:11,
 305:19, 306:4,
 309:4
gas [3] - 205:10,
 223:18, 253:12
gate [1] - 371:10

gathering ^[1] - 141:8
gazillion ^[2] - 225:19,
 226:2
GENERAL ^[1] - 1:3
general ^[3] - 42:3,
 45:3, 45:6
General ^[3] - 12:4,
 344:6, 344:9
generally ^[3] - 22:12,
 163:12, 205:13
generated
^[5] - 101:13, 316:8,
 358:19, 365:14,
 396:4
generation ^[1] - 39:6
generations
^[1] - 335:16
generous ^[1] - 42:1
gentleman ^[13] - 38:2,
 39:11, 42:13, 46:1,
 49:17, 52:3, 54:2,
 55:18, 79:14, 79:15,
 81:10, 87:9, 369:14
George ^[16] - 1:10,
 3:6, 7:4, 153:11,
 162:10, 174:8,
 191:14, 264:4,
 274:4, 290:4, 322:4,
 342:4, 361:4, 368:4,
 385:4, 398:4
GEORGE ^[28] - 157:6,
 157:11, 157:16,
 158:18, 159:3,
 159:8, 159:12,
 161:4, 161:6,
 161:10, 162:5,
 162:11, 170:14,
 175:2, 175:5,
 176:16, 176:18,
 178:13, 178:17,
 192:7, 192:19,
 198:6, 327:11,
 327:16, 329:16,
 330:5, 335:19,
 336:6
Gersen ^[5] - 274:16,
 274:19, 281:3,
 283:10, 285:2
Gersen's ^[1] - 274:17
GF ^[1] - 153:6
GFA ^[9] - 153:7,
 195:3, 195:10,
 195:15, 369:6,

372:3, 372:10,
 372:17, 376:7
Ghosti ^[1] - 299:1
GHOSTI ^[1] - 299:2
Giamas ^[1] - 270:2
GIAMAS ^[1] - 270:2
giant ^[1] - 101:8
GIFFORD ^[34] - 115:9,
 115:15, 117:13,
 118:3, 121:5,
 121:16, 122:3,
 122:8, 123:12,
 124:6, 124:10,
 125:8, 125:13,
 125:16, 126:1,
 126:14, 127:7,
 127:12, 127:19,
 128:13, 128:16,
 129:4, 129:13,
 129:15, 130:8,
 130:11, 130:19,
 131:4, 133:8,
 134:13, 135:6,
 135:10, 135:15,
 136:1
Gifford ^[2] - 115:10,
 115:15
gigantic ^[1] - 92:1
girl ^[1] - 323:9
girls ^[1] - 379:18
given ^[10] - 16:5,
 43:6, 52:16, 107:8,
 111:5, 191:9,
 196:10, 225:1,
 369:4
glass ^[16] - 13:4,
 51:15, 60:6, 71:11,
 74:10, 84:3, 84:10,
 92:1, 177:8, 179:15,
 318:7, 318:9,
 318:16, 349:2,
 390:7
glasses ^[1] - 46:2
Glassman
^[1] - 322:14
GLASSMAN
^[2] - 340:1, 340:9
glory ^[1] - 39:8
goal ^[1] - 232:11
Goldai ^[1] - 299:13
gonna ^[25] - 21:12,
 70:2, 75:9, 75:14,
 75:16, 75:17, 76:17,

98:9, 98:17, 99:6,
 100:17, 108:13,
 118:13, 128:16,
 128:17, 132:6,
 132:14, 138:15,
 145:12, 146:13,
 146:17, 148:1,
 150:12, 161:17,
 256:6
Goodell ^[1] - 344:7
goodness ^[2] - 70:1,
 77:5
goods ^[1] - 386:5
graceful ^[1] - 113:12
grade ^[5] - 207:16,
 207:17, 209:2,
 209:3, 232:8
graduate ^[3] - 110:11,
 111:5, 322:16
graduated ^[1] - 48:6
graffiti ^[1] - 246:12
grand ^[1] - 107:19
grandiose ^[1] - 63:16
grandparents
^[1] - 336:11
grant ^[13] - 224:18,
 226:15, 270:13,
 272:10, 284:16,
 287:1, 313:17,
 320:1, 338:7,
 339:13, 367:1,
 383:16, 397:5
granted ^[20] - 40:1,
 67:15, 68:18, 182:7,
 252:2, 271:19,
 286:12, 313:8,
 315:11, 321:2,
 339:2, 341:16,
 345:8, 360:5,
 365:12, 383:7,
 384:7, 398:10,
 399:1, 400:9
granting ^[9] - 79:4,
 272:18, 287:7,
 288:14, 315:7,
 320:17, 340:17,
 384:3, 400:5
grass ^[3] - 41:2, 41:6,
 112:17
grates ^[1] - 98:11
great ^[16] - 29:15,
 47:1, 69:18, 72:12,
 92:9, 92:14, 95:1,

105:7, 144:15,
 194:13, 224:9,
 230:14, 269:9,
 283:9, 337:16,
 364:15
greater [3] - 41:12,
 187:2
greatest [2] - 119:9,
 391:3
green [14] - 36:18,
 52:7, 79:15, 81:10,
 207:9, 207:14,
 220:14, 299:19,
 301:10, 304:16,
 327:13, 327:15,
 328:8, 337:3
GREENBURG
 [1] - 48:4
Greenburg [1] - 48:5
greenery [1] - 113:17
greenhouse
 [1] - 32:18
GREENLAW
 [1] - 52:5
Greenlaw [1] - 52:6
GREG [2] - 393:10,
 393:14
Greg [2] - 269:4,
 393:14
grew [2] - 64:8,
 171:11
grey [4] - 33:8,
 327:11, 328:2,
 328:3
grid [1] - 91:16
GRINBERG
 [2] - 392:19, 393:1
Grinberg [1] - 392:19
groceries [1] - 267:9
grommet [1] - 226:11
ground [6] - 67:14,
 71:6, 170:2, 296:15,
 345:4, 349:15
grounds [1] - 165:9
Group [1] - 342:15
groups [1] - 100:9
grow [4] - 123:2,
 147:6, 377:8,
 379:18
growing [2] - 113:12,
 338:14
grown [1] - 145:10
GSD [2] - 38:7, 44:12

guarantee [1] - 228:3
guess [15] - 48:10,
 75:15, 77:3, 77:8,
 107:3, 144:8, 168:6,
 216:19, 225:16,
 239:6, 252:2,
 258:12, 281:17,
 298:1, 299:17
guest [1] - 377:14
guests [2] - 84:18,
 111:7
guide [1] - 220:1
guided [1] - 219:16
guidelines [1] - 337:8
guides [1] - 57:15
Gus [1] - 358:2
guy [1] - 227:4
guys [4] - 136:18,
 226:3, 247:7,
 394:10
Guzik [1] - 398:16
Gwill [1] - 284:2
GWILL [1] - 284:3

H

H-e-l-f-e-r [1] - 62:8
habitable [1] - 144:4
Hackett [1] - 333:5
hair [1] - 48:3
half [3] - 169:15,
 374:5
Hall [1] - 310:5
Hallett [1] - 380:17
HALLETT [1] - 380:18
hallway [1] - 340:4
Hampshire [2] - 2:13,
 385:7
Hancock [1] - 48:5
hand [6] - 52:17,
 87:11, 114:13,
 152:4, 239:16,
 402:8
handcuffs
 [1] - 225:12
handed [1] - 28:5
handicap [5] - 95:4,
 152:12, 352:6,
 352:9, 392:6
handicapped
 [5] - 86:4, 86:7,
 95:16, 352:8, 392:4
handling [1] - 151:12
handout [1] - 19:11

hands [2] - 15:19,
 16:2
hang [5] - 53:16,
 54:14, 54:17, 76:18,
 180:17
hanging [2] - 54:15,
 92:10
HANSON [1] - 81:11
Hanson [1] - 81:11
happy [8] - 180:9,
 180:10, 223:1,
 223:12, 224:4,
 229:18, 293:12,
 302:2
hard [1] - 126:11
hardship [40] - 101:9,
 101:12, 108:8,
 116:3, 116:4,
 116:12, 121:6,
 121:8, 122:5,
 125:11, 125:13,
 125:14, 125:19,
 126:7, 126:10,
 126:11, 181:18,
 182:2, 182:10,
 183:5, 183:14,
 183:18, 271:9,
 271:10, 271:15,
 276:9, 286:2, 286:3,
 286:8, 301:2,
 312:15, 312:16,
 313:4, 338:12,
 338:16, 382:18,
 382:19, 383:3
Harkness [1] - 63:5
Harvard [171] - 8:4,
 8:11, 8:16, 9:7,
 10:1, 10:7, 10:9,
 10:16, 10:19, 11:18,
 13:7, 16:1, 18:5,
 21:16, 38:17, 40:9,
 40:17, 41:1, 41:7,
 41:9, 43:4, 43:6,
 44:1, 45:7, 45:12,
 48:7, 48:12, 49:10,
 52:8, 52:11, 56:7,
 56:16, 57:7, 57:8,
 57:15, 57:17, 58:1,
 58:12, 58:15, 59:5,
 60:10, 62:12, 62:13,
 62:19, 63:13, 64:1,
 64:11, 66:16, 66:19,
 67:6, 69:4, 70:9,

70:19, 72:4, 72:5,
72:7, 72:8, 72:15,
73:9, 73:11, 76:4,
76:5, 76:11, 76:19,
77:4, 77:7, 77:12,
77:17, 81:5, 81:7,
82:2, 83:16, 84:7,
84:9, 84:10, 84:13,
84:14, 85:2, 85:4,
85:10, 85:13, 85:19,
86:13, 87:5, 87:6,
87:17, 89:6, 90:15,
91:9, 93:13, 94:16,
96:7, 97:14, 98:8,
98:19, 99:8, 99:16,
100:5, 100:8,
100:11, 100:15,
101:11, 106:13,
106:15, 107:5,
107:8, 107:13,
108:1, 108:7,
108:15, 109:14,
111:1, 113:3, 113:4,
113:10, 113:13,
114:7, 115:12,
115:17, 117:3,
119:5, 119:14,
123:19, 128:4,
131:13, 133:13,
133:14, 133:17,
133:19, 134:3,
135:4, 136:12,
137:1, 137:11,
137:12, 137:19,
138:14, 140:5,
141:10, 145:8,
146:12, 146:18,
160:4, 161:14,
164:16, 165:11,
170:13, 179:3,
186:9, 186:13,
188:12, 198:12,
200:8, 244:4,
252:18, 343:5,
343:10, 346:1,
347:3, 350:9, 355:1,
355:5, 355:11
Harvard's^[3] - 20:12,
100:16, 165:12
Harvey^[2] - 63:17,
66:6
hashed^[1] - 317:10
hat^[1] - 56:2

HAWKINSON

[1] - 157:9

Hawthorn [16] - 2:8,

290:7, 290:17,
 291:4, 293:5,
 298:15, 299:2,
 299:5, 299:10,
 299:12, 300:1,
 300:3, 300:5, 300:7,
 303:19, 304:19

hazard [8] - 316:10,

316:16, 359:2,
 359:14, 365:16,
 366:11, 396:6,
 396:15

head [2] - 72:6, 226:1**health** [5] - 99:13,

316:17, 359:15,
 366:12, 396:16

hear [18] - 16:17,

17:13, 18:1, 33:15,
 37:19, 59:7, 71:15,
 71:16, 112:1, 115:8,
 121:11, 124:3,
 144:17, 159:6,
 218:5, 218:8, 221:2,
 336:13

heard [48] - 3:18, 4:3,

6:5, 37:17, 88:4,
 88:10, 108:4, 121:2,
 125:11, 129:2,
 130:5, 140:1, 180:7,
 190:3, 195:7, 203:9,
 219:2, 219:10,
 220:1, 220:18,
 250:4, 255:4,
 260:12, 261:19,
 264:10, 268:9,
 268:12, 274:10,
 281:11, 281:14,
 290:10, 297:16,
 297:19, 322:9,
 330:16, 330:19,
 342:10, 354:14,
 354:17, 361:10,
 365:3, 365:6,
 368:10, 380:12,
 380:15, 392:17,
 392:18

HEARING [1] - 1:3**hearing** [25] - 3:13,

4:9, 4:12, 5:13, 9:5,
 12:8, 13:13, 13:16,

15:2, 15:6, 18:2,
 98:2, 116:18,
 117:10, 117:11,
 118:16, 191:18,
 193:18, 197:17,
 269:14, 270:6,
 281:4, 296:8,
 388:11, 402:6
hearings [2] - 103:13,
 122:4
heart [3] - 71:14,
 111:17, 133:13
hearts [1] - 70:1
heated [2] - 51:13
heating [1] - 98:13
heavily [1] - 295:13
heavy [2] - 11:7,
 351:14
HEFFE [1] - 343:17
height [14] - 27:6,
 78:15, 181:13,
 183:2, 183:11,
 183:13, 199:4,
 207:19, 208:3,
 219:11, 220:2,
 220:3, 229:2, 302:9
held [3] - 13:11,
 13:13, 112:12
HELPER [1] - 62:7
Helper [1] - 62:7
hello [1] - 385:9
help [7] - 72:2, 99:2,
 176:3, 198:10,
 306:12, 336:2,
 369:17
helpful [5] - 29:14,
 37:4, 62:5, 243:13,
 282:8
helping [1] - 57:16
helps [3] - 58:14,
 61:1, 257:12
HENRY [5] - 18:6,
 33:1, 36:9, 36:12,
 158:12
Henry [1] - 18:6
hereby [1] - 401:16
herein [1] - 402:6
hereunto [1] - 402:8
hesitate [1] - 45:11
hi [5] - 38:4, 39:13,
 46:3, 48:4, 52:5
Hi [1] - 87:12
hidden [1] - 161:16

high ^[11] - 21:13,
 93:2, 93:10, 95:2,
 208:9, 208:11,
 219:9, 251:16,
 305:18, 306:8,
 308:13
higher ^[1] - 208:4
highlight ^[2] - 37:15,
 37:16
highlighted
^[1] - 108:19
highlights ^[1] - 210:2
highly ^[1] - 199:10
Hilliard ^[2] - 115:10,
 343:11
hindsight ^[1] - 40:13
hired ^[1] - 229:11
Historical ^[2] - 104:2,
 379:11
histories ^[1] - 117:6
history ^[6] - 64:17,
 90:5, 101:17, 115:8,
 130:5, 336:14
hit ^[1] - 21:12
hits ^[1] - 241:9
hold ^[7] - 186:13,
 231:4, 232:12,
 255:16, 256:1,
 257:5, 314:18
Hollis ^[1] - 63:5
HOLLY ^[5] - 302:12,
 318:3, 318:17,
 319:5, 319:11
Holly ^[9] - 290:17,
 291:16, 292:11,
 298:15, 300:4,
 308:6, 314:6,
 314:10, 318:1
Holly's ^[2] - 306:14,
 307:5
Holyoke ^[23] - 9:5,
 11:11, 12:17, 46:12,
 60:14, 64:12, 64:14,
 82:13, 98:11, 98:13,
 104:5, 112:8,
 112:13, 113:1,
 114:7, 114:8,
 115:18, 116:9,
 119:7, 119:8,
 119:17, 174:17,
 179:11
Home ^[1] - 301:1
home ^[12] - 186:14,

275:5, 278:4,
 322:19, 323:4,
 323:15, 323:19,
 327:2, 331:6,
 364:14, 372:18,
 379:16

homeless ^[5] - 48:19,
 67:17, 98:10, 98:12,
 98:15

homes ^[1] - 370:9

homogeneous
^[1] - 81:2

honestly ^[3] - 145:6,
 240:13, 257:15

Honey ^[1] - 229:9

Honorable
^[1] - 203:12

hood ^[1] - 245:5

hope ^[20] - 61:1, 61:2,
 62:4, 64:3, 64:4,
 72:17, 97:12,
 116:17, 118:15,
 197:9, 199:14,
 201:3, 201:8,
 204:10, 247:6,
 247:8, 253:18,
 282:15, 284:15,
 379:13

hoped ^[1] - 231:9

hopeful ^[1] - 72:5

hopefully
^[4] - 200:19, 229:11,
 363:6, 385:11

Hopkins ^[2] - 18:9,
 142:8

horrible ^[1] - 236:7

hot ^[4] - 68:14, 171:7,
 171:8, 353:5

hotel ^[2] - 163:19,
 164:3

Hotel ^[5] - 159:1,
 160:2, 160:13,
 161:7, 161:16

hour ^[6] - 57:3, 78:8,
 341:4, 341:12,
 377:5, 395:12

hours ^[18] - 22:15,
 23:1, 23:3, 23:11,
 23:15, 24:3, 24:4,
 49:4, 57:19, 67:2,
 67:18, 137:3, 243:9,
 252:17, 352:13,
 353:1, 385:13,

386:13
house [73] - 246:5,
 265:15, 269:8,
 269:16, 275:4,
 275:6, 275:8,
 275:11, 276:2,
 276:8, 276:19,
 282:6, 285:2,
 292:16, 300:2,
 300:4, 300:9,
 300:17, 305:4,
 305:11, 305:12,
 305:16, 306:3,
 306:12, 306:14,
 307:2, 307:4, 307:5,
 307:6, 308:19,
 310:1, 314:14,
 324:8, 326:8,
 327:12, 327:14,
 328:9, 328:12,
 329:11, 329:12,
 329:17, 329:18,
 330:2, 333:16,
 333:17, 334:13,
 336:11, 337:3,
 338:13, 338:17,
 341:11, 362:7,
 362:12, 362:13,
 362:15, 369:2,
 369:10, 369:11,
 370:13, 372:2,
 372:6, 372:7,
 372:14, 373:19,
 374:4, 374:10,
 374:11, 375:9,
 378:12
housed [1] - 23:12
houses [10] - 140:17,
 305:9, 328:11,
 328:19, 329:7,
 333:18, 334:3,
 334:19, 335:1,
 335:2
housing [1] - 194:10
Houston [1] - 102:14
Hubway [1] - 82:6
huge [12] - 43:19,
 68:12, 75:12, 188:8,
 233:16, 245:5,
 251:3, 251:4, 251:6,
 251:9, 318:3, 334:8
hugely [1] - 227:8
HUGH [2] - 39:13,

39:17

Hugh ^[1] - 39:17

HUGHES ^[142] - 7:5,

7:8, 7:15, 13:18,
14:7, 15:18, 16:3,
16:15, 17:9, 17:13,
18:14, 18:19, 19:14,
20:1, 25:15, 27:13,
29:15, 30:7, 30:10,
30:14, 30:19, 31:8,
31:14, 31:17, 34:2,
34:5, 34:10, 35:1,
35:6, 35:12, 35:18,
36:1, 36:7, 37:8,
39:10, 39:15, 42:12,
44:8, 46:1, 48:2,
49:16, 52:2, 55:17,
62:6, 64:6, 66:9,
73:5, 78:7, 81:9,
83:6, 85:16, 86:10,
87:8, 89:1, 96:14,
96:17, 97:2, 108:16,
109:4, 109:12,
109:18, 110:3,
114:10, 114:15,
114:19, 115:5,
117:12, 121:3,
121:7, 122:5, 123:9,
123:14, 124:8,
124:14, 125:10,
125:15, 125:18,
126:13, 127:4,
127:9, 127:13,
128:10, 128:14,
129:2, 129:11,
129:14, 130:2,
130:9, 130:17,
131:2, 133:3,
134:12, 134:16,
135:8, 135:13,
135:17, 136:4,
139:4, 144:14,
147:10, 153:10,
162:10, 162:12,
162:14, 181:3,
183:16, 184:1,
190:9, 190:15,
191:4, 193:13,
194:3, 194:13,
199:17, 200:6,
200:13, 201:10,
201:13, 202:4,
226:10, 227:15,

229:14, 229:19,
 230:5, 230:8, 234:3,
 238:3, 241:17,
 242:7, 243:3, 254:5,
 255:15, 268:4,
 285:14, 311:8,
 338:4, 344:1, 344:3,
 356:9, 358:2,
 364:18, 382:11

Hughes ^[27] - 1:8, 3:5,
 6:6, 7:3, 201:14,
 203:3, 229:3, 263:3,
 264:3, 273:4, 274:3,
 288:19, 290:3,
 315:12, 321:3,
 322:3, 341:1, 342:3,
 360:10, 361:3,
 367:8, 368:3, 384:8,
 385:3, 397:11,
 398:3, 400:10

humane ^[3] - 111:15,
 112:7, 147:3

humanist ^[1] - 113:15

hundred ^[4] - 133:9,
 178:8, 185:12,
 187:8

hundreds ^[1] - 197:17

Hunt ^[1] - 290:13

Huron ^[1] - 389:8

husband ^[2] - 274:15,
 322:13

hybrid ^[1] - 80:8

I

I-a-t-r-i-d-i-s

^[1] - 17:18

Iatridis ^[3] - 8:16,
 17:18, 18:3

IATRIDIS

^[104] - 14:12, 17:17,
 18:3, 18:4, 18:13,
 18:17, 19:7, 19:16,
 20:2, 26:2, 26:5,
 26:10, 26:13, 26:17,
 27:4, 27:7, 27:10,
 27:16, 28:12, 28:16,
 29:16, 30:9, 30:11,
 30:17, 31:4, 31:7,
 31:13, 31:16, 31:19,
 34:8, 34:18, 35:3,
 35:8, 35:17, 35:19,
 36:4, 36:10, 36:13,
 37:6, 90:10, 94:4,

94:7, 140:12, 144:6,
 144:13, 144:16,
 145:16, 147:8,
 147:15, 147:19,
 148:5, 148:8,
 148:12, 148:16,
 149:7, 149:18,
 150:4, 150:9,
 150:12, 150:16,
 150:19, 151:5,
 151:10, 151:14,
 152:2, 152:6,
 152:14, 152:17,
 153:3, 154:4, 155:9,
 155:14, 155:17,
 155:19, 156:4,
 156:6, 156:11,
 156:15, 157:4,
 157:14, 158:2,
 159:2, 159:11,
 159:16, 161:5,
 161:9, 161:12,
 162:9, 172:15,
 173:13, 173:16,
 173:19, 174:5,
 183:15, 183:19,
 192:11, 192:15,
 193:2, 193:17,
 194:16, 200:19,
 201:3, 201:7,
 201:19

Ice ^[1] - 343:13

idea ^[13] - 63:11,
 63:15, 67:19, 69:18,
 77:3, 87:2, 87:5,
 103:5, 143:1, 236:7,
 242:13, 253:1,
 320:12

ideas ^[3] - 70:17,
 70:18, 118:11

identical ^[2] - 310:12,
 310:13

identified ^[3] - 315:6,
 320:5, 355:16

identify ^[3] - 17:15,
 39:15, 361:19

identity ^[1] - 81:6

ignored ^[1] - 38:19

Il ^[1] - 61:11

ilk ^[1] - 46:9

illegally ^[1] - 312:19

illuminated

^[1] - 390:13

illumination

[1] - 390:11

illustrate [1] - 183:8**image** [1] - 8:3**images** [5] - 8:3,10:18, 10:19, 11:2,
11:3**imaginatively**

[1] - 63:14

imagine [2] - 243:17,

345:1

imagined [1] - 57:6**immediate**

[2] - 164:5, 335:8

immediately

[5] - 10:5, 15:6,

165:1, 248:16,

300:3

impa [1] - 295:9**impact** [16] - 116:8,

170:12, 195:8,

231:2, 231:8,

242:11, 246:9,

247:18, 248:10,

248:13, 257:18,

276:16, 282:14,

296:4, 311:19,

319:18

impacted

[2] - 208:16, 363:16

impactful [1] - 231:6**impacting** [2] - 286:6,

295:15

impair [4] - 317:2,

359:19, 366:15,

397:1

impaired [1] - 18:2**impanel** [1] - 202:6**impanelled**

[1] - 200:10

implementation

[1] - 381:4

implied [1] - 45:9**importance**

[1] - 119:16

important

[22] - 13:10, 24:7,

82:17, 83:2, 107:1,

114:6, 122:10,

123:8, 123:10,

127:16, 133:12,

133:18, 163:17,

165:16, 166:9,

186:8, 186:16,
 197:14, 198:16,
 209:10, 209:18,
 327:7

importantly
 [1] - 48:18

impose [1] - 166:7

imposed [1] - 280:13

impossibility
 [1] - 34:13

impossible
 [1] - 33:10

improve [2] - 80:13,
 147:1

improved [2] - 224:4,
 249:10

improvement
 [2] - 252:13, 364:13

improvements
 [1] - 88:11

improving [2] - 72:19,
 142:4

impunity [1] - 72:1

IN [2] - 402:8, 402:16

in-law [1] - 377:9

inadequate
 [1] - 271:11

inaudible [1] - 113:14

Inaudible [2] - 118:8,
 122:14

inaudible [2] - 80:19,
 111:10

Inc [1] - 383:19

INC [1] - 1:15

incent [1] - 219:17

incentive [1] - 206:5

incent [1] - 229:6

inch [1] - 165:19

inches [7] - 93:10,
 95:11, 95:13, 208:9,
 276:5, 276:7, 371:5

inclement [1] - 88:3

include [8] - 23:16,
 258:19, 340:2,
 362:11, 376:7,
 399:3, 399:5

included [4] - 21:3,
 110:2, 205:17,
 208:14

includes [2] - 30:4,
 186:3

including [6] - 8:3,
 8:15, 21:7, 24:12,

107:4, 149:6

inconsequential

[1] - 59:10

inconsistencies

[3] - 89:16, 90:2,
94:12

inconsistency

[1] - 219:14

inconsistent

[3] - 206:3, 223:7,
229:7

increase [19] - 21:16,

68:7, 68:16, 68:18,
78:14, 147:17,
148:3, 149:4, 150:8,
181:13, 199:4,
199:5, 235:12,
266:3, 300:14,
315:18, 341:6,
347:6, 369:5

increased [4] - 25:3,

66:19, 153:19,
209:3

increasing [4] - 22:4,

150:19, 172:17,
208:14

increasingly

[1] - 81:6

incredibly [2] - 49:12,

97:10

indeed [1] - 300:18

independent

[1] - 145:6

Index [1] - 2:16

indicate [2] - 82:19,

166:8

indicated [4] - 156:9,

197:11, 198:4,
364:14

indoor [22] - 30:1,

53:1, 66:19, 67:1,
67:6, 67:7, 69:7,
134:15, 135:3,
148:4, 148:10,
150:13, 150:16,
166:19, 167:1,
167:6, 167:11,
167:13, 179:14,
188:6, 188:16,
189:2

indoor/outdoor

[2] - 147:17, 149:4

inevitably [1] - 170:12

inflated [2] - 216:10,
216:13

influenced [1] - 62:19

influences [1] - 72:7

information
[9] - 21:5, 56:9, 57:7,
57:17, 58:1, 58:6,
61:19, 134:19,
173:3

informative
[1] - 308:16

infrastructure
[4] - 32:3, 32:6, 32:7,
352:10

ingress [1] - 392:3

initial [4] - 190:2,
213:16, 242:9,
380:6

initialed [4] - 272:15,
314:2, 339:17,
367:5

initialled [2] - 287:6,
384:1

Inman [2] - 393:16,
393:17

input [2] - 87:4, 225:4

inquiring [1] - 9:13

inside [13] - 25:2,
45:12, 54:15, 56:11,
67:18, 74:14, 74:15,
76:2, 132:16, 177:9,
177:11, 191:2,
351:4

insignificant
[1] - 96:5

insisted [1] - 103:7

Inspectional [5] - 8:4,
15:14, 97:3, 398:18,
401:3

install [3] - 12:9,
14:18, 361:11

installation
[1] - 24:14

installed [1] - 12:6

instance [1] - 75:8

instead [3] - 66:19,
214:1, 318:15

institutional
[4] - 59:17, 60:16,
66:7, 80:7

institutions
[1] - 69:18

INSTRUCTIONS

[2] - 401:1, 401:5

instructions

[1] - 10:11

intact [2] - 67:14,
232:12

integrity [4] - 317:2,
359:19, 366:15,
397:1

intelligent [4] - 168:8,
169:1, 180:7, 199:9

intelligible [1] - 58:5

intend [2] - 96:4,
222:3

intended [5] - 96:3,
104:6, 104:9,
104:13, 104:14

intends [1] - 345:9

intent [11] - 46:13,
47:15, 272:3,
286:15, 313:11,
317:4, 339:5, 360:2,
366:17, 383:10,
397:3

intention [3] - 78:2,
102:10, 298:6

intentional [1] - 38:15

intentions

[2] - 102:13, 103:11

interact [1] - 45:3

interaction [2] - 65:3,
65:6

interest [15] - 67:10,
72:6, 79:6, 98:1,
98:5, 101:15, 108:3,
108:7, 163:7, 164:6,
166:17, 170:4,
170:6, 205:9, 281:1

interested [7] - 80:18,
196:16, 197:18,
363:2, 385:18,
386:15, 388:16

interesting

[4] - 119:3, 129:17,
228:8, 279:16

interface [1] - 165:1

interfere [1] - 174:5

interim [1] - 291:13

interior [7] - 21:17,
34:15, 51:9, 54:3,
158:15, 349:5,
378:2

Interiors [3] - 265:7,
272:13, 287:4

international
 [2] - 25:5, 187:3

International
 [1] - 111:11

interpret [1] - 97:19

interpretation
 [1] - 280:10

intimately [1] - 158:4

introduce [1] - 141:15

introduced
 [3] - 141:14, 141:15,
 141:16

intrude [1] - 182:15

intrusion [2] - 181:8,
 182:17

intrusive [1] - 53:9

intuitively
 [2] - 301:15, 310:10

invasive [1] - 53:10

invite [2] - 152:9,
 163:1

inviting [4] - 45:2,
 141:8, 169:11,
 179:4

involve [6] - 181:18,
 271:8, 286:1,
 312:14, 338:11,
 382:17

involved [7] - 50:5,
 76:9, 76:10, 89:14,
 91:13, 104:1,
 141:12

involves [3] - 195:4,
 195:10, 195:15

iron [4] - 210:15,
 242:1, 242:2, 242:8

ironic [1] - 116:5

ironically [1] - 58:11

irregular [2] - 169:11,
 169:12

irrelevant [1] - 344:15

irremediable
 [1] - 170:11

ISD [5] - 9:6, 9:14,
 97:3, 294:17,
 340:10

ISD's [1] - 14:5

issue [26] - 7:10, 10:8,
 13:11, 17:7, 20:11,
 44:18, 83:15, 95:4,
 100:19, 101:3,
 104:3, 106:15,
 116:3, 121:8,

123:10, 123:11,
 143:6, 163:13,
 167:12, 189:6,
 207:15, 229:4,
 245:19, 248:3,
 298:17, 379:15

issues ^[11] - 49:11,
 60:2, 82:9, 137:5,
 163:9, 163:14,
 164:8, 205:13,
 221:10, 284:9,
 327:8

ist ^[1] - 274:9

items ^[3] - 69:7,
 241:1, 391:5

iteration ^[1] - 259:1

iterations ^[2] - 210:4,
 239:15

itself ^[11] - 17:1,
 43:16, 56:7, 71:13,
 93:17, 164:17,
 237:9, 276:15,
 304:13, 345:11,
 346:19

J

J-e-f-e ^[1] - 343:18

J-i-l-l-s-o-n ^[1] - 85:18

J.F.K ^[2] - 88:9, 345:3

jacked ^[1] - 59:3

jacket ^[2] - 87:10

Jackson ^[4] - 7:18,
 97:6, 102:14,
 194:10

Jacob ^[2] - 274:16,
 285:1

Jacobs ^[1] - 118:4

jam ^[1] - 131:6

James ^[11] - 7:9, 7:17,
 16:16, 66:5, 97:4,
 97:5, 108:16,
 108:17, 194:19,
 274:13, 342:13

JAMES ^[74] - 7:7,
 7:13, 7:17, 16:13,
 16:18, 25:19, 26:3,
 26:6, 26:11, 26:16,
 26:19, 27:5, 27:9,
 27:12, 28:8, 30:16,
 33:14, 34:4, 89:9,
 97:5, 105:6, 109:3,
 109:10, 109:15,
 110:1, 115:3, 118:1,

159:6, 162:13,
 181:5, 189:11,
 190:14, 191:3,
 194:18, 198:17,
 199:6, 233:7, 239:8,
 261:7, 274:11,
 275:15, 277:13,
 277:19, 279:7,
 279:13, 280:15,
 280:19, 287:9,
 287:15, 288:3,
 288:8, 288:11,
 289:2, 342:11,
 342:17, 343:9,
 343:19, 344:2,
 344:12, 344:19,
 347:16, 348:6,
 350:6, 351:7, 352:1,
 352:7, 353:18,
 356:16, 356:19,
 357:11, 357:16,
 357:19, 358:6,
 358:11
jammed ^[1] - 375:6
Jane ^[1] - 118:3
January ^[1] - 358:7
jazz ^[1] - 161:8
Jeannie ^[5] - 274:14,
 282:3, 284:5, 284:7,
 285:1
JEANNIE ^[2] - 274:14,
 275:14
Jeannie's ^[1] - 284:11
Jefe ^[4] - 343:17,
 344:6, 344:8,
 344:13
Jefe's ^[1] - 345:19
Jerry's ^[1] - 349:8
Jesus ^[2] - 176:1,
 176:3
jewelry ^[1] - 171:17
JILLSON ^[1] - 85:17
Jillson ^[1] - 85:18
JIM ^[2] - 237:4,
 239:19
Jim ^[8] - 1:10, 7:4,
 30:15, 31:10,
 162:12, 181:3,
 194:17, 203:4
Jim's ^[1] - 183:17
job ^[9] - 11:19, 47:10,
 76:5, 85:6, 116:12,
 216:12, 222:8,

225:6, 228:10
Jobs ^[1] - 84:12
jobs ^[1] - 76:1
JOHN ^[21] - 42:15,
 79:16, 136:7, 157:9,
 343:3, 343:6, 343:8,
 343:18, 344:7,
 344:10, 344:16,
 349:16, 350:2,
 351:2, 351:6,
 351:14, 351:19,
 352:14, 352:19,
 353:9, 354:9
John ^[7] - 42:15,
 79:16, 115:4, 135:8,
 135:19, 136:8,
 342:18
joined ^[1] - 71:2
Jose ^[2] - 50:4, 112:2
Jr ^[1] - 298:18
judging ^[1] - 295:8
judgment ^[6] - 12:11,
 109:17, 169:19,
 216:10, 247:17,
 310:15
Judy ^[1] - 394:13
judy ^[1] - 394:15
JUKOVSKY
^[2] - 250:5, 253:2
Jukovsky ^[2] - 250:6,
 253:2
July ^[2] - 10:14,
 383:19
JULY ^[1] - 1:4
June ^[8] - 10:13, 15:1,
 15:2, 15:6, 20:6,
 117:11, 117:12,
 117:13
justify ^[1] - 216:1

K

Kane ^[3] - 102:11,
 102:12, 112:3
Kathy ^[1] - 102:12
Kay ^[1] - 364:13
keep ^[16] - 69:6,
 89:10, 95:3, 96:2,
 98:12, 138:9,
 140:13, 187:17,
 203:16, 208:19,
 232:12, 251:3,
 257:2, 257:9,
 324:14, 386:12

keeping [7] - 285:5,
 292:15, 370:15,
 386:6, 389:18,
 390:3, 390:5
Ken [3] - 368:13,
 368:14, 380:19
Kendall [7] - 133:16,
 205:4, 213:11,
 230:1, 241:8, 251:5
KENNETH
 [4] - 378:15, 378:18,
 379:2, 381:13
kept [1] - 75:15
KEVIN [1] - 392:19
Kevin [2] - 102:12,
 392:19
KeyWord [1] - 2:16
Khalsa [1] - 210:10
kick [1] - 180:2
kicking [1] - 179:14
kicks [1] - 372:11
kid [1] - 336:7
kids [5] - 323:2,
 323:4, 324:19,
 371:11, 377:8
kids' [1] - 323:18
killer [1] - 117:4
kind [17] - 39:1, 41:4,
 42:8, 58:5, 60:10,
 72:5, 82:5, 82:19,
 83:3, 169:13,
 224:19, 245:1,
 252:12, 328:15,
 329:9, 359:12,
 388:18
kinds [5] - 23:6,
 43:18, 59:15,
 227:16
kiosk [2] - 132:13,
 138:8
Kirk [1] - 61:8
kitchen [12] - 275:11,
 275:12, 276:8,
 282:6, 282:9, 283:3,
 283:5, 283:6, 283:8,
 284:7, 286:4, 375:6
knowledge [1] - 120:2
knows [2] - 42:4,
 202:8
KYLE [12] - 264:16,
 264:19, 265:4,
 265:10, 265:13,
 266:13, 266:16,

266:19, 267:5,
270:11, 270:16,
271:2

Kyle ^[1] - 265:5

L

lack ^[2] - 8:17, 70:15

lady ^[1] - 86:11

lag ^[1] - 14:9

land ^[4] - 126:3,
225:11, 308:1,
308:2

landfill ^[1] - 391:18

landing ^[1] - 267:7

landlord ^[3] - 350:7,
350:11, 394:14

landlords ^[1] - 394:12

landscape ^[6] - 18:12,
41:10, 212:3,
258:12, 258:19

landscaping
^[2] - 205:16, 220:14

lane ^[1] - 336:8

language ^[6] - 19:12,
20:15, 21:10, 21:12,
23:17, 99:10

lantern ^[1] - 27:3

laptops ^[1] - 323:17

large ^[11] - 42:19,
54:19, 68:15, 71:9,
72:16, 210:14,
210:16, 213:1,
300:17, 310:19,
387:4

largely ^[1] - 59:16

larger ^[2] - 212:14,
329:15

last ^[40] - 9:1, 11:8,
18:15, 21:15, 31:10,
46:18, 48:7, 88:6,
89:19, 94:14, 96:1,
97:17, 98:9, 99:6,
114:11, 115:2,
117:10, 117:11,
127:10, 136:2,
136:4, 141:11,
174:14, 187:13,
189:12, 199:2,
199:12, 204:3,
204:12, 208:10,
239:18, 249:6,
251:14, 299:5,
343:12, 362:4,

380:3, 380:4, 382:4
lastly [1] - 270:1
late [14] - 121:12,
 157:4, 288:8, 288:9,
 325:18, 341:4,
 341:13, 346:7,
 353:3, 353:6,
 353:11, 377:5,
 386:15, 395:12
latest [5] - 237:16,
 239:11, 240:7,
 256:14, 257:10
laughed [1] - 228:15
LAURA [1] - 86:12
Laura [1] - 86:12
Law [2] - 12:4, 222:14
law [3] - 52:7, 281:3,
 377:9
lawfully [1] - 294:14
lawn [2] - 306:1,
 309:5
laws [1] - 174:2
Lawson [1] - 402:4
lawyer [1] - 250:12
lawyers [1] - 99:9
LDA [3] - 265:6,
 272:13, 287:4
lean [1] - 318:8
learn [1] - 135:11
learned [1] - 41:17
least [13] - 39:4, 69:2,
 77:16, 104:12,
 164:19, 191:13,
 233:18, 245:9,
 247:5, 252:10,
 292:9, 296:15,
 325:12
leave [7] - 67:14,
 96:16, 99:19,
 235:12, 246:5,
 395:3, 395:6
leaving [1] - 269:19
lecture [1] - 46:6
led [1] - 111:6
Lee [2] - 66:14, 69:10
leeway [1] - 99:16
left [19] - 28:19,
 74:12, 132:1, 132:3,
 290:19, 304:1,
 307:3, 307:5,
 307:12, 307:13,
 308:9, 309:3,
 309:15, 314:10,

317:14, 318:18,
 344:13, 351:16,
 362:12
legal ^[3] - 223:4,
 223:12, 223:14
legally ^[2] - 310:1,
 312:18
legs ^[1] - 96:1
lends ^[1] - 346:19
length ^[1] - 373:6
less ^[14] - 36:12, 54:5,
 60:9, 60:17, 78:14,
 78:16, 142:10,
 177:3, 211:10,
 213:18, 231:5,
 231:7, 344:11,
 373:10
letter ^[55] - 4:5, 7:11,
 7:12, 12:2, 20:17,
 24:9, 37:13, 37:15,
 50:2, 66:6, 66:14,
 102:5, 102:6, 103:9,
 110:2, 110:3, 259:3,
 268:16, 269:4,
 270:1, 281:16,
 282:17, 284:1,
 296:19, 297:3,
 298:1, 299:7, 299:8,
 299:9, 299:18,
 305:10, 326:17,
 327:7, 331:9,
 331:12, 331:13,
 331:18, 332:8,
 332:9, 332:14,
 333:1, 333:4, 333:5,
 335:12, 347:9,
 354:19, 355:17,
 363:18, 364:6,
 371:14, 380:17,
 398:14, 398:17
letters ^[25] - 108:19,
 109:8, 117:9,
 117:14, 118:9,
 118:18, 120:17,
 139:7, 139:9,
 139:11, 139:14,
 167:5, 268:13,
 277:3, 281:15,
 285:10, 297:7,
 298:12, 298:13,
 299:16, 326:3,
 335:14, 394:7,
 395:10

level ^[13] - 59:4,
 72:13, 77:7, 95:7,
 143:2, 158:14,
 161:6, 170:2,
 244:19, 245:2,
 296:16, 362:10,
 372:10

LEVENKRON
^[5] - 302:12, 318:3,
 318:17, 319:5,
 319:11

Levenkron
^[5] - 290:18, 298:15,
 300:4, 300:18,
 301:4

library ^[2] - 62:10,
 118:7

Library ^[1] - 63:5

License ^[1] - 402:12

license ^[4] - 352:16,
 354:8, 354:10,
 386:11

licenses ^[1] - 386:11

lick ^[2] - 245:8,
 249:12

life ^[8] - 64:2, 64:9,
 64:16, 111:14,
 112:7, 118:1, 145:5,
 232:6

Life ^[1] - 118:4

lifelong ^[1] - 48:6

light ^[2] - 183:9, 302:6

lighting ^[1] - 292:14

lights ^[1] - 390:15

like... ^[1] - 127:11

likely ^[2] - 68:12,
 165:11

likewise ^[2] - 291:15,
 310:13

limit ^[2] - 168:11,
 184:9

limited ^[4] - 32:9,
 163:8, 168:5, 189:1

limiting ^[1] - 129:7

limits ^[1] - 59:18

LINE ^[1] - 401:8

line ^[16] - 33:19,
 36:18, 36:19, 37:3,
 91:7, 92:18, 122:17,
 229:17, 230:17,
 255:18, 256:1,
 286:11, 305:13,
 305:17, 313:13

lines [6] - 36:18, 37:3,
83:2, 132:4, 192:8,
207:13

linger [1] - 68:5

liquor [1] - 229:9

LISA [4] - 264:12,
264:18, 265:12,
269:15

Lisa [4] - 264:16,
265:10, 269:6,
269:9

Lisa's [2] - 267:6,
267:18

list [1] - 197:12

listed [1] - 139:18

listen [4] - 112:5,
175:9, 197:19,
198:8

listening [1] - 77:8

literal [6] - 181:17,
271:7, 285:19,
312:13, 338:10,
382:16

literally [4] - 53:1,
144:2, 168:10,
244:5

live [24] - 7:18, 38:6,
69:12, 76:7, 79:17,
86:13, 94:16,
115:10, 168:16,
218:1, 237:2,
244:15, 244:16,
250:6, 268:18,
275:4, 281:19,
284:3, 285:8,
323:11, 329:17,
368:14, 369:15,
392:13

liveable [2] - 71:7,
147:3

lived [13] - 42:16,
43:2, 44:11, 62:8,
64:8, 64:9, 73:7,
89:6, 146:10,
223:18, 250:19,
322:19, 368:15

livening [1] - 141:16

lives [6] - 146:15,
168:16, 265:14,
299:19, 333:8,
343:10

living [9] - 115:16,
187:13, 231:7,

323:12, 334:16,
338:14, 339:11,
377:12, 383:1
LLC [1] - 342:16
Local [1] - 63:4
local [3] - 58:17,
356:2, 392:2
located [3] - 105:11,
300:5, 345:2
location [19] - 11:16,
105:7, 162:3, 162:8,
193:6, 276:10,
343:16, 345:1,
345:6, 345:11,
345:19, 348:17,
351:3, 355:13,
356:2, 388:12,
389:4
locations [4] - 12:7,
22:5, 56:12, 193:9
logical [1] - 33:12
logo [1] - 390:6
look [66] - 4:11, 21:9,
27:17, 28:6, 33:11,
38:13, 38:17, 40:19,
73:14, 79:2, 82:5,
83:3, 89:12, 89:14,
91:6, 93:4, 93:16,
106:4, 106:18,
116:12, 116:19,
126:15, 128:6,
128:7, 129:16,
129:18, 130:14,
131:6, 131:15,
138:11, 142:12,
143:1, 155:6, 160:5,
179:1, 179:15,
180:15, 189:3,
191:12, 193:8,
205:6, 205:15,
206:7, 218:5, 223:3,
228:19, 230:13,
232:5, 241:3, 246:4,
252:5, 253:3,
254:19, 255:8,
275:10, 280:13,
296:6, 302:3,
308:12, 308:16,
310:10, 314:8,
328:14, 393:6
looked [10] - 12:3,
31:5, 31:6, 31:8,
101:19, 106:11,

119:19, 133:8,
 141:13, 228:16
looking ^[31] - 12:19,
 46:15, 52:19, 54:8,
 65:4, 65:6, 65:8,
 80:3, 131:12, 132:8,
 210:13, 211:1,
 213:9, 214:4, 214:6,
 238:8, 243:4, 247:7,
 253:3, 256:17,
 256:18, 296:1,
 296:16, 303:19,
 305:4, 317:14,
 318:19, 332:2,
 346:17, 377:6,
 377:10
looks ^[15] - 59:16,
 60:13, 81:14, 81:16,
 81:19, 82:7, 82:12,
 94:2, 134:8, 142:17,
 171:1, 214:13,
 220:15, 223:17,
 284:12
lopping ^[1] - 250:16
lose ^[6] - 121:18,
 147:5, 209:1,
 232:14, 237:18,
 244:3
losing ^[10] - 36:2,
 36:4, 36:7, 36:11,
 58:19, 90:18, 91:18,
 93:5, 233:17, 239:1
loss ^[1] - 34:11
lost ^[7] - 59:12, 60:12,
 277:9, 277:17,
 288:2, 288:6, 310:4
lot's ^[1] - 252:7
lot/vacant
^[1] - 244:17
lottery ^[1] - 229:10
loud ^[1] - 19:19
louder ^[2] - 110:17,
 115:14
Louie ^[1] - 102:10
Louis ^[1] - 112:3
Louvre ^[2] - 50:10,
 50:14
love ^[6] - 48:14, 70:2,
 135:13, 323:19,
 325:1, 336:13
loved ^[3] - 242:7,
 322:16, 394:2
lovely ^[2] - 110:14,

371:9
lover ^[1] - 113:9
loves ^[1] - 174:12
low ^[3] - 112:16,
 230:16, 309:9
lower ^[1] - 310:18
Lucey ^[4] - 8:16, 8:19,
 10:3, 28:9
luck ^[1] - 273:3
lucrative ^[1] - 247:3
lunch ^[2] - 353:10,
 388:11

M

M-e-a-d-e-r ^[1] - 284:2
M-e-y-e-r ^[1] - 66:12
Ma'am ^[1] - 4:17
Magee ^[8] - 2:9,
 322:7, 322:13,
 324:8, 329:19,
 331:6, 331:11,
 332:18
magic ^[5] - 214:4,
 214:18, 215:12,
 293:19, 301:19
Mahal ^[1] - 107:19
Mahmood ^[1] - 4:5
mail ^[7] - 8:15, 9:13,
 10:1, 15:12, 97:1,
 97:2, 135:18
mailed ^[1] - 28:9
main ^[4] - 20:11,
 132:19, 308:19,
 370:13
maintain ^[4] - 42:9,
 258:4, 345:10,
 399:6
maintained ^[3] - 5:12,
 134:1, 262:8
maintenance
^[2] - 23:18, 99:14
major ^[6] - 161:14,
 199:8, 204:18,
 205:16, 255:5,
 311:19
majority ^[3] - 164:10,
 309:11, 341:14
man ^[1] - 48:3
managed ^[1] - 350:7
managers ^[1] - 49:6
maneuver ^[1] - 267:8
manifested
^[1] - 72:17

map ^[3] - 21:19,
 291:7, 302:19
maps ^[2] - 305:5,
 305:6
March ^[5] - 224:10,
 234:11, 245:10,
 260:5, 298:19
Margaret ^[1] - 299:4
marginal ^[1] - 292:5
Maria ^[1] - 380:3
MARILEE ^[2] - 66:11,
 66:12
Marilee ^[2] - 66:11,
 66:12
mark ^[1] - 315:16
marked ^[1] - 311:10
Market ^[1] - 212:2
markets ^[1] - 62:1
MARKHAM
^[57] - 322:12,
 324:13, 325:16,
 326:2, 326:9,
 326:15, 326:18,
 327:5, 327:9,
 327:13, 327:15,
 327:18, 328:2,
 328:3, 328:6, 328:7,
 328:10, 328:14,
 329:2, 329:4, 329:6,
 329:9, 330:1, 330:2,
 330:3, 330:4, 330:6,
 330:7, 331:16,
 331:18, 332:3,
 332:7, 332:9,
 332:11, 333:6,
 333:7, 333:8, 334:2,
 334:4, 334:8, 334:9,
 334:16, 334:17,
 335:3, 335:7, 335:9,
 335:11, 335:13,
 335:18, 336:2,
 336:13, 336:17,
 336:18, 337:2,
 337:4, 337:9,
 337:19
Markham
^[2] - 322:12, 322:14
Markham's ^[1] - 331:4
Markhams ^[1] - 340:2
MARTIN ^[1] - 253:2
Martin ^[1] - 253:2
mass ^[3] - 91:5,
 219:10, 251:2

Mass ^[9] - 2:3, 7:6,
12:4, 119:11,
154:10, 157:13,
169:17, 171:14,
192:9

MASSACHUSETTS

^[1] - 402:2

Massachusetts

^[5] - 1:6, 1:7, 69:13,
112:18, 153:17

massing ^[8] - 207:15,
207:17, 208:7,
212:13, 218:14,
226:17, 248:10,
249:4

massive ^[2] - 143:19,
227:8

master ^[2] - 89:7,
374:16

material ^[4] - 28:10,
212:12, 241:3,
242:13

materials

^[5] - 142:16, 211:9,
212:16, 351:12,
391:4

math ^[1] - 77:1

mathematician

^[2] - 106:3

matter ^[30] - 3:18,
63:1, 63:2, 139:16,
203:9, 203:19,
264:10, 268:6,
268:9, 274:10,
281:9, 281:11,
290:10, 295:15,
295:19, 297:14,
297:16, 322:9,
330:14, 330:16,
342:10, 354:6,
354:12, 354:14,
361:10, 365:1,
365:3, 368:10,
380:12, 392:17

matters ^[2] - 103:11,
127:18

mattress ^[1] - 323:12

mature ^[1] - 295:18

Maureen ^[1] - 380:17

maximum

^[1] - 372:16

May/June ^[1] - 210:5

maybe... ^[1] - 358:12

MAZEN [2] - 69:11,
69:12

Mazen [2] - 69:12,
108:9

McMurray [2] - 86:12,
86:13

Meader [1] - 284:1

mean [49] - 10:2,
16:19, 17:2, 37:18,
50:10, 109:4, 109:5,
129:11, 133:3,
133:16, 139:2,
167:16, 171:7,
173:16, 183:16,
185:4, 186:7,
186:10, 188:1,
188:18, 227:19,
228:2, 231:2, 231:3,
231:16, 231:17,
232:2, 232:11,
232:16, 232:18,
240:18, 249:13,
251:2, 251:5, 252:6,
254:8, 256:5, 257:6,
260:9, 279:14,
310:11, 325:13,
374:7, 375:12,
375:17, 376:12,
377:2, 377:4, 379:4

means [2] - 333:12,
377:11

meant [8] - 24:1, 24:5,
24:6, 30:12, 75:3,
109:16, 126:4,
132:12

measure [1] - 116:7

measured [1] - 90:1

mechanical [2] - 32:5,
195:11

Medford [1] - 393:15

mediate [1] - 222:9

meet [13] - 49:6, 72:9,
79:7, 84:19, 85:2,
85:3, 172:13,
210:12, 213:8,
223:2, 224:10,
283:16, 346:3

meeting [23] - 3:9,
8:1, 18:16, 20:6,
21:15, 25:7, 31:11,
76:10, 76:11, 77:2,
97:17, 103:16,
103:18, 103:19,

104:2, 204:5, 205:7,
217:18, 228:9,
243:18, 252:14,
252:15, 252:19

meetings [2] - 130:7,
231:19

meets [2] - 32:16,
269:1

mellow [1] - 47:17

member [4] - 39:18,
99:3, 136:12,
167:18

MEMBER [8] - 4:18,
17:6, 17:11, 17:19,
28:14, 110:16,
115:13, 243:19

Member [4] - 1:9, 1:9,
1:10, 1:10

members

[10] - 137:16,
191:13, 196:15,
200:9, 204:5, 261:6,
283:4, 287:18,
347:10, 356:4

Members [36] - 3:4,
7:2, 13:19, 16:8,
66:16, 133:5, 163:1,
164:10, 166:8,
197:11, 198:4,
203:2, 203:12,
204:15, 221:4,
254:3, 264:2, 268:3,
274:2, 274:12,
277:7, 290:2,
297:10, 311:6,
322:2, 330:11,
338:2, 342:2,
342:12, 354:3,
356:7, 361:2,
364:17, 368:2,
385:2, 398:2

memo [2] - 60:5, 61:2

Memorial [1] - 88:9

memorialize

[2] - 20:12, 97:15

mental [1] - 201:16

mentality [1] - 57:3

mention [9] - 14:14,
88:4, 88:10, 101:16,
103:19, 120:19,
137:6, 163:5

mentioned

[8] - 20:11, 21:15,

52:10, 116:2,
 136:16, 137:6,
 210:11, 288:15
mercy ^[1] - 121:10
merely ^[1] - 52:14
met ^[6] - 20:7, 205:12,
 245:18, 316:7,
 336:1, 358:18
metal ^[1] - 145:10
methods ^[1] - 183:9
Mexican ^[6] - 343:16,
 345:12, 355:9,
 359:12, 388:8
MEYER ^[1] - 66:11
Meyer ^[2] - 66:11,
 66:12
MICHAEL ^[5] - 18:11,
 144:8, 144:19,
 145:3, 145:17
Michael ^[3] - 18:11,
 142:8, 173:9
microphone ^[1] - 4:19
microphones ^[1] - 5:3
mid ^[2] - 73:8, 76:11
mid-Cambridge
^[2] - 73:8, 76:11
middle ^[3] - 38:2,
 40:11, 120:8
midnight ^[2] - 22:18,
 122:1
might ^[21] - 14:9,
 38:16, 45:4, 45:18,
 46:17, 74:2, 82:8,
 105:11, 165:13,
 196:12, 202:4,
 241:17, 327:8,
 329:2, 335:18,
 341:9, 341:12,
 353:17, 358:1,
 358:2, 392:18
mighty ^[1] - 112:4
migrate ^[1] - 371:11
migrated ^[1] - 56:10
milling ^[1] - 187:1
mills ^[1] - 186:18
mimic ^[1] - 210:16
mimicked ^[1] - 47:5
mind ^[4] - 114:4,
 121:13, 129:17,
 247:1
mindful ^[1] - 198:9
mine ^[1] - 11:14
minimal ^[2] - 386:18,

386:19
minimize [2] - 188:1,
211:8
minimus [1] - 312:4
miniscule [1] - 309:14
minor [1] - 199:5
minority [1] - 341:7
minuses [4] - 134:14,
187:11, 187:16
minute [4] - 136:19,
160:4, 288:2
minutes [2] - 103:16,
121:8
mislabelled
[1] - 337:13
misread [1] - 214:1
misrepresented
[1] - 103:12
miss [3] - 128:16,
128:17, 358:4
messed [1] - 129:5
missing [1] - 358:1
mistake [2] - 45:15,
77:13
misunderstanding
[1] - 239:7
misunderstood
[1] - 46:10
misuse [1] - 102:18
MIT [7] - 89:8, 106:3,
157:7, 157:11,
157:15, 158:4,
158:11
mitigated [1] - 192:10
Mitsubishi [1] - 245:6
mix [2] - 62:2, 334:4
mixed [2] - 58:9,
249:17
mobility [1] - 120:14
model [9] - 92:19,
93:1, 93:3, 96:7,
96:11, 106:13,
106:14, 142:15
models [1] - 142:10
moderate [2] - 71:8,
284:13
moderator
[1] - 239:14
Modern [1] - 111:11
modern [1] - 172:1
modest [10] - 272:6,
282:13, 285:5,
286:17, 291:5,

291:15, 345:11,
372:3, 374:9,
383:12

modification

[3] - 196:4, 271:18,
338:19

modifications

[2] - 182:14, 208:14

modified [4] - 68:6,

197:15, 262:7,
320:7

modify [5] - 5:9,

189:14, 223:15,
262:3, 271:1

Moe [1] - 363:16

mom [1] - 322:18

moment [3] - 147:4,

182:9, 337:16

Monday [5] - 5:18,

9:3, 56:14, 262:13,
380:4

money [6] - 100:6,

131:13, 226:6,
226:7, 228:1, 246:2

monitors [1] - 177:14

Monteverde

[5] - 1:10, 7:4,
201:15, 203:5,
263:4

MONTEVERDE

[23] - 16:13, 25:19,
26:3, 26:6, 26:11,
26:16, 26:19, 27:5,
27:9, 27:12, 30:16,
34:4, 162:13, 181:5,
189:11, 190:14,
191:3, 198:17,
233:7, 237:4, 239:8,
239:19, 261:7

months [5] - 45:10,

187:14, 204:3,
267:11, 399:11

monumental

[1] - 211:11

moot [1] - 261:9

Moree [1] - 269:4

MOREE [1] - 269:5

morning [6] - 56:18,

57:1, 58:8, 73:12,
269:16, 353:15

MOSS [5] - 18:6, 33:1,

36:9, 36:12, 158:12

Moss [1] - 18:6

most ^[17] - 48:18,
64:9, 96:3, 105:12,
171:4, 195:14,
214:16, 239:12,
247:2, 275:2,
283:14, 306:7,
308:15, 328:19,
381:11, 383:13,
386:17

mostly ^[6] - 298:13,
303:8, 304:15,
306:1, 349:2, 352:2

motion ^[8] - 199:17,
200:7, 270:8, 315:5,
316:2, 317:5,
319:19, 360:13

motivated
^[1] - 199:10

motivating ^[1] - 224:8

Mount ^[15] - 10:17,
11:5, 25:2, 64:15,
112:15, 150:17,
192:13, 192:15,
193:6, 342:7, 345:3,
348:16, 349:14,
349:19, 350:2

move ^[14] - 4:13,
31:11, 33:10, 34:15,
125:7, 191:19,
198:10, 226:12,
261:18, 292:12,
315:16, 319:19,
339:10

moved ^[5] - 122:16,
249:14, 251:1,
253:6, 322:15

moves ^[18] - 82:11,
271:5, 272:9,
285:16, 287:1,
312:10, 313:17,
316:4, 338:7,
339:13, 358:14,
360:4, 365:9, 367:1,
382:13, 383:16,
395:17, 397:5

movies ^[1] - 56:16

moving ^[8] - 34:14,
55:3, 55:12, 64:14,
186:1, 232:8, 317:6,
362:19

Mt ^[1] - 2:10

mudroom
^[5] - 265:18, 267:15,

269:7, 269:13,
271:13

multi [2] - 172:6,
239:6

multi-story [1] - 239:6

multi-use [1] - 172:6

multiple [1] - 391:11

Museum [4] - 50:15,
76:12, 77:10

museum [2] - 76:14,
76:15

museums [2] - 77:4,
77:11

music [2] - 86:16,
173:5

must [10] - 5:9, 5:12,
5:17, 12:6, 12:12,
129:5, 262:12,
295:2, 310:12,
396:1

Myers [25] - 1:9, 3:6,
6:6, 7:4, 201:14,
203:4, 263:3, 264:4,
273:4, 274:4,
288:19, 290:4,
315:12, 321:3,
322:4, 342:4,
360:10, 361:4,
367:8, 368:4, 384:8,
385:4, 397:11,
398:4, 400:10

MYERS [93] - 16:14,
31:5, 37:5, 122:6,
127:14, 145:2,
153:12, 155:3,
155:10, 155:15,
155:18, 156:1,
156:7, 156:12,
157:3, 157:5,
162:16, 173:11,
173:14, 173:17,
174:1, 174:7, 179:6,
188:9, 196:17,
199:8, 200:16,
201:2, 201:4,
201:16, 202:2,
218:16, 222:2,
222:8, 222:12,
235:6, 235:11,
241:19, 244:6,
254:10, 254:14,
254:19, 260:15,
261:1, 261:15,

277:8, 277:16,
 281:5, 289:4, 302:4,
 302:9, 304:16,
 305:1, 306:12,
 306:16, 307:2,
 307:14, 308:1,
 308:7, 311:10,
 311:13, 311:18,
 312:2, 333:9,
 333:13, 334:3,
 334:18, 335:6,
 336:15, 339:19,
 341:2, 341:17,
 344:5, 344:9,
 350:18, 351:4,
 352:13, 354:7,
 358:4, 376:6,
 376:10, 376:14,
 376:19, 377:17,
 378:8, 378:13,
 379:1, 385:13,
 389:3, 389:6, 395:4,
 395:15, 399:15

mystic ^[1] - 56:15

N

NADEEM ^[2] - 69:11,
 69:12

Nadeem ^[2] - 69:11,
 108:9

name ^[37] - 7:17,
 38:4, 38:7, 39:17,
 42:15, 46:3, 49:19,
 52:6, 55:19, 62:17,
 69:11, 72:6, 72:9,
 73:6, 79:16, 83:8,
 86:12, 87:12, 89:3,
 110:8, 115:9,
 139:17, 203:13,
 244:14, 250:5,
 264:14, 264:16,
 265:2, 265:5,
 290:12, 299:5,
 322:10, 347:14,
 362:3, 362:4,
 368:11, 393:13

Name) ^[1] - 111:6

named ^[1] - 89:4

narrow ^[5] - 57:18,
 119:13, 132:17,
 164:8, 169:14

narrowing

^[1] - 153:15

narrows ^[1] - 207:5

nature ^[9] - 56:6,
56:13, 56:16, 68:13,
199:13, 277:11,
286:17, 325:7,
383:13

near ^[3] - 193:9,
306:1, 306:2

nearby ^[1] - 252:7

nearest ^[2] - 13:3,
296:13

nearly ^[3] - 223:7,
345:13, 347:8

necessarily
^[3] - 165:7, 245:13,
246:2

necessary ^[7] - 31:2,
51:4, 79:8, 85:13,
280:5, 338:15,
399:14

necessitates
^[1] - 122:10

neck ^[1] - 171:5

need ^[53] - 35:11,
37:19, 47:5, 48:13,
78:13, 80:14, 84:15,
85:5, 85:7, 85:9,
92:19, 94:15, 95:2,
95:10, 113:7, 114:3,
124:4, 125:6, 130:9,
135:4, 179:18,
180:11, 190:13,
190:15, 199:4,
200:16, 216:6,
219:2, 228:14,
229:10, 240:4,
260:7, 265:2,
266:18, 271:13,
275:3, 279:6, 294:4,
294:5, 318:5,
346:11, 346:14,
346:16, 347:2,
355:3, 355:6, 358:3,
363:10, 376:3,
382:2, 393:5,
393:12

needed ^[10] - 41:19,
48:12, 49:13, 88:16,
175:1, 175:3, 175:6,
355:12, 357:3

needs ^[23] - 23:18,
60:3, 60:19, 61:4,
80:9, 82:10, 87:4,

99:14, 175:5,
 175:18, 176:14,
 178:7, 178:14,
 179:7, 179:16,
 198:12, 198:13,
 216:7, 223:2, 255:3,
 276:5, 286:3,
 382:19

negative [1] - 282:13

negatives [1] - 128:1

neighbor

[20] - 269:10,
 282:19, 283:2,
 284:8, 298:14,
 301:5, 305:10,
 305:18, 307:15,
 307:17, 308:6,
 309:18, 310:5,
 319:9, 332:16,
 363:14, 363:16,
 371:13, 380:19,
 383:13

neighbor's

[7] - 296:17, 306:18,
 306:19, 307:6,
 307:7, 308:2, 308:4

neighborhood

[45] - 59:1, 204:4,
 205:8, 207:8,
 207:13, 209:18,
 216:17, 220:7,
 220:16, 224:11,
 225:4, 227:1,
 227:12, 230:19,
 243:7, 243:8,
 246:15, 251:9,
 251:11, 251:19,
 252:9, 252:12,
 252:15, 253:9,
 253:17, 257:7,
 257:13, 269:3,
 272:7, 278:14,
 280:18, 285:7,
 286:18, 316:11,
 325:14, 333:3,
 339:7, 356:4, 359:3,
 365:17, 371:8,
 393:2, 394:18,
 396:7, 396:11

neighborhoods

[1] - 255:1

neighbors

[15] - 212:9, 236:16,

243:14, 245:18,
 258:2, 293:9,
 293:11, 295:19,
 303:3, 326:11,
 328:15, 364:12,
 366:4, 381:7,
 394:16
neon [2] - 390:15,
 390:17
net [2] - 34:11, 266:3
NEUBAUER [1] - 38:4
Neubauer [2] - 38:5,
 47:2
never [14] - 43:7,
 43:11, 57:6, 79:9,
 79:10, 86:18,
 100:10, 141:13,
 196:19, 232:5,
 280:19, 283:6,
 396:2
new [67] - 5:10, 5:11,
 5:16, 9:3, 9:15,
 50:19, 51:1, 54:4,
 54:7, 95:19, 98:19,
 99:6, 100:5, 100:7,
 100:14, 100:16,
 101:4, 101:8,
 107:15, 107:16,
 107:19, 115:2,
 117:8, 117:14,
 118:9, 127:12,
 130:15, 132:18,
 143:13, 146:1,
 146:6, 147:5, 147:6,
 172:1, 176:8,
 176:11, 179:4,
 185:10, 191:8,
 191:9, 195:15,
 200:15, 207:8,
 208:4, 209:15,
 210:1, 230:17,
 257:2, 262:5,
 262:10, 280:1,
 296:6, 309:14,
 347:14, 357:7,
 357:11, 362:18,
 372:5, 372:7, 373:9,
 373:12, 376:7,
 377:1
newer [1] - 59:3
next [30] - 12:17,
 21:19, 60:4, 72:17,
 91:11, 98:19, 99:4,

122:17, 131:18,
 132:11, 171:18,
 249:11, 260:14,
 282:19, 284:4,
 296:17, 300:3,
 300:6, 308:17,
 318:13, 327:16,
 328:4, 328:8, 332:4,
 332:5, 332:15,
 334:5, 334:11,
 335:8, 353:1

next-door

[6] - 282:19, 284:4,
 296:17, 332:4,
 332:15, 335:8

nice [13] - 42:6, 65:1,
 81:14, 86:15, 87:1,
 87:2, 146:14, 207:9,
 207:11, 207:14,
 251:18, 393:18,
 394:2

nicer [1] - 257:15

nickname [1] - 344:8

night [8] - 8:8, 8:12,
 58:8, 121:18, 353:3,
 353:6, 353:11,
 386:15

nightmare

[1] - 129:10

nights [1] - 178:8

nine [10] - 23:9,
 56:14, 57:2, 95:11,
 122:2, 139:11,
 139:14, 151:8,
 371:5, 386:16

nine-thirty [1] - 23:9

nobody [7] - 12:18,
 42:4, 42:5, 87:10,
 161:10, 318:8,
 365:5

nobody's [3] - 98:10,

101:11, 180:15

non [27] - 139:2,

164:2, 265:18,
 266:6, 271:16,
 276:2, 276:17,
 277:15, 278:1,
 278:10, 278:15,
 286:9, 300:10,
 300:15, 313:5,
 323:14, 338:19,
 368:19, 369:4,
 369:19, 370:2,

370:3, 370:4, 371:3,
371:19, 383:4,
386:11

non-alcohol

[1] - 386:11

non-conforming

[23] - 164:2, 265:18,
266:6, 271:16,
276:2, 277:15,
278:1, 278:10,
278:15, 286:9,
300:10, 300:15,
313:5, 338:19,
368:19, 369:4,
369:19, 370:2,
370:3, 370:4, 371:3,
371:19, 383:4

non-conformity

[1] - 276:17

non-profit

[1] - 323:14

non-winter [1] - 139:2

none [1] - 158:14

noontime [1] - 15:15

North [2] - 280:4,

375:13

north [1] - 304:2

northeast

[4] - 303:11, 303:12,

304:14, 304:15

nose [1] - 39:2

NOT [1] - 402:15

Notary [2] - 402:5,

402:11

note [10] - 39:14,

201:16, 272:4,

298:11, 337:12,

339:6, 340:11,

340:15, 383:11,

401:6

noted [3] - 195:2,

347:5, 401:16

notes [5] - 4:2, 20:8,

21:13, 297:19,

354:17

nothing [13] - 9:12,

25:17, 26:13, 50:14,

50:19, 52:18, 82:18,

124:15, 126:2,

126:3, 168:9,

180:18, 245:7

notice [19] - 5:8, 8:1,

8:6, 8:10, 8:11,

8:14, 8:17, 9:16,
10:9, 10:10, 10:15,
12:14, 13:8, 13:15,
16:5, 41:7, 109:7,
133:10, 196:15

noticed ^[1] - 9:3

notify ^[1] - 196:13

noting ^[1] - 325:5

notion ^[1] - 309:18

nowadays ^[1] - 56:15

nuisance ^[4] - 316:16,

359:14, 366:10,

396:15

nullifying ^[5] - 272:2,

286:14, 313:10,

339:4, 383:9

number ^[22] - 68:15,

82:14, 97:16,

105:17, 108:19,

115:18, 146:2,

148:18, 149:12,

151:7, 183:9, 204:2,

204:18, 214:19,

215:12, 215:19,

298:12, 347:6,

349:7, 398:6, 398:7

numbered

^[4] - 272:14, 272:16,

367:3, 384:2

numbers ^[7] - 78:19,

105:14, 105:15,

116:6, 148:17,

154:15

numerical ^[1] - 36:12

numerous

^[1] - 117:14

O

o'clock ^[6] - 23:5,

57:17, 121:13,

122:2, 353:15,

386:16

O'GRADY ^[11] - 4:15,

14:6, 200:4, 200:12,

260:13, 260:17,

261:4, 261:14,

261:16, 340:11,

399:18

O'Grady ^[3] - 1:12,

14:2, 294:9

oak ^[3] - 306:17,

307:9, 307:10

Oak ^[1] - 398:13

Oakland [3] - 2:14,
 398:8, 399:2
Oasis [1] - 394:16
object [3] - 93:18,
 94:15, 182:11
objection
 [2] - 301:10, 381:3
objections [1] - 364:2
objectively
 [3] - 52:14, 53:12,
 55:11
obligated [1] - 164:17
obligation [3] - 54:16,
 55:6, 55:13
oblong [1] - 112:12
obscured [2] - 11:6,
 17:1
observation
 [2] - 160:2, 170:15
obstacles [1] - 159:13
obvious [2] - 71:3,
 193:14
obviously [8] - 73:3,
 115:17, 138:16,
 199:9, 205:8,
 210:15, 249:15,
 258:5
occasion [2] - 132:7,
 196:8
occasional
 [1] - 353:16
occupant
 [4] - 316:18, 359:16,
 366:13, 396:17
occupied [3] - 334:6,
 334:16, 335:15
occur [2] - 167:10,
 189:4
occurred [2] - 77:12,
 142:1
occurs [1] - 278:12
October [3] - 200:17,
 201:18
odd [2] - 369:12,
 375:1
oddly [1] - 369:12
OF [6] - 1:1, 1:2,
 402:2, 402:15,
 402:16, 402:16
offend [1] - 293:9
offense [1] - 245:11
offer [1] - 285:1
offered [1] - 68:13

offers ^[1] - 66:19
Office ^[1] - 301:1
office ^[8] - 56:19,
 57:11, 57:13, 103:7,
 112:9, 142:11,
 251:7, 324:5
office/library
^[1] - 238:1
offices ^[1] - 58:7
OFFICIAL ^[1] - 1:16
officials ^[2] - 69:17,
 225:3
OFFIONG ^[8] - 14:16,
 148:19, 149:3,
 149:9, 149:13,
 150:18, 192:13,
 193:4
Offiong ^[1] - 14:17
offset ^[2] - 98:2,
 169:19
often ^[5] - 15:8, 46:9,
 69:18, 219:16,
 223:1
oftentimes ^[1] - 57:15
old ^[16] - 38:19,
 176:10, 186:12,
 234:12, 237:3,
 287:12, 287:13,
 302:19, 305:5,
 323:8, 323:9,
 338:17, 375:9,
 378:12
older ^[3] - 291:9,
 370:9, 378:17
once ^[3] - 178:19,
 229:5, 262:3
one ^[156] - 3:13, 4:2,
 11:15, 17:3, 22:18,
 29:3, 31:9, 37:19,
 41:8, 41:13, 43:7,
 50:18, 61:6, 61:8,
 61:9, 61:12, 74:11,
 76:16, 77:11, 86:3,
 91:14, 95:12,
 102:15, 103:1,
 104:12, 107:6,
 109:6, 112:16,
 114:14, 116:11,
 117:4, 118:8,
 118:16, 119:1,
 120:8, 121:13,
 122:8, 122:13,
 126:5, 127:19,

130:12, 131:17,
131:18, 135:3,
136:19, 139:10,
139:13, 144:9,
153:12, 156:17,
163:4, 166:12,
167:4, 167:17,
174:1, 174:14,
179:17, 183:4,
183:7, 188:17,
192:7, 195:4,
198:17, 199:2,
200:17, 204:18,
205:16, 213:17,
223:9, 229:17,
231:5, 231:7, 233:1,
236:19, 238:11,
239:14, 239:15,
240:1, 240:11,
241:7, 245:19,
246:1, 247:19,
250:12, 255:3,
257:1, 268:11,
275:16, 277:8,
281:14, 282:5,
284:17, 284:18,
286:11, 287:13,
287:17, 288:2,
293:12, 297:19,
298:6, 299:18,
305:8, 308:17,
314:2, 319:6, 326:4,
327:19, 328:2,
328:4, 328:5, 328:6,
328:8, 329:2, 329:4,
329:17, 330:18,
332:3, 334:5,
334:11, 334:12,
335:6, 335:7, 336:3,
336:7, 336:12,
339:8, 341:2, 341:8,
344:11, 353:13,
354:17, 356:5,
360:11, 362:15,
362:16, 362:18,
364:5, 368:19,
369:19, 370:1,
370:8, 375:13,
375:19, 380:15,
382:2, 385:15,
386:11, 390:17,
391:2, 393:4, 395:1,
399:6

One ^[1] - 39:18
one's ^[1] - 198:7
one-family
^[2] - 329:17, 336:12
one-story ^[1] - 282:5
ones ^[2] - 239:17,
 288:10
op ^[1] - 324:5
Op ^[1] - 63:18
open ^[82] - 7:9, 22:2,
 23:7, 23:8, 23:15,
 24:3, 34:6, 37:9,
 42:3, 42:18, 48:8,
 49:2, 51:18, 51:19,
 55:4, 57:8, 57:11,
 57:13, 58:7, 58:12,
 67:3, 67:9, 67:15,
 73:10, 86:15, 103:7,
 124:19, 140:17,
 144:1, 151:17,
 155:4, 159:3,
 167:19, 168:1,
 168:4, 168:6, 168:9,
 168:10, 168:11,
 168:12, 168:13,
 169:12, 170:2,
 180:3, 180:12,
 180:13, 185:15,
 188:2, 199:19,
 205:7, 205:16,
 205:18, 207:4,
 208:15, 209:3,
 211:14, 213:3,
 230:13, 230:14,
 230:17, 238:17,
 240:7, 244:8, 257:2,
 257:9, 268:6,
 276:16, 281:9,
 297:10, 297:13,
 330:13, 352:16,
 353:9, 354:5,
 354:11, 364:19,
 375:11, 375:16,
 375:17, 392:14
opened ^[1] - 168:14
opening ^[3] - 41:9,
 51:14, 362:10
openings ^[1] - 143:19
openness ^[4] - 137:2,
 166:14, 166:15,
 167:17
opens ^[6] - 47:14,
 56:19, 73:17,

192:10, 324:18

operate [3] - 343:16,
345:18, 396:2

operated [1] - 345:7

operation

[7] - 316:12, 347:1,
352:13, 359:9,
365:18, 385:14,
396:12

operational

[6] - 23:19, 56:6,
58:2, 63:12, 99:10,
99:13

operationally

[1] - 83:3

operations

[2] - 63:13, 396:9

operator [4] - 356:2,

357:6, 357:8,
357:10

operators [1] - 386:9

opinion [5] - 186:5,

198:12, 220:17,
252:18, 399:16

oppo [1] - 139:10

opportunities

[1] - 196:3

opportunity

[7] - 60:1, 189:19,
196:2, 204:7, 221:2,
276:18, 346:5

oppose [1] - 301:6

opposed [9] - 90:13,

140:3, 159:14,
169:11, 177:8,
240:10, 250:16,
325:13, 341:2

opposition

[6] - 139:11, 297:3,
299:18, 305:11,
364:12, 366:8

option [2] - 353:5,

386:14

options [3] - 68:19,

71:6, 355:12

orange [2] - 29:4,

44:9

oranges [1] - 337:17

order [14] - 3:10,

80:10, 128:1, 188:3,
276:8, 318:10,
355:8, 356:1,
356:12, 359:7,

387:9, 396:2, 396:3,
399:12

Ordinance ^[37] - 5:14,
8:7, 78:10, 79:5,
166:16, 181:14,
262:9, 271:8, 272:3,
279:4, 279:10,
286:1, 286:15,
312:14, 313:11,
316:7, 316:14,
317:4, 325:11,
338:11, 339:5,
346:13, 350:17,
356:14, 357:5,
358:16, 358:17,
360:2, 365:11,
366:18, 382:17,
383:10, 386:2,
386:4, 393:4,
395:19, 397:3

ordinary ^[1] - 341:6

organization

^[1] - 158:7

organized

^[1] - 158:10

orientation

^[2] - 128:3, 130:13

oriented ^[3] - 81:15,
304:13, 308:8

original ^[14] - 32:19,
46:13, 47:15, 134:9,
231:12, 231:19,
233:4, 234:7, 240:4,
259:9, 259:11,
300:9, 382:6, 401:2

originally ^[10] - 14:19,
141:5, 159:19,
210:13, 211:5,
215:1, 278:4,
329:16, 336:6,
336:9

otherwise

^[11] - 138:16,
181:19, 260:17,
270:18, 286:6,
313:14, 317:3,
357:12, 360:1,
366:16, 397:2

ought ^[1] - 71:18

ounce ^[1] - 69:19

ourselves ^[1] - 174:4

outcry ^[1] - 70:8

outdoor ^[25] - 27:19,

28:2, 29:10, 29:11,
 29:19, 34:12, 53:5,
 66:18, 67:3, 67:4,
 67:8, 68:1, 87:1,
 88:13, 105:19,
 106:1, 106:6,
 134:15, 135:2,
 137:13, 148:4,
 148:11, 150:1,
 150:14, 213:6

outdoors ^[1] - 150:9

outline ^[1] - 370:8

outlined ^[2] - 90:7,
 92:14

outside ^[16] - 25:1,
 49:7, 50:16, 74:2,
 74:13, 91:6, 128:9,
 129:1, 132:17,
 150:17, 160:5,
 171:6, 171:9,
 184:15, 318:19

outweigh

^[2] - 187:16, 188:5

outweighs

^[1] - 138:19

overall ^[3] - 172:17,
 227:16, 349:5

overhang ^[2] - 67:14,
 74:12

overhanging

^[1] - 213:1

overly ^[1] - 101:13

owing ^[7] - 182:2,

183:5, 271:15,
 286:8, 313:4,
 338:16, 383:3

own ^[13] - 12:5, 57:19,

61:10, 66:13,
 101:18, 112:4,
 165:15, 175:13,
 300:2, 327:3, 327:4,
 329:17, 389:13

owned ^[3] - 61:8,

265:11, 300:4

owner ^[8] - 216:7,

217:1, 219:4,
 225:18, 235:5,
 290:18, 331:14,
 333:2

owner's ^[1] - 237:17

owners ^[2] - 59:3,

364:7

owns ^[3] - 64:10,

304:16, 335:12

P

P-i-t-k-i-n ^[1] - 79:17

P-l-o-s-i-n-s-k-i

^[1] - 364:10

p.m ^[16] - 1:5, 3:3,

4:14, 5:5, 5:11,

5:18, 7:1, 203:1,

262:1, 262:12,

264:1, 274:1, 290:1,

322:1, 342:1, 398:1

pack ^[1] - 135:7

package ^[2] - 69:10,

347:13

packaging

^[3] - 351:13, 351:16,

391:4

PAGE ^[2] - 2:2, 401:8

page ^[31] - 21:10,

21:11, 21:19, 27:17,

28:1, 28:6, 28:18,

32:2, 36:9, 36:10,

36:16, 52:19, 54:8,

81:13, 81:17, 81:18,

82:5, 82:7, 82:13,

129:18, 131:6,

131:15, 154:5,

155:5, 155:18,

156:2, 156:9,

156:14, 169:4,

339:16

pages ^[5] - 19:3,

239:18, 287:5,

314:3, 382:8

Pain ^[30] - 22:15,

29:5, 29:7, 31:18,

34:14, 38:19, 40:2,

40:12, 51:6, 51:18,

54:12, 54:13, 54:16,

55:4, 55:12, 59:13,

64:18, 73:14, 74:13,

75:15, 80:12, 86:18,

101:1, 102:11,

131:17, 143:12,

153:16, 167:19,

174:16

pair ^[1] - 377:7

Pamela ^[1] - 282:17

panel ^[2] - 193:14,

212:17

panels ^[3] - 12:6,

12:9, 12:12

panes ^[1] - 390:5
paper ^[1] - 239:15
papers ^[1] - 135:7
paragraph ^[1] - 355:4
parallel ^[3] - 81:18,
 107:15, 122:19
parcel ^[2] - 304:17,
 305:1
pardon ^[1] - 343:3
Paris ^[1] - 50:10
Parish ^[1] - 48:9
Park ^[3] - 88:9, 181:9,
 268:19
parking ^[13] - 24:8,
 81:16, 82:15, 213:2,
 220:13, 228:14,
 228:17, 387:13,
 387:15, 387:19,
 388:2, 398:14,
 399:6
Parking ^[2] - 20:19,
 24:11
parse ^[2] - 99:8, 99:9
part ^[30] - 45:17,
 50:18, 54:11, 56:5,
 61:14, 67:12, 75:12,
 93:13, 111:16,
 131:19, 173:12,
 176:10, 182:1,
 183:3, 212:7,
 232:17, 235:8,
 235:14, 242:12,
 257:3, 275:8, 285:2,
 306:7, 337:6,
 348:13, 349:9,
 362:9, 370:13
participation
^[2] - 16:6, 58:14
particular ^[16] - 20:4,
 40:5, 54:11, 54:14,
 61:9, 76:4, 172:19,
 234:4, 236:19,
 245:19, 246:7,
 250:18, 345:5,
 346:10, 346:16,
 350:14
particularly
^[5] - 247:18, 293:15,
 295:1, 345:12,
 350:12
parties ^[1] - 196:16
partly ^[1] - 51:19
partner ^[1] - 203:13

parts [1] - 208:16
pass [4] - 135:3,
 141:5, 141:9,
 302:19
passage [1] - 95:13
passageway
 [4] - 114:2, 132:12,
 133:1, 154:2
passed [3] - 79:8,
 132:15, 239:18
passes [1] - 341:16
passing [1] - 72:5
past [3] - 8:8, 208:17,
 267:10
PAT [1] - 250:5
Pat [2] - 250:5, 253:6
patience [2] - 162:17,
 252:17
patient [2] - 127:15,
 127:17
PATRICIA [2] - 110:8,
 110:18
Patricia [1] - 110:9
PATRICK
 [4] - 244:14, 248:2,
 248:7, 248:18
Patrick [1] - 244:14
patron [5] - 29:6,
 29:13, 149:16,
 150:2, 151:3
patrons [2] - 30:2,
 346:17
pattern [1] - 185:4
patterns [4] - 316:9,
 358:19, 365:14,
 396:4
PAUL [1] - 64:7
Paul [3] - 64:7, 97:10,
 284:1
pause [2] - 171:11,
 325:12
pavilion [2] - 169:16,
 170:1
paving [1] - 94:1
pay [9] - 54:16, 55:2,
 55:6, 58:15, 216:19,
 217:9, 217:11,
 219:4, 224:15
paying [2] - 55:13,
 86:19
pays [1] - 350:11
Pebble [3] - 114:17,
 115:9, 115:15

PEBBLE [34] - 115:9,

115:15, 117:13,
 118:3, 121:5,
 121:16, 122:3,
 122:8, 123:12,
 124:6, 124:10,
 125:8, 125:13,
 125:16, 126:1,
 126:14, 127:7,
 127:12, 127:19,
 128:13, 128:16,
 129:4, 129:13,
 129:15, 130:8,
 130:11, 130:19,
 131:4, 133:8,
 134:13, 135:6,
 135:10, 135:15,
 136:1

pedestrian

[6] - 12:18, 65:12,
 82:9, 129:12, 154:1

pedestrians

[3] - 67:19, 120:14,
 120:15

Pemberton [6] - 2:6,

264:7, 265:1, 269:7,
 269:8, 270:3

penalize [1] - 194:12**people** [127] - 8:15,

15:18, 17:3, 17:4,
 37:12, 43:9, 43:11,
 43:17, 44:4, 45:7,
 45:10, 52:10, 53:8,
 53:12, 53:15, 53:19,
 55:1, 55:5, 57:4,
 57:9, 57:16, 58:2,
 65:6, 65:7, 65:8,
 67:17, 68:4, 70:1,
 70:5, 70:16, 72:9,
 73:18, 74:5, 74:13,
 74:15, 74:17, 74:18,
 74:19, 75:13, 75:16,
 75:19, 76:2, 76:6,
 76:16, 78:4, 85:1,
 86:6, 86:16, 87:7,
 93:14, 93:16, 97:8,
 98:10, 98:12, 98:15,
 99:6, 100:9, 100:12,
 104:8, 104:17,
 105:12, 107:4,
 107:12, 107:17,
 108:5, 108:11,
 108:14, 112:1,

112:6, 113:6,
 118:10, 120:11,
 121:19, 122:12,
 125:5, 128:6, 131:6,
 132:7, 132:16,
 134:18, 138:8,
 138:11, 139:8,
 140:3, 140:4, 152:8,
 152:9, 154:14,
 154:17, 157:1,
 167:7, 168:8, 171:5,
 172:13, 177:9,
 177:19, 178:1,
 186:17, 192:18,
 194:12, 197:5,
 197:7, 197:18,
 199:10, 218:5,
 227:11, 236:15,
 236:17, 243:7,
 278:13, 349:14,
 353:4, 353:14,
 387:16, 388:14,
 388:16, 389:1,
 391:16, 400:1

per ^[4] - 68:17,
 206:16, 215:1,
 220:5

PERACOSE

^[2] - 393:10, 393:14

Peracose ^[1] - 393:14

perceive ^[1] - 143:2

perceived

^[1] - 138:19

percent ^[36] - 40:15,
 66:17, 73:13, 78:15,
 90:18, 91:18, 132:2,
 147:16, 148:3,
 148:9, 148:13,
 149:3, 149:13,
 149:14, 149:17,
 150:2, 150:3, 150:4,
 152:19, 169:9,
 170:19, 207:16,
 209:2, 232:8, 278:2,
 278:5, 278:6, 280:2,
 280:6, 280:7,
 280:12, 341:5,
 369:6, 372:12

percentage

^[3] - 169:7, 184:16,
 185:6

perceptive ^[1] - 234:4

perfect ^[2] - 49:8,

80:13

perfectly [2] - 177:2,
341:13

perforce [1] - 164:16

performers

[1] - 173:5

perhaps [7] - 56:5,
59:4, 60:3, 60:17,
63:12, 292:1,
293:12

perimeter [1] - 292:6

period [5] - 8:10,

8:14, 13:15, 117:8,
146:9

periodically [1] - 14:1

permission

[3] - 180:14, 399:1,
399:7

Permit [34] - 29:8,

278:3, 278:7,
292:18, 294:1,
295:7, 296:3, 310:4,
314:16, 315:15,
316:3, 316:6, 320:1,
320:17, 321:2,
345:8, 346:12,
355:19, 356:11,
356:15, 358:17,
358:18, 360:4,
361:11, 365:10,
365:12, 367:1,
369:7, 395:17,
396:1, 397:6,
398:11, 399:5

permit [1] - 40:1

permitted

[6] - 278:10, 294:3,
316:13, 325:11,
334:10, 366:1

perpendicular

[4] - 82:1, 82:8,
390:1, 390:13

PERRY [1] - 38:4

Perry [2] - 38:5, 47:2

persist [1] - 167:13

person [7] - 14:12,

54:17, 99:4, 105:3,
139:12, 298:1,
332:15

personal [4] - 39:13,

66:13, 255:9,
333:14

personally

[3] - 143:10, 184:5,
240:18

persons [3] - 152:19,
331:8, 392:4

perspective
[3] - 153:9, 168:19,
282:14

perspectives
[2] - 56:4, 90:3

pervasive [1] - 166:13

petition [6] - 182:19,
191:8, 191:18,
330:8, 331:2,
364:12

petitioner [14] - 5:7,
5:15, 181:19,
248:13, 262:3,
271:9, 286:2, 286:3,
312:15, 312:16,
359:5, 382:18,
382:19, 398:15

phases [1] - 131:16

philosophy
[1] - 93:18

phonetic [4] - 223:3,
281:16, 331:10,
393:15

phonetic [2] - 111:8,
363:17

photo [3] - 328:18,
348:8, 348:11

photograph
[1] - 141:4

photographs
[2] - 183:8, 302:13

photos [1] - 379:5

physical [3] - 65:10,
65:11, 142:10

physically [2] - 65:11,
144:2

Piano [1] - 50:16

picking [1] - 127:7

pickups [1] - 391:11

picture [5] - 90:10,
211:3, 318:14,
319:6, 333:18

pictures [2] - 129:19,
130:12

piece [6] - 25:10,
183:1, 195:9,
239:15, 242:2,
373:5

piecemeal

[1] - 141:12
pieces [5] - 112:10,
 112:11, 182:15,
 189:15, 196:2
pile [1] - 246:11
pillar [1] - 306:16
pilot [1] - 161:2
pink [2] - 39:12, 110:7
piss [1] - 186:14
pitch [1] - 301:9
pitched [2] - 328:11,
 331:5
PITKIN [1] - 79:16
Pitkin [1] - 79:17
Place [4] - 7:18,
 39:18, 97:6, 194:11
place [28] - 9:4, 11:6,
 42:6, 43:16, 45:5,
 49:7, 49:8, 65:19,
 77:11, 84:1, 84:9,
 84:19, 88:2, 88:7,
 100:13, 103:4,
 113:6, 134:6,
 137:12, 167:7,
 213:6, 219:9, 227:1,
 230:1, 293:16,
 318:8, 387:17
placed [3] - 13:3,
 13:5, 217:19
placement [2] - 14:4,
 81:15
places [4] - 33:13,
 85:3, 124:13,
 311:11
plaid [1] - 79:14
plan [52] - 22:1, 68:5,
 71:3, 71:5, 73:1,
 82:4, 105:17,
 108:13, 129:16,
 138:11, 155:11,
 155:16, 204:1,
 204:8, 205:15,
 205:17, 208:17,
 209:15, 209:19,
 210:4, 210:5,
 231:12, 233:4,
 234:7, 239:9,
 239:11, 240:9,
 258:12, 258:16,
 258:19, 298:3,
 302:16, 303:14,
 304:5, 304:12,
 305:15, 320:5,

320:6, 320:7,
 339:16, 340:11,
 340:14, 340:16,
 341:8, 345:10,
 347:12, 349:3,
 351:11, 370:17,
 374:8, 376:15
plane ^[1] - 41:2
planned ^[3] - 45:4,
 71:2, 391:11
planners ^[5] - 69:16,
 71:18, 89:5, 96:3,
 118:19
planning ^[4] - 72:13,
 89:8, 89:12, 193:7
Planning ^[4] - 258:16,
 259:3, 259:5,
 259:17
plans ^[61] - 5:16,
 18:15, 31:9, 32:1,
 52:17, 80:3, 133:4,
 133:5, 133:9,
 140:16, 140:19,
 175:12, 191:8,
 204:16, 207:8,
 208:4, 208:5, 208:7,
 208:9, 212:3,
 212:11, 214:12,
 253:16, 262:10,
 270:13, 270:14,
 270:15, 272:12,
 272:14, 272:15,
 282:11, 283:13,
 284:9, 284:11,
 287:3, 287:5,
 287:19, 288:4,
 298:16, 300:9,
 303:17, 313:19,
 314:3, 315:6, 331:4,
 337:15, 339:15,
 363:2, 363:4, 364:1,
 367:3, 375:4, 380:1,
 380:3, 381:1,
 381:15, 381:18,
 383:18, 384:2,
 399:3, 399:13
plant ^[1] - 95:19
planted ^[2] - 146:3,
 146:11
planter ^[11] - 65:10,
 71:12, 75:17,
 107:15, 122:19,
 123:8, 124:16,

125:3, 132:4, 132:6,
146:3

planters ^[1] - 123:18

planting ^[3] - 91:5,
114:3, 306:2

plants ^[2] - 112:17,
300:13

play ^[4] - 86:16,
132:8, 186:17,
371:12

players ^[4] - 25:6,
95:17, 132:7,
132:16

plaza ^[65] - 8:10, 8:18,
27:18, 27:19, 28:2,
29:2, 40:10, 42:10,
51:11, 68:11, 69:1,
71:13, 75:2, 75:7,
75:13, 90:6, 90:19,
91:3, 91:5, 91:6,
91:17, 91:19, 93:9,
93:10, 95:3, 95:7,
95:14, 98:3, 100:3,
100:15, 102:8,
104:6, 104:13,
105:9, 105:13,
107:1, 107:14,
112:19, 119:16,
120:4, 124:18,
127:2, 128:3, 128:7,
129:9, 129:10,
130:1, 130:4, 130:6,
130:14, 130:16,
134:9, 138:1, 138:7,
141:4, 141:6,
153:15, 160:14,
161:6, 175:17,
176:7, 185:15,
191:15

Plaza ^[57] - 9:5, 21:7,
25:1, 25:3, 26:7,
27:15, 34:16, 47:11,
51:18, 60:14, 60:15,
63:7, 66:18, 68:7,
83:11, 83:12, 88:5,
88:8, 90:1, 102:19,
113:4, 113:17,
115:19, 116:10,
119:11, 122:15,
133:1, 138:3, 153:8,
158:19, 163:8,
164:14, 165:2,
165:6, 165:10,

165:15, 166:5,
 167:3, 167:13,
 169:6, 170:10,
 173:10, 179:12,
 179:18, 180:3,
 182:12, 182:18,
 184:6, 185:8,
 188:13, 188:18,
 189:2, 189:6,
 190:12, 190:19,
 192:5, 195:16
plaza's ^[1] - 106:5
plazas ^[3] - 120:12,
 128:6, 135:12
pleased ^[6] - 19:18,
 207:3, 207:10,
 253:15, 325:13,
 337:11
pleasing ^[1] - 250:18
plenty ^[7] - 95:13,
 99:16, 166:19,
 179:10, 179:13,
 179:19
Plosiniski
^[1] - 364:10
plot ^[7] - 302:16,
 303:14, 303:17,
 304:4, 304:12,
 305:15, 339:16
plus ^[4] - 10:19, 42:9,
 252:9, 372:9
pluses ^[4] - 134:14,
 187:11, 187:16
point ^[43] - 11:15,
 51:5, 54:1, 61:6,
 61:15, 75:2, 105:1,
 125:9, 125:11,
 125:18, 126:17,
 139:19, 141:3,
 153:13, 165:12,
 175:16, 175:17,
 177:12, 177:16,
 179:8, 183:10,
 187:18, 188:15,
 189:19, 205:5,
 213:10, 213:18,
 216:4, 218:8,
 224:17, 225:3,
 228:11, 237:1,
 246:15, 251:19,
 254:4, 297:9, 325:6,
 347:17, 349:2,
 375:19, 400:2,

400:3
pointed [4] - 71:4,
 346:15, 355:2,
 359:4
pointing [3] - 94:11,
 133:6, 152:5
points [5] - 122:7,
 147:13, 165:13,
 189:12, 199:1
Polaroid [1] - 89:8
pole [2] - 306:15,
 307:8
police [2] - 11:13,
 252:8
polite [1] - 70:14
Polo [2] - 49:17,
 81:10
ponder [1] - 162:6
pops [1] - 329:13
popular [1] - 346:18
population
 [2] - 186:19, 355:10
Porcelli [1] - 99:3
porch [3] - 265:17,
 266:2, 267:16
portion [5] - 95:6,
 212:6, 300:19,
 308:19, 318:6
portions [3] - 69:7,
 248:11, 300:18
position [6] - 158:3,
 164:18, 165:18,
 196:19, 219:8,
 294:17
positions [1] - 198:5
positive [2] - 185:19,
 252:6
possibility
 [1] - 194:15
possible [14] - 37:11,
 72:14, 75:7, 80:13,
 80:19, 105:2, 105:7,
 219:18, 223:1,
 227:8, 247:18,
 253:19, 387:6
possibly [5] - 13:8,
 87:3, 189:8, 377:6,
 377:8
post [1] - 111:10
posted [7] - 9:15,
 9:19, 10:3, 10:5,
 15:10, 15:14, 15:16
poster [3] - 206:8,

207:2, 223:5
posting [4] - 5:9,
 7:10, 16:4, 109:7
postponed [1] - 13:14
potential [1] - 56:12
pour [1] - 56:17
poured [2] - 378:16,
 378:18
power [1] - 112:4
PowerPoint
 [2] - 92:8, 92:17
practical [1] - 66:3
practice [4] - 38:10,
 163:12, 164:3,
 196:5
Prague [1] - 176:7
praised [2] - 199:12
pre [3] - 238:13,
 266:6, 310:4
pre-existing
 [1] - 266:6
pre-zoning [1] - 310:4
preached [1] - 112:6
preceded [1] - 64:11
precious [1] - 180:12
precisely [1] - 32:14
predates [1] - 291:7
prefer [5] - 145:1,
 222:18, 254:15,
 258:6, 276:6
preference [1] - 25:14
preferences
 [1] - 198:5
preliminary
 [1] - 221:3
premise [2] - 386:5,
 396:8
premises [1] - 396:11
prepared [6] - 189:17,
 272:13, 287:3,
 313:19, 339:15,
 383:18
preparing [1] - 314:7
present [6] - 25:11,
 27:11, 170:8,
 333:16, 333:19,
 389:3
presentation
 [7] - 26:15, 34:6,
 85:15, 92:17, 190:2,
 210:1, 221:3
presentations
 [1] - 92:8

presented [4] - 30:6,
 108:9, 189:13,
 245:16
presently [2] - 73:11,
 150:7
president [1] - 38:9
President [1] - 117:3
presumably
 [1] - 13:12
pretty [13] - 29:18,
 42:5, 90:8, 104:11,
 140:2, 225:17,
 252:19, 291:3,
 309:9, 310:3,
 310:13, 336:4,
 345:9
previous [9] - 9:17,
 44:15, 52:15, 54:1,
 81:17, 136:13,
 212:11, 239:9,
 242:18
previously
 [6] - 54:10, 212:19,
 236:14, 238:16,
 242:16, 396:9
price [9] - 209:4,
 216:2, 216:7, 217:1,
 217:8, 217:11,
 219:4, 228:2,
 355:14
prices [4] - 60:18,
 68:15, 69:1, 71:8
primarily [1] - 156:8
prime [1] - 142:13
principal [1] - 107:7
priority [1] - 217:19
privacy [3] - 295:15,
 296:5
private [4] - 40:18,
 57:14, 100:4, 104:8
privilege [2] - 111:1,
 111:4
problem [19] - 5:3,
 10:16, 44:14, 56:5,
 74:10, 86:18,
 106:10, 187:9,
 197:19, 209:6,
 217:6, 230:9,
 233:16, 237:9,
 245:13, 245:15,
 284:10, 325:4
problems [11] - 16:12,
 71:3, 102:17,

102:18, 103:2,
122:9, 146:7, 179:2,
208:6, 387:12

proceed [11] - 7:14,
17:16, 270:14,
272:12, 287:3,
313:18, 315:5,
320:4, 339:14,
367:3, 383:18

proceeding

[1] - 16:12

proceedings

[1] - 402:7

process [5] - 64:13,
71:3, 140:15, 198:1,
399:8

produce [2] - 96:7,
387:14

product [2] - 346:16,
357:6

professional

[1] - 322:17

Professor [1] - 281:2

professor [1] - 281:3

profit [2] - 68:16,
323:14

program [4] - 32:10,
38:16, 101:13,
160:3

programming

[1] - 160:14

programs [5] - 30:5,
31:15, 160:9,
160:18, 161:1

progress [2] - 40:17,
41:9

progresses

[1] - 308:18

prohibited

[1] - 365:13

project [50] - 41:10,
46:15, 63:16, 64:3,
72:15, 87:16, 88:18,
116:19, 136:15,
141:2, 145:7,
145:19, 146:1,
164:19, 165:2,
165:4, 165:8, 167:1,
169:4, 170:8,
188:19, 198:8,
199:9, 199:11,
205:9, 209:13,
218:2, 221:8,

226:17, 231:2,
 231:13, 235:18,
 236:6, 245:15,
 246:1, 247:8,
 247:16, 250:11,
 252:11, 253:11,
 255:3, 257:15,
 259:18, 274:18,
 284:12, 285:7,
 324:15, 324:16,
 339:7, 381:3
projected [1] - 21:8
projection
 [1] - 112:16
projections
 [1] - 155:7
projects [4] - 72:16,
 117:2, 191:1,
 323:18
promenade [1] - 65:5
prominence
 [1] - 208:15
prominent [2] - 85:8,
 85:9
proper [7] - 8:1,
 13:14, 75:1, 143:16,
 164:4, 280:10
properly [2] - 294:3,
 320:10
properties
 [4] - 226:13, 226:14,
 227:17, 296:15
Properties
 [2] - 136:9, 350:8
property [35] - 37:3,
 122:17, 216:1,
 216:2, 216:5,
 216:11, 218:6,
 218:11, 219:5,
 224:3, 224:15,
 225:13, 226:16,
 227:5, 227:9,
 229:17, 232:17,
 249:13, 262:4,
 265:11, 269:11,
 278:16, 283:18,
 285:6, 290:18,
 295:11, 295:19,
 296:7, 300:7,
 305:13, 305:17,
 350:8, 364:6, 399:1
proportion [1] - 44:18
proportional

[1] - 83:18

proportionate

[1] - 40:8

proposal [12] - 26:6,

26:14, 27:1, 28:2,

65:9, 67:12, 80:6,

139:15, 193:15,

197:2, 275:18,

276:11

proposals [1] - 237:5

proposed [29] - 22:3,

28:19, 29:9, 36:19,

154:7, 155:11,

155:12, 155:16,

190:4, 204:1, 269:1,

282:10, 282:12,

284:16, 300:6,

300:13, 302:7,

302:10, 316:15,

316:19, 317:1,

337:14, 359:11,

359:18, 366:2,

366:14, 366:15,

396:14, 396:19

proposes [1] - 66:17

proposing [8] - 90:15,

91:18, 141:18,

157:18, 182:13,

218:15, 337:7,

348:5

proposition

[2] - 270:5, 291:4

proprietor

[1] - 343:12

Prospect [1] - 393:1

protect [3] - 104:7,

166:16, 271:13

protected

[2] - 104:14, 134:1

protruding [1] - 348:5

proud [1] - 209:8

prove [1] - 294:13

proved [1] - 310:2

provide [10] - 59:14,

59:15, 207:9,

207:14, 233:18,

240:9, 258:17,

258:18, 259:13,

388:19

provided [10] - 8:4,

10:19, 37:7, 137:7,

196:16, 210:18,

283:14, 298:16,

391:6
provides ^[4] - 21:5,
23:17, 59:13,
377:13
providing ^[1] - 24:18
provision ^[1] - 357:5
provisions
^[5] - 271:8, 286:1,
312:14, 338:11,
382:17
pro ^[3] - 205:2,
208:16, 236:4
Public ^[2] - 402:5,
402:11
public ^[152] - 8:1,
12:8, 13:16, 19:9,
20:13, 21:17, 22:2,
22:7, 23:14, 23:15,
28:11, 34:6, 37:9,
40:5, 40:7, 40:9,
41:11, 41:12, 42:1,
42:2, 42:3, 42:4,
44:17, 45:2, 45:13,
49:3, 49:7, 49:12,
52:13, 54:6, 55:14,
59:19, 65:1, 66:1,
66:3, 66:8, 66:18,
67:1, 67:2, 67:4,
67:9, 67:10, 67:15,
69:6, 69:8, 69:9,
70:7, 70:10, 70:11,
70:13, 70:16, 71:9,
78:1, 78:3, 79:10,
80:2, 80:4, 80:18,
81:1, 83:5, 85:12,
88:2, 97:15, 98:1,
98:5, 98:6, 98:9,
100:3, 100:15,
101:14, 102:8,
103:1, 104:1,
104:10, 104:13,
105:13, 108:3,
108:6, 114:12,
116:13, 116:14,
117:15, 122:18,
126:16, 126:18,
128:12, 130:15,
134:2, 134:6,
136:17, 137:16,
138:3, 138:13,
139:1, 139:5,
139:16, 140:7,
140:15, 140:17,

143:8, 144:3, 151:2,
 151:4, 151:17,
 151:18, 151:19,
 152:2, 152:10,
 160:10, 163:7,
 164:6, 165:14,
 166:17, 167:1,
 167:18, 168:14,
 168:17, 177:18,
 180:13, 182:8,
 182:15, 186:9,
 187:7, 190:6,
 195:12, 197:7,
 198:2, 204:5, 206:2,
 221:1, 244:9, 268:6,
 272:1, 281:9,
 285:11, 286:13,
 297:11, 297:14,
 313:9, 330:14,
 339:3, 351:9,
 354:12, 365:1,
 365:6, 383:8,
 387:13, 388:5,
 392:14
public's [2] - 127:2,
 162:17
publicly [2] - 82:16,
 133:19
publics [1] - 81:2
pulling [5] - 178:10,
 178:11, 214:17,
 373:17, 374:4
purchase [1] - 137:10
purpose [11] - 267:3,
 272:3, 286:15,
 313:11, 317:4,
 317:18, 339:5,
 360:2, 366:17,
 383:10, 397:3
purposely
 [1] - 174:13
pursue [1] - 224:11
pursuing [1] - 294:10
purview [1] - 123:17
push [1] - 233:7
pushback [1] - 70:18
pushed [4] - 174:16,
 305:12, 314:11
pushes [1] - 143:12
pushing [3] - 177:10,
 230:5
put [48] - 10:10,
 10:13, 14:10, 14:15,

25:9, 33:17, 45:16,
 50:12, 74:4, 75:14,
 75:17, 76:15, 77:17,
 83:13, 95:11, 97:14,
 98:11, 107:14,
 107:15, 112:9,
 112:19, 138:5,
 140:9, 152:8, 153:8,
 156:18, 160:4,
 183:7, 207:16,
 209:2, 225:12,
 229:8, 237:7, 245:2,
 247:4, 277:14,
 292:4, 318:10,
 326:6, 337:16,
 340:6, 371:10,
 389:17, 394:9,
 394:11

puts ^[2] - 84:10,
 278:18

putting ^[16] - 36:3,
 82:7, 83:19, 84:3,
 91:4, 128:19, 129:7,
 132:9, 158:2, 162:1,
 177:11, 211:16,
 214:11, 245:1,
 374:2, 390:6

puzzled ^[2] - 319:14,
 319:15

pyramid ^[3] - 50:12,
 50:13

Q

qualitative ^[1] - 67:7

quality ^[4] - 21:6,
 111:8, 147:2,
 388:19

quarter ^[2] - 10:2,
 245:8

quasi ^[1] - 227:17

queen ^[1] - 254:19

questioned

^[1] - 180:1

questions ^[31] - 20:5,
 20:10, 21:14, 25:15,
 26:1, 26:18, 30:15,
 34:3, 34:9, 81:12,
 83:2, 140:8, 147:9,
 147:11, 167:4,
 174:14, 174:16,
 244:13, 268:3,
 268:6, 277:6,
 293:19, 296:19,

297:9, 311:5,
 330:10, 333:15,
 338:2, 354:3, 356:7,
 364:16

quick ^[1] - 81:12

quickly ^[1] - 253:19

quiet ^[1] - 84:16

quite ^[6] - 51:9, 99:16,
 112:4, 210:16,
 212:5, 268:1

quote ^[2] - 64:1,
 103:15

R

R&D ^[4] - 229:15,
 230:1, 246:17,
 251:6

R-a-f-a-e-l ^[1] - 362:4

R-a-v-i-c-z
^[1] - 264:18

R-o-l-a-n-d-o
^[1] - 89:4

racks ^[3] - 24:13,
 81:19, 82:3

RAFAEL

^[12] - 361:13,
 361:16, 362:3,
 363:5, 363:8,
 363:12, 363:15,
 364:8, 364:15,
 366:6, 366:9,
 367:12

Rafael ^[1] - 362:4

RAFFERTY

^[37] - 194:18, 199:6,
 274:11, 275:15,
 277:13, 277:19,
 279:7, 279:13,
 280:15, 280:19,
 287:9, 287:15,
 288:3, 288:8,
 288:11, 289:2,
 342:11, 342:17,
 343:9, 343:19,
 344:2, 344:12,
 344:19, 347:16,
 348:6, 350:6, 351:7,
 352:1, 352:7,
 353:18, 356:16,
 356:19, 357:11,
 357:16, 357:19,
 358:6, 358:11

Rafferty ^[6] - 194:19,

274:10, 274:13,
 342:13, 354:19,
 355:2

Rafferty's [1] - 198:18

rafters [1] - 370:10

rain [2] - 74:14, 185:5

rains [1] - 177:5

raise [2] - 7:10, 292:3

raised [17] - 20:5,
 20:10, 31:10, 91:6,
 91:16, 93:9, 120:9,
 122:11, 146:4,
 163:13, 164:8,
 165:14, 190:6,
 229:3, 282:7

raising [2] - 87:11,
 275:6

ramp [2] - 32:7, 95:11

ramps [1] - 12:18

ran [1] - 133:15

rate [1] - 214:14

rather [16] - 51:2,
 72:1, 81:7, 116:5,
 120:2, 163:9, 186:1,
 227:2, 232:5, 244:3,
 258:12, 272:5,
 310:19, 346:7,
 353:3, 385:10

ratio [3] - 219:11,
 220:3, 220:4

rational [1] - 181:14

RAVICZ [4] - 264:12,
 264:18, 265:12,
 269:15

Ravicz [2] - 264:17,
 269:6

Ray [1] - 364:13

re [2] - 200:14, 320:2

re-advertised
 [1] - 200:14

reaching [1] - 170:12

react [1] - 212:10

reaction [1] - 207:11

read [20] - 7:12, 19:1,
 21:12, 37:15, 66:14,
 109:2, 118:17,
 119:6, 119:19,
 135:13, 135:16,
 139:17, 213:14,
 233:10, 268:14,
 299:4, 331:15,
 355:4, 395:11,
 401:15

reading ^[6] - 68:9,
117:17, 177:13,
181:14, 398:18,
401:6

Reading ^[14] - 4:7,
66:16, 268:18,
269:5, 270:3,
281:19, 282:18,
284:2, 284:19,
300:1, 355:4,
355:17, 364:10,
380:19

ready ^[16] - 10:15,
162:14, 164:11,
200:9, 270:8,
270:16, 285:13,
311:6, 311:8, 338:2,
338:4, 356:8, 356:9,
365:8, 382:10,
395:14

real ^[5] - 42:8, 44:13,
137:4, 138:19,
246:18

realer ^[1] - 142:19

reality ^[5] - 209:7,
221:12, 222:4,
222:6

realize ^[1] - 75:6

realizing ^[2] - 47:10,
110:19

really ^[84] - 12:1,
12:19, 32:9, 40:19,
42:4, 46:14, 47:18,
48:13, 49:1, 60:7,
61:15, 62:19, 74:9,
76:3, 76:15, 77:18,
80:18, 81:12, 87:3,
91:10, 92:3, 92:15,
93:4, 93:12, 94:15,
99:9, 100:2, 106:4,
106:12, 111:8,
113:16, 114:6,
116:3, 133:19,
135:14, 140:13,
155:2, 156:19,
163:6, 166:17,
174:15, 175:1,
180:10, 180:13,
185:11, 185:12,
186:3, 187:14,
188:10, 197:14,
199:14, 206:13,
207:4, 207:11,

209:16, 209:18,
 212:5, 212:9,
 212:10, 212:12,
 213:17, 214:4,
 221:10, 224:2,
 225:9, 243:15,
 245:14, 246:3,
 247:6, 247:8, 248:3,
 252:4, 257:11,
 293:14, 309:10,
 324:17, 325:2,
 357:6, 375:6,
 379:16, 386:12,
 387:5, 388:16,
 399:4

realm ^[1] - 122:18

rear ^[2] - 269:9, 318:6

rearranging

^[1] - 323:16

REASON ^[6] - 401:9,

401:10, 401:11,

401:12, 401:13,

401:14

reason ^[20] - 3:13,

43:1, 54:15, 70:17,

117:5, 118:14,

122:13, 142:13,

146:3, 161:17,

161:19, 183:1,

192:1, 267:5, 294:9,

305:12, 310:15,

369:1, 399:10,

401:7

reasonable

^[3] - 70:15, 225:11,

282:13

reasons ^[12] - 17:4,

22:18, 43:4, 49:14,

126:4, 145:8,

156:17, 236:16,

277:1, 292:14,

301:4, 370:5

rebuild ^[2] - 291:18,

295:4

rebut ^[2] - 124:2,

125:4

rebuttal ^[1] - 173:12

receding ^[1] - 248:17

receipt ^[3] - 4:5,

139:6, 331:2

received ^[2] - 25:6,

204:2

recently ^[2] - 176:6,

179:3

receptacle

[2] - 349:17, 350:4

receptacles

[1] - 349:12

recognizable

[1] - 80:15

recognize

[1] - 209:10

recognizing

[1] - 146:12

recommend [1] - 96:6

recommendation

[5] - 135:11, 258:17,
259:5, 259:17,
399:16

recommended

[2] - 20:18, 24:11

reconfiguration

[1] - 59:12

reconsider [1] - 199:3

reconstituted

[1] - 346:2

RECORD [1] - 1:16

record [19] - 17:16,

27:14, 52:8, 87:14,
139:16, 197:13,
258:11, 264:14,
268:15, 312:3,
337:6, 350:13,
353:8, 356:3,
361:15, 361:19,
371:15, 401:17,
402:6

records [3] - 101:19,

102:1, 291:10

recovering [1] - 283:9

rectangle [1] - 169:14

recycling [1] - 391:18

red [6] - 36:19, 82:2,

90:7, 92:15, 242:15,
370:7

redefine [1] - 64:2

redesign

[16] - 164:18, 165:7,
165:11, 165:14,
166:10, 188:13,
190:11, 190:17,
191:5, 191:12,
191:17, 192:1,
243:4, 243:11,
247:7, 255:3

redesigned

[1] - 165:4
reduce [11] - 68:2,
 69:9, 97:1, 124:17,
 188:17, 207:17,
 214:2, 235:11,
 309:19, 310:16,
 387:12
reduced [10] - 68:11,
 164:15, 164:16,
 165:6, 165:10,
 165:16, 165:17,
 166:2, 179:18,
 209:4
reduces [1] - 257:18
reducing [8] - 44:14,
 58:13, 90:17,
 124:11, 182:12,
 208:15, 310:18,
 373:15
reduction [6] - 59:11,
 66:17, 67:9, 68:12,
 82:14, 124:11
reengagement
 [1] - 60:3
reevaluate [1] - 77:18
refer [3] - 219:16,
 240:1, 303:3
reference [1] - 373:6
referenced [1] - 15:12
referencing [1] - 4:6
referred [4] - 155:10,
 344:5, 350:19,
 354:19
referring [2] - 205:2,
 306:4
refers [1] - 287:18
refine [1] - 96:7
reflect [5] - 5:10,
 23:11, 50:3, 51:3,
 262:5
refuge [1] - 119:12
regard [15] - 167:3,
 271:6, 272:4,
 285:17, 286:16,
 316:3, 320:2, 320:5,
 338:8, 339:6,
 356:11, 365:9,
 366:3, 383:11,
 398:12
regarding [4] - 20:13,
 21:1, 24:8, 24:16
regardless
 [2] - 167:2, 169:6

regards ^[1] - 284:8
regretfully ^[1] - 301:5
regular ^[2] - 80:1,
 346:4
regulation ^[2] - 12:2,
 12:3
regulations
^[1] - 250:13
regulatory ^[1] - 141:1
Reiter ^[1] - 111:7
reject ^[1] - 67:11
rejected ^[1] - 197:2
rejection ^[1] - 165:9
related ^[7] - 83:19,
 164:7, 183:12,
 195:6, 262:11,
 276:9, 278:16
relates ^[2] - 119:10,
 314:15
relating ^[1] - 182:3
relative ^[1] - 137:4
relatively ^[2] - 146:8,
 372:3
relevant ^[3] - 279:3,
 355:4, 357:1
relief ^[61] - 78:13,
 78:15, 79:5, 83:17,
 137:5, 137:7, 182:6,
 183:2, 183:11,
 190:13, 190:16,
 205:19, 206:10,
 207:3, 207:4, 207:5,
 219:13, 220:8,
 221:9, 223:5,
 223:15, 224:19,
 225:7, 225:8,
 228:14, 229:1,
 255:9, 257:19,
 266:7, 266:18,
 267:13, 270:13,
 271:17, 271:18,
 271:19, 272:5,
 277:5, 277:11,
 279:1, 280:1,
 286:12, 287:8,
 294:6, 313:8,
 320:13, 325:5,
 325:6, 325:13,
 338:18, 339:1,
 339:2, 340:8,
 347:19, 376:3,
 383:5, 383:7,
 383:12, 395:13

relieve [1] - 119:13
relieved [2] - 253:10,
 253:13
relocate [2] - 235:16,
 316:4
relocated [1] - 365:12
relocation [2] - 295:7,
 296:4
remain [1] - 190:5
remained [3] - 53:6,
 64:15, 103:7
remaining
 [1] - 345:17
remedy [1] - 95:10
remember [8] - 8:13,
 11:8, 61:11, 102:4,
 112:2, 113:7, 179:2,
 244:3
remind [2] - 40:16,
 78:9
remodel [1] - 362:6
remodeled
 [1] - 362:15
removal [2] - 122:11,
 320:3
remove [7] - 123:14,
 126:19, 235:8,
 236:3, 291:18,
 340:3
removed [8] - 15:13,
 51:8, 52:18, 213:3,
 234:18, 235:10,
 235:14, 313:2
removing [5] - 29:12,
 55:12, 82:12, 129:7,
 153:14
rendered [1] - 155:5
rendering [5] - 81:13,
 82:18, 92:13, 156:2,
 242:18
renderings
 [4] - 89:17, 94:12,
 142:17, 291:1
renovate [1] - 276:18
renovated [1] - 283:3
renovation
 [3] - 283:15, 284:11,
 381:1
renovations
 [7] - 54:5, 54:8,
 182:13, 275:10,
 291:12, 298:17,
 387:4

rent [2] - 59:4, 68:17
rented [1] - 38:6
rents [2] - 265:16,
 300:18
Renzo [1] - 50:15
reopens [1] - 57:2
repairing [1] - 284:6
repeat [2] - 37:18,
 79:12
repetitive [2] - 191:7,
 191:18
replace [5] - 40:2,
 150:10, 298:7,
 301:16, 347:12
replaced [3] - 40:12,
 298:9, 382:5
replacement
 [4] - 9:15, 9:18,
 293:16, 301:12
replacing [1] - 24:18
replant [1] - 96:1
replete [1] - 359:5
replica [1] - 292:9
reply [3] - 8:18, 11:1
report [8] - 4:4, 331:1,
 332:14, 337:6,
 346:6, 380:16,
 395:10, 398:9
REPORTER
 [1] - 402:17
Reporter [2] - 402:4,
 402:12
REPORTERS
 [1] - 1:15
represent
 [3] - 136:10, 203:14,
 347:5
representative
 [1] - 52:9
represented
 [2] - 298:18, 366:3
representing
 [2] - 34:16, 342:13
REPRODUCTION
 [1] - 402:15
request [17] - 4:8,
 4:11, 19:4, 37:10,
 153:7, 163:10,
 181:10, 193:19,
 195:19, 205:18,
 218:3, 285:5, 314:6,
 369:2, 372:9, 376:6,
 398:19

requested ^[16] - 20:3,
21:4, 26:9, 27:19,
37:7, 205:19, 207:5,
219:13, 221:9,
272:11, 277:5,
287:2, 320:2,
365:10, 383:17,
397:6

requesting
^[6] - 83:16, 266:7,
368:18, 369:5,
369:9, 399:11

require ^[7] - 67:16,
101:9, 166:16,
207:2, 339:1, 340:8,
365:11

required ^[16] - 5:14,
8:9, 8:14, 10:9,
26:8, 69:5, 201:6,
262:8, 277:11,
277:17, 278:17,
350:17, 356:12,
371:4, 375:17,
376:11

requirement
^[5] - 206:3, 206:18,
206:19, 207:7,
230:15

requirements
^[10] - 14:5, 227:10,
283:17, 316:5,
316:6, 358:17,
365:11, 391:2,
392:2, 395:19

requires ^[9] - 54:16,
196:7, 216:8, 226:8,
271:17, 271:18,
292:18, 358:16,
383:5

rescheduling
^[1] - 12:10

research ^[1] - 223:4

reserved ^[1] - 40:8

reside ^[1] - 380:18

residence
^[1] - 253:14

residences
^[1] - 353:13

resident ^[9] - 48:6,
48:14, 72:4, 80:18,
172:11, 265:13,
299:12, 343:10,
393:16

residential

[34] - 205:14, 206:4,
 206:5, 206:7,
 209:12, 209:16,
 209:18, 212:6,
 216:5, 216:15,
 216:17, 218:10,
 218:16, 218:19,
 219:17, 220:7,
 220:12, 226:13,
 226:18, 227:1,
 227:17, 227:18,
 229:6, 247:14,
 248:19, 251:13,
 251:14, 252:2,
 252:4, 253:14,
 259:19, 300:19

residentially

[1] - 225:15

residents [2] - 43:14,
 44:3

resides [5] - 270:3,
 299:2, 299:5,
 331:11, 332:16

resisted [1] - 103:6

resolved [2] - 82:15,
 253:19

resources [1] - 11:18

RESPECT

[1] - 402:16

respect [15] - 47:2,
 50:7, 167:9, 168:5,
 210:7, 219:7,
 228:10, 271:11,
 302:11, 312:10,
 315:15, 370:3,
 372:15, 382:13,
 395:17

respectful [4] - 39:4,
 179:17, 231:9,
 375:15

respectfully [2] - 4:7,
 301:14

respond [5] - 140:6,
 183:15, 208:19,
 209:9, 221:10

responded [3] - 19:4,
 137:1, 225:3

responding [2] - 20:9,
 102:6

Response [11] - 3:19,
 268:10, 281:12,
 297:12, 297:17,

330:12, 330:17,
 354:4, 354:15,
 365:4, 380:13

response [9] - 9:2,
 70:15, 153:13,
 153:18, 154:5,
 188:10, 196:17,
 231:10, 257:3

responsible
 [1] - 224:5

responsive
 [2] - 197:10, 198:3

rest [7] - 10:8, 76:2,
 106:17, 134:10,
 258:4, 336:4, 382:4

Restaurant
 [2] - 64:10, 343:13

restaurant
 [11] - 249:6, 343:16,
 351:5, 359:12,
 359:13, 385:10,
 385:19, 388:8,
 389:8, 391:16,
 393:11

restaurants
 [5] - 161:8, 161:18,
 174:12, 386:8,
 394:1

restore [1] - 39:7

restrict [1] - 248:3

restricted [2] - 29:4,
 300:12

restrictions
 [1] - 29:13

restroom [1] - 151:4

restrooms
 [12] - 49:12, 82:17,
 83:1, 88:2, 151:2,
 152:1, 152:3,
 152:10, 186:9,
 186:12, 188:18,
 188:19

result [5] - 12:9,
 197:2, 211:13,
 211:16, 300:12

resulting [3] - 102:18,
 276:17, 276:19

results [1] - 123:13

resumed [1] - 57:18

retail [9] - 58:13,
 58:16, 60:9, 60:17,
 71:6, 88:14, 172:8,
 212:8, 345:5

retaining ^[1] - 33:2
rethought ^[1] - 64:3
reveal ^[1] - 47:14
review ^[1] - 193:19
reviewed ^[2] - 20:7,
 282:11
reviewing ^[1] - 117:2
revised ^[2] - 204:8,
 204:16
revision ^[2] - 201:5,
 287:11
revisit ^[1] - 108:12
revisiting ^[1] - 61:4
revisory ^[1] - 201:5
reward ^[1] - 246:13
rewrite ^[1] - 223:1
rezoned ^[1] - 278:13
rezoning ^[1] - 278:12
rhythm ^[1] - 329:10
RICHARDS ^[1] - 73:6
Richards ^[3] - 73:7,
 97:11, 107:12
rid ^[1] - 123:6
ride ^[1] - 171:2
ridge ^[1] - 370:15
rights ^[1] - 104:7
rigid ^[1] - 113:11
rings ^[1] - 226:1
ripped ^[1] - 14:8
ripple ^[1] - 165:3
risk ^[1] - 60:18
River ^[1] - 171:4
river ^[1] - 110:15
Riverside ^[1] - 324:2
road ^[2] - 110:18,
 131:8
Robert ^[1] - 268:17
ROLANDO ^[7] - 89:3,
 89:11, 90:12, 94:5,
 94:9, 96:15, 96:19
Rolando ^[1] - 89:4
role ^[2] - 59:5, 163:7
roll ^[1] - 328:11
roof ^[14] - 27:3, 51:15,
 78:16, 185:11,
 185:17, 236:15,
 238:8, 292:2, 292:3,
 309:14, 313:13,
 328:11, 331:5,
 370:16
roofscape
^[1] - 308:11
roofscapes

[1] - 309:2
rooftop [1] - 88:12
room [17] - 72:8,
 92:11, 97:12, 146:5,
 164:1, 275:16,
 283:5, 323:12,
 323:16, 370:11,
 374:15, 374:18,
 375:8, 375:9,
 375:10
rooms [2] - 341:12,
 370:11
rose [1] - 253:8
Rosie's [4] - 386:6,
 387:2, 389:19,
 392:10
rotating [1] - 58:8
Roth [2] - 268:17,
 268:18
rough [1] - 106:14
roughly [3] - 105:16,
 169:8, 256:10
round [4] - 22:8,
 22:11, 181:6, 256:3
rounded [3] - 254:6,
 256:6, 256:7
row [2] - 328:17,
 329:7
rubber [2] - 226:9,
 238:8
run [2] - 48:8, 210:6
running [2] - 48:19,
 76:10
runs [3] - 131:19,
 177:7, 400:4
RUSSELL [2] - 39:13,
 39:17
Russell [4] - 39:18,
 103:15, 103:18,
 104:3

S

S-c-h-a-e-f-e-r
 [1] - 83:9
S-e-k-l-e-r [1] - 110:9
S-h-e-f-f-i-e-l-d
 [1] - 265:6
S-u-k [1] - 274:14
S001 [1] - 272:17
safety [9] - 23:18,
 99:12, 99:14, 145:8,
 316:17, 359:16,
 366:12, 387:13,

396:17
Salla [1] - 363:17
SAM [1] - 48:4
Sam [1] - 48:4
SAME [1] - 402:16
Sanborn [1] - 305:5
sandwiches
 [1] - 386:7
Sarah [1] - 48:8
satisfied [2] - 191:12,
 312:3
Saturday [2] - 9:18,
 57:8
Saturdays [1] - 57:16
savings [1] - 341:11
Savings [2] - 87:14,
 171:18
saw [7] - 175:19,
 253:15, 331:14,
 333:4, 343:1, 364:1,
 376:16
scale [11] - 57:5, 64:4,
 82:6, 92:15, 142:18,
 143:16, 207:17,
 211:8, 251:8, 253:9,
 253:18
scare [1] - 74:17
SCHAEFER [1] - 83:8
Schaefer [1] - 83:9
SCHAW [1] - 342:19
SCHAWL [17] - 343:3,
 343:6, 343:8,
 343:18, 344:7,
 344:10, 344:16,
 349:16, 350:2,
 351:2, 351:6,
 351:14, 351:19,
 352:14, 352:19,
 353:9, 354:9
Schawl [5] - 342:18,
 343:9, 345:9,
 345:18, 357:1
scheme [4] - 237:16,
 240:12, 256:14,
 257:10
school [5] - 50:6,
 111:5, 324:9,
 324:18, 328:16
Schumacher
 [1] - 62:17
science [6] - 41:15,
 42:1, 50:5, 92:11,
 159:9, 160:14

scrap ^[1] - 198:7
scream ^[1] - 224:19
screen ^[1] - 24:14
scrutiny ^[2] - 244:19,
 245:2
sculpture ^[1] - 138:10
Sean ^[3] - 1:12, 14:2,
 399:15
SEAN ^[11] - 4:15,
 14:6, 200:4, 200:12,
 260:13, 260:17,
 261:4, 261:14,
 261:16, 340:11,
 399:18
searching
^[1] - 181:15
season ^[1] - 139:2
seasonality
^[1] - 167:6
seat ^[1] - 184:14
seated ^[1] - 274:15
seating ^[45] - 29:3,
 29:5, 29:9, 29:11,
 30:1, 40:12, 40:15,
 53:1, 53:4, 53:6,
 53:17, 55:10, 55:11,
 66:2, 67:5, 68:1,
 68:4, 68:7, 68:8,
 71:9, 88:13, 95:18,
 102:8, 105:15,
 105:19, 106:2,
 106:5, 106:7,
 107:14, 107:17,
 131:18, 138:4,
 138:13, 147:17,
 149:4, 149:17,
 150:2, 156:13,
 184:18, 318:11,
 386:18, 386:19,
 387:2, 387:3
seats ^[17] - 29:11,
 29:18, 30:2, 30:3,
 30:8, 36:2, 36:5,
 53:3, 53:8, 105:17,
 138:4, 138:15,
 141:15, 152:16,
 155:13
second ^[29] - 21:10,
 21:11, 22:6, 30:5,
 42:18, 49:4, 51:5,
 55:9, 61:7, 67:13,
 82:16, 137:8,
 158:18, 183:1,

186:12, 195:9,
 265:14, 297:1,
 314:19, 326:12,
 327:4, 369:3, 370:8,
 372:2, 374:13,
 374:15, 377:10
secondly ^[1] - 195:9
section ^[3] - 276:19,
 377:1, 378:9
Section ^[4] - 279:8,
 280:13, 346:13,
 355:7
sections ^[2] - 11:13,
 112:11
securing ^[1] - 399:8
security ^[2] - 74:16,
 74:19
see ^[100] - 11:6,
 11:17, 13:1, 22:3,
 27:18, 32:1, 32:3,
 41:10, 52:19, 56:12,
 65:11, 66:4, 69:8,
 72:17, 73:1, 73:16,
 74:19, 75:16, 78:3,
 80:4, 83:14, 84:19,
 94:13, 100:9,
 118:15, 128:8,
 128:17, 129:19,
 131:7, 131:15,
 132:11, 141:6,
 142:12, 142:17,
 149:1, 159:12,
 172:11, 177:17,
 183:13, 185:18,
 185:19, 189:13,
 189:14, 190:2,
 190:7, 190:9, 196:1,
 196:3, 197:1,
 197:15, 204:13,
 209:15, 213:12,
 214:13, 220:11,
 220:15, 228:6,
 232:5, 247:12,
 247:16, 248:15,
 248:16, 252:5,
 263:1, 295:9, 298:2,
 303:17, 304:4,
 304:6, 305:1,
 306:15, 307:8,
 308:5, 308:9,
 308:10, 308:18,
 309:1, 309:16,
 310:15, 311:3,

314:9, 314:17,
 324:7, 325:14,
 336:19, 337:11,
 340:10, 341:9,
 346:8, 347:15,
 348:2, 348:8, 348:9,
 370:6, 370:16,
 372:13, 374:19,
 375:3, 379:5
seeing [3] - 70:14,
 81:4, 253:5
seeking [6] - 265:17,
 278:19, 284:5,
 325:7, 361:11,
 362:6
seem [5] - 54:9, 85:8,
 101:2, 184:9,
 311:18
seeming [1] - 8:17
segment [1] - 83:18
Sekler [4] - 76:14,
 77:9, 110:9, 111:7
SEKLER [2] - 110:8,
 110:18
select [1] - 196:9
selected [1] - 196:14
selective [1] - 99:17
sell [3] - 226:5, 227:4,
 227:5
seller [4] - 208:18,
 209:4, 216:2,
 221:19
selling [1] - 230:9
semesters [1] - 22:10
semi [1] - 51:19
semi-open [1] - 51:19
send [4] - 60:4,
 135:18, 255:13,
 320:10
Senior [1] - 1:6
sense [17] - 9:10,
 35:13, 67:7, 80:3,
 164:9, 169:10,
 189:8, 194:11,
 216:11, 219:19,
 225:10, 225:12,
 245:8, 247:14,
 249:13, 283:9,
 372:1
sent [4] - 8:14, 9:13,
 11:2, 195:17
sentence [1] - 119:6
sentences

[1] - 101:16

sentiment

[4] - 164:13, 165:5,
166:5, 247:13

separate [2] - 61:16,
340:8

separates

[1] - 296:14

September

[7] - 13:17, 260:18,
261:13, 262:1,
262:13, 263:2,
399:7

series [7] - 61:17,
345:4, 348:1, 348:7,
348:17, 350:10,
351:8

serious [3] - 66:17,
102:17, 228:15

seriously [1] - 229:1

Sert [20] - 33:8, 38:15,
41:14, 41:16, 50:4,
51:3, 93:17, 96:3,
102:5, 102:12,
102:15, 103:6,
110:1, 111:15,
119:7, 141:6,
159:19, 176:2,
176:4, 344:13

Sert's [11] - 32:19,
33:19, 38:7, 39:7,
44:13, 47:15, 92:14,
102:10, 102:13,
103:10, 110:3

serve [5] - 33:6, 57:2,
80:10, 283:3, 283:6

serves [1] - 64:19

service [1] - 391:10

Services [5] - 8:5,
15:14, 97:3, 398:18,
401:4

services [2] - 33:5,
33:6

serving [1] - 49:9

set [10] - 31:3, 45:19,
61:19, 112:15,
154:18, 226:5,
382:2, 382:6, 402:6,
402:8

setback [23] - 163:18,
206:1, 206:3, 206:6,
206:19, 207:5,
207:7, 208:2,

219:13, 219:18,
 220:8, 223:9,
 227:10, 229:7,
 250:14, 257:18,
 276:16, 278:18,
 361:12, 365:13,
 370:4, 371:3,
 375:19
setbacks [2] - 286:11,
 292:8
sets [1] - 381:19
seven [12] - 4:14, 5:4,
 5:11, 22:8, 23:4,
 92:4, 134:18,
 139:11, 139:14,
 228:13, 228:16,
 261:19
seven-thirty [1] - 23:4
several [11] - 8:12,
 8:15, 11:8, 11:12,
 70:8, 70:9, 72:7,
 129:3, 134:17,
 287:5, 297:7
SFJ [1] - 342:15
shabby [1] - 184:6
shack [1] - 44:13
shade [9] - 75:9,
 75:11, 119:12,
 120:13, 122:14,
 123:7, 134:7,
 300:13, 301:12
shading [1] - 301:10
shadow [8] - 300:16,
 302:1, 302:3, 302:5,
 308:14, 309:5,
 309:11, 309:13
shadows [3] - 93:2,
 308:12, 310:12
shall [1] - 7:14
shape [15] - 50:13,
 113:5, 126:5,
 146:18, 166:2,
 182:4, 183:6,
 206:12, 206:14,
 206:19, 220:9,
 248:2, 248:5, 313:6,
 338:17
share [1] - 302:2
shared [2] - 103:18,
 268:1
sharing [1] - 323:5
sharper [1] - 61:19
sharply [1] - 68:11

shave ^[1] - 276:7
SHAW ^[1] - 42:15
Shaw ^[1] - 42:15
shed ^[6] - 291:15,
 291:18, 294:3,
 298:7, 310:19
shed's ^[1] - 311:2
SHEET ^[1] - 401:1
Sheet ^[2] - 401:3,
 401:7
sheet ^[1] - 401:7
SHEFFIELD
^[12] - 264:16,
 264:19, 265:4,
 265:10, 265:13,
 266:13, 266:16,
 266:19, 267:5,
 270:11, 270:16,
 271:2
Sheffield ^[1] - 265:5
shelter ^[2] - 48:9,
 48:19
shift ^[1] - 215:9
Shikhar ^[1] - 299:1
SHIKHAR ^[1] - 299:1
shiny ^[1] - 81:14
shirt ^[8] - 42:14, 46:2,
 49:18, 52:4, 79:14,
 79:15, 81:10, 82:2
shoe ^[2] - 169:14,
 181:1
shoes ^[1] - 267:10
short ^[2] - 140:13,
 146:8
shortened ^[1] - 318:9
shortening ^[1] - 319:2
shorter ^[1] - 67:5
Shorthand
^[2] - 402:4, 402:12
shovels ^[1] - 267:12
Show ^[1] - 16:2
show ^[15] - 8:3, 15:19,
 43:12, 91:11, 92:6,
 93:4, 129:6, 130:3,
 152:9, 156:19,
 207:7, 212:4,
 242:17, 337:17,
 363:19
show... ^[1] - 329:3
showed ^[3] - 130:3,
 208:6, 208:10
showing ^[6] - 29:1,
 29:3, 97:8, 131:7,

238:19, 294:2
shown [7] - 21:18,
82:4, 82:6, 156:2,
238:1, 333:18,
380:19
shows [12] - 22:1,
29:10, 36:17, 36:18,
37:1, 92:17, 94:9,
239:14, 291:8,
328:18, 329:4,
329:6
shrunk [1] - 211:9
shut [1] - 79:9
shutting [2] - 77:19,
78:2
shy [1] - 278:17
sic [1] - 99:3
side [28] - 10:9, 11:10,
83:13, 106:6,
112:18, 146:4,
156:16, 159:10,
163:19, 176:13,
212:6, 236:19,
276:5, 276:7,
278:17, 286:11,
292:13, 295:10,
317:10, 318:18,
335:5, 362:12,
362:13, 370:4,
371:3, 375:7,
375:19, 381:7
sides [3] - 15:4,
15:17, 370:12
sidewalk [12] - 11:10,
13:3, 13:6, 88:14,
91:8, 107:16,
122:18, 122:19,
132:5, 188:2,
257:16, 351:9
sidewalks
[2] - 112:14, 119:13
sign [27] - 5:9, 5:12,
9:3, 9:4, 9:8, 9:10,
9:11, 9:15, 9:18,
10:4, 10:17, 11:4,
11:5, 11:16, 14:8,
15:13, 15:14, 262:4,
262:7, 330:7,
347:12, 348:1,
348:12, 348:15,
390:1, 390:12
Sign [1] - 401:7
signage [11] - 23:13,

109:17, 151:12,
 151:15, 262:4,
 347:13, 347:15,
 347:18, 349:1,
 355:15, 389:16

signal ^[1] - 195:18

signalling ^[1] - 252:1

SIGNATURE
^[1] - 401:1

signed ^[7] - 5:8,
 200:11, 299:1,
 331:2, 331:7,
 335:14, 379:11

significant ^[6] - 40:3,
 56:14, 84:1, 84:2,
 211:14, 379:12

significantly
^[4] - 207:19, 211:9,
 283:18, 372:11

signs ^[14] - 10:13,
 12:16, 14:2, 14:4,
 14:18, 15:4, 15:8,
 152:7, 347:13,
 348:2, 348:5, 348:8,
 348:13, 348:18

Silvergate's
^[2] - 63:18, 66:6

similar ^[6] - 22:12,
 94:7, 157:7, 157:12,
 347:13, 349:10

similarly ^[2] - 16:9,
 195:12

simple ^[2] - 386:12,
 387:5

simplified ^[2] - 211:9,
 212:15

simplify ^[1] - 371:1

simplistic ^[1] - 168:9

simply ^[4] - 74:11,
 213:4, 240:6, 357:2

single ^[13] - 73:12,
 249:5, 256:16,
 275:5, 275:19,
 334:14, 336:4,
 336:9, 349:2, 362:9,
 369:15, 372:18,
 379:6

single-family
^[6] - 275:5, 334:14,
 336:4, 336:9, 362:9,
 372:18

single-story
^[2] - 249:5, 275:19

sink ^[1] - 38:1
sit ^[20] - 41:6, 49:8,
 51:12, 67:18, 73:13,
 73:14, 74:2, 88:3,
 88:7, 91:6, 100:18,
 107:16, 111:4,
 112:16, 122:13,
 165:18, 171:6,
 186:17, 252:17,
 318:6
site ^[4] - 24:13,
 224:18, 228:5,
 254:18
sits ^[1] - 32:19
sitter ^[1] - 327:1
Sitting ^[12] - 3:4, 7:2,
 203:2, 264:2, 274:2,
 290:2, 322:2, 342:2,
 361:2, 368:2, 385:2,
 398:2
sitting ^[17] - 28:4,
 35:14, 41:1, 65:3,
 93:13, 98:19, 99:4,
 105:12, 122:1,
 132:16, 173:3,
 177:18, 177:19,
 249:7, 312:8, 324:5,
 358:10
situated ^[1] - 300:3
situation ^[3] - 127:15,
 246:14, 303:2
six ^[22] - 10:2, 22:15,
 56:18, 56:19, 58:8,
 139:10, 139:14,
 204:1, 204:19,
 216:8, 221:17,
 226:4, 226:5,
 228:17, 259:9,
 282:7, 283:7,
 328:17, 374:4,
 378:7, 378:11,
 399:11
six-unit ^[1] - 204:1
size ^[12] - 119:13,
 129:7, 218:13,
 218:19, 241:2,
 309:19, 310:8,
 310:16, 312:6,
 312:7, 315:19,
 318:17
skepticism ^[1] - 46:16
sky ^[7] - 73:17,
 168:10, 186:3,

306:9, 308:13,
 309:9, 340:2
sky's [1] - 184:9
skylight [2] - 340:3,
 340:6
slab [1] - 307:10
slants [1] - 292:2
sleeping [1] - 98:12
slid [1] - 211:12
sliding [4] - 318:16,
 318:19, 319:2,
 390:4
slight [6] - 266:14,
 287:11, 303:8,
 308:10, 309:1,
 312:5
slightly [6] - 120:1,
 146:4, 211:12,
 266:10, 298:10,
 313:13
sloping [1] - 298:10
slowly [2] - 251:16,
 251:17
smack [1] - 241:11
Small [1] - 62:18
small [19] - 45:1, 57:9,
 58:16, 59:1, 83:18,
 112:3, 116:6, 183:3,
 184:15, 184:16,
 185:6, 206:12,
 212:8, 225:17,
 268:1, 283:7, 284:6,
 338:13, 375:5
smaller [6] - 64:4,
 68:16, 213:5, 319:4,
 319:7, 346:19
Smith [6] - 20:14,
 43:10, 43:12, 60:14,
 61:14, 154:3
Smith's [1] - 108:15
snow [3] - 185:5,
 246:11, 267:11
so... [1] - 256:12
SO02 [1] - 272:17
social [2] - 63:6,
 142:4
soften [1] - 248:13
softens [1] - 242:11
soil [5] - 123:5, 146:6,
 146:11, 182:3,
 183:6
solar [1] - 306:5
sole [1] - 219:13

solely ^[1] - 205:19
solid ^[1] - 252:19
solidified ^[1] - 118:11
solstice ^[2] - 306:8,
 308:13
solution ^[2] - 71:2,
 80:12
someone ^[3] - 88:5,
 287:16, 392:17
someplace
^[1] - 186:15
Somerville
^[2] - 386:10, 389:13
sometime ^[3] - 60:4,
 352:9, 355:3
sometimes
^[6] - 22:17, 56:19,
 74:1, 74:7, 76:6,
 278:12
somewhat ^[3] - 88:1,
 169:11, 205:11
somewhere
^[1] - 100:18
soon ^[4] - 10:4, 15:11,
 127:5, 399:7
sorry ^[29] - 16:16,
 28:4, 28:18, 30:9,
 35:3, 36:10, 105:3,
 119:4, 121:16,
 133:11, 147:19,
 149:10, 151:2,
 153:4, 156:17,
 157:2, 158:5, 168:7,
 173:13, 174:6,
 218:18, 233:6,
 233:10, 256:16,
 260:10, 281:5,
 289:4, 332:18,
 362:2
sort ^[31] - 43:12,
 43:13, 43:17, 46:14,
 47:3, 60:13, 90:4,
 95:19, 109:11,
 118:11, 161:4,
 179:3, 187:12,
 206:8, 207:1,
 228:14, 233:1,
 233:18, 251:15,
 255:6, 261:2, 303:6,
 323:12, 336:18,
 351:15, 353:2,
 369:12, 375:8,
 375:10, 375:15,

391:14
sorts [1] - 76:18
sought [16] - 271:6,
 272:5, 285:18,
 286:16, 312:11,
 313:18, 316:4,
 338:9, 347:19,
 356:11, 360:5,
 367:2, 382:14,
 383:12, 395:13,
 395:18
south [4] - 314:8,
 370:4, 371:3,
 371:13
southeast [1] - 303:6
space [193] - 21:6,
 33:10, 34:12, 34:15,
 36:15, 42:1, 42:2,
 42:8, 44:15, 44:17,
 44:18, 44:19, 45:2,
 45:13, 48:13, 48:17,
 49:2, 50:11, 51:5,
 51:9, 51:12, 51:16,
 51:18, 51:19, 52:12,
 53:14, 53:16, 53:17,
 54:3, 54:10, 55:5,
 56:7, 63:2, 63:6,
 63:10, 63:13, 65:1,
 66:8, 66:18, 67:1,
 67:3, 67:6, 67:7,
 67:8, 67:9, 68:1,
 68:4, 68:11, 68:17,
 69:8, 80:8, 84:15,
 84:16, 85:12, 86:15,
 90:7, 93:5, 102:19,
 103:8, 104:8,
 104:10, 106:1,
 113:8, 113:16,
 133:19, 134:15,
 135:2, 135:3, 137:2,
 137:8, 137:14,
 138:13, 139:1,
 141:8, 142:3,
 142:16, 143:8,
 143:11, 143:13,
 143:15, 143:16,
 144:3, 144:4, 147:2,
 154:15, 155:5,
 157:7, 157:12,
 157:18, 158:4,
 159:3, 159:13,
 159:18, 161:15,
 164:14, 165:6,

165:9, 166:19,
 167:1, 167:7,
 167:11, 167:13,
 168:1, 168:4, 168:6,
 168:9, 168:10,
 168:12, 168:13,
 168:16, 168:18,
 169:12, 170:18,
 171:7, 172:1, 172:2,
 172:7, 172:18,
 173:8, 174:19,
 179:14, 180:12,
 182:16, 184:12,
 184:14, 184:17,
 185:17, 187:6,
 188:6, 188:16,
 189:2, 195:4,
 195:11, 195:12,
 205:7, 205:16,
 205:18, 207:4,
 207:9, 207:14,
 208:15, 209:4,
 211:14, 211:16,
 213:3, 220:14,
 230:13, 230:15,
 230:17, 233:17,
 233:18, 235:12,
 235:13, 235:16,
 237:19, 238:17,
 240:7, 245:9,
 245:17, 249:6,
 249:17, 251:8,
 257:3, 257:9, 267:8,
 267:15, 276:16,
 283:12, 284:14,
 286:4, 292:4, 325:2,
 333:19, 334:16,
 338:14, 339:11,
 340:5, 341:9,
 341:11, 346:19,
 352:7, 369:16,
 374:12, 375:16,
 375:17, 377:7,
 377:12, 383:1,
 386:6

spaces ^[13] - 23:2,
 43:8, 58:3, 60:8,
 82:15, 112:6, 158:1,
 158:8, 228:18,
 249:12, 345:5,
 347:2, 387:19

Spain ^[1] - 344:13

Spanish ^[1] - 344:1

spanning [1] - 42:7
speaker [3] - 136:3,
136:5, 136:14
speakers [1] - 114:15
speaking [6] - 19:19,
83:10, 83:15, 97:9,
204:12, 247:12
speaks [2] - 16:19,
143:5
Special [32] - 29:8,
278:2, 278:6,
292:18, 295:7,
296:3, 314:16,
315:15, 316:3,
316:6, 320:1,
320:17, 321:2,
345:8, 346:12,
355:19, 356:11,
356:15, 358:16,
358:18, 360:4,
361:11, 365:10,
365:12, 367:1,
369:7, 395:17,
396:1, 397:5,
398:10, 398:11,
399:5
Specialist [1] - 1:12
specific [8] - 19:3,
20:15, 25:18, 40:6,
96:8, 100:19, 196:7,
277:10
specifically
[3] - 36:14, 58:3,
355:9
specifics [1] - 78:12
spelling [1] - 253:3
spend [6] - 54:17,
55:6, 131:13,
131:14, 192:3,
355:3
spent [5] - 115:11,
115:16, 154:14,
192:5, 204:3
spirit [2] - 12:2, 341:4
split [1] - 140:3
spoken [1] - 371:13
sponsored
[1] - 350:19
sporadically
[1] - 14:1
spot [6] - 148:5,
170:19, 198:13,
244:18, 346:18,

399:6

spruced [1] - 187:5

Square [55] - 8:11,
 43:4, 43:6, 60:10,
 67:6, 70:10, 72:7,
 73:9, 73:11, 81:5,
 84:7, 84:9, 84:13,
 84:14, 85:4, 85:19,
 87:17, 89:6, 93:13,
 100:11, 107:8,
 111:1, 113:3, 113:4,
 114:7, 115:12,
 115:17, 117:5,
 119:15, 133:13,
 133:14, 133:16,
 133:17, 133:19,
 136:13, 137:11,
 137:12, 161:15,
 170:13, 176:12,
 179:3, 186:9,
 198:12, 230:2,
 241:9, 343:10,
 346:1, 347:3, 350:9,
 355:1, 355:5,
 355:11, 389:14,
 393:16, 393:18

square [81] - 21:17,
 21:18, 22:4, 27:14,
 27:18, 28:1, 28:3,
 29:1, 29:17, 30:2,
 30:4, 34:12, 34:19,
 35:6, 38:10, 42:16,
 42:17, 42:19, 43:9,
 43:14, 43:15, 43:16,
 44:4, 44:5, 53:2,
 54:18, 56:2, 59:2,
 64:2, 68:17, 71:7,
 71:14, 78:14, 79:18,
 83:16, 85:12, 88:6,
 90:6, 90:18, 91:1,
 91:19, 124:12,
 129:8, 153:5,
 165:19, 166:3,
 181:11, 183:12,
 184:12, 185:7,
 185:12, 186:4,
 187:8, 187:19,
 190:11, 190:16,
 214:18, 215:1,
 215:2, 215:10,
 215:11, 266:1,
 266:2, 266:3,
 266:12, 267:19,

275:12, 275:15,
 276:12, 276:13,
 278:7, 323:3,
 369:11, 372:4,
 372:16, 375:14,
 388:12, 388:15
squares ^[1] - 91:15
squathed ^[1] - 329:13
squeeze ^[1] - 260:13
SS ^[1] - 402:3
staff ^[9] - 9:7, 43:14,
 57:10, 58:9, 62:10,
 107:6, 196:13,
 283:4
stair ^[6] - 267:7,
 378:1, 378:2, 378:3,
 378:5
staircase ^[1] - 156:18
stairs ^[2] - 32:4,
 377:18
stairway ^[1] - 174:17
stake ^[1] - 74:5
stakeholders
^[1] - 72:11
stand ^[3] - 10:14,
 50:17, 53:19
standard ^[5] - 13:12,
 283:8, 293:3, 355:6,
 400:1
standards ^[2] - 25:5,
 79:7
standing ^[6] - 70:19,
 132:8, 178:2,
 306:18, 307:7,
 308:4
standpoint
^[2] - 223:12, 372:1
start ^[21] - 3:11,
 18:13, 19:2, 19:3,
 19:12, 19:17, 33:11,
 44:17, 44:19, 69:14,
 72:12, 97:13,
 116:17, 121:17,
 146:19, 196:1,
 241:17, 294:18,
 306:7, 316:2,
 369:10
started ^[4] - 3:12,
 102:11, 117:16,
 129:19
starting ^[4] - 175:16,
 213:18, 217:8,
 224:17

starts [1] - 254:1
state [10] - 23:14,
 84:6, 164:12,
 166:10, 279:5,
 280:10, 291:16,
 323:10, 323:11,
 392:2
State [1] - 7:16
statement(s)
 [1] - 401:17
statements
 [1] - 183:17
states [1] - 298:14
stating [1] - 54:4
station [6] - 68:4,
 154:2, 171:3,
 205:10, 223:18,
 253:12
stationery [1] - 102:5
Statute [1] - 8:7
statute [2] - 279:5,
 280:11
stay [10] - 32:2, 95:17,
 215:10, 224:9,
 292:7, 323:11,
 325:1, 339:9,
 341:11, 379:17
stays [1] - 95:18
stenographer
 [2] - 264:14, 322:11
STENOGRAPHER
 [2] - 265:2, 361:18
step [5] - 135:19,
 231:15, 242:14,
 255:6, 323:13
stepped [4] - 210:17,
 211:6, 214:7, 242:6
stepping [3] - 248:14,
 258:3, 345:18
steps [2] - 41:8, 72:17
STEVE [1] - 62:7
Steve [2] - 62:7, 84:12
Stewart [1] - 81:11
STEWART [1] - 81:11
stick [2] - 250:2,
 394:5
sticker [1] - 176:1
sticks [1] - 184:15
still [26] - 7:9, 26:9,
 45:9, 53:7, 60:15,
 61:10, 65:18, 68:14,
 79:19, 116:11,
 124:18, 168:3,

190:19, 213:10,
 238:4, 240:8, 242:3,
 276:13, 319:14,
 323:3, 324:17,
 341:10, 372:15,
 374:10, 393:17

stinky ^[1] - 99:4

stipend ^[1] - 57:9

stock ^[1] - 357:2

Stohlman

^[3] - 290:19, 298:18,
 314:1

STOHLMAN

^[32] - 295:16, 302:8,
 302:14, 302:18,
 303:7, 303:10,
 303:15, 304:2,
 304:6, 304:11,
 305:3, 306:14,
 306:17, 307:4,
 307:13, 307:16,
 308:3, 308:8,
 310:17, 311:16,
 312:1, 312:6, 314:5,
 314:17, 315:3,
 315:18, 317:8,
 317:16, 317:19,
 319:8, 320:9,
 320:15

stood ^[1] - 242:18

stoop ^[1] - 211:17

stoops ^[1] - 209:16

stop ^[3] - 91:7,

192:17, 193:1

storage ^[2] - 195:6,

334:5

store ^[3] - 40:3,

171:17, 229:9

stores ^[1] - 172:8

stories ^[9] - 92:2,

94:17, 223:19,

232:17, 241:13,

245:7, 248:11,

248:15, 248:17

Storrow ^[1] - 110:13

story ^[14] - 169:16,

220:12, 239:6,

241:15, 248:19,

249:5, 275:19,

282:5, 305:7,

329:13, 331:5,

372:8, 372:9, 379:6

straight ^[2] - 169:9,

370:19

straightforward

[1] - 291:3

streaming

[1] - 107:17

Street ^[115] - 2:5, 2:6,

2:7, 2:8, 2:9, 2:10,

2:11, 2:12, 2:13,

2:14, 3:16, 4:7,

10:18, 11:5, 12:17,

48:5, 50:17, 61:7,

61:8, 64:11, 64:15,

79:18, 81:19, 82:1,

82:5, 82:8, 88:11,

98:14, 112:13,

112:15, 113:1,

113:2, 113:19,

115:10, 128:4,

136:10, 136:11,

148:15, 153:14,

153:15, 154:9,

179:11, 192:14,

192:16, 193:6,

207:12, 211:15,

230:18, 232:19,

233:8, 240:8, 257:9,

264:8, 265:1, 269:5,

269:7, 269:9, 270:3,

274:8, 275:5,

281:18, 282:1,

282:2, 282:18,

283:1, 283:2, 284:4,

285:9, 290:8,

290:17, 291:4,

293:5, 298:15,

299:3, 299:6,

299:11, 299:12,

300:1, 300:3, 300:5,

300:7, 303:19,

322:7, 322:13,

324:8, 329:19,

331:6, 331:11,

332:18, 342:8,

343:11, 343:13,

345:4, 348:17,

349:14, 350:1,

350:3, 361:8, 364:7,

368:8, 368:15,

379:3, 380:18,

381:2, 385:8,

389:11, 393:1,

393:15, 398:8,

398:13, 399:2

street ^[21] - 48:10,
86:13, 88:16, 91:7,
91:9, 112:14, 128:5,
143:2, 146:4,
158:14, 173:4,
242:19, 253:5,
258:2, 282:2,
293:10, 305:10,
329:10, 336:1,
388:2, 398:14

streets ^[4] - 119:14,
168:15, 211:18,
387:14

streetscape
^[2] - 247:19, 295:8

stress ^[2] - 153:4,
186:8

stretch ^[1] - 348:16

strictly ^[1] - 183:12

strike ^[2] - 168:8,
221:7

strikes ^[1] - 80:1

strip ^[1] - 189:5

stripe ^[1] - 42:13

strong ^[2] - 198:4,
276:11

stronger ^[1] - 62:14

strongly ^[1] - 96:6

struck ^[1] - 80:10

structural ^[1] - 32:11

structurally
^[2] - 34:13, 145:12

structure ^[34] - 33:2,
33:17, 33:18, 78:18,
138:7, 138:10,
246:9, 248:19,
265:19, 266:3,
271:10, 271:16,
276:10, 277:15,
278:1, 278:11,
278:15, 286:7,
286:10, 294:13,
301:16, 301:17,
301:18, 304:7,
310:16, 313:2,
313:6, 313:7, 333:2,
338:19, 369:2,
369:5, 383:5, 390:4

structures
^[1] - 278:12

struggled ^[1] - 197:6

student ^[19] - 48:8,
48:11, 49:5, 49:10,

52:9, 65:14, 65:15,
65:18, 82:2, 85:6,
99:1, 110:11, 111:2,
157:8, 157:12,
158:13, 178:2,
187:4, 355:9

student-run ^[1] - 48:8

student-wise

^[1] - 187:4

students ^[8] - 44:2,

48:12, 57:12, 63:6,

107:5, 322:16,

346:18, 347:4

studied ^[2] - 46:18,

142:6

studies ^[4] - 35:11,

302:1, 302:5, 306:6

studio ^[1] - 398:12

study ^[6] - 50:4, 50:8,

110:11, 133:10,

193:7

stuff ^[9] - 31:9,

118:18, 176:11,

177:3, 177:14,

177:15, 183:18,

185:5, 188:4

stumbled ^[1] - 99:11

style ^[3] - 119:18,

240:18, 292:16

Styrofoam ^[1] - 352:3

subject ^[3] - 46:6,

163:15, 262:1

subjects ^[1] - 163:4

submit ^[1] - 5:16

submitted ^[5] - 20:15,

21:4, 24:9, 117:9,

214:12

subscribe

^[1] - 401:16

subsequent

^[1] - 278:3

substantial

^[23] - 128:11,

137:14, 137:15,

181:18, 182:7,

183:4, 183:13,

191:5, 271:9, 272:1,

286:2, 286:13,

312:15, 313:9,

316:10, 325:7,

338:12, 339:3,

359:2, 365:16,

382:18, 383:8,

396:6

substantially

[11] - 164:15, 166:2,
191:6, 272:2,
280:17, 286:6,
286:14, 303:2,
313:10, 339:4,
383:9

subsurface

[1] - 146:5

subway [1] - 107:19

Subway's [1] - 349:7

success [2] - 58:18,
119:9

successful [2] - 62:3,
356:3

succinct [1] - 37:11

succumb [2] - 146:7,
146:8

sudden [2] - 226:1,
241:12

suffering [1] - 123:5

sufficient [4] - 70:15,
109:8, 114:5,
320:13

sufficiently

[1] - 108:18

suggest [5] - 56:5,
132:14, 134:2,
194:7, 196:11

suggested [1] - 255:7

suggesting

[1] - 116:16

suggestion

[3] - 103:3, 235:7,
241:7

Suk [6] - 274:14,

274:19, 282:3,
283:10, 284:5,
285:1

SUK [1] - 275:14

Suk's [1] - 274:15

Suk-Gersen

[1] - 283:10

SULLIVAN

[87] - 16:11, 25:17,
31:3, 114:14,
114:17, 115:1,
115:7, 121:1, 121:9,
121:17, 136:2,
136:6, 147:12,
147:16, 148:2,
148:7, 148:10,

148:14, 149:2,
 149:5, 149:8,
 149:11, 149:14,
 150:1, 150:5,
 150:11, 150:14,
 151:1, 151:6,
 151:11, 151:19,
 152:4, 152:11,
 152:15, 153:2,
 162:7, 174:8, 175:3,
 175:6, 176:17,
 176:19, 178:16,
 187:10, 189:7,
 190:8, 198:15,
 200:2, 213:13,
 215:8, 215:14,
 224:13, 227:13,
 231:11, 231:18,
 233:3, 234:1, 234:6,
 234:10, 234:14,
 235:2, 236:9, 237:2,
 237:11, 238:10,
 238:14, 239:2,
 255:16, 256:2,
 256:9, 256:13,
 258:8, 288:6, 298:2,
 303:5, 303:9,
 303:12, 326:7,
 327:3, 340:13,
 353:16, 373:4,
 373:9, 373:14,
 373:18, 374:2,
 374:14, 375:2

Sullivan ^[27] - 1:9,

3:6, 6:6, 7:3,
 201:14, 203:4,
 237:7, 263:3, 264:4,
 273:4, 274:4,
 288:19, 290:4,
 315:12, 321:3,
 322:4, 341:1, 342:4,
 360:10, 361:4,
 367:8, 368:4, 384:8,
 385:4, 397:11,
 398:3, 400:10

Sullivan's ^[1] - 235:7

sum ^[1] - 122:2

summary ^[3] - 69:6,

198:18, 377:5

summer ^[6] - 51:7,

51:9, 167:19, 306:7,

306:8, 308:12

summertime

[2] - 51:17, 308:15
sums [1] - 373:3
sun [4] - 75:10, 306:8,
 308:13, 309:8
Sunday [5] - 8:8, 8:9,
 8:12, 9:18, 9:19
sunlight [1] - 300:11
supply [1] - 67:5
support [45] - 49:15,
 72:3, 86:1, 87:15,
 88:18, 136:15,
 182:19, 209:12,
 232:18, 243:17,
 268:13, 272:8,
 276:11, 277:2,
 281:15, 282:14,
 283:19, 284:12,
 285:1, 285:8,
 285:11, 286:18,
 293:11, 297:8,
 298:13, 299:16,
 325:15, 326:17,
 331:3, 331:12,
 332:15, 332:19,
 333:1, 333:3, 339:8,
 355:18, 356:2,
 371:14, 381:3,
 383:14, 393:3,
 393:11, 394:7,
 395:11, 395:12
supported
 [1] - 243:14
supporters
 [1] - 394:17
supportive [4] - 44:6,
 81:1, 205:14,
 327:10
suppose [3] - 90:15,
 252:6, 252:9
supposed [1] - 325:8
SUPRATIA
 [2] - 49:19, 50:1
Supratia [1] - 49:19
surprised
 [2] - 136:17, 389:1
surrounding
 [1] - 295:18
SUZANNE [2] - 381:6,
 381:10
Suzanne [3] - 364:9,
 368:13, 368:14
sympathetic
 [1] - 218:12

T

T.W ^[1] - 389:7

table ^[9] - 72:11,
166:18, 184:3,
190:7, 212:17,
224:7, 224:9, 312:7,
323:16

tables ^[15] - 21:2,
24:17, 24:19, 40:8,
59:14, 106:7,
132:10, 132:15,
150:6, 156:10,
156:13, 177:11,
177:17, 312:8

Taco ^[3] - 345:7,
345:16, 348:11

taco ^[2] - 345:13,
345:17

taco-based

^[1] - 345:13

tact ^[1] - 189:16

tagged ^[1] - 246:12

tail ^[3] - 369:13,
373:5, 379:9

Taj ^[1] - 107:19

Takata ^[1] - 398:16

TAKATA ^[1] - 398:16

tall ^[1] - 245:7

Tanya ^[6] - 8:16,
17:17, 18:3, 33:12,
147:13, 158:12

TANYA ^[105] - 14:12,
17:17, 17:18, 18:3,
18:4, 18:13, 18:17,
19:7, 19:16, 20:2,
26:2, 26:5, 26:10,
26:13, 26:17, 27:4,
27:7, 27:10, 27:16,
28:12, 28:16, 29:16,
30:9, 30:11, 30:17,
31:4, 31:7, 31:13,
31:16, 31:19, 34:8,
34:18, 35:3, 35:8,
35:17, 35:19, 36:4,
36:10, 36:13, 37:6,
90:10, 94:4, 94:7,
140:12, 144:6,
144:13, 144:16,
145:16, 147:8,
147:15, 147:19,
148:5, 148:8,
148:12, 148:16,

149:7, 149:18,
 150:4, 150:9,
 150:12, 150:16,
 150:19, 151:5,
 151:10, 151:14,
 152:2, 152:6,
 152:14, 152:17,
 153:3, 154:4, 155:9,
 155:14, 155:17,
 155:19, 156:4,
 156:6, 156:11,
 156:15, 157:4,
 157:14, 158:2,
 159:2, 159:11,
 159:16, 161:5,
 161:9, 161:12,
 162:9, 172:15,
 173:13, 173:16,
 173:19, 174:5,
 183:15, 183:19,
 192:11, 192:15,
 193:2, 193:17,
 194:16, 200:19,
 201:3, 201:7,
 201:19

tape ^[2] - 11:13,
 156:12

tapered ^[1] - 179:4

taste ^[1] - 250:19

Tasty ^[1] - 353:1

Tasty's ^[1] - 73:9

TCBY ^[1] - 345:15

team ^[2] - 47:9, 224:5

tech ^[2] - 251:17,
 281:18

technical ^[2] - 109:11,
 163:9

technology
^[1] - 301:19

telephone
^[2] - 306:15, 307:8

Ten ^[3] - 275:4, 283:1,
 284:4

ten ^[23] - 23:5, 23:7,
 33:7, 90:17, 91:14,
 91:15, 91:16, 94:15,
 95:12, 139:14,
 150:8, 165:19,
 169:17, 169:18,
 207:16, 209:2,
 232:8, 241:15,
 249:14, 256:13,
 276:7, 356:4,

393:17
ten-story ^[1] - 241:15
tenants ^[2] - 225:1,
 335:14
tend ^[1] - 184:7
tenth ^[1] - 21:7
terms ^[14] - 59:18,
 142:15, 142:16,
 163:15, 172:7,
 173:1, 235:7,
 252:10, 272:6,
 276:16, 286:11,
 299:15, 355:8,
 376:14
terrace ^[1] - 238:2
testified ^[1] - 129:3
testify ^[1] - 324:12
testifying ^[1] - 128:11
testimony ^[30] - 34:7,
 37:10, 52:15, 55:15,
 79:10, 102:3,
 114:12, 124:4,
 125:4, 127:5, 135:5,
 136:17, 139:5,
 140:1, 140:7, 169:2,
 198:2, 221:1, 244:9,
 268:7, 281:10,
 285:12, 297:2,
 297:11, 297:14,
 330:14, 354:12,
 365:1, 365:7,
 392:15
THE ^[8] - 1:2, 1:16,
 265:2, 361:18,
 402:15, 402:16,
 402:16
theirs ^[1] - 283:19
Theoní ^[1] - 270:2
THEONI ^[1] - 270:2
therefor ^[1] - 401:7
therefore ^[3] - 67:8,
 283:8, 383:5
they've ^[17] - 38:18,
 55:9, 103:12, 118:5,
 137:3, 145:10,
 145:11, 213:4,
 245:15, 314:1,
 334:12, 334:13,
 368:15, 371:7,
 371:12, 379:15,
 394:2
thinking ^[3] - 118:14,
 279:15, 377:10

third ^[16] - 182:6,
 195:14, 210:18,
 212:18, 235:17,
 236:4, 237:15,
 237:19, 254:15,
 255:18, 256:7,
 265:14, 281:19,
 325:10, 328:9,
 331:4
thirds ^[2] - 76:19,
 185:1
thirty ^[7] - 22:15,
 23:3, 23:4, 23:9,
 56:18, 57:1, 121:13
THIS ^[1] - 402:15
Thomas ^[1] - 313:19
thoroughfare
^[1] - 171:15
thoroughly
^[1] - 46:18
thoughtful
^[2] - 284:13, 285:5
thoughts ^[3] - 25:7,
 118:10, 389:16
thousands ^[1] - 56:17
thread ^[2] - 277:10,
 277:17
threat ^[1] - 170:5
threaten ^[1] - 387:13
threatening
^[1] - 52:12
three ^[52] - 27:7, 38:9,
 112:10, 118:6,
 122:6, 130:6,
 139:10, 139:13,
 141:1, 153:19,
 161:7, 174:11,
 174:13, 182:9,
 187:14, 191:13,
 195:3, 199:1, 210:3,
 211:18, 212:16,
 214:2, 216:14,
 220:12, 223:19,
 238:11, 239:15,
 241:13, 243:9,
 248:10, 248:15,
 248:19, 252:17,
 261:7, 305:14,
 305:15, 306:9,
 314:3, 323:16,
 329:19, 335:1,
 335:2, 335:4, 335:9,
 347:8, 374:9,

374:10, 378:11,
382:5, 382:8

three-bedroom

[2] - 374:9, 374:10

three-family

[4] - 335:1, 335:2,
335:4, 335:9

three-story

[2] - 220:12, 248:19

throw [4] - 65:17,

280:11, 302:5,
349:15

throwing [1] - 236:17

Thursday [1] - 9:17

THURSDAY [1] - 1:4

tickets [1] - 173:2

tie [3] - 39:12, 270:13,
380:6

tight [2] - 323:3,

325:2

tilt [1] - 303:8

TIM [23] - 385:16,

386:3, 386:19,
387:3, 387:18,
388:3, 388:6, 388:9,
388:13, 389:2,
389:5, 389:7,
389:12, 391:7,
391:10, 392:5,
392:8, 392:11,
394:6, 394:10,
394:14, 394:19,
395:7

Tim [4] - 187:18,

194:5, 331:19,
385:16

timeout [1] - 189:9

TIMOTHY [142] - 7:5,

7:8, 7:15, 13:18,
14:7, 15:18, 16:3,
16:15, 17:9, 17:13,
18:14, 18:19, 19:14,
20:1, 25:15, 27:13,
29:15, 30:7, 30:10,
30:14, 30:19, 31:8,
31:14, 31:17, 34:2,
34:5, 34:10, 35:1,
35:6, 35:12, 35:18,
36:1, 36:7, 37:8,
39:10, 39:15, 42:12,
44:8, 46:1, 48:2,
49:16, 52:2, 55:17,
62:6, 64:6, 66:9,

73:5, 78:7, 81:9,
 83:6, 85:16, 86:10,
 87:8, 89:1, 96:14,
 96:17, 97:2, 108:16,
 109:4, 109:12,
 109:18, 110:3,
 114:10, 114:15,
 114:19, 115:5,
 117:12, 121:3,
 121:7, 122:5, 123:9,
 123:14, 124:8,
 124:14, 125:10,
 125:15, 125:18,
 126:13, 127:4,
 127:9, 127:13,
 128:10, 128:14,
 129:2, 129:11,
 129:14, 130:2,
 130:9, 130:17,
 131:2, 133:3,
 134:12, 134:16,
 135:8, 135:13,
 135:17, 136:4,
 139:4, 144:14,
 147:10, 153:10,
 162:10, 162:12,
 162:14, 181:3,
 183:16, 184:1,
 190:9, 190:15,
 191:4, 193:13,
 194:3, 194:13,
 199:17, 200:6,
 200:13, 201:10,
 201:13, 202:4,
 226:10, 227:15,
 229:14, 229:19,
 230:5, 230:8, 234:3,
 238:3, 241:17,
 242:7, 243:3, 254:5,
 255:15, 268:4,
 285:14, 311:8,
 338:4, 344:1, 344:3,
 356:9, 358:2,
 364:18, 382:11

Timothy ^[13] - 1:8,

3:5, 7:3, 203:3,
 264:3, 274:3, 290:3,
 322:3, 342:3, 361:3,
 368:3, 385:3, 398:3

tiny ^[2] - 23:10, 292:5

tired ^[4] - 174:19,

175:18, 178:7,
 277:9

TO ^[1] - 402:15
to... ^[1] - 181:4
today ^[10] - 23:3,
 23:5, 51:16, 52:10,
 141:18, 234:15,
 275:3, 334:10,
 345:6, 346:6
together ^[8] - 111:13,
 175:11, 232:13,
 282:10, 322:19,
 323:9, 394:11,
 400:2
tolerant ^[1] - 136:18
TOM ^[32] - 295:16,
 302:8, 302:14,
 302:18, 303:7,
 303:10, 303:15,
 304:2, 304:6,
 304:11, 305:3,
 306:14, 306:17,
 307:4, 307:13,
 307:16, 308:3,
 308:8, 310:17,
 311:16, 312:1,
 312:6, 314:5,
 314:17, 315:3,
 315:18, 317:8,
 317:16, 317:19,
 319:8, 320:9,
 320:15
Tom ^[9] - 8:15, 8:18,
 28:9, 290:19,
 298:18, 301:9,
 301:18, 302:13,
 303:5
tonight ^[30] - 16:7,
 19:18, 20:4, 66:15,
 97:8, 98:2, 108:5,
 121:11, 134:17,
 140:1, 164:11,
 165:14, 165:18,
 166:13, 166:18,
 178:8, 180:8,
 193:16, 195:17,
 197:6, 204:7, 210:2,
 269:14, 290:16,
 320:13, 325:17,
 326:19, 363:18,
 364:3, 368:18
tonight's ^[1] - 210:5
took ^[8] - 10:18, 11:3,
 91:14, 275:2,
 275:10, 348:11,

362:15, 362:17

top [8] - 27:2, 33:17,
72:6, 92:5, 199:3,
318:13, 331:19,
334:14

topography

[3] - 126:2, 182:4,
183:6

tore [1] - 9:9

torn [3] - 9:8, 9:11,
10:4

tortured [1] - 121:15

total [10] - 29:12,
30:8, 30:12, 147:17,
148:3, 148:15,
149:2, 149:4,
150:18, 376:13

totally [1] - 38:19

touched [1] - 101:3

tough [1] - 116:10

tour [7] - 57:14, 58:6,
192:8, 192:17,
193:3, 193:5, 193:8

tourist [2] - 100:7,
355:10

tourists [4] - 80:16,
87:19, 100:12

tours [2] - 43:6, 43:7

toward [3] - 169:17,
248:12, 328:16

towards [5] - 62:12,
110:13, 213:10,
226:13, 304:14

town [1] - 138:8

track [2] - 350:13,
356:3

tradeoff [2] - 135:2,
188:11

tradition [2] - 58:16,
371:9

traditionally [1] - 70:5

Traffic [2] - 20:19,
24:11

traffic [13] - 24:8,
65:4, 129:10,
129:12, 131:6,
157:17, 316:8,
356:15, 358:19,
365:14, 387:12,
396:4

train [1] - 68:4

trained [2] - 99:9,
106:3

trains [1] - 177:15
trajectory [2] - 40:4,
 41:11
tranquil [1] - 88:7
tranquility [1] - 68:3
TRANSCRIPT
 [1] - 402:15
transcript
 [5] - 103:17, 401:2,
 401:6, 401:15,
 401:16
transcripts [2] - 20:8,
 213:15
transform [1] - 116:9
transit [1] - 24:14
transition [2] - 147:4,
 230:19
translate [1] - 237:13
translated
 [1] - 344:17
translates [1] - 352:2
transom [1] - 317:6
transoms [1] - 314:9
transparent
 [2] - 45:9, 158:10
Transportation
 [2] - 20:19, 24:12
transportation
 [1] - 24:9
trash [10] - 284:8,
 349:12, 349:17,
 350:3, 350:18,
 351:1, 351:8,
 391:10, 391:14
treated [1] - 177:4
treatment [1] - 130:14
tree [5] - 113:9, 120:8,
 306:17, 307:9,
 307:11
trees [60] - 41:2, 75:8,
 75:12, 84:17, 87:1,
 93:11, 95:19, 96:2,
 103:4, 112:14,
 112:17, 113:8,
 113:9, 113:12,
 113:13, 113:15,
 113:18, 113:19,
 119:12, 120:10,
 120:11, 122:12,
 122:13, 122:15,
 122:16, 123:1,
 123:4, 123:15,
 123:18, 124:15,

125:1, 125:2,
 126:19, 128:18,
 131:9, 131:12,
 131:14, 132:18,
 144:10, 145:4,
 145:9, 145:11,
 145:15, 145:18,
 146:2, 146:7, 146:9,
 146:13, 146:14,
 146:18, 146:19,
 147:5, 147:6,
 216:15, 295:18,
 296:11
triangle ^[1] - 249:4
triangular
^[3] - 206:12, 216:14,
 248:8
trick ^[1] - 231:3
tricky ^[1] - 293:15
tricorn ^[1] - 56:2
tried ^[3] - 118:8,
 211:8, 221:10
Trinity ^[3] - 136:8,
 136:9, 350:8
triple ^[6] - 249:1,
 328:4, 328:8,
 329:14, 335:4
Trippe ^[1] - 299:10
TRIPPE ^[1] - 299:10
tripping ^[1] - 82:3
trolleys ^[1] - 93:15
trouble ^[1] - 265:16
troubles ^[2] - 171:13,
 219:1
Truck ^[4] - 345:7,
 345:17, 348:11
true ^[3] - 185:16,
 402:6
truly ^[2] - 69:19,
 250:19
truncate ^[1] - 107:14
trust ^[4] - 45:17,
 61:10, 105:14,
 395:14
try ^[15] - 38:13, 89:9,
 111:13, 127:14,
 127:17, 181:9,
 215:17, 224:12,
 232:12, 238:18,
 240:8, 257:2, 257:5,
 267:13, 305:6
trying ^[17] - 31:15,
 70:3, 110:5, 126:17,

159:10, 171:19,
 210:12, 212:10,
 213:8, 215:19,
 221:16, 231:4,
 239:19, 248:12,
 267:9, 387:5
tucked ^[1] - 314:14
turn ^[5] - 36:9, 63:7,
 294:1, 324:14,
 328:12
turned ^[1] - 336:12
Turner ^[1] - 282:17
turning ^[3] - 91:2,
 91:4, 93:12
twelve ^[2] - 121:13,
 151:9
twelve-thirty
^[1] - 121:13
Two ^[1] - 268:18
two ^[94] - 9:12, 12:15,
 12:16, 13:1, 14:19,
 15:1, 23:8, 25:19,
 41:18, 53:2, 56:12,
 76:19, 78:15, 81:2,
 81:12, 92:2, 109:8,
 114:15, 122:6,
 122:8, 129:19,
 130:6, 131:16,
 139:10, 139:12,
 139:13, 142:6,
 158:8, 169:16,
 174:14, 181:7,
 182:5, 185:1,
 187:12, 187:14,
 189:16, 191:13,
 192:11, 212:1,
 212:19, 214:2,
 216:13, 222:12,
 224:1, 225:16,
 231:19, 237:5,
 238:11, 241:15,
 248:17, 265:15,
 296:14, 303:3,
 305:9, 305:14,
 309:2, 311:10,
 314:2, 314:9, 319:5,
 323:2, 323:4, 323:9,
 325:16, 326:8,
 326:9, 329:13,
 333:15, 334:6,
 334:19, 335:15,
 336:5, 336:10,
 336:19, 351:10,

362:8, 362:11,
 362:13, 368:17,
 368:18, 369:19,
 371:9, 372:5, 372:8,
 372:9, 372:19,
 373:1, 381:19,
 386:8, 389:5

two-family

[8] - 265:15, 326:8,
 334:19, 336:10,
 362:8, 372:19,
 373:1

two-story

[4] - 169:16, 329:13,
 372:8, 372:9

two-thirds [1] - 76:19

two-year-old

[1] - 323:9

twofold [1] - 179:9

type [9] - 59:1, 61:12,

70:8, 78:4, 94:1,
 166:15, 222:17,
 347:1, 378:13

types [3] - 61:17,

172:8, 355:11

typical [2] - 23:19,

152:7

U

ugliest [1] - 249:8

ultimately [2] - 46:13,

60:13

unable [2] - 363:19,

364:3

unanimous

[5] - 136:14, 286:17,

325:14, 333:3,

339:7

unanimously

[3] - 357:17, 357:18,

358:8

unbelievable

[1] - 86:5

unchanged

[3] - 18:15, 349:1,

352:11

uncomfortable

[1] - 74:15

under [12] - 50:4,

50:9, 99:19, 102:12,

174:2, 201:11,

221:14, 279:7,

291:12, 341:6,

350:17
UNDER [1] - 402:16
undergone
[1] - 291:12
undergraduate
[1] - 41:5
underground
[1] - 32:14
underneath [3] - 34:1,
123:6, 334:1
undersigned
[1] - 402:4
understandable
[1] - 130:17
understandably
[1] - 395:4
understandings
[1] - 222:13
understood
[2] - 104:12, 191:3
underway [1] - 193:7
undoubtedly
[1] - 170:3
undue [1] - 301:2
unequivocally
[1] - 168:14
unfettered
[1] - 169:12
unfinished
[2] - 378:8, 378:11
unforeseen
[1] - 99:15
unfortunate [1] - 39:3
unfortunately
[4] - 5:2, 266:5,
275:7, 278:11
ungenerous
[1] - 341:4
unhappy [1] - 341:17
unhealthy
[1] - 353:19
UNIDENTIFIED
[8] - 4:18, 17:6,
17:11, 17:19, 28:14,
110:16, 115:13,
243:19
uniformity
[1] - 348:12
Union [1] - 389:14
unique [6] - 65:2,
65:5, 162:3, 206:10,
223:6, 224:18
uniquely [1] - 223:6

unit ^[28] - 204:1,
 206:17, 209:1,
 211:17, 213:4,
 213:5, 213:17,
 213:19, 214:2,
 220:5, 231:5, 231:7,
 233:19, 235:13,
 238:7, 238:10,
 253:15, 265:15,
 267:7, 267:14,
 267:17, 267:18,
 299:6, 299:11,
 299:13, 331:19,
 332:11, 377:11

units ^[21] - 204:19,
 215:4, 215:5, 215:6,
 216:1, 216:7, 216:9,
 216:14, 224:1,
 225:16, 225:17,
 226:4, 226:5,
 228:13, 228:17,
 231:13, 235:12,
 239:6, 245:13,
 259:9, 271:12

university ^[5] - 62:10,
 63:8, 102:16, 103:2,
 116:5

University ^[8] - 18:5,
 44:2, 52:9, 52:11,
 84:14, 85:2, 87:6,
 108:15

University's
^[1] - 20:12

university's
^[1] - 80:14

unless ^[6] - 45:11,
 95:7, 115:2, 123:1,
 213:15, 246:17

UNLESS ^[1] - 402:16

unlimited ^[1] - 67:18

unmistakable
^[1] - 170:11

unnecessary
^[1] - 85:11

unprotected
^[1] - 184:19

unrestricted
^[3] - 149:17, 151:1,
 151:3

unusual ^[1] - 272:6

up ^[111] - 10:10,
 11:15, 12:10, 14:2,
 14:10, 14:11, 14:15,

15:2, 33:14, 34:6,
 35:15, 37:9, 41:9,
 43:4, 47:14, 48:8,
 57:15, 58:4, 59:3,
 60:18, 61:8, 64:8,
 64:14, 69:4, 73:17,
 74:2, 75:5, 75:10,
 75:14, 75:17, 76:18,
 77:14, 89:10, 90:14,
 91:4, 92:18, 93:2,
 93:11, 94:17, 95:10,
 97:8, 98:10, 98:11,
 107:8, 110:13,
 117:15, 120:7,
 122:2, 128:19,
 129:8, 132:2, 132:4,
 135:7, 135:9,
 141:16, 152:8,
 152:16, 154:19,
 157:9, 169:10,
 169:13, 171:11,
 175:11, 178:5,
 180:11, 185:8,
 187:6, 187:7, 196:4,
 199:11, 200:1,
 202:5, 207:13,
 212:18, 229:13,
 229:17, 230:17,
 232:16, 235:5,
 244:9, 249:17,
 252:8, 253:8, 255:6,
 261:1, 268:6, 275:2,
 281:9, 293:10,
 294:1, 297:14,
 304:2, 314:18,
 318:4, 318:12,
 327:12, 329:14,
 330:14, 339:19,
 354:6, 354:12,
 362:10, 365:1,
 373:3, 374:12,
 375:11, 377:8,
 379:18
upcoming [2] - 4:11,
 298:16
updated [3] - 15:7,
 380:3, 381:18
upfront [1] - 122:17
upper [2] - 333:19,
 377:12
upstairs [2] - 362:15,
 362:17
Urban [1] - 394:16

urge [2] - 67:11,
198:3
usable [1] - 195:11
useless [1] - 51:11
uses [19] - 12:18,
42:5, 59:13, 84:17,
160:3, 162:1,
300:19, 316:13,
345:12, 345:13,
346:17, 347:6,
349:7, 349:10,
350:10, 350:13,
359:9, 365:19,
396:13
utensils [1] - 391:5
utilize [2] - 351:12,
391:3
utmost [1] - 269:12

V

vacation [1] - 8:19
valid [1] - 179:8
VALKENBURG
[5] - 18:11, 144:8,
144:19, 145:3,
145:17
Valkenburg
[2] - 18:12, 142:8
valuable [1] - 198:1
value [7] - 167:14,
216:13, 219:9,
224:15, 225:13,
231:8, 301:4
van [5] - 142:8, 144:8,
144:19, 145:3,
145:17
VAN [1] - 18:11
Van [1] - 18:11
Variance [56] - 67:16,
79:8, 116:13, 153:7,
163:10, 181:10,
191:1, 191:19,
195:10, 195:15,
196:3, 203:15,
226:15, 227:7,
265:9, 271:6,
272:10, 272:19,
277:14, 277:17,
279:1, 279:6, 282:4,
282:15, 284:5,
284:16, 285:17,
287:1, 288:14,
294:10, 301:3,

301:6, 312:10,
 313:1, 313:17,
 315:2, 315:8,
 315:11, 320:6,
 338:9, 339:13,
 340:18, 348:14,
 369:3, 369:8,
 371:18, 376:7,
 376:10, 382:14,
 383:2, 383:6,
 383:16, 384:4,
 399:4, 399:5
variance [2] - 195:3,
 384:7
variances [1] - 368:18
Variances [4] - 116:4,
 116:7, 116:15,
 122:9
varied [1] - 69:2
variety [7] - 61:5,
 61:13, 71:5, 172:11,
 172:16, 178:4,
 306:2
vault [1] - 101:18
venture [2] - 59:7,
 393:3
venue [2] - 91:13,
 131:18
venues [2] - 23:12,
 68:10
verbally [1] - 37:16
verbiage [1] - 189:5
versatile [1] - 167:9
version [3] - 12:4,
 12:5, 106:8
versions [2] - 104:16,
 363:9
versus [2] - 355:8,
 371:4
vertical [1] - 33:6
vested [1] - 205:9
viable [3] - 227:4,
 231:13, 236:6
vibrance [1] - 175:5
vibrancy [2] - 88:15,
 176:9
vibrant [3] - 53:16,
 71:7, 171:16
Vice [2] - 1:8, 7:5
victualler's
 [1] - 352:16
view [20] - 9:17, 96:2,
 153:13, 164:12,

168:6, 170:10,
 194:6, 216:4, 217:7,
 255:9, 279:2,
 284:15, 300:11,
 300:17, 311:2,
 311:13, 325:6,
 375:12, 400:3
viewed ^[1] - 314:12
views ^[3] - 158:15,
 170:7, 220:10
vigilantly ^[1] - 12:19
vigorously ^[1] - 103:6
Village ^[1] - 389:8
Vince ^[1] - 63:11
VINCENT ^[1] - 55:19
Vincent ^[1] - 55:19
vine ^[1] - 94:16
vintage ^[2] - 46:5,
 46:7
violations ^[1] - 280:1
virtually ^[4] - 305:9,
 306:10, 307:1,
 310:11
visibility ^[1] - 71:13
visible ^[3] - 13:15,
 161:13, 293:5
vision ^[1] - 241:18
visit ^[2] - 43:5, 44:5
visited ^[1] - 283:1
Visitor ^[1] - 108:1
visitor ^[3] - 87:18,
 100:8, 101:8
visitor's ^[4] - 94:19,
 100:14, 100:16,
 101:4
visitors ^[6] - 80:17,
 87:19, 187:3, 187:4,
 347:4
visitors-wise
^[2] - 187:3, 187:4
visual ^[2] - 128:19,
 242:11
visually ^[2] - 113:19,
 144:3
vogue ^[1] - 60:7
voice ^[2] - 89:10,
 252:18
volume ^[5] - 116:6,
 292:1, 292:6,
 300:14, 401:6
volunteer ^[1] - 121:14
volunteered
^[1] - 364:2

volunteering

[1] - 121:14

vote [20] - 136:15,
140:10, 162:15,
164:11, 170:7,
189:17, 199:15,
285:13, 311:7,
311:9, 338:3, 338:5,
340:1, 341:13,
341:18, 356:8,
356:9, 365:8,
382:10, 395:14
voted [4] - 346:9,
355:18, 356:5

W

wait [4] - 243:10,
258:12, 288:1,
392:18
waited [1] - 224:3
waiting [1] - 252:18
waiver [2] - 5:8,
200:11
Walden [4] - 2:5,
3:16, 4:7, 389:11
walk [12] - 11:15,
30:18, 55:2, 65:12,
168:15, 216:9,
226:6, 228:2, 228:3,
353:17, 377:15,
387:16
walking [6] - 65:6,
68:6, 68:8, 95:5,
187:15, 293:9
wall [16] - 32:7, 32:13,
32:16, 32:17, 32:19,
33:2, 45:9, 47:12,
53:10, 82:12, 92:1,
153:14, 318:4,
318:6, 348:2, 375:5
wander [1] - 168:15
wants [19] - 19:10,
45:6, 54:17, 63:2,
70:19, 100:5,
101:12, 131:13,
163:19, 173:15,
216:2, 217:1, 219:5,
224:11, 226:12,
227:6, 281:4,
309:19, 318:1
War [1] - 61:11
warrant [3] - 206:9,
225:7, 225:8

warranted ^[1] - 206:9
warrants ^[1] - 221:9
wart ^[1] - 39:1
Warwick ^[1] - 268:18
wash ^[1] - 105:16
Wasserstein
^[1] - 63:4
watch ^[2] - 180:17,
327:1
watched ^[1] - 115:19
watching ^[5] - 93:14,
132:9, 154:14,
160:15, 161:1
water ^[2] - 212:17,
324:2
waterfall ^[1] - 171:1
Watson ^[1] - 203:14
ways ^[4] - 59:9,
60:17, 62:12, 354:1
WE ^[1] - 130:9
wealth ^[1] - 99:12
weather ^[4] - 43:18,
88:3, 141:17, 185:4
Wednesday
^[1] - 171:8
week ^[8] - 8:8, 9:1,
9:11, 22:8, 22:16,
60:4, 63:19, 382:4
weekend ^[1] - 89:19
weeks ^[8] - 11:8,
11:12, 14:19, 15:1,
57:13, 98:18, 104:3,
174:14
weird ^[1] - 249:3
welcome ^[15] - 21:6,
22:14, 23:1, 23:14,
26:7, 49:3, 87:18,
100:8, 105:8,
132:13, 149:7,
149:10, 151:17,
161:19, 172:19
welcoming
^[20] - 40:19, 45:8,
45:16, 45:18, 49:8,
54:5, 54:9, 55:5,
56:13, 58:16, 58:19,
80:7, 80:16, 87:6,
94:19, 132:19,
134:5, 141:7,
157:19, 158:9
welfare ^[4] - 316:18,
359:16, 366:12,
396:17

well... [2] - 127:13,
260:19

west [1] - 53:11

Western [1] - 324:16

whereas [1] - 51:10

WHEREOF [1] - 402:8

White [1] - 102:12

white [4] - 52:3, 94:9,
159:18, 390:6

who've [1] - 104:17

whole [22] - 73:17,
80:11, 81:2, 124:18,
132:10, 144:5,
186:5, 227:14,
235:1, 235:4,
235:17, 239:1,
239:5, 245:7, 282:9,
304:17, 317:8,
317:9, 317:10,
328:11, 328:17,
334:13

wide [2] - 95:13,
112:13

WIECHMANN
[35] - 385:11,
385:16, 386:3,
386:19, 387:3,
387:18, 388:3,
388:6, 388:9,
388:10, 388:13,
388:14, 389:2,
389:5, 389:7,
389:12, 389:18,
390:3, 390:12,
390:16, 391:7,
391:8, 391:10,
391:17, 392:5,
392:8, 392:11,
394:6, 394:10,
394:12, 394:14,
394:15, 394:19,
395:2, 395:7

Wiechmann
[1] - 385:17

wife [7] - 74:1,
102:11, 174:10,
177:2, 284:2, 300:1,
385:17

WILL [39] - 210:9,
211:4, 215:7,
215:13, 217:2,
232:3, 233:12,
234:18, 235:3,

235:9, 235:15,
 236:2, 236:11,
 237:14, 238:6,
 238:12, 238:15,
 239:4, 239:10,
 239:17, 240:2,
 240:5, 241:10,
 241:14, 242:3,
 242:9, 242:12,
 254:8, 254:17,
 255:10, 255:19,
 256:5, 256:11,
 256:14, 257:8,
 257:14, 258:1,
 260:9, 260:11

WILLIAM ^[2] - 52:5,
 83:8

William ^[2] - 52:6,
 83:9

WILLIAMSON

^[16] - 7:7, 7:13, 7:17,
 16:18, 28:8, 33:14,
 89:9, 97:5, 105:6,
 109:3, 109:10,
 109:15, 110:1,
 115:3, 118:1, 159:6

Williamson ^[2] - 7:18,
 97:6

willing ^[3] - 55:2,
 135:3, 213:11

win ^[1] - 244:4

win/win ^[1] - 55:14

wind ^[1] - 57:15

window ^[30] - 56:10,
 252:5, 253:4,
 256:16, 314:10,
 314:12, 317:6,
 317:9, 317:10,
 317:11, 317:13,
 317:15, 318:1,
 318:4, 318:10,
 318:13, 318:14,
 319:1, 319:6, 319:7,
 319:9, 362:16,
 362:17, 362:18,
 362:19, 390:15,
 390:18

windows ^[15] - 292:4,
 292:12, 292:15,
 295:8, 295:9, 296:4,
 296:7, 314:9, 316:4,
 319:6, 320:3,
 361:12, 362:12,

362:13, 365:13

wine [2] - 354:8,

354:10

winter [8] - 42:6, 42:8,

98:13, 139:1, 139:2,

167:8, 267:11,

309:7

wintertime

[2] - 51:10, 246:11

wisdom [1] - 226:12

wise [6] - 187:2,

187:3, 187:4,

240:15, 320:14

wish [10] - 90:12,

146:16, 158:16,

166:8, 170:4,

243:10, 245:1,

245:12, 385:9

wishes [5] - 268:12,

281:14, 330:19,

365:6, 380:15

wishing [20] - 3:17,

4:2, 203:8, 264:9,

268:8, 274:9,

281:10, 290:9,

297:15, 297:19,

322:8, 330:15,

342:9, 354:13,

354:17, 361:9,

365:2, 368:9,

380:12, 392:16

withdrawn

[2] - 205:18, 207:3

withstanding

[1] - 169:1

WITNESS [1] - 402:8

Wits [1] - 111:7

woken [1] - 117:15

woman [3] - 44:9,

66:10, 110:7

wonder [1] - 106:16

wonderful

[12] - 48:17, 73:16,

77:4, 77:11, 91:3,

92:13, 110:15,

111:19, 112:5,

176:8, 305:5

wood [1] - 269:6

word [2] - 18:1,

138:14

words [4] - 155:7,

231:14, 373:15,

381:12

workers [2] - 346:18,
 347:4
works [2] - 84:11,
 222:15
world [7] - 46:8, 57:5,
 60:12, 87:16, 87:18,
 111:9, 111:13
World [1] - 61:11
worried [3] - 52:11,
 53:9, 253:11
worrying [1] - 86:19
worse [3] - 280:17,
 301:17, 379:3
worst [3] - 72:19,
 73:2, 309:8
worth [2] - 216:11,
 325:5
worthwhile
 [1] - 168:2
worthy [1] - 87:17
wow [1] - 336:13
wrap [2] - 135:9,
 318:10
wrappers [1] - 349:15
write [1] - 133:17
writer [1] - 335:12
writing [7] - 97:15,
 98:6, 102:14,
 281:17, 284:19,
 298:14, 398:19
written [9] - 21:1,
 24:17, 37:13, 109:1,
 109:13, 118:18,
 279:10, 287:18,
 299:19
wrote [6] - 62:16,
 139:8, 270:7, 298:1,
 335:14, 363:17
www.reportersinc.c
om [1] - 1:17
Wyman [1] - 393:15

Y

Yard [10] - 41:1, 41:7,
 41:16, 91:9, 113:10,
 113:13, 113:19,
 114:8, 128:4
yard [8] - 45:1, 213:7,
 278:17, 306:18,
 306:19, 308:4,
 308:15, 375:19
year [14] - 22:8,
 22:11, 22:17, 45:10,

48:7, 57:14, 73:13,
122:4, 144:5, 185:1,
188:7, 323:8, 323:9,
384:1

years ^[42] - 23:8,
38:9, 40:16, 41:14,
41:17, 42:16, 42:17,
43:3, 43:5, 44:12,
45:15, 46:9, 56:2,
56:3, 62:9, 62:11,
73:8, 79:19, 84:5,
88:6, 89:7, 111:10,
111:13, 115:11,
115:16, 116:1,
117:1, 128:4, 131:8,
133:13, 141:11,
142:6, 249:14,
251:1, 253:7,
343:12, 345:14,
368:17, 389:9,
393:17

yellow ^[4] - 37:2,
90:16, 242:15,
329:19

York ^[1] - 284:3

young ^[7] - 48:3,
48:9, 49:9, 282:7,
322:17, 323:2,
339:9

yourself ^[4] - 17:15,
39:16, 319:18,
361:19

yourselves
^[1] - 197:3

Z

ZBA ^[1] - 89:17

zebra ^[1] - 175:14

Zelinski ^[2] - 402:4,
402:11

Zinc ^[1] - 223:3

Zone ^[4] - 206:2,
219:15, 229:5,
375:13

zone ^[5] - 11:7, 33:9,
105:8, 105:9, 373:1

zoned ^[1] - 252:3

zones ^[1] - 227:18

ZONING ^[1] - 1:1

zoning ^[16] - 163:9,
164:7, 164:8,
206:18, 223:9,
223:11, 271:17,

271:18, 277:11,
280:1, 295:3, 295:5,
310:4, 325:6, 339:1,
340:8

Zoning ^[41] - 1:12,
3:9, 39:19, 74:4,
77:16, 78:9, 78:12,
79:5, 102:1, 103:14,
121:8, 123:10,
123:13, 137:5,
137:7, 163:13,
166:16, 206:16,
208:1, 216:4,
219:12, 220:7,
221:14, 222:6,
222:14, 222:19,
223:8, 249:16,
276:4, 279:4,
279:17, 282:4,
283:16, 294:5,
331:3, 355:19,
383:6, 400:14,
401:6, 401:15