

PLANNING BOARD FOR THE CITY OF CAMBRIDGE
GENERAL HEARING
Tuesday, July 16, 2013

7:05 p.m.

in

Citywide Senior Center
806 Massachusetts Avenue
Cambridge, Massachusetts

Hugh Russell, Chair
H. Theodore Cohen, Vice Chair
William Tibbs, Member
Pamela Winters, Member
Steven Winter, Member
Tom Sieniewicz, Member
Steven Cohen, Member
Catherine Preston Connolly, Member
Ahmed Nur, Associate Member

Brian Murphy, Assistant City Manager for
Community Development

Community Development Staff:

Liza Paden
Roger Boothe
Stuart Dash

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I N D E X

GENERAL BUSINESS

Update, Brian Murphy, Assistant City manager
for Community Development

Board of Zoning Appeal Cases

Adoption of Meeting Transcript (s)

PUBLIC HEARINGS

PB#282, 533 Putnam Avenue Special Permit to convert an existing Non-Residential Space to Residential Use pursuant to Section 5.28.2 - Conversion of Non-Residential Structures to Residential Use; Section 6.35.1 - Reduction of Required Parking; and Section 5.28.2 Dwelling units to permit a greater number of dwelling units than is permissible as determined by the minimum Lot Area per Unit. No new gross floor area will be constructed. Lianne Bensley, applicant.

Charles Teague, et al, to amend the Zoning Ordinance of the City of Cambridge in the following ways: Create new definitions for Lamp, Luminaire, Direct Light, and Indirect Light; amend portions of Sections 6.41 and 6.46 in Design and Maintenance of Off-Street Parking Facilities to replace terms "glare," "reflection," and "lights" with other terms as defined in the petition; amend Paragraph 7.15(B) in General Limitations for All Signs

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I N D E X (Continued)

Permitted in the City of Cambridge to remove the term "indirect" from the text; create a new Section 7.22 Lighting Restrictions for the City of Cambridge; and modify the title of Section 7.20 Illumination to read Section 7.23 Lighting Restrictions for Residential Districts and remove the term "indirect" from the text

KeyWord Index

P R O C E E D I N G S

(Sitting Members: Hugh Russell, H. Theodore Cohen, Pamela Winters, Steven Winter, Tom Sieniewicz, Steven Cohen, Catherine Preston Connolly.)

HUGH RUSSELL: Good evening. This is the meeting of the Cambridge Planning Board. So the first item on our agenda is an update and we have before us a great new list of work we're going to be doing in the next couple of months. And so is there any other news to relate from the -- does the Council have their midsummer meeting soon?

LIZA PADEN: So the City Council will be meeting on July 29th and they will have the various discussions and everything else that they're going to jam pack into that one meeting.

HUGH RUSSELL: Okay. If there are

no questions, then we'll go to the next item on our agenda which is the Board of Zoning Appeal cases.

LIZA PADEN: These are the Board of Zoning Appeal cases to be heard on July 25th. The case at the bottom is the 288 Norfolk Street. And that case is going to come back to you in August with a revision to their plans. This was the one that you looked at last week and had some constructive criticism.

Are there any other cases that the Board would like to look at?

PAMELA WINTERS: Liza, I have a question. I just -- the 38 Sacramento Street. I have to put my glasses on. I think it's a good idea for -- is that retail space now empty?

LIZA PADEN: Yes. So it's been a

retail space over time on that location. So even though it's in the C-1, it has a retail facade in that ground floor, that corner retail space.

PAMELA WINTERS: Well, I'm always, you know, up for having retail spaces particularly in that neighborhood. So my feeling is that I would like to see that filled if it is a retail shop.

LIZA PADEN: Yes.

PAMELA WINTERS: I don't know if my colleagues agree with me, but I would like to encourage that.

HUGH RUSSELL: You're probably living closer to that spot than any of us.

PAMELA WINTERS: Yes. What was it before, Liza, do you remember?

LIZA PADEN: It's been a variety of things.

CATHERINE PRESTON CONNOLLY: Liza, that used to be the Oxford Street Realty office, right?

LIZA PADEN: Yes, real estate and insurance office. Thank you.

H. THEODORE COHEN: It's been sort of a kids' clothing store most recently I think.

PAMELA WINTERS: Right.

LIZA PADEN: Right. Thank you.

PAMELA WINTERS: Well, I would just like to encourage retail, you know, that being filled up so that's it.

And we'll be getting the Norfolk Street one later?

LIZA PADEN: August 6th it's going to come back to you.

PAMELA WINTERS: Okay, thank you.

LIZA PADEN: That's it?

HUGH RUSSELL: That's it.

Is there a transcript?

LIZA PADEN: And we're working through the transcripts. So there's no new transcripts yet.

HUGH RUSSELL: Okay.

H. THEODORE COHEN: Liza, can I ask a question? There was an article in the Cambridge Chronicle about the Kaya Ka Hotel. I was wondering if you knew what the status of that was?

LIZA PADEN: So the Kaya Ka Hotel, I don't remember exactly when the Special Permit was granted by the Planning Board, but there's been a Special Permit for the use and some dimensional changes in the Overlay District which were the result of the rezoning for that particular Zoning District. And then they came back for an amendment to

the Planning Board to address the valet parking arrangement that they wanted to have in the basement, and they had to reconfigure the driveway because their desire to have a shared driveway with the abutter, it fell through. So, that Special Permit, I don't know if you remember, but at the end of the year for the last three years I believe they've come in and they've requested an extension of the Special Permit. So that's a valid permit and it's -- the expiration date is now December of 2013.

H. THEODORE COHEN: And the article indicated they were about to start construction?

LIZA PADEN: Right. We have not seen the construction drawings yet and we haven't reviewed them for the conditions of the Planning Board Special Permit.

H. THEODORE COHEN: And on another matter, I recommend to all my colleagues and all the public to take a look at the church next to Lesley University which is undergoing a lot of activity and it looks like it's about to be moved shortly.

Do you have any timing on that?

LIZA PADEN: No. But Lesley University has an extensive construction site that they've put up on-line and they have an overall construction plan that covers the entire duration of the construction, and then they have the next two weeks in action. So there's also an e-mail list that you can access there and get put on updates of when they send out the updates every week, you'll get an update.

H. THEODORE COHEN: Okay, thank you.

HUGH RUSSELL: I guess we'll take a

ten or an eight minute recess until 7:20 for our next scheduled business.

LIZA PADEN: Right.

(A short recess was taken.)

(William Tibbs seated.)

HUGH RUSSELL: Okay, the magic hour has arrived. It is now 7:20 and we can go on to our 7:20 public hearing Planning Board case 282, 533 Putnam Avenue.

GREGORY COLLING: Hi. Would it be better if I placed the boards facing the audience? I didn't bring an easel with me.

HUGH RUSSELL: Liza will assist you.

GREGORY COLLING: Thank you.

My name is Greg Colling. I'm an architect with Merrimack Design based in Amesbury, Massachusetts, and I'm representing Lianne Bensley. She's the owner of 533 Putnam Avenue. She's unfortunately unable to

attend this evening, but several members of her family are here on her behalf.

So 533 Putnam Avenue is on -- well, Putnam Avenue between Brookline and Acorn Street. It's on the south side of Putnam Avenue. It's roughly a 5,000 square foot lot. It has a Victorian half house on one side. It's a half a house. It's built in 1869. It's a second empire house. And then on the left side of the lot is a one-story storefront building that has a series of six garage bays on the back side of it that have been added. That was built initially in 1922.

The abutting properties are 539 Putnam Avenue. It's a triple decker. It's a green triple decker on the left. And then the other abutting properties are on Acorn Street which is behind the half house.

LIZA PADEN: This is Acorn.

GREGORY COLLING: And it's also -- the corner touches 285 Brookline. The property's been owned by Li Bensley since 1996. Her husband, who's now deceased, ran a construction business with Li and they ran that business there until 2004. And she subsequently moved out of Cambridge and has been renting the Victorian house. The half house is actually two dwelling units. And then the one-story accessory structure is -- has two tenants and it has a business tenant. It's a non-conforming use. The residence is in a Residence C District.

So the owner is proposing to convert the non-conforming accessory structure into a single-family owner-occupied residence which is non-conforming. It's because there are two units already on the property. So this

would be a -- we're proposing to add a third unit on the property.

And in addition to adding a third unit on the property, we're proposing a reduction in parking. Currently there is a driveway, a 12-foot driveway that goes from the front of the lot to the back. There isn't sufficient turning radius to enter the garage bays because of an egress stair and a deck that was built in the yard, so currently it's used as tandem parking for the business tenants. According to the owner, the two apartment tenants do not use the driveway at all.

So, we're hoping to -- that you'll allow us to convert this non-conforming structure into a single-family residence. We're proposing to have two tandem parking spaces for the use of the owner, which I understand that tandem parking isn't allowed

or it's not recognized as a legal parking space. So it would be in effect we're continuing the same amount of parking which is one legal parking space on that property. In addition we're providing bicycle parking on the property for three bicycle spaces. And there is also -- there's a map that we've brought that shows the bus stations that are nearby. There are two bus routes that are nearby and also Zipcar locations and there's a grocery store that's within walking distance.

So we feel that our proposal will minimally impact the neighborhood. We feel that taking a non-conforming accessory structure that's deteriorated and underutilized and turning that into a single-family residence will be an enhancement to the neighborhood and to the

community.

STEVEN WINTER: Mr. Chair?

HUGH RUSSELL: Yes.

STEVEN WINTER: May I ask a question?

I want to make sure that I know which building, which place you're talking about and I'm just trying to get my head around what it is and where it is. Is this the structure that used to be a news distribution -- newspaper distribution back in the day? Does anybody know that?

MEMBER FROM THE AUDIENCE: Yes.

STEVEN WINTER: So I know what that is now. So the only work that we're talking about doing is not to the larger structure which is owned by the proponent but the work is on that series of --

GREGORY COLLING: Correct.

STEVEN WINTER: -- spaces. And is it to renovate existing bricks and mortar or is it to tear down and build new?

GREGORY COLLING: We're proposing to reuse the existing structure and not tear it down. We do have to remove -- in the rear corner the deterioration is such that we have to replace the masonry in the back of the building. But we're proposing to work within the existing structure. We're not proposing any changes to the front of the building other than taking out a door on the side and replacing that with a window to match the storefront. And we are proposing a three-foot overhang on the driveway side which is invisible really to any, any adjacent properties as a covered entry.

STEVEN WINTER: And is this, is the plan then for one single story, not two

stories?

GREGORY COLLING: Correct. We're not proposing a second story. We're working with then the existing volume structure.

STEVEN COHEN: In your application you describe this as being an owner-occupied. Is that the plan that the three units will remain under common ownership? It's not being, you know, the lot's being subdivided or condoized or --

GREGORY COLLING: No, the owner uses the other two existing residential units on the property for rental income and then she will continue that and she will be living in the one-story accessory structure.

WILLIAM TIBBS: You're requesting a third unit on the site but also all the units will be less than the minimum area size; is that correct?

GREGORY COLLING: Right, they're less than 1800 square feet per unit. Right.

WILLIAM TIBBS: Okay.

HUGH RUSSELL: This is a 5.28 proposal on a conversion of a non-residential structure for residential use, so it's looked at differently. There the rule is that you can divide the structure into 1100 square foot units.

GREGORY COLLING: Right.

HUGH RUSSELL: And the actual gross area is for 300 units -- 320 square feet is going to be one unit so it meets that standard.

WILLIAM TIBBS: Yes.

GREGORY COLLING: That's correct.

(Ahmed Nur Seated.)

HUGH RUSSELL: So the relief you're seeking is a conversion reduction of the

required parking and 5.822, and that's (inaudible). The third thing is the getting the third unit by Special Permit process not by a Variance process.

GREGORY COLLING: It was recommended by the Building Inspector that I go through the Special Permit process rather than try to seek a variance.

HUGH RUSSELL: Shall we go to public testimony?

TOM SIENIEWICZ: I just have two quick questions.

HUGH RUSSELL: Sure.

TOM SIENIEWICZ: Sorry, two quick questions. One, the openings on the, it would be, looks like the east side of the property, the window openings, those are existing, the ones that are close to the property?

GREGORY COLLING: Correct.

TOM SIENIEWICZ: Okay. And then can you just --

STEVEN WINTER: Which ones are these? Could you point that out?

TOM SIENIEWICZ: The ones at the top of the drawing.

STEVEN WINTER: Yes, okay. Thank you.

LIZA PADEN: This is the shared property line.

TOM SIENIEWICZ: And then the extension of the three-foot overhang on the -- over the door is --

GREGORY COLLING: Want me to point that out?

TOM SIENIEWICZ: If you could just point that out.

GREGORY COLLING: Yeah, that

proposed cantilever roof is right here. This is the existing two-family house that's on the property.

TOM SIENIEWICZ: Yes.

And so then in terms of the open space, how does that divide up relative to the units on the -- is it assigned to one of every unit?

GREGORY COLLING: It's assigned to this unit.

TOM SIENIEWICZ: Okay, thank you.

HUGH RUSSELL: Are there any other questions?

STEVEN WINTER: Actually I do, Mr. Chair, just one more.

The smaller dark square, does that represent a part of the buildings on the property? It's down towards the bottom.

LIZA PADEN: This?

STEVEN WINTER: Yes, that.

GREGORY COLLING: That's an abutting property. That's 18.6.

STEVEN WINTER: That's not what we're talking about?

GREGORY COLLING: Correct.

STEVEN WINTER: Thank you.

HUGH RUSSELL: Okay, so we're going to go to public testimony. And by coincidence, the first person to speak is Mark Sullivan who lives at (Inaudible). Go to the podium and give your name and your address.

MARK SULLIVAN: Good evening. I'm Mark Sullivan, the owner and occupier of 6 and 8 Acorn Street which is the black square on the plan that we see there. My wife Ann and I own 6 and 8 Acorn Street. We've -- in October will be 29 years in the neighborhood.

That property is very familiar to me. We look out every morning as I make coffee and all of our -- all three the bedrooms in the house are very, very closely directly overlook the yard part of the property. And that's, that's where most of my questions relate to for this renovation. And this is the first time I've been involved in such a process so I'm -- pardon me if I'm not asking the right questions whatever they may be.

I guess -- so there's a couple of things that I'm interested to know about if there's a possibility given this building is unusual and there's a request for a, you know, a different approach, if in that case any setback requirements are different? Because if we, if we look on the plan, the yard plan, that hedge that is close to my house -- I don't think that property line has

been surveyed in the 29 years that I've been there. And it just seems to me that -- and if I'm correct, it almost looks like there's some surveyor marks on some of the other sides of the plan.

GREGORY COLLING: We had the property surveyed.

MARK SULLIVAN: The property between Lianne's property and mine, I didn't see numbers here.

GREGORY COLLING: I believe it was.

HUGH RUSSELL: With the Board's indulgence, I think we can allow this sort of dialogue.

TOM SIENIEWICZ: That's fine.

GREGORY COLLING: This is your property right here and you have space behind your house.

MARK SULLIVAN: Yeah.

GREGORY COLLING: The property line is right against the party wall.

MARK SULLIVAN: Okay, so that survey was done recently?

GREGORY COLLING: Right.

MARK SULLIVAN: So with the plantings that are proposed, the -- one of my concerns is being able to access the rear of my house for necessary repair, you know, painting, etcetera, etcetera. Currently it's a wooden deck which you can see in, I think it's your photo 10 that you have in the package, which will also give you an idea of how close we are in this little enclave. So my concern is obviously not wanting to cause any damage to that if -- and I do need to do some renovations to the exterior of my house quite shortly. So, again, I'm wondering if the plan is to bring those plantings right to

the property line or whatever required, you know, inward movement or setback might be in this particular case.

GREGORY COLLING: Well, I think we showed, for privacy purposes we showed a hedge that's on, that's against the property line. It wouldn't extend over your property, but it's on -- against that boundary.

MARK SULLIVAN: Right. And how high does that going to be?

GREGORY COLLING: We haven't determined that yet, but I'm sure that's something we can work out with Li.

MARK SULLIVAN: The other thing I just wanted to call to attention is going to be the use of the yard and the materials used. I mentioned some concern about noise. I've spoken to Lianne, you know, certainly I certainly don't think she's going to be

having the sorts of parties that previous tenants have had. We've also have had a break-in on our first floor which is why you see grates on the window. But, you know, those were past days. But because of the way, you know, the buildings kind of create this amplified almost noise effect, I'm just -- Lianne said that there's going to be maybe a crushed stone material used?

GREGORY COLLING: Yeah, there will be permeable surface back there and there's one paved portion of the area that's closer to the building.

MARK SULLIVAN: And then something also I don't see in the plan, I guess the language that's used is the work will be -- will occur entirely within the footprint of the building. But in my view there's going to be significant demolition and new

construction required in that yard area. So I wonder, you know, if there's a plan on how long that's going to -- when that might start? How long that might go on? What the nature of that work might be? Again, that's, it's literally right under our noses so I would just like to understand what that might look like.

GREGORY COLLING: Well, again, our primary focus has been to get through the Special Permit process and we developed a plan. There's more work that needs to be done to develop the landscape, but we have a proposal here that we brought to this meeting and that's, you know, basically a schematic plan for what we intend to do. And I'm sure that, you know, we have, we can work with you if you have an issue with the hedge, but I think we're, again, we're improving the

space. We're taking out that wood deck that's rotted, that's with the garbage cans back there. And we're planning on creating a nice space that I think you'll be pleased.

MARK SULLIVAN: It will look a whole lot better than it looks currently. And again, the -- and so the other related issue when I spoke with Lianne and I mentioned this to you, that this air conditioning unit that's shown in the exterior, that she did say her plan is to move it under the stairs, but since that is not shown in this kind of drawing, you know, I would have a great interest in that occurring because of the, you know, the noise that comes right up from that fairly large unit and we hear it, we certainly hear it in our house. And it's great that she says that she plans to do that. But I just wonder how that would be

kind of confirmed through the planning and the iteration.

HUGH RUSSELL: We can do that. We can make that a condition of a permit.

MARK SULLIVAN: Yeah.

Will there be any air conditioning units on the roof?

GREGORY COLLING: Not to my knowledge.

MARK SULLIVAN: And is there any outdoor lighting plan?

GREGORY COLLING: We haven't developed an outdoor lighting plan other than to have recessed lights at the cantilevered roofs. Just two little spots that light and demarcate the entrance to the building.

MARK SULLIVAN: Uh-huh.

WILLIAM TIBBS: Hugh, you've asked our indulgence but I think we should proceed

on.

HUGH RUSSELL: Continue on?

WILLIAM TIBBS: And the conversation you're having you can continue to have, and --

STEVEN WINTER: And you should.

WILLIAM TIBBS: -- but we need to get back on this.

MARK SULLIVAN: Great, thank you very much.

HUGH RUSSELL: Okay. Does anyone else wish to speak?

(No Response).

HUGH RUSSELL: Okay, I see no one wanting to speak. So now we will discuss this proposal.

STEVEN COHEN: Well, I'll start if nobody else will. It's currently a non-conforming use, a non-conforming

dimensionally in many respects. And with the changes I don't think any of the non-conformities are being exacerbated. In many respects from the use to the open space that the situation is being improved in almost every aspect. I think it's a great way to use this non-conforming structure and I think it's a great idea, great proposal, and a great plan for this lot.

HUGH RUSSELL: Bill.

WILLIAM TIBBS: I guess I have a question for the proponent. You said that the -- all the open space was going to be used by the converted unit and so there's no open space available for the existing two?

GREGORY COLLING: That's correct. There's safe access on to the property for the two rental units but the rear yard will be private and dedicated to the proposed

residence.

WILLIAM TIBBS: And how is the open space being used currently by those tenants?

GREGORY COLLING: It isn't. It's basically a trash storage area.

WILLIAM TIBBS: What about the wood deck?

GREGORY COLLING: And the wood deck, to my knowledge I haven't seen it used.

WILLIAM TIBBS: I mean what was its purpose? What were the users of the deck? Was it a commercial --

GREGORY COLLING: I'm not sure.

WILLIAM TIBBS: Was it commercial use?

SAM BENSLEY: People would go out there and have a drink and tenants in the building.

WILLIAM TIBBS: The tenants --

HUGH RUSSELL: Could you give us your name, please.

SAME BENSLEY: Sam Bensley.

WILLIAM TIBBS: Other than for me the idea of the renovation makes sense. Not allowing the tenants who, even though they may not have used it, that deck obviously was there for their use to -- when you have, we typically like to see if there are units on the property that all of the units there have some benefit from the open space.

GREGORY COLLING: Sure.

CHRIS WILLIAMS: Actually, can I say something. My name is Chris Williams. I'm Ms. Bensley's brother.

HUGH RUSSELL: Sure.

CHRIS WILLIAMS: And I think I can point out a couple of things. First it that there is a front yard to the two-unit

building. It's very small. And the leases that we've written for both of the two tenants do not include the yard at all. They only include the rental unit itself. So, they don't even really have access to the backyard. They haven't really used it as Sam said. And they don't use it now.

WILLIAM TIBBS: You're saying that the existing leases --

CHRIS WILLIAMS: The existing leases do not --

WILLIAM TIBBS: -- they're not allowed to use --

CHRIS WILLIAMS: They don't allow them to use the yard. The only lease is to the actual unit itself and not to the yard.

GREGORY COLLING: Obviously privacy, having a private outdoor space is important to the owner.

WILLIAM TIBBS: It's also important to other people, too.

GREGORY COLLING: Right.

PAMELA WINTERS: Yes.

HUGH RUSSELL: It's not completely private because of Mr. Sullivan's house. So it's a, you know, a semi-private space.

GREGORY COLLING: Right.

HUGH RUSSELL: One that I would characterize most people's yards in Cambridge.

GREGORY COLLING: Semi-private.

HUGH RUSSELL: Yes. You may control who comes into it, but many people look at the open spaces.

Steve.

STEVEN WINTER: The semi-private concept is very nice, I like that. And it really is living in a dense urban

environment. Believe me there's going to be interaction and contact between the people in the windows and the people on the ground. I mean, there's -- they're neighbors and that's going to happen, so we want to make it the best experience for all of them.

I need clarification on the rooftop mechanicals. So I need for the proponent to say clearly there are no rooftop mechanicals or there are rooftop mechanicals and this is what they are. So that's simply something that we need clarification on.

And I -- I -- just because it was brought up, I think that we are going to need clarification on the existing lease defining the tenant's access to the side yards. Now, I'm not sure what I would say if it didn't say that, but I think as long as it's been brought forward, we just need to confirm

that, I feel. And if my colleagues feel differently, you know, just tell me and I realize I'm being in a bad mood today or whatever it is we can do that.

And I think the lighting is also really important to us. And we've got a lot of folks in the city who are concerned about the lighting.

Mr. Chair, is there a -- there's a lighting plan that the proponent can provide us, right, that shows where the lights are and what directions they go that would assure us and the neighbors that the lighting will not interfere with their private spaces.

HUGH RUSSELL: Such a plan could be prepared and shown to Mr. Sullivan and it could, you know, discuss it and come to an understanding of what made sense and it can be submitted to us or submitted as a

condition, you know, of the vote. I think my preference is since I don't hear, you know, much opposition tonight, there are details to be worked out but the concept seems to be acceptable. So I'd rather not, you know, delay our approval by a month or six weeks but I'd like to have a process to make sure that the details are worked out, that Mr. Sullivan has consulted and has an opportunity to discuss his matters with his abutter. And I think what's been represented to us is that the outdoor space is more diametric than the Zoning of the building and it's not surprising that we would do that.

STEVEN WINTER: Okay, let me then -- let me take off the table confirming that the leases -- to the tenant leases define whether they can or cannot. I think I'm okay with that. And I concur, Mr. Chair, with what you

had said, but I do believe that we need to be respectful of Mr. Sullivan's areas of interest which are accessing the rear of his house, the height of the hedges, the use of the yard materials and its permeability that are next to him, and noise related particularly the air conditioning unit. I think those are real concerns.

GREGORY COLLING: Sure.

STEVEN WINTER: I also agree this is a great plan. It's a wonderful use. It's a family that, you know, has been in Cambridge for a long time, and I think it's -- and it reuses a building in quite a nice way. I congratulate you on the design.

GREGORY COLLING: Thank you.

STEVEN WINTER: So, yes, I concur. And I wouldn't mind voting it appropriately tonight to move it forward, but I do want to

make sure that Mr. Sullivan is taken care of.

PAMELA WINTERS: Could I just say one thing? I concur with what Steve just said, and particularly living so close to the air conditioning that could be really bothersome.

GREGORY COLLING: I understand.

PAMELA WINTERS: Yes. And also the height of the hedge just because I've gone through this myself, you know, this issue myself. You know, do you have any idea as to what kind of hedging or height you want to put in there?

GREGORY COLLING: It would probably be a hue that's shoulder height.

PAMELA WINTERS: Hues are great. And hues grow to be eight feet tall and they're inexpensive. So that might be a good choice.

And I don't have any trouble with the tandem parking so I just wanted to mention that, too.

And also I think it's important for the abutter to get into, you know, if he has to have some roofing done or something done on the side of his house, it's important for him to get into that little area.

GREGORY COLLING: I'm sure that Li would be amenable to working with Mark on that.

PAMELA WINTERS: Great. Okay.

HUGH RUSSELL: It's a practical matter if it's only the width between Mr. Sullivan's house and the hedge, it appears to me the width of a kitchen counter. So it's about two feet. You can't actually put a ladder up against the house in two feet, so they're going to have to work

together. And, you know, when I trim my wisteria, I put my ladder on my next-door neighbor's property and, you know, sometimes I ask her and sometimes I assume the permission that's been granted in the past carries over. You know, if he's planning to do some work, it might be smart to maybe not plant the hedge until the work is done if that, you know, if that can be worked out as an arrangement.

GREGORY COLLING: Well, typically the landscape work is the last piece that's done, so that might be something that we can work out. I think -- I wasn't aware that Mark had a concern about the location of the condenser and we're certainly more than happy to work with him and address any of his concerns. And I'm sure Li, you know, she's a great neighbor and I think that she'd be more

than happy to address any of Mark's concerns.

HUGH RUSSELL: Yes, I propose that we attach a condition that the air conditioner be, you know, removed at some distance from the property line.

PAMELA WINTERS: I agree.

HUGH RUSSELL: A distance maybe being a width of the L on the half house.

STEVEN COHEN: If I could add one comment about that condenser. Frankly, if it's a loud condenser, moving it even that distance isn't going to make an enormous amount of difference. I think the real key to the condenser is not as much the location but getting a quiet condenser. And I'm not quite sure what the Cambridge noise ordinance says about the noise level of condenser, but they're available extremely quiet nowadays and I don't know that it's within our

jurisdiction to actually specify the decibel level here. But I think under the circumstances and just being a good neighbor with a fellow who's already expressed a concern about it, I think you would be well advised to find an extremely quiet condenser. They cost a few bucks more, but not a whole lot more, and it would make a world of difference.

As for the property line, it is what it is. It is where it is. There's nothing we can do to change that. And, frankly, if the tenants under the leases have rights to outdoor space, there's nothing that we can do here to in any way compromise their rights under those leases. But maybe we can encourage to do something about the noise from the condenser.

GREGORY COLLING: I think that's

something that's -- that we certainly can work with Mark on.

STEVEN WINTER: May I remind the Chair just to be a timekeeper, we are at eight o'clock. We are at ten till eight and just to remind the Chair that we are working hard to stay on the schedule.

HUGH RUSSELL: So, we can dilly dally around for six minutes because otherwise we'll have to take another break.

But, Ahmed, did you want to say something?

AHMED NUR: Okay. I think most of the points have been covered by my colleagues definitely for the approval of this renovation. One concern that I share with -- and I think a lot of people said the same thing, but I'm concerned with Mark Sullivan's case. The rear of the house, I'm assuming,

the shrubs, the houses are too close. So wherever the property line might be for the surveyors, I mean trees outgrow and you don't want to cover (inaudible). And obviously by rule he's going to come down to chop it. It's his right to do that.

GREGORY COLLING: Right. There's an access alley for servicing the facade of that house on the property. There's about a three foot path against the house.

AHMED NUR: And also I can't really see whether that facade where the shrubs are where the east or southern sun and if it's going to be eight foot tall it might block or overshadow his kitchen or whatever it is near the rear of the house.

GREGORY COLLING: I don't think the hedge was planned to be eight feet.

AHMED NUR: Okay.

MARK SULLIVAN: May I speak?

AHMED NUR: Mark wants to speak.

MARK SULLIVAN: Just to make a comment clear, I'm not interested in an eight foot hedge either because I think the space will look quite nice. And as you folks have summarized, you know, our concerns are primarily noise, some of which we can easily work out with Lianne and some is mechanical. To be able to borrow an improved view would be nice.

HUGH RUSSELL: Ready to act on this? Would someone like to put forward the motion referring to the application for the specific relief sought?

TOM SIENIEWICZ: Mr. Chair, I'd like to -- and fellow Board Members, I'd like to make a motion that the application for a Special Permit to convert a non-residential

structure to residential use to reduce the amount of required parking and to occupy the lot with more dwelling units than would be allowed dimensionally. The conventional C Zoning District dimensional regulations be allowed based on the findings of this Board, and also on conditions as discussed by this Board. I'm not sure what they are at the moment specifically, but relating specifically to conversations that he will have with his immediate abutter relating to concerns about lighting and sound and landscaping details. And maintenance access rights over the property. That's the motion.

BRIAN MURPHY: So moved.

H. THEODORE COHEN: Second.

HUGH RUSSELL: I heard Ted's second first.

Is there discussion on the motion?

All those in favor of the motion?

(Raising hands).

HUGH RUSSELL: All members voting in favor. And that's it.

Thank you for a very clear presentation and a great architectural job.

GREGORY COLLING: Thank you very much.

(A short recess was taken.)

HUGH RUSSELL: All right, we can begin now on the next item on the agenda which is a discussion of a recommendation on the Teague Petition on light trespass. And we had a public hearing, and before we made comments, those comments were referred to the staff. And Jeff Roberts and other people on the staff have thought about those and come back with a written response to what we brought to them. So I think what we'd like

to do is start with Jeff presenting the work that he's done and the thinking and the rationale behind it. Then we'll ask Mr. Teague to respond to that, and then we will decide what we're going to say to the Council.

So please proceed.

JEFF ROBERTS: Thank you, Mr. Chair.
Jeff Roberts, CDD.

I just wanted to briefly go over mostly just the proposed modifications which are in the package that we sent to the Board. It starts following the text of the draft recommendation. On the text of the draft recommendation itself is, as we tend to do sometimes, we take the Board's comments and form it into a draft recommendation. And certainly we're all open to hearing the Board's comments and suggestions about

revisions that we can then take back and modify as the Board wishes. But I wanted to take a moment to go over some of the proposed text that comes after -- the Zoning text that comes after that in order to address some of the questions, because some questions have come up since this came out. We wanted to try to address those right off the bat.

In general the intent of the proposed modifications is to retain the same overall scope as the petition and to create some clearer standards that rely less on discretionary enforcement. That was an issue that the Planning Board raised at the last hearing. But one of the considerations that we have is to keep within the scope of the initial petition and not to deviate largely from that scope which would require a possible re-advertisement of the petition.

The one particular issue that's come up that we have -- I feel that we maybe haven't addressed fully is the question of how this applies to existing lighting. And this is a -- this is an issue that's covered broadly in Zoning by the state laws that enable Municipal Zoning Rules, and this comes from Chapter 40A, Section 6 of the state laws which says -- and I'm skipping a little bit, but basically says: A Zoning Ordinance or by-law shall not apply to structures or uses lawfully in existence or lawfully begun but shall -- before that Zoning change was adopted, but shall apply to any change or substantial extension of such use to any reconstruction, extension, or structural change of such structure, and to any alteration of a structure to provide for its use for a substantially different purpose or

for the same purpose in a substantially different manner that was substantially greater extent. And that's the overall framework within which the Zoning Ordinance is written.

In Cambridge the Zoning Ordinance, we also have Article 8 which is a, which is a general set of standards on non-conformity which starts with that state law provision and adds some other instances where for one reason or another the City allows non-conforming structures or non-conforming uses to continue in certain specific ways.

So, based on this overall framework, it's our understanding that whether the original petition language were put forward, or in the case of the modified language, it would apply to new buildings, new uses, and significant alterations that -- to buildings

or to lighting and would not compel existing property owners who installed their lighting, you know, in a way that was legal at the time, before this petition was advertised, would not compel them to change their lighting or to take down any existing fixtures.

In fact, the proposed text is meant to clarify that the non-conformity rules wouldn't necessarily apply to maintain an existing non-conforming lighting, light when you do, when you do significant alterations to a building. So it's meant to clarify that any change you make to a building, to a use, or to the lighting on a building has to be brought into conformance with what the new regulations are.

So that's just one overall piece. And then I'd like to just take a quick step

through some of the -- what the provisions actually are. And it says, it says, Page 1 of 6 where it starts, but it's several pages into the document. I'm sorry about the page numbering.

The first page covers the definitions which are included, that's included in the original petition. There are some small changes for clarity and directness of application. Some additions borrowed from other -- which we've borrowed a little bit by looking at other Ordinances that had been actually brought up at the public hearings, and I've spent a little bit of time looking through those and comparing the standards that are proposed with standards that are in existence in some other places and some that might have been held up as models. And in particular, that's the

standards having to do with the illuminance rating and the illuminance and that factors in later on. So I'll just skip ahead with that.

On page 2 the applicability, again, makes it clear where we're enforcing these standards which would be really any, in any instance where Zoning rules do apply. And we included some exceptions in response to the Planning Board's comment about will this be possibly too extensive or have unintended consequences? Some of these exceptions are present in the original petition. Some have been added. For instance, in A where it talks about city lighting, that's a provision that's suggested to make sure that the City essentially doesn't get in its own way. For instance, if there was a situation in a public park where the neighbors were

concerned about safety and made a request to the City to increase lighting, the City's hands wouldn't then be tied by its own Ordinance to be able to respond to that kind of a public concern.

Indoor lighting is included because I think that in most other Ordinances the illumination standards do specify outdoor lighting. Indoor lighting can be very difficult to enforce. If somebody put a lamp in their window, would you then have to take a Zoning enforcement action? It's a difficult scenario in which to try to apply a Zoning enforcement.

And the abandon new provision was actually one that was taken from -- which is on page 3, I believe, was taken -- it was a suggestion that's included from other Ordinances again to try to, to the extent

possible, facilitate the replacement of old non-conforming fixtures with, with newer conforming fixtures and not to allow people to use the fact that the light hasn't been -- it's been sort of not on for a long time to then do something that might not otherwise be in conformance.

The rest of page 3 makes, it makes a change in the language on the regulation to clarify that what's being regulated are the things that cause the light rather than light itself that's being regulated. It is more straightforward in my opinion to regulate physical fixtures and structures in a way that can be directly observed and enforced. The overall regulation remains based on the sort of the principle that was described by the petitioner, which is that you can visually verify whether a light is -- is in

conformance or potentially not in conformance. And I think it was the Board's suggestion that perhaps there could be a recourse that then a property owner could either then fix the problem or could provide some evidence that the light actually is in conformance with what those specific standards are.

We did, I should note on, again, that the burden really would be on the installer. And under B I think as well as A and C on that page, we can, you know, we can add the text that the installer has demonstrated, I think that would be your reasonable standard that was just as a clerical matter. It was just left out of the text.

The -- there was a comment that about the half a foot candle, 0.5 foot candles, and in terms of whether that was a too high a

standard. There are other -- there are actually a range of standards that are used in many other Ordinances. They have different standards that apply to different zones and different districts, and to be consistent with the petition we're trying to figure out something that could apply citywide. So 0.5 may be, you know, may be on the high end. Other cities use 0.35, 0.2, 0.1 or sometimes as low as 0.05, but that tends to be, again, where there's a separation between residential districts and non-residential districts. And we can look at that a little more or talk about that a little more.

And then I just wanted to make a comment, too, because this was brought up in 7.23, that's retaining the existing text in the Zoning. I think there may have been some

confusion as to whether that is meant to imply that this continues to only apply only in Residence A, B, C, and C1 districts which is not the case. The new regulations would apply citywide. If there was concern about these regulations and whether or not they would apply to other districts such as Residence C-2, we could add Residence C-2 to that list as an amendment to that text, but the petition didn't actually amend that text, so we left it, we left it as is.

Another consideration is to say that the new regulation supersedes the old regulation, and maybe there's no need to have it at all and it could be deleted.

The next page on page 4 is -- it talks about enforcement. And this is, again, based on the -- it's the sort of core of the petition that this should be a

complaint-driven enforcement. There is a general provision, Article 9 of the Zoning for a person to, to request a Zoning enforcement, and this is just a way to provide some more detail to that process where in this particular case we're looking at this as a special case, there would be a process of recording a specific item and then having the owner have a chance to respond and then at that point being able to move forward with other avenues of Zoning enforcement just to provide opportunities where these issues can be resolved in a straight forward manner.

There is one note, one comment that was made to me that it says in 7.24.2 the owner of any property intends, and it actually is true that in the Zoning it's not necessarily a property owner, but any aggrieved person. So it could be a renter who could file that

kind of complaint. So that would be a recommended change to this. That is to say, instead of the owner of any property just any individual could make that request.

The rest of it is very similar to the petition. We did add one note that says that just to -- I guess a clarifying note, and it's on page 6 where the -- they talk about parking regulations that the lighting must conform to the requirements of Article 7. Again, just to kind of button things up. And there was a question also that was raised about I think outside of this, it wasn't in the petition, but whether one foot -- what is one foot candle be the appropriate standard, recommended standard for a parking lot. And it's a question that's difficult to answer, but it, it may be worth the City's consideration at some point --

HUGH RUSSELL: When we do parking lots, half a foot candle is the lowest level. You look at -- because the light is much brighter under the luminaire, there's a minimum number and there's a ratio between the brightest and the least bright portion because of that ratio gets very high, the eye adjusts and so you have to keep that range down. But for that reason, I would think spilling a half a foot candle on somebody else's property, which is a reasonable standard for a parking lot, would be an unreasonable spill standard. And I think we should not be allowed to spill as much light as would allow your next-door neighbor to have in a parking lot. So maybe it should be, you know, substantially lower and maybe a 0.2 setting, you know. And it certainly worked under Ordinances where it's 0.1, but

you're in more suburban locations where it's more easy to achieve that.

MEMBER OF THE AUDIENCE: Can you turn the volume up on the microphone so we can hear you better?

HUGH RUSSELL: I'll try to move closer to the microphone. You weren't here earlier when we were having the feedback problems. I'm hoping we can go back to our regular meeting room sooner rather than later where it's a little bit easier there.

So sorry, Jeff, I interrupted you.

JEFF ROBERTS: That's fine.

I think that's actually a good point to, you know, in order for me to stop and to let the Board ask questions or respond.

HUGH RUSSELL: So I guess my question is based on the public testimony many people came in and they said there's

this awful wall pack that somebody put up a while ago and it's really annoying. And what I'm hearing you say is that because of the way that the Zoning Ordinance and the Zoning enabling network, we can't, we can't solve that problem. Is there a way to solve that through the municipal lighting or should we recommend to the Council that they pursue that question? Because to me it's, you know, having been the victim of wall packs in the past and I got my neighbor to do a pretty good job of fixing it eventually, but I -- personally I'm aware of that and I think we heard this testimony. And so is -- how do you -- is it possible to deal with that if you can't do it in Zoning, some other way?

JEFF ROBERTS: Well, I'm not -- I have to admit first that I'm not an expert on non-zoning legal matters, but I can tell you

what I've found in, you know, in just my reading.

Well, first of all, there is a Municipal Code which is separate from the Zoning Ordinance which doesn't, it is not established under Chapter 40-A, but does still have to adhere to any superseding state laws or regulations, so.... And, again, I'm not well enough versed in that to give specific answers. I -- but for, you know, there is an examine in Cambridge, for example, where you can look at the noise ordinance in Cambridge where that is part of the Zoning Code and it's not part of the Zoning Ordinance and it's treated and enforced in a, you know, different mechanism.

I do know that because it was recommended by the Board to look at other examples that we have looked at Newton's,

Newton, Mass. Code, and they do have requirements in their Zoning that apply to, you know, new development, new lighting, but they also have a light trespass provision within their Ordinance on, I believe, it's miscellaneous finds and offenses that discusses the amount of light trespass that's allowed on an adjacent property. And I can't, I can't say because I don't have any firsthand examples whether that's been used to enforce, enforce an Ordinance on a situation that was pre-existing. I just got -- actually I just got through one of their former plans. They had experience of reviewing it through, site plan review for Zoning and making sure the lighting is conforming that way but not whether there was enforcement done in a different way.

HUGH RUSSELL: Do we have other

questions for Jeff?

H. THEODORE COHEN: I'm sorry.

Jeff, I think you did a great job. The staff did a great job. And first I'll go back to the last issue, which is I would make a recommendation or suggestion to City Council or the staff that somebody ask the Law Department, because I think it is indeed a problem under the Zoning Enabling Act to try to deal with pre-existing non-conforming uses or structures, and that whether one could as an analog to the noise ordinance adopt a light ordinance at the site of Zoning which might be immediately applicable to existing uses.

I -- the first question I have is in your Section 7.23 where there's, the reference at the very end: Proposed addition shall conform to the requirements of Section

7.22 above.

Is that intended to bring in the, as written currently not exceed one half foot candle at any point beyond the property line?

JEFF ROBERTS: Yes. That added language, I would characterize it as sort of a buttoning up. Just to make it clear that 7.23 doesn't supersede 7.22, but rather that this is a sort of an additional set of -- and it remains as additional set of standards and requirements that -- but that 7.22 also applies with regard to the shielding and the spill --

H. THEODORE COHEN: Right, right. I just wanted it to be clear in my mind that if there were some spill under 7.23 but it did not exceed the half foot candle or whatever standard was ultimately agreed upon, that that would be okay.

JEFF ROBERTS: I -- as long as it -- yes, if it meets all -- if it meets all the standards. If it's only -- if it is continuous, and of indirect note and other definitions, but if it's -- if it prevents direct light from any other property and shall conform -- oh, I'm sorry, now I understand what you're asking.

H. THEODORE COHEN: My concern is that we not view --

JEFF ROBERTS: 7.23 supersedes 7.22. Well, that may be, that may be a concern. I guess if it is -- if that, if that language creates ambiguity --

H. THEODORE COHEN: Let me rephrase it.

JEFF ROBERTS: Yes.

H. THEODORE COHEN: My concern is that we not -- in going after the people who

we really want to go after, we are not making every property owner, every house owner who has got a house, you know, with a light two feet from their abutting property owner's property line is not going to be in violation of this if it complies with whatever minimal standard has been written into the Ordinance. And so as I read 7.22, if it wasn't more than 0.5 foot candle, if you know, that was okay, and I wanted to be clear that under 7.23 the same standard would apply.

JEFF ROBERTS: Yes, I would say that is the intent. But I think you've noted something that could potentially being resolved, an ambiguity that could be resolved by the text.

H. THEODORE COHEN: Okay. I don't have the, you know, the knowledge or background to say what the right level is.

I'll have to take, you know, Hugh's or staff's determination of what is the proper level.

The comment you made on 7.24.2, changing owner of any property to an individual, gives me some discomfort because the way it's been written now it relates as, you know, a lot of Special Permits or Zoning enforcement relates to aggrieved party within 300 feet or abutters to abutters and just changing it to an individual is not tying it to some particular location. And so I would ask that you think about that again if you want to go away from the owner of a property, that it somehow -- I mean, I mean, we don't -- we want people who have a legitimate right to be able to complain about it, but not necessarily someone who's a half mile away saying oh, I don't like the way that light

looks when I drive by. So I would just be careful about that.

I had been concerned about the overreach of everything under the original language. And I still am concerned about the fact that if you can see it, it can be deemed a violation, but I think the provision you've written in here in 7.24.2 ameliorates my concerns a lot, that there is this whole process so that we're not going to have frivolous complaints being made or complaints that, you know, neighbors versus neighbors who just happen to be right next to each other and saying, well, you know, your porch light is too bright because I can see it. So I'm much more comfortable with that.

TOM SIENIEWICZ: I just have a comment and a question, Jeff, and I also wanted to compliment you on how carefully you

listened and how much better this is since the last time we saw it. I think it's worth emphasis that the issue of standing which is sort of cemented in the law of Zoning really be more carefully articulated here. I, too, am uncomfortable about straining from that issue. It's abutters and abutters to abutters and the 300-foot radius is I think what I would be looking for in terms of aggrieved parties as a definition. But the thing that I'm missing the most, I think, from a nearly perfect redrafted section here and looking at the Section 6.41 at the end, which is entitled, "Purpose," made me think that I was missing that in the illumination section sort of just a general couple of sentences at the beginning to say why are we concerned about this in the city of Cambridge? And obviously we're concerned

about the spilling of light on to adjacent properties and the effect it might have on the ability of those adjacent property owners to enjoy their property. And I think it's another thing missing. And it's interesting that this diagram is up here on the screen, because the aggrieved party is gesturing at the ground and looking at his neighbor. But actually there's another condition that the section of the Ordinance could address which is, which is the night sky. And I think that that's another purpose of this Ordinance which is to control the effective light spilling up into the night sky which is an issue of environmental concern increasingly in this country, and I think Cambridge should take credit for and also highlight its concern about the issue that light should not unnecessarily spill into the night sky. So I

really think the Ordinance and the diagram on the right of the screen shows in fact the lighting fixture that's doing both of those things and that's correctly, I think, what we should be concerned about. And thank you, just two minor points.

Thanks, Jeff.

CATHERINE PRESTON CONNOLLY: Well, first I want to say you talking about the Rule of 40-A and the non-conforming structures. I think because this has come to us from people who are dealing with this problem now, I would really like to see included in your memo, and the language that you very carefully drafted with some changes that my fellow board members that I think articulated well. I'd like to see in our memo a recommendation that City Council really take up the approach that you

described Newton has, which is that the two-pronged approach. The General Ordinance to deal with the problem that is there now where one property owner is creating a nuisance for the other property owner so that they can get some relief from existing things, but also that going forward we would have that ongoing review and pro-active dealing with this so that we don't create those situations in the future.

WILLIAM TIBBS: Hugh?

HUGH RUSSELL: Yes, go ahead.

WILLIAM TIBBS: I just want to agree wholeheartedly with what you just said and also I want to agree that I think we -- the changes that you made to this from my perspective are an improvement. And I think you hit upon a lot of the core issues that we were concerned about. The problem I think

that you have, what you stated was within the confines of a Zoning Petition. You can only change so much before it becomes something else. And I guess my recommendation would be that the -- we actually look at, with a non-conforming piece, it just -- it's great for new stuff but it doesn't do anything about the current situation, and I think there may be some better mechanisms.

So my recommendation would be that the City really take this on, but it actually become a petition from -- that we work on to get it right. That would then, you remember at the first hearing, I commented about the fact that we probably -- it would be good to have a consultant to help us with things half of a lit candle versus something else. And if you had a city process where you're trying to solve that, you can do that. So I think

as I said, I think what this petition is trying to do is very, very good, but Zoning is always a proved mechanism to do it. And I am a little concerned. Specifically I think there is a -- I'm concerned about what constitutes a change. We're talking about a fixture versus a building so that -- and you have the license that says if it's new construction, yes. But if you're altering or changing it, but what if you alter or change the light fixture? I mean that gets -- that definition, to me, gets very unclear. If a light fixture is one light to the left and they want to change it, is that a change? To me it gets a little confusing. The initial standing I would agree also, is the fact it has to be, and we just can't have people who are renting and stuff like that, this could be a nightmare. And I guess I'm very

concerned about the, the Section 2-point -- I mean, 7.24.2 which is really the enforcement piece. And I think you will get a lot of frivolous complaints. They may not be frivolous in the mind of the person complaining, but it may turn out to be frivolous. And even if it isn't frivolous, I'm just concerned that it may get a lot. I mean, the poor superintendent of buildings is just going to get a lot of this stuff. And, you know, you get a complaint, you have to determine that the complaint's valid. I'm just concerned about that. So I think, you know, Municipal Code and/or Zoning combination just has a better approach to me to solving as opposed to trying to just doing it all.

And that's all.

PAMELA WINTERS: Thanks, Hugh.

Is this on? I'm just curious, I don't know what a foot candle is. How many watts, like, for a bulb is it?

JEFF ROBERTS: That's hard to say. So I'll try to do this in very laymen's terms. There's -- in lighting there's such thing as there's luminance and then there's illuminance. And luminance is like your bulb. So if you have a 60-watt light bulb, that's -- I think somewhere around to determine like 850, 900 luminance which is the -- because wattage is always different depending on what kind of light you have. You measure the brightness of the light in luminance, and that's just the point source of light.

Illuminance means how much light you're casting on something that's away. So what -- the light that just that bulb is casting on

the floor or the wall is called illuminance. And it's measured in -- foot candles are kind of a weird unit. I actually don't know how it came about, but it's also, I believe, equivalent to luminance per square foot. So it's like imagining a light, sort of creating a wash over, over a surface. So it's really the intensity of the light spread over a surface that it's, that it's shining on. So you basically measure it and you use what's called a lux meter. You can't measure it if you have sort of a room where you can just turn on one light source, you can hold up a lux meter and get a reading on what the illuminance is that's being a -- what that means is that the further you get away from the light source, the illuminance or the foot candles goes down. And I should say, too, and this could be a technical point that was

made to me and addressed to me that the illuminance is generally as a technical standard is measured horizontally against the ground and vertically on a, you know, sort of up and down direction. And that could be also clarified in the Zoning I think as a technical point just to make sure it's consistent with what the professional standards are.

PAMELA WINTERS: Well, I was just a little bit concerned about 7.23 because I know in our house we have a driveway that the front unit uses and we do, too. And also we have our back unit. And if we didn't have the lighting up there, we have sort of a two-pronged lighting fixture; one which goes to the driveway, and one which goes into behind the gate in our backyard. It would, it would really, it would be pitch black

there and it would cause real security issues. But, again, it's like we use -- like, I don't know, 50-watt bulbs so I don't know what candle measurement would be, but you know, we do try to, you know, we shine it on those particular areas. But I'm sure some of it, you know, does get reflected to some of the neighbor -- I don't know.

You know, we also have an arbor and we would put up Christmas lights around the arbor all year actually, and so -- we also have plighting in the trees in our yard.

HUGH RUSSELL: Night sky.

PAMELA WINTERS: Yeah -- no, no, no, because the trees block the, you know, just the trees block the --

STEVEN COHEN: You're going to jail.

PAMELA WINTERS: Yeah, maybe I shouldn't have said anything. Anyway, so I

guess I have an issue about that. So I don't know, do you have any comments on that?

JEFF ROBERTS: No, I mean, I think --

STEVEN COHEN: Walk away.

JEFF ROBERTS: You've done a good job of I think illustrating the complexity of enforcing these regulations in a way that's --

PAMELA WINTERS: I know.

JEFF ROBERTS: -- this sets, you know, a clear set of standards and is, as a complaint-driven enforcement mechanism. So if you went up and uninstalled that light and if you were, you know, installing that, you know, whatever after the Zoning was advertised and someone had a complaint with it, they would hopefully come to you first and see if you could redirect it and, you

know, kind of give you their permission that it's okay. But if not, they could, you know, they could -- if your light was not, you know, shielded as it's been described and pointed downwards, they could take a photo of it, send it to the Building Commissioner and they could then, they could ask you to verify that your lighting is within the acceptable parameters.

PAMELA WINTERS: Poor Building Commissioner. Boy. Anyway, go ahead.

STEVEN COHEN: Steve, you want to go?

STEVEN WINTER: Mr. Chair, may I speak?

HUGH RUSSELL: Go ahead.

STEVEN WINTER: Thank you, Mr. Chair. I simply wanted to concur that with the general direction that the

conversation is going, I concur with my colleagues. And I also would like to echo the sentiment that the presentation of the Zoning and the side bar, Jeff, the explanations in them, have made this a really good exercise. Jeff, thank you for that.

HUGH RUSSELL: I'd like to comment that first several board members haven't spoken yet, and secondly, we have the proponent of the original petition before us who has studied the subject and studied the proposal before us and I think we need to listen to him. And we have other members of the public here. And since there's something substantially different in our recommendation, we need to listen to them.

So I think Steve and Ahmed and I have some comments, too.

STEVEN COHEN: Jeff, to the extent

that this is technical, I don't have the technical experience or knowledge to second guess you. And you seem to have made yourself an expert in this area of lighting over the passed few months. But in general on technical matters, I'm very much inclined to defer to the analysis and research and thought and efforts by you and the staff. So I think that you've done great on that. The thing to me that's most interesting, and just understand most important, is this whole question of non-conformity. To the extent that all of this is just prospective, I think it works reasonably well from every perspective and including from an enforcement perspective. It's the non-conformities. I just want to ask you a little bit more about first of all, just under 40A.6 as interpreted, as applied here, what sort of

changes would, would bring a fixture out of a legal non-conforming status? Clearly replacing the fixture, it's got to be brought up to Code. If you're making changes, alterations to the structure other than the fixture, does that at any point trigger a requirement?

JEFF ROBERTS: Well, it could. And that's the way we've essentially written it to try to be as encompassing in scope as possible to not provide any kind of non-conformity exceptions that would allow someone who's making an alteration that requires a Building Permit or even an Electrical Permit to install, to install new lighting. To utilize the non-conformity rules, to be able to leave something up that's not conforming.

STEVEN COHEN: So I'm not sure I'm

understanding what you're saying. So if somebody's making a substantial change and -- but it doesn't involve the fixture, are you saying they do have to bring it into conformity?

JEFF ROBERTS: If we -- in the proposal that we've written --

STEVEN COHEN: Yes.

JEFF ROBERTS: -- and we have specified that. And if you do specify that, you can require that a property owner do that.

STEVEN COHEN: And as you've proposed it here, what is the trigger point? I mean, what is the extent of change that would trigger the requirement?

JEFF ROBERTS: It would essentially be that if you're, it would be -- at least the enforcement path would be you need to get

a permit for -- from Inspectional Services to, to make an alteration to the building or to change the use of the building in a way that it falls within that definition of where Zoning regulations can apply. And that's, and there's -- and it's sort of laid out in Article 8 of the Zoning. It says that any alteration to the exterior of the structure, any alteration of the structure to accommodate a different use, substantially different use than what's there at the time, and any enlargement of a use, those are, those are the types of things or any enlargement of a building, those are the types of things that you then have to, if you do that, you have to comply with Zoning.

STEVEN COHEN: So bear with me, I wanted to work through this a little bit. If I'm adding an addition to my house, then my

lighting must -- all of the lighting must comply. If I'm adding a window to my existing house, do I have to bring lighting into compliance?

JEFF ROBERTS: If it's just a replacement of an existing window?

STEVEN COHEN: Say I'm enlarging an opening or adding a new window.

JEFF ROBERTS: Right. Then that would trigger a Zoning review for Zoning compliance --

STEVEN COHEN: So it has to be brought into compliance?

JEFF ROBERTS: Right. So that's the way it's currently written, again, to try to maintain the expansiveness and the scope of the petition that's been proposed. But the Zoning could specify, could be more specific about where you do and where you don't

require that lighting be brought into conformance with the Zoning Code.

STEVEN COHEN: I mean, obviously you've put some thought into this and this is what you're recommending. Do you have any concern that that might be an overly broad requirement, basically anybody doing anything with their house other than painting or repairs, they're going to have to bring all their lighting into compliance? It's more than grandfathering everything. It's not as much as the proponent's originally wished for which is apply everywhere today. I mean, what's your thought? Do you see -- do you have any concerns about this or are you pretty comfortable and confident about that recommendation?

JEFF ROBERTS: I would say that there are concerns about that. It's

generally more strict than in other aspects of Zoning where you may be allowed to maintain an existing non-conformity as long as the work -- that's sort of what I meant when I referred to Article 8. Article 8 has certain rules that say that you can, if you do some work that doesn't affect an existing non-conformity, then you can sort of keep that non-conformity. And the question is really what's the desired outcome? Is it to just allow lighting to be replaced with better lighting during the -- you know, during the natural course of its life? Is it, you know, burns out or no longer functional or when you're -- or just when you're building new buildings? Or is it to try as quickly as possible to bring as much lighting as possible into conformance with what's, with what's desired?

And I guess I can try to characterize who because I've had conversations with the Building Commissioner, the Superintendent about what the, what the impact is going to be in terms of enforcement and it does require some more strict requirements for someone who's, for instance, you know, just changing the use of a building. If they have an office building and they're putting in a restaurant and they don't really want to touch the outside of the building, Inspectional Services would still demand that they show a lighting plan with all of their existing lighting. And if it doesn't conform, then show a plan that, you know, pay whatever it costs to bring it into compliance.

STEVEN COHEN: Just a couple more quick questions.

Again, on the question of non-conformity, you know, it struck me that, you know, while some people might consider to be onerous to have -- to bring all the lighting up to compliance that maybe there might be some basis for distinction between commercial and residential uses. And even with residential perhaps between, you know, multi-unit and structures and say three families or smaller, just a thought about that possible distinction.

And I guess one final thought, unless I'm mistaken, if my memory serves me correctly, the sign code and the sign ordinance which I think is part of the Zoning, my recollection is that there is, there was something in there when it was originally passed, essentially a sunset type law that for certain kinds of non-conforming

signs, they were permitted to remain in existence but only for a limited period of time. I don't know how that slipped under 40A unless maybe the sign ordinance deemed to be non-zoning or under the police power or something, but it, if I'm right in my recollection, it might offer another avenue for thought in the way of dealing with non-conforming uses.

WILLIAM TIBBS: Can I just real quick just as a follow up to just what you were just saying, I just -- I just want to, I guess you remind us that process-wise the petitioner made a petition, we made comments, and Jeff was trying to write stuff relative to our comments. I didn't want you to feel that Jeff was making a recommendation back to us. He's just making recommendations and to us -- he's just trying to get some writing

which reflects what he thought he was hearing which I thought he did a very good job of. This isn't a proposal from the City to us. It's really a proposal as to how to change the language within the parameters of the permit process.

STEVEN COHEN: I see.

WILLIAM TIBBS: He has limits to what he can do.

HUGH RUSSELL: Ahmed.

AHMED NUR: Thank you.

Jeff, you don't have to answer these right now but I just want you to basically give it a thought or maybe consider if it's not, I really couldn't find the language but I was wondering about lights and dynamics in motion. Such as the city grows in night with cyclists that we have all these flashing lights that are head on with cars, and we

have the City of Cambridge -- we had the City had after market head lamps, you know, you see one that's manufactured correctly, that's illuminating beautifully, and you'll see a tiny light of maybe even like a one foot candle, you know, combination and also facing the wrong way kind of blinding people, so on and so forth, so I just thought of have you thought about with traffic. That's one.

And second comment that I wanted to make is as engineers when we build buildings, we tend to have lights blend in with the indoor or outdoor environment. You know, for example, if we were to put up a tile in a sonar or something, we would put the lighting in first and then put the tile in so then we can see the shadow it produces on the tile. You know, as opposed to installing the tile first and then putting the light in. So,

have you considered or will you consider the architectural impact the lights might have on an environment? How hot it is in there? What type of material it is? And is it bundled material if the lights are shining on a bundled material produce a shadow, you know, type?

That's all.

HUGH RUSSELL: Okay, I have four comments. I think it's important that we not restrict the complaint process to owners of property, because if you're a tenant in, say, a multi-family building, and you're aggrieved because somebody -- you may be impossible to convince the owner of your apartment building to bring a complaint and there could be many reasons why the owner might not.

I think you mentioned the abutters and abutters to abutters in Cambridge but maybe

expanding that to allow people who are at least tenants to also bring those complaints.

Historical note, dark sky. The largest telescope in the world was located in Cambridge, Massachusetts, in about 1855. And that instrument is still in Cambridge, although its utilities have been somewhat diminished both because it's only 15 inches in diameter, and secondly, the parking lot lights around the observatory cut off three magnitudes of what they can see through it, and the night sky. I think we should recommend the City in its consideration of light trespass really need to hire experts. And I mean uses have repeatedly that think the CE Department has the technical expertise to really get the fine grain. I think we do not have that expertise, and that's just going to have to be part of the process. And

I wouldn't want to hold up the enactment of the Zoning piece, but it might be that we'll come back and say no, you've got to make some small adjustments to the Zoning in the context of the other one. We can do that.

Fourth point is what triggers the clients? And I want to remind people of the yellow sheet that we now get. In order to do almost anything to a house in the city, because almost every house is non-conforming, the exterior of the house has to go before the Zoning Board, and so you might want to write in that when you make the trip to the Zoning Board, you've also got to demonstrate that you're lighting.

Changing light fixtures in the context of a renovation plan isn't the huge part of the plan, but it might have a big impact on the results to some of the people. And if

the Zoning Board was also looking at that, these questions and asking those questions during their reviews, we might get some more places where we -- that would be in effect.

H. THEODORE COHEN: Just one clarifying. Jeff, I'm sorry. In 7.23 there's a reference, any permanent lighting permitted by the pre-exempt shall be shall be continuous and direct, etcetera, etcetera.

Many of us have outdoor lighting for driveways and porches that are on motion detectors so that they're only on when somebody is entering or leaving, is that, does the word continuous mean that things like that would not be permitted?

JEFF ROBERTS: That was a question that crossed my mind as well, but not really something that was included in the scope of the petition so I didn't, I didn't look into

that very closely to see how they enforce it. I don't believe that a motion sensor light is considered a non-continuous light. I think a non-continuous light refers to flashing or strobe I guess.

HUGH RUSSELL: You mentioned at some point that possibly 7.23 (inaudible) is one provision in it that it talks about the decorative lighting that might be added in the 7.22 list of things of exceptions. And as I think if -- we had several discussions about what, how do these two things work together, and you're thinking, I think, that you could probably just delete 7.23 so that that confusion didn't come up. And take whatever's in it that isn't in the rest of it and put it in the rest.

Okay, if we are complete with our comments, I'd like Mr. Teague to critique us.

CHARLES TEAGUE: You don't really want me to critique you.

WILLIAM TIBBS: Sure. Briefly critique us.

CHARLES TEAGUE: I'm on the ten minute clock here. Charles Teague, 23 Edmunds Street and you have caught me out. This was a Band-Aid. This was going to be a quick thing despite, and despite being a quick thing by attorneys, engineers, architects, lighting experts, so, you know, it looks trivial to small amount of changes but it was subtle. The last time we were here there was a question of as why you could see the light elements on the pitches of good lights. And that's because you can see the elements on the pitches of good light if you're standing where the light is supposed to be and you can't see it where light is not

supposed to be. And so and yes, all your discussion about -- so I spent an hour on the phone with the firm who is the town, the town's -- the solicitors for the town of Ashland, reviewed their sunset clauses. It's a Municipal Code. And yes, the proper lighting ordinance is in the Municipal Code. Everybody stuffs it in the Zoning where you run into the grandfathering problem. So once you get out, you can do the sunset clauses, you can expire something after ten years. And he showed me the examples on the signs.

And so, yeah, this is all wrong. We shouldn't spend a lot of time on this. We should have just got it over with, you know, two years ago but here we are. So I'm not exactly -- so just on process, you had a long discussion of process the last time. And now this is gone through the Ordinance Committee.

CDD was there, participated. Was referred favorably to the full Council. I say it's not the time for a major rewrite. And the trouble I have is that there's major differences outcomes and a lot about enforcement and a lot about grandfathering. What I tried to do very -- and we -- it's basically because, as Jeff astutely pointed out, is that he used an entirely different method. He refers to the fixture. I refer to the light. And he thought it was more clear to refer to the fixture, but once you do that, you're explicitly grandfathering everything. And I was trying to see if we can, if we can sneak by. And because this was supposed to be a quick fix. And then you're supposed to go off and do a real Municipal Ordinance with real professionals and a real budget which I don't have.

The reason why it's important and let's go back, public health, public safety.

There's the safety of too much light versus too little light. We had expert testimony on health, direct light, or we just went over why the visible and good lights. And the scope, and we're afraid of this wipe of enforcement. Enforcement, one of the things about enforcement is that if it's simple, you can handle more stuff. But simplicity, I let's say people don't go down to the Building Commissioner and ask him to enforce things. They come to community meetings and they're really upset and they ask me. And that's how enforcement works in my neighborhood. And it's Charles Teague that goes down to the Building Department.

There's not a lot of enforcement in Zoning going on. And so, and it comes through, you

know, the neighborhood experts. So, and then there's the whole grandfather issue.

So there we go. There's the good light. You can -- I took this picture consciously so that you could see the lighting elements and then you've got the arm under the Mount Auburn Hospital and I'm on their property, in their driveway and that's good light. And there's the area to be lit.

So anyways, what we're trying to avoid is legal. And we don't want neighbors suing neighbors, but they can. They can sue under the nuisance on their reasonable use and enjoyment. And so the lawyers I talked with just gone through this in Lincoln. They sued because there was -- the town wouldn't enforce the one line of the Zoning Ordinance and they also sued under nuisances. There were other things in the case, but it's the

fees in the six figures. They started in 2008. They finished their trial this March in 2013, and he says the decision could take two years. So this is not what we want the citizens of Cambridge to have to do to get relief.

And so back to grandfathering. Granted if you're replacing light, that's fine. It's not grandfathered. And the key is the burden. And it's, it's the same. It's basically the same to put up a good light as a bad light. Bulb replacement, you know, I don't know, sometimes to replace a bulb is, you know, in this day and time, it's just as hard -- easy to replace the whole fixture if you have to go up high and bring up a crane and all that stuff.

So, but my thesis, and we don't know whether this will work, but this was the

attempt and this was why I defined an entirely different than the way Jeff defined it, is the light requires predicate acts. You have to switch it on. You have to pay the bill. You have to change the bulb. Those are conscious acts that you do, otherwise the light wouldn't be doing bad things. And lastly, you know, if we actually go and memorialize that all existing lights are grandfathered, there's a bunch of lights out there that could have been enforced. They are in violation. The trouble we're missing is the explicit definitions and we could have gone through the appeal process through the BZA or to Superior Court and we could have got some resolution. So there still is another path to getting resolution. But going back to the previous slide, it isn't really something you want neighbors to

be doing.

So, this is, this is a commentary from Bobrowski who wrote the handbook on land use. And he's talking about the restrictions on the site, the external restrictions. And he's talking about how there's no reported (inaudible) decisions on the grandfather section. So but hope springs the term. But at this end this was never meant to be such a process. It was supposed to be a quick fix, get in and get out, and then hopefully a real lighting ordinance would happen, but I can't do the real lighting ordinance.

So the building -- we sat down with Councillor van Beuzekom and I sat down with the Building Commissioner, and he says he can enforce the Teague Petition. When they go, and they basically do light enforcement by asking nicely. And the next thing is so you

can't see the bulb. They have people adjust the lights so you can't see the bulb, which is basically what I wrote. I memorialized. And he didn't really know how many Zoning violations, but it's a small number. And he asked CDD to consult the Law Department on the whole grandfathering thing. So that's supposed to be in process. But not with my, not with my legal theory.

But anyways, on -- he looked at CDD petition. He had a series of -- to my -- because I'm the neighborhood enforcer, because people come to me. I go down to the Building Department and so I sort of know how they work. And so I went down with Ranjit. He goes well, that's nice but we don't have staff at night. So he didn't like the illumination definition. He goes, we don't staff at night. We don't have instruments.

We don't know how to use them.

On pulling a Building Permit, he would say well, we'd actually have to go down there and look to see if there were actual bad lights where now people bring in plans.

Which you could require a plan for, I don't know, you know, putting on your dog house or something, but I don't know when external plans are required. But then he went on in his very practical concern, it's a lot of -- on the change of use, it's not going to get triggered very often because so often he says they don't need a Building Permit to change the use. So, on the aging out of fixtures, he goes, he says, there's no way we can know when that fixture was last gone. He didn't like those ones where this, where it's referring to the bulb. And then there was a section which said on the certificate of

occupancy, you would actually have to get plans. And he goes well, often times a homeowner comes down, he's going to sell his house or getting a new insurance policy, and they'll want to give them a Certificate of Occupancy, and this is an onerous expense for so many. So -- and then they have an existing process. So what happens is they get a complaint in, they run over there, they look at the thing, and they come back and they make it, and they make their decision. And they send out their letters. And either they're gonna decide to enforce or not enforce. Either person can appeal within 30 days. After 30 days it's final, his decision is final. The Zoning Ordinance Section 10.21 says it's a \$50 fee. Their sheet says \$100. I'll have to speak to him about that. But I spoke today, it's six weeks to get a hearing.

And we have an experienced guy. And I've seen you guys spend hours and hours resolving neighborhood -- you send them in the back room and they come back out. It's even at one in the morning you guys are working this stuff out. I've seen them do it for a garbage shed, whether the garbage shed could have a roof on it or not.

Now, Ranjit didn't like 7.22A because only the BZA could issue a Variance. So, so then the Kelly Beady guy came in with some foot candle things, just a whole bunch of details. But that's really, that's really I'm under my ten minutes, right? All set?

So my final thing is what I would suggest, I would suggest -- well, I suggest the correct answer is the municipal lighting and we all know that. And that's the way it should be done. So I suggest that. As for

this, I think this is a major change. It's a change in how it's basic fundamental premise of how it's defined, and it has these implications in enforcement because it requires, because now it requires instrumentation and people at night and implications in terms of grandfathering. Grandfathering? I don't know, maybe we've got 10 percent or 20 percent shot, but under the other way of defining it, it's zero. It absolutely nails down every existing light. So I would suggest that that petition -- the other version is so different, I don't think it's -- and we're at the end of the process, I don't think it should be substituted. If you guys decide to submit it as a Planning Board petition, that would be okay, but I would not, I would not, I think they're just too fundamentally different creatures.

Thank you.

WILLIAM TIBBS: Hugh.

HUGH RUSSELL: Yes.

WILLIAM TIBBS: I just want to say that I find this very interesting because the -- I know I have problems with the petition as written and even though Jeff's efforts were very valiant in trying to incorporate some of our concerns in it, I think Mr. Teague has just shown that new position still has a lot of problems associated with it. So, I think unless we have a process that comes up with something that is been thought through and worked out, I think, I really have a problem with the petition as it was (Inaudible).

HUGH RUSSELL: That last sentence confused me. I didn't hear it I guess. Did you say that you had a problem with the

Teague petition or you didn't have a problem with it?

WILLIAM TIBBS: I have a problem with the Teague petition as written and Jeff's attempts to write different language which would help solve some of the problems we all discussed. But I think Mr. Teague is just saying that he doesn't feel that the -- he feels that those changes -- actually changes it enough so that it's a very different thing. And even his presentation shows some of the complexities particularly as you talk to other city officials with the CDD version of his petition. So it's problematic and I think to me it's just very, very clear that it's an issue that I think we all feel it's something we should try to tackle but we should just tackle in a different way whether it's a Planning Board

petition, Council petition or something. And I know the concern that we had earlier was that, you know, these things just take a long, long time and was it something that we could quickly pass and then work on later. But I'm not comfortable with that approach. For me, I -- I'll let the other board members speak for themselves.

HUGH RUSSELL: I'm with you on the -- I would not want to recommend the Teague petition to the Council. And I would not do any action want -- I wouldn't want to just avoid the question because then the Council might feel that if we're not responding to it, we wouldn't respond. So my preference is to ask the staff to tweak the language based on what they've heard tonight and forward the revised language to the Council and to -- with a discussion that says

that this is the best we can do in the time available. It's a very complicated issue, and that they should, you know, and then they'll have to decide do they want to put something in place now? Do they want to postpone it? Do they want to engage in a process of writing a Municipal Ordinance? And it seems to me those kinds of questions are the questions that the Council, you know, we're offering advice as to what we think can be done within the Zoning Ordinance and we're offering our comments that we, we're pretty content with what's proposed but we understand it's not perfect. Now --

WILLIAM TIBBS: I think you need to quantify we.

HUGH RUSSELL: That's quite right, and I'm not sure everybody's there.

Also, there are other people who would

like to speak and I think we ought to hear them. So maybe we should hold our comments until that happens.

So we'll agree to the three minute standard for comments?

TOM SIENIEWICZ: Mr. Chair.

HUGH RUSSELL: Yes.

TOM SIENIEWICZ: I'm sorry, just one point. Did not Mr. Teague say that he would not support the altered drafting of this piece of Zoning, couldn't support it? Was that what he was indicating he was withdrawing his petition? I had that sense. I don't know.

HUGH RUSSELL: No. I think what he's saying is we submit our recommendation to Council, he was going to speak against that recommendation and certainly that's his right. And Council has to decide, make that

decision. I mean -- we're not proposing this as a friendly amendment. We're proposing this as a recommendation from this Board based on the language we have.

CHARLES TEAGUE: Just to clarify. I was actually hoping you would recommend the Teague petition because the last time we were here because --

HUGH RUSSELL: Yes, you made that argument.

CHARLES TEAGUE: Right.

HUGH RUSSELL: I understand that. Thank you.

So on our list, the first person is Kenneth Taylor of 2 Craigy Street.

KENNETH TAYLOR: I'm Ken Taylor, 2 Craigy Street. I've listened to what the Planning Board has said before. I've heard public complaints and public interest about

making changes. I see Mr. Teague's petition. I understand there are issues related to that. I see the Community Development's response to your request to comment on that and improve it. My reaction as a layman is that if you pass -- if you recommend the CD proposal, you risk memorializing grandfathering the violation of the Zoning Ordinance which was passed in 1962.

Now, one question that perhaps Jeff could explain to me is in the State Code you quoted: Shall lawfully in existence, any condition lawfully in existence.

Since 1962 there have been hundreds and thousands of code violations that have never been enforced. Now, does the fact that they have not been enforced means -- mean that they're lawful? And does that give them legitimacy? In the case of making Zoning

changes, I know of a condition where an existing house I was going to buy had a curb cut for a driveway that was too close to an intersection of a public street. And it was non-conforming and it was grandfathered until you made a change. And it was non-conforming until the code was changed. The code's never been changed on this. A six-story building, apartment house built in 1940 probably had incandescent lights to begin with if any at all. And then in 1960 they added more powerful incandescents. In 1970 they added sodium vapor. In 2012 they added HID. Now, probably every one of those except the incandescent was in violation of the Zoning Ordinance. So my question to you is what permits grandfathering among all these violations that have existed for that many years? Is it because the City chose not to

enforce the law? That's a general question.

Secondly, I'm confused about the recommendation about 7.23. If I understood it correctly, Jeff, you said that you can delete the paragraph altogether because all of the Zoning applies to all of the city. So if I understand that, there's no special provision for residential areas and so it doesn't make any difference. I don't understand why there's this paragraph if you're going to enforce this Zoning Ordinance throughout the entire city. If that isn't the case, I think you need to at least expand the language. If you're seriously trying to cover these residential zones, you need to expand the language to cover the edges of these zones which are impacted by other districts adjacent to the buildings in other districts should not be allowed to impact on

these residential zones.

I think the final question it seems to me which I believe is related, and again I haven't talked to Mr. Teague about this, is related to the issue of the whole basis for the Zoning Ordinance. If it's based on the light source rather than the fixture, then there's no reason why you can ask existing owners either to conform with the new code or to reduce the wattage in their fixture to the extent possible to the minimum to bring it in as close to conformance as possible. And that would mean that a 400-watt HID bulb could be a 100-watt HID bulb. And that would significantly reduce the problem without causing an owner to replace the fixture.

PAMELA WINTERS: Sir, your time is up.

KENNETH TAYLOR: Excuse me?

PAMELA WINTERS: Your time is up.

KENNETH TAYLOR: Thank you.

HUGH RUSSELL: There's some provocative questions there but I think we'll just get through some of the comments and then go there.

Second person was Jo M. Solet.

JO M. SOLET: Thank you for your attention. Jo M. Solet, 15 Berkeley Street.

I would like to first of all second what you heard from Mr. Taylor. I think we do not want to confer legitimacy on lights, existing lights that are now in violation. And if you doubt that they are there, I can tell you the light about which I spoke to you at our last meeting, I did have the city come and look at it. They told me it was in violation and they actually, and Mr. Sean O'Grady told me when I had found all the

lights in violation in my neighborhood, I could call him back. And I have that in writing by e-mail. So, I didn't feel it was my job to do that, but if it will help, Mr. Taylor who doesn't live that far away from me, and I will -- we'll find the violations and make sure that they're not grandfathered for you.

I do think there is a backlog of unconcern about this problem. I'm also surprised about the what I see as a hardship concern about the violators. It seems to me that changing a bulb or adding a hood to an existing light is not that serious a hardship. And if we discover that there are folks who have a hardship, then maybe we should be charging for violations and using the money to help those who have a hardship come into compliance. It could be done.

Because our concern includes health and safety, the grandfathering piece is really a serious one because it would leave in place the things that are currently affecting health and safety and I want to offer a nod to Mr. Russell and to Mr. Sieniewicz for raising the night sky issue and add that in talking about this city lighting issues with the Circadian rhythm experts and the sleep division at Harvard Medical School.

Another issue that was raised was that of wildlife. If you doubt that wildlife is at issue here, imagine when you are taking a neighborhood and basically giving up night. You're making it light all the time. In our neighborhood on Berkeley Street within the passed couple of weeks sighted have been a grey fox, turkeys, deer, raccoons, raccoons during the day by the way because it's day

all the time and maybe they don't know when they should be sleeping, rabbits, moles, and opossums. So they're confused about when it's night and day and that's not good for us. People are confused about it, too.

Thanks for your time.

STEVEN COHEN: Mr. Chair, I'm sorry if I might interrupt for just a moment. Both of the first two speakers made reference to lighting being in violation. And if there is some sort of a regulation of existing lighting, that's something that I'm unaware of that I haven't heard come out.

HUGH RUSSELL: Okay.

So, Jeff, is it correct that paragraph 7.23 is part of the Ordinance now?

JEFF ROBERTS: That's correct, Mr. Chair, and excuse me for not reviewing my -- my sort of shorthand of Zoning changes.

So all of the underlying portions are the changes to the Ordinance page -- on page 3, the portion under 7.23, line item 7.23 is not there but that paragraph underneath it constitutes the entirety of current Section 7.20 of the Zoning Ordinance. So that is currently in the Ordinance. The petition proposed to leave it in the Ordinance and --

HUGH RUSSELL: And how long has it been in the Ordinance?

JEFF ROBERTS: I do not know the answer to that question.

HUGH RUSSELL: A long time, right?

JEFF ROBERTS: It's been for sometime. And any -- it was not during the ten years that I've been here. So the -- so any lighting that was established since that time that's found to be in violation, and I think this -- I won't sidetrack. But any

lighting that's known to be in violation or found to be in violation of that Ordinance since that time will -- it's considered illegally non-conforming. It's not -- it doesn't have a legal conforming status just because it was ignored. And, therefore it -- this, the proposed -- whether the, under the proposed text or the modified text, the new Zoning would not confer any special -- new special status towards lighting that was in violation at the time that it was installed.

HUGH RUSSELL: Okay. So what we're saying is that outdoor floodlighting in Residence A, B, C, and C-1 Districts since this was put in the Ordinance, which I believe is quite, was probably decades ago, is -- do you know exactly?

KENNETH TAYLOR: Yes, the historian for Community Development informed my wife

that there have been no changes in the lighting ordinance since it was originally written. So that goes back to the original text of the Ordinance.

H. THEODORE COHEN: When was that?

HUGH RUSSELL: I do not believe this paragraph goes back to 1924.

KENNETH TAYLOR: No, no, 1962.

HUGH RUSSELL: '62? So that's the date.

KENNETH TAYLOR: That's when the Ordinance was written.

HUGH RUSSELL: The Ordinance was written in 1920 --

KENNETH TAYLOR: It's a 50-year-old Ordinance. It hasn't been changed since.

HUGH RUSSELL: Sir, the Ordinance was written in 1924. There were major revisions in 1943 and 1962. And then since

1970 the Ordinance has perhaps quadrupled in size to the establishment of special districts. The question is when did this paragraph show up? And I believe the answer that you're trying to tell me, 1962. So that says -- so if you will allow me to finish my thought here, that says that in those districts that are enumerated, a light that shines, a direct light on an adjacent property is not grandfathered.

JEFF ROBERTS: That's correct.

HUGH RUSSELL: Now, that doesn't help the people in Residence C-2 Districts, and I believe some of the testimony before us were people who are in those districts. But so that -- so by this little discussion we've learned that in, you know, a substantial portion of the city someone should be able to go down today and get enforcement. And so,

therefore, it probably is a reason to -- you may want to make that clearer in the Ordinance that this standard, as we talk about enforcement and grandfathering, that this was the standard. Anything that's in conformance doesn't have legal non-conforming status. That would, I believe, that helps.

Now, I'd like to continue with the hearing and Marjorie Williams of Green Street do you wish to speak? Or is it Marjorie Wellens (phonetic)?

MARILYN WELLENS: You mean Marilyn Wellens?

HUGH RUSSELL: Do you live at 651 Green Street?

MARILYN WELLENS: I do.

HUGH RUSSELL: I'm sorry, I couldn't read your writing but I certainly know you.

MARILYN WELLENS: Yes. So my name

is Marilyn Wellens and I live at 651 Green Street. We abut a Business B-1 District on Massachusetts Avenue. The building at 1030 Massachusetts Avenue was recently converted -- within the last year and a half, two years, was converted from office to lab use. And the Zoning Ordinance considers these equivalent uses. I can assure you that they are not neither for lighting nor for noise nor for height. The reason I'm here is that we've had quite a lesson in this, in modern technology, and the way that Cambridge is going over the last two years. So that I have, I'm afraid, scattered notes in response to some of the Board's comments, and I haven't put them in any particular order so if you will indulge me, I will just sort of speak out.

I would say that the matter is urgent

that Mr. Teague has brought to the Board and the Council and the City's attention. The strain of trying to have quiet enjoyment of one's property is very difficult. And I would suspect that the places where it is possible are rapidly diminishing. And only the very, very choicest residential districts of the city will be immune, and maybe they -- even they won't if the development that's planned and on the Board's continuance. So I'm concerned about the assumption that there will be all these frivolous complaints. What we've just heard recently is that the Zoning Ordinance lacks enforcement ability either through the technical expertise of staff, who are required or asked to enforce it, or they lack the training, they lack the money, they lack the expertise, they lack the equipment. So that this -- remedying this is not simply

a matter of law, it's a matter of budget and it's a matter of will and committing to taking care of the health and safety of the population of Cambridge. And that I understand is the primary impulse and justification for the Zoning Ordinance. Now that's why we're here and that's why you're dealing with this. And as Doctor Solet has told you repeatedly that light as well as noise have major, major health consequences. And this is another example of what has been called the privatization of profit and the socialization of the costs. So that you have the developers and the users maximizing, lowering their own costs by failing adequately to protect public health and the rest of us suffer, and it's a longer term problem, but if you're concerned about the educational level of the students in

Cambridge, I suspect that you will pay close attention to both light and noise and how they affect people.

And so I was bit concerned with the assumption that you might have lacks -- and this may have been my missed hearing, that it might be possible to have laxer standards for persons living in denser zones or in commercial zones, because I don't see any reason why anyone living in any of those zones would be less harmed by the noxious effect of light than people living in an A Zone.

PAMELA WINTERS: If you could wind down your comments, please, your time is up.

MARILYN WELLENS: All right. And so, I would again encourage you to act on this and I would ask that the city develop the capacity to enforce and develop the will

to enforce and I ask the Board to participate in that.

Thank you.

HUGH RUSSELL: Thank you.

Does anyone else wish to be heard?

ROBERT WINTERS: Hi, my name is Robert Winters. I hadn't planned to come here. I do live in a BA-1 Zone. I probably could claim I have five multiple violations right now on either side of me but I have no skin in this game. I have no desire to file complaints or anything, but something I was thinking before -- Hugh Russell actually took the words right out of my mouth. And here's my thoughts that I heard earlier and just to say them right now. I wonder why must this matter be a part of the Zoning Ordinance at all? It strikes me that all of the shortcomings and misgivings and like what

about grandfathering, this or that, could all be resolved if simply this was made part of a municipal, comprehensive municipal light ordinance that had nothing to do with Zoning whatsoever.

When I have, as I have, complaints about neighbors with rodent infestation, you know, you call the rodent people. If there's a problem with improper disposal of rubbish, you call Inspectional Services and Public Works. Nobody worries about whether the rubbish cans were grandfathered in from an earlier era when they carried ashes out to the street. You know, these are living documents, they can be changed to meet with the times. It seems that's the right way to go. Just generally speaking I think we burden the Zoning Ordinance with far too much. It shouldn't even have quadrupled in

size. There are so many things. We depend far too much on the Zoning Ordinance to solve too many problems. I believe shortly we'll be getting some recommendations coming as part of an another Zoning Petition where they're going to try to tell us from where we must buy our electricity, for example. Why not go and tell what color shirts our children should wear or whether they should speak multiple languages and have that be part of the Zoning Ordinance. So my remedy is simply this: Why not simply recommend to the City Council that they sever this entire section out of the Zoning Ordinance and re-craft it as part of the municipal ordinance on a comprehensive municipal lighting ordinance period, and just take this completely out. There should be no need for Community Development Department weighing in

on lighting standards any more than they should be weighing in on whether the rats or the garbage cans are properly laid out outside. So I would put the challenge to the City Councillors and have the Planning Board come straight out and say that. Since we're throwing this ball into your court, make this the best damn municipal lighting ordinance you can possibly draft and let's take it right out of Zoning entirely.

HUGH RUSSELL: Mr. John.

JOHN HAWKINSON: John Hawkinson, 84 Mass. Ave. I just wanted to make explicit, I think, an implicit request I heard in Charlie's presentation and that was to the extent that you request Community Development do further work on this. That you request that they caucus with Commissioner Singanayagam and make sure that their

recommendations are consistent with his understanding of enforceability or if not, that there's text explaining how not or why not.

Thank you.

HUGH RUSSELL: Does anyone else wish to speak?

(No Response.)

HUGH RUSSELL: I'm just going to comment on a previous comment and one -- there were several farther back, which is if we are stuck with what the Commissioner of Buildings thinks, he can do with present staff and the present work rules that may not be sufficient to protect the population. And so it's important to know -- to get Ranjit's take on it because he's, you know, he's a very dedicated public servant, but at the same time, you know, do you have to go beyond

that? Maybe that's the point.

So now we get to the point of trying to see if we can -- do we have a consensus on what we would recommend to the Council or do we have -- I have a feeling we're not quite at a consensus and I don't think we're going to get there. But I'd be happy to get some advice from my colleagues.

H. THEODORE COHEN: I'm happy to start. I think -- well, I think as I expressed at the last hearing, that the Teague Petition is fundamentally flawed and overbroad. And I had a lot of concerns about it particularly about, you know, how you determine whether there's a violation and what one does to enforce it. And a grandfathering is a very significant issue in Zoning. I have a litigated cases about it. I've litigated cases about light and how they

fall under Zoning, and I could not personally recommend the Teague Petition as originally drafted. I think that what staff has done, addressed a lot of my concerns and I still think its overbroad in a lot of areas. I still think that it does not address the issue fully, and certainly doesn't address the grandfathering issue which I don't think Zoning can. If the rest of the Board felt comfortable with the Teague, with the revision by CDD, I think I could go along with a recommendation to the City Council that this was in some sense a stopgap measure that still had a lot of questions and still needed to be worked upon and that City Council ought to hire an expert, and probably the best thing was to have either just a municipal ordinance or a municipal ordinance and some waiting reference into the Zoning

Ordinance. But I do think that this is an issue, you know, that needs more thought by people who are really expert in the field to determine exactly what will address future issues, and probably more importantly what can address existing issues that we want to address and how it does not unreasonably impact upon the small property owners, the small home owners who are -- I'm worried are all going to be in non-conformance under this, and also what is the best way to enforce things. And, you know, obviously the Building Department, you know, has a limited budget. And, you know, it's going to be up to the City Council and the City Manager to decide, you know, what is the really important issues that the city is facing and what they are going to budget for. And if they feel that dealing with this light issue

is a primary concern, then they may have to hire more people to deal with enforcement. If they think it's less of an important concern, then, you know, other building issues, then they will appropriately staff things. And so that's where I come out on this, that I personally could not support recommending the Teague Petition as originally presented to the City Council with a lot of reservations. I could go along with a recommendation of what CDD has revised, and subject to further revisions in accordance with our discussion tonight.

AHMED NUR: Hugh.

HUGH RUSSELL: Ahmed.

AHMED NUR: I'll be really fast. I do concur everything that Ted just said. I am not also in favor of the proposal and in favor of recommending to City Council. It

really needs careful study with experts. When it comes to lighting, noise, music, I have two daughters that share one room and the two of them are the opposites. One wants the light off, one wants the light on. One wants the music down and so, it -- it's not something simple that we can just sit here and say yay or nay on this.

PAMELA WINTERS: I agree with my colleagues. I really don't feel comfortable about voting for the Teague Petition as drafted. I really agree particularly with what Ted had to say and also Robert Winters, I thought made -- and we are not related, I just want to throw that in.

WILLIAM TIBBS: I was going to ask that question.

PAMELA WINTERS: No, we are not related, but I do -- I liked your suggestion

of making -- turning this into a municipal ordinance similar to sound or, you know, whatever rather than a Zoning Ordinance. And I think that's about all I had to say. So that was quick.

Go ahead.

STEVEN COHEN: Generally I concur with all that was said. I have two observations. First of all, something that Charlie said really struck me during his presentation, and that is that he conceived of this as a quick fix. As a stopgap in measuring -- acknowledging that this isn't really the ideal way to address the problem. That the right way to address it is for the city to hire an appropriate expert personnel and to, you know, put some time and real work into this and come up with an appropriate well engineered municipal ordinance. Well, I

guess we all agree that that's the right way to go. The notion of using the Zoning Code as a quick fix as a stopgap measure, sort of procedurally, doesn't seem like the right way to use Zoning. And once adopted, it takes on a life of its own and what if it ends up being in conflict with what the experts come up with later? It doesn't seem like the right approach. I agree that the approach -- I agree with what has been said by Mr. Winters and the other members here. The way to go is to call upon the City Council to address this head on in the appropriate and expert way.

My second observation, though, is I'm blown away to discover that there's already a provision in the Code which in essence hasn't been enforced. So gosh, we can write all sorts of Zoning Ordinances here. What's the

difference what we write if the existing regulations aren't being enforced? You know, so it seems to me before we start reinventing the wheel and making the wheel even fancier than it already is, let's figure out how to enforce the existing regulation. And actually as written, as I look at it, it ain't bad. It doesn't have all the technical requirements and references to foot candles and luminance and so forth, but the principles that it espouse is right on. And frankly, if I were to recommend anything as a short-term stopgap measure, well, maybe just make that same provision applicable to other Zoning Districts as well. Boy, that's a real quick fix. You know, the recommendation would, you know, encompass maybe one or two sentences and, you know, then, you know, let's focus on enforcement and that would be

sufficient to hold the fort for a while the City Council, you know, addresses this matter in a more appropriate and professional manner.

CATHERINE PRESTON CONNOLLY: I would like to agree wholeheartedly with what Steve just said. As much as I -- it really pains me to think of going into a multi-year or even multi-month study on this. I do think it's the right thing to do. I think that this needs to be done through general municipal ordinance, and that requires time. And I do think that we need to use the tools that are at our disposal to give some immediate relief. And I would really want to stress that in the City Council, that if that means appropriating additional funds for Inspectional Services or whatever it means, that there needs to be some recourse for

people to get some relief now while the study is going on. And that, you know, it's the fact that we haven't been able to enforce it previously does not excuse continuing to do so while we study a way to do it later.

WILLIAM TIBBS: I just want to say I disagree with -- I agree with what you both have said.

TOM SIENIEWICZ: I think what we're discovering in Zoning is a pretty blunt instrument, and these are some pretty fine issues that are -- that we're trying to figure out how we can control. But nonetheless, in my experience almost 20 years now working pretty intensely with this Code, there are ways in which government works pretty well the Zoning Board and the Planning Board I might add, and the Zoning Code to some degree helps, to a large degree, helps

with the way that this community runs. And I really appreciate Steve pointing out the fact that the Code already has an Ordinance in there.

That notwithstanding, I believe the rightful place for at least some components of this lighting control is within the Zoning Code. It's a physical environments. It relates to the building and it relates to building science. And so you're right, the modified petition is not perfect. We have more suggestions tonight about how to make it a little better. I think it adds, adds meat to the Zoning Code which can be enforced both with the Building Department and through the other mechanisms that I referenced here. And so I'm generally in favor of sending it up to the City Council with the recommendations that came with the first speaker to consider

the municipal ordinance to have enforcement to deal with the issue of grandfathering and hire an expert to get the actual metrics of drafting correctly.

HUGH RUSSELL: So, often at this time we turn to the Stuart and Brian and Jeff and say, okay, you got it?

JEFF ROBERTS: This is one where I may want to go over some of what was said and see if that's what is -- what the way things are intended to go.

So is it the -- maybe this is a question I shouldn't be asking, but is it the Board's consensus -- it seems pretty clear that the recommendation should include the recommendation to initiate a process of developing a more comprehensive municipal lighting ordinance as part of the municipal code, engaging the help of an experienced

professional to develop something that has, to help advise on the technical details? So that's, that is certainly something that would be included.

In terms of the recommendation on the Zoning Petition, the Board would recommend the Zoning language, the modified Zoning language that was proposed. I know that I think in the last set of comments there were maybe different views on what exactly would be -- would exactly would or should be included in the text, the Zoning text modifications that are recommended to the Board. Whether it be the fuller set of changes that was, that was sent to the Board or whether it be a smaller set of changes only affecting the existing Zoning, existing paragraph of Zoning text.

HUGH RUSSELL: So I would -- what I

heard from my colleagues is that, that Council can consider three different strategies for an interim regulation that would be in place to try to help out the way things are.

One is the Teague Petition, which we do not support.

The second is the language that you've drafted and with some modifications based on our discussion tonight. And there's no real enthusiasm for that because we feel that primary recommendation of getting municipal ordinance is the right ultimate solution.

If the Council felt they wanted to act now, we would feel -- most of us, that enacting the language was a temporary measure that might be effective in some cases and probably wouldn't cause great harm.

The third suggestion came from my

colleague Mr. Cohen which was a very simple thing, to take the 7.20 regulation and make it apply citywide as a temporary measure. I think the problem that Council would have to address in taking that stance is it's not being -- it's not being enforced now. Is it not being enforced because it is unenforceable or is it for some other reason? And that could be a discussion that could be held between the City Manager and his various departments and staff about, you know, if they were to say we'll rely on this as a temporary measure, how can we get better enforcement as to what this actually says, particularly if it were extended to be citywide?

So that's kind of what I heard, and I elaborated a little bit on Steve's proposal. In some ways, I like Steve's proposal the

best.

WILLIAM TIBBS: Yes, I do, too.

JEFF ROBERTS: If I could,
Mr. Chair, I mean I think this is a discussion that maybe came up if you all remember way back in the original Teague Petition when the discussion really was around what is this, what is the issue with the existing Zoning language and what does it do and what does it not do? And we found that there really were some limitations in the text, and I think that Mr. Teague had really started this process by pointing out what some of those limitations are.

One being that the district only applies in certain districts which through enforcement has been taken to -- or at least cause confusion when there's two adjoining districts, where a business district or a

higher density residential district abuts a lower density residential district, and it's not clear what that language is meant to mean. And that could be at the most minor basic level that could be clarified to say that any, to make sure that it's clear that the effect on any residential property in those districts is something that should be enforced for or should be where the Zoning should be applied and should be -- and anything should be -- anything that affects those properties should be reviewed in compliance. Or another step up would be to, as was suggested, maybe make it just a citywide provision which may have certain impacts on commercial districts and commercial properties that might not be in the same level of conformance.

HUGH RUSSELL: Might be citywide to

falling on citywide residential property.

H. THEODORE COHEN: I, Jeff the point you just raised is a concern I have and, you know, it may be it's a good idea to amend 7.23 to make it citywide. But I'm wondering if it's in the scope of what the Teague Petition was and what was advertised because it certainly, you know, it may be that it applies to so many other people in commercial and industrial districts who may not have come to our hearing or to, you know, the Ordinance Committee because they were not concerned about what they saw as applying only in residential districts. So, you know, I think that's something that staff and maybe the City Solicitor's office would have to review to see whether making such a change would be within the scope of the petition. And if not, then maybe, you know, we ought to

bring -- come back with a very short, you know, Planning Board amendment to do that, you know, publish it and notify it and let the citywide have an opportunity to comment on it. And, you know, coming out of that maybe what you suggested is that it's not citywide then only, you know, the impact on any residential district or any residential property.

WILLIAM TIBBS: I just want to say that I just want to be very clear that I am not comfortable with the CDC language as a stopgap. So I just want to make that very clear.

STEVEN COHEN: I'm just wondering if a consensus of any sort is reached on the Board maybe the way to go on this is to actually start from scratch. You know, work on some sort of modification of the existing

Section, the 7.23, re-advertise it to make sure that there's no issues there, and ask the CDD to propose a modification of that paragraph only this time it's an actual proposal on your part. And eventually perhaps get to the point where it's the Planning Board proposing a Zoning modification to the City Council which, you know, might carry some, some extra weight with the understanding that it is still something of a stopgap. Because maybe that the appropriate procedure is still to hire experts and not making our own guesses about technical matters, but, you know, actually doing an appropriate study. But, again, I think the language there is pretty good. And, you know, with some study on your part, Jeff, I think maybe we could arrive someplace that, you know, you serve as a pretty good

stopgap, you know, pending adoption of a full-fledged municipal ordinance.

HUGH RUSSELL: Speaking against that notion, I would hope that in the 13 days between now and the City Council midsummer meeting a cliff notes version of that could be accomplished. I think the Teague Petition intention was to be effective citywide, and so I think you can probably address Ted's concern of -- because it -- what's under consideration is a citywide effect. It's a technical legal question and has to be addressed by the Solicitor, but I think there's some hope that could actually -- and I think the Council would like to put something on the books now and rather than something that we know is going to be interim or informal. So I, you know, it's like I think part of our difficulty is going to be

municipal calendar, because as far as I know -- maybe I can ask Councillor van Beuzekom, are any of the committees of the Council going to be meeting between now and the midsummer meeting?

COUNCILLOR VAN BEUZEKOM: There could be a special meeting, but there's nothing planned right now.

HUGH RUSSELL: Right. Okay.

So it's within the possibility that this could be advanced somewhere on the Council level. We don't have to come up with the answer that they can adopt. That's helpful.

STEVEN COHEN: The procedure aside for a moment, what about the notion of asking CDD, based on the discussions we've had here, asking CDD to propose a modification of that provision?

HUGH RUSSELL: Yes. I think that's a productive thing to do.

COUNCILLOR VAN BEUZEKOM: Say that again.

HUGH RUSSELL: And the question is should we then not forward the language that Jeff has proposed to us? I mean, in some sense it's out there in the blogosphere, but if our judgment is that we want a temporary expedient, we want it to be simple, then maybe we should just say draft up the simple cliff notes version that alters that paragraph in ways that give it the most -- make it the most effective paragraph that we can.

STEVEN COHEN: And I think on a parallel path, not within our power, that the City Council might well call upon the City Manager to report on the question of

enforcement of the existing provision. So, you know, we understand what the limitations of enforcement are here. And if there are limitations, and there may very well be, then we have to deal with that kind of reality.

HUGH RUSSELL: Yes, I mean I think there must be limitations because, you know, it's not city policy to ignore complaints and not the citizens. But they haven't been able to do it. So there's something there.

STEVEN COHEN: Yes.

JEFF ROBERTS: So I could just make a suggestion or maybe it's more of an offer that we could, within the recommendations -- so as long as the Board has reached some sense, some consensus and some clarity as to what the substance of what the proposed change would be to the existing language, that can be drafted and submitted along with

the recommendation to the Council. We can also include, the Board can include in the recommendation that the Law Department, the City Solicitor be consulted as long as it's within the scope of the original petition. If it's been -- we would confer with the Law Department on that as well. If it's determined that that is okay, it could -- that could be moved forward on. If not, it could be, the Planning Board could opt to submit that as its own petition to the Council. It would restart the hearing process, but it would, it could immediately be put into the queue. And if filed before, if my (inaudible) calendar is correct, if filed pretty much at the beginning of the fall, could still be acted upon by the end of the Council term.

H. THEODORE COHEN: Can I ask a

question?

Jeff, do you know, you know, in recent buildings and commercial and industrial districts are there outdoor floodlights?

JEFF ROBERTS: There usually are. If there's a parking facility, there's often, you know, lighting. Exactly what the form of the lighting is not something that I look at in great scrutiny in my day-to-day work, but anything with an outdoor parking facility, outdoor walkways, equipment, entrances, we'll have, we'll have lighting. I think that by modern standards and, you know, I've gone around looking at different -- as we've been talking about this, as looking at different buildings and properties around the city to see what kind of lighting they have and using the standard, can you see the fixtures or can you see the bulb, and, you know, is anything

reflecting, is there a -- I think that as you advance from older structures to newer structures, you find that the lighting starts to look more like what I think this proposal intends it to look like. But you still do have those instances where an owner of an existing building for one reason or another wants to have better lighting on the parking lot and they install the most expedient fixture which is that that's offensive to neighbors.

H. THEODORE COHEN: Well, I'm personally uncomfortable with just doing just a quick fix and saying let's make 7.23 applicable citywide without our having heard anything whatsoever from any commercial or industrial property owners one way or the other about that. And, you know, we're trying to avoid grandfathering things, but if

suddenly we're grandfathering parking lots all over Kendall Square and, you know, in lots of other areas of the city, maybe that's the answer, but I'm uncomfortable doing it without having a hearing on it that's going to address that issue. So I don't know that I think that the quick fix to just say make 7.23 applicable throughout the city is something that I would support.

HUGH RUSSELL: So, I'm looking at what I believe is the Teague Petition. It's addressed to the honorable City Council and it says Petition. And so I -- looking at that it seems to me there is language in it that talks about off-street parking facilities abutting or facing residential premises shall not fall under the scope of the Teague Petition and use his regulatory language. So that's already out there in the

proposal.

The 7.23 --

H. THEODORE COHEN: But still that language is still referring to only Residence A, B, C, and C-1 Districts.

HUGH RUSSELL: I don't believe so. I believe there's another section that refers to -- so I'm looking at this one which I think is broader. And that might be the limit to which we can go under the Teague -- by implementing Teague.

STEVEN COHEN: I'm sorry, isn't the Teague Petition citywide? Am I missing something?

H. THEODORE COHEN: No, because it was only amended certain -- as I read it, it was only amended certain provisions of the Zoning Ordinance and adding some additional language.

STEVEN COHEN: So your read is that the petition applies only to what?

HUGH RUSSELL: The parts of the petition apply to A, B, C, and C-1 Districts as I read it.

STEVEN COHEN: Really?

HUGH RUSSELL: Yes.

JEFF ROBERTS: Well, I believe, and I'm looking at it right now and kind of starting at the beginning and I hope we don't have different versions of this, but the proposal is to insert -- the main proposal is on a page which begins: Amend the Zoning Ordinance of the City of Cambridge by doing the following: Insert the following text after Section 7.230 elimination, etcetera. And then down at the bottom of the page it says: 7.22 lighting restrictions for the City of Cambridge. No direct light shall be

allowed on any abutting property, on any property abutting an abutting property, on any property across the street from those properties, and on any properties within 300 feet of luminaire and on any street, a property shall explicitly include any buildings on said property and prohibiting any direct light from entering the window or any other openings. The luminaire intended to light a street is allowed to light said street.

H. THEODORE COHEN: Right, I agree with that. But then that does not change -- I mean, that just says you can't have light on abutting property. It's, you still have the language in 7.23 which again talks about, you know, no outdoor floodlighting in Residence A, B, C, and C-1. So if we're going to say let's make 7.23 applicable

citywide--

JO M. SOLET: Can you use the mic?

H. THEODORE COHEN: I'm sorry.

If you're saying we can't use 7.23 applicable citywide then suddenly you're saying in any non-residential district you can't have outdoor floodlighting which you now indicated it probably does exist. I mean, this is the problem with, you know, trying to, you know, make a quick fix amendment to Zoning at the, you know, the eleventh hour and trying to come up with something that we haven't really previously discussed, that people haven't testified on one way or the other, and maybe that's, maybe that's where we should end up. I'm just very, very uncomfortable doing it right now and recommending to City Council that this is what we think you should do as a quick fix.

STEVEN COHEN: But, well, Ted -- actually my reaction to what you're saying is the most shocking part is that at this late moment on the verge of taking a vote, that we're actually not even clear whether the Petition that we've been talking about for these last two meetings apply citywide or only to those residential districts.

H. THEODORE COHEN: Well, I think some things proposed do apply citywide, but some provisions were not being -- did not apply citywide were not being amended.

HUGH RUSSELL: I -- some of the language wasn't being amended, but the structure of the Teague Petition is to say, is to focus on light being cast from fixtures and it says you can't -- a light can't fall on somebody else's property citywide.

Now, 7.23 talks about a device that

accomplishes that or fails to accomplish that. But I think in Teague and, if you will, Roberts, it's still citywide. And so I, you know, some -- the fact that they -- they're talking about a light falling on somebody else's property, whether -- I don't think it's any different whether it comes from a floodlight or a wall pack or not. It's -- that's what was advertised. Any commercial property owner had an opportunity to read this language and say gee, I can no longer throw light on somebody else's property. And as it happens, nobody came and said that was a problem.

H. THEODORE COHEN: I don't disagree with that, but I don't know that just simply saying if you make 7.23 citywide, you're not changing other things. And that is why I suggested --

HUGH RUSSELL: This is an architect/lawyer discussion.

H. THEODORE COHEN: Right. It's an architect/lawyer discussion, and I --

HUGH RUSSELL: I'm thinking an architect, we've got to be able to accomplish the principle. Here the lawyer is saying we have to actually make the words right. I don't disagree with you.

H. THEODORE COHEN: Correct.

STEVEN COHEN: And where I agree with what Ted is saying, and the reason I would send it back to CDD, is, you know for us to make a quick judgment here, yeah, I said earlier, hey, all it takes is a sentence or two. Well, that's easy for me to say. I would like staff to take a closer look at it and then sort of work through the ramifications and then, you know, whether

they're unintended consequences and so forth, and then come back to us with some sort of a recommendation. But that's the drafting and the professional who are planning the issue. You're raising the legal issue of whether certain interests have received adequate notice under the law of a change that will affect them. And while I disagree with your interpretation, I think it does apply citywide. I also see that because of Section 7.23 it's at very least ambiguous on what the Ordinance discovers. So I'm respectful of the concern that you raised. And as we talked about it amongst ourselves, we weren't clear among ourselves whether this, you know, Petition was applicable citywide or only to these residential districts.

CATHERINE PRESTON CONNOLLY:

Mr. Chair.

STEVEN COHEN: So if we're not clear, I mean, you know, what does that say?

CATHERINE PRESTON CONNOLLY: I think that practical implication of both Ted and Steve's comments, given that we won't be meeting again until after the City Council meeting, is that if we're going to see another round of markups from CDD and have a chance to discuss them, then we are not proposing a specific change to the Zoning Ordinance for the summer meeting. We are not endorsing the Teague Petition, and we're saying that there isn't a quick fix that can be enacted this summer. There may be a quick fix that can be enacted before the end of this Council, and that we would continue to try to do. But that the long-term goal would be a citywide lighting ordinance, and any quick fix we are going to propose is language

that we still need to work on and they'll be seeing in the fall.

HUGH RUSSELL: So do people agree with that? It sounds pretty good to me.

H. THEODORE COHEN: I do.

HUGH RUSSELL: The only caveat that I would make is that Council might say, hey, we're going to ask the Law Department to do that quick fix in the next two weeks.

WILLIAM TIBBS: Well, that's their issue.

HUGH RUSSELL: And if they can accomplish that, they might be able to accomplish that. We cannot.

CATHERINE PRESTON CONNOLLY: Right.

HUGH RUSSELL: That's the important part.

CATHERINE PRESTON CONNOLLY: Right.

HUGH RUSSELL: If we're going to do

it, we have to do what she said.

CATHERINE PRESTON CONNOLLY: Yes.

HUGH RUSSELL: So I think we almost reached -- Ahmed.

AHMED NUR: We did. We did.

I also would add that maybe we should change the language to -- from grandfathering to grandmothering because lights, lights are actually controlled better laid in the house.

I'm only kidding.

WILLIAM TIBBS: Did you get the last comment I think.

JEFF ROBERTS: Okay, so to recap, the recommendation -- I won't go back over what you said, but the recommendation is what was just stated regarding -- including the municipal -- recommendation by the municipal ordinance, advising that, you know, that the concerns with the Teague Petition as written,

the complications with proposing a quick fix at this point, and to, and so I guess the question is is the Planning Board decision then not to recommend any specific Zoning text changes to the Council but rather to suggest that the Planning Board continue to work on that issue and submit text changes for the fall term, the fall session of the Council?

CATHERINE PRESTON CONNOLLY: Yes.

AHMED NUR: That sounds good.

HUGH RUSSELL: I think that except I would put the work as conditional. If the Council wants us to work on that, we'll put that on our agenda early in the fall, because they can, because they may --

CATHERINE PRESTON CONNOLLY: They may preempt us.

HUGH RUSSELL: They may find a quick

fix. They may enact Teague. All of that is within their power.

We're saying what we can do and we can't fix it now.

STEVEN COHEN: And for 50 years of non-enforcement of the existing provisions, I don't think it's the end of the world to wait a few extra months to do this in a careful, thoughtful.

JO M. SOLET: Can they enforce what's in place now at least?

H. THEODORE COHEN: Yes.

JO M. SOLET: Do you recommend that?

STEVEN COHEN: Yes.

HUGH RUSSELL: We don't generally --

KENNETH TAYLOR: Can you make a recommendation?

JO M. SOLET: Including your recommendation that there is a law that's not

being enforced and while we're rewriting it we would at least like attention to that?

HUGH RUSSELL: I think we can -- might comment that the Board is unable to understand why paragraph 7.20 does not apparently -- is not able to be enforced.

KENNETH TAYLOR: Not being enforced.

HUGH RUSSELL: That's a statement which could provide some relief in some cases, it does not seem to be able to be enforced in -- that's part of the reason we can't act to fix it because we don't know what's wrong with it.

CATHERINE PRESTON CONNOLLY: That's right.

STEVEN COHEN: But Jo, we're not going away.

JO M. SOLET: I'm not either. I don't want it to be immortal before I see

this.

HUGH RUSSELL: So I believe we are now adjourned.

JOHN HAWKINSON: Councillor van Beuzekom has her hand up.

HUGH RUSSELL: Oh, Councillor?

COUNCILLOR VAN BEUZEKOM: I have one thing to clarify.

HUGH RUSSELL: Sure, we would be happy to hear it.

COUNCILLOR VAN BEUZEKOM: Because I don't want to by myself to be the sole conveyor of all the incredible back and forth between all you guys and between the people that came to speak. So, what I don't know is how much of this draft memo is going to be shared with the Council? Because aside from what you said, this is not out in the blogosphere. People don't really know about

this. But, the -- I think what needs to be conveyed to the Council is what you don't like about the Teague Petition. So we didn't really hear that. It's kind of in this memo, but you didn't really talk about it. You went straight to CDD making recommendations that are not going to be forwarded to the Council. But I'm hoping that there can be a write-up in the memo that accompanies the decision explaining exactly what about the Teague Petition doesn't work. Because it is citywide and that's what the CDD proposed. There was an attempt to figure out how to make it more enforceable, and Ranjit thought I can enforce it this way, I can't really enforce it because it's too vague the way the 7.20 is currently written. So I think that would be really valuable to send that information to the Council.

TOM SIENIEWICZ: I think, Mr. Chair, at the first hearing we discussed in detail what specifically were the Board's objections to the Teague Petition, so there's a record of that in the transcript.

HUGH RUSSELL: Right. And also the Roberts draft is actually a response to those points. So you can pull out of the draft what, what were the pieces that were being fixed and why, why we felt the need to be fixed. And we can --

COUNCILLOR VAN BEUZEKOM: So it won't be --

HUGH RUSSELL: It won't, we won't give you the Roberts draft, but we'll tell you what's wrong with Teague because we owe you that one at least in our opinion.

Okay, now we're adjourned.

(Whereupon, at 10:30 p.m., the

Planning Board Adjourned.)

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