

PLANNING BOARD
FOR THE CITY OF CAMBRIDGE

GENERAL HEARING

Tuesday, March 22, 2016
7:00 p.m.

in

Second Floor Meeting Room
344 Broadway
Cambridge, Massachusetts

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

Iram Farooq, Assistant City Manager

Community Development Staff:

Liza Paden
Jeff Roberts
Stuart Dash
Suzannah Bigolin
Swaathi Joseph

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H. THEODORE COHEN: Good evening, everyone. Welcome to the March 22nd meeting of the Planning Board. We'll start with an update from the Community Development Department.

IRAM FAROOQ: Good evening. Thank you, Mr. Chair.

So today's meeting is a one agenda item -- well, no, actually I think two agenda items meeting and it focuses on the Planning Board's rules and regulations.

Next meeting will be April 5th and that will be a walking tour in the Kendall Square area. You'll get more details, including things like start time from Liza and Jeff in the intervening days.

And the following meeting will be April

19th and that includes a special -- I mean, a public hearing on 95 Elmwood Street and we'll have a couple of projects that we'll be seeking extensions we expect at that time, 25-51 Mass. Ave., and also MIT you can imagine they're working away but will need a little bit more time.

And then later on we are tentatively planning to be back here, if schedule permits, on the 26th with an update on the Envision Cambridge process.

Related items are the fact that we are having Envision Cambridge public meetings over the next couple of weeks. I had mentioned the details last week, but I'll repeat that just in case there are folks in the audience.

So there's a meeting Thursday night. There's another meeting next Thursday evening.

I'm forgetting all my dates, but I can look those up.

And then on Saturday afternoon at the senior center. And everybody's welcome to attend. Please bring a friend.

And the other zoning related update is just that the Sage Cannabis zoning proposal which the Board discussed last time will be before the Ordinance Committee for their public hearing on March 24th.

So those are our updates. Thank you.

H. THEODORE COHEN: Thank you.

Liza, are there any transcripts?

LIZA PADEN: Yes. We have the February 2nd and February 16th transcripts which were certified as complete.

H. THEODORE COHEN: Do we have a motion to accept them?

CATHERINE PRESTON CONNOLLY: So moved.

H. THEODORE COHEN: Second?

STEVEN COHEN: Second.

H. THEODORE COHEN: All those in favor?

(Show of hands.)

H. THEODORE COHEN: Unanimous. Thank
you.

Now we go to further discussion of the
Planning Board rules and regulations. So we've
discussed these I guess January 26th, and a
number of issues had been raised and staff went
back and took a look at them and has proposed
some changes or additions to the rules and to
their guidelines to take into account some of the
issues that were raised.

Jeff, do you want to talk about them or I
can just go through them?

JEFF ROBERTS: I'll just run through them

briefly, Mr. Chair, and you can ask any questions of myself, and Suzannah here has also worked on these.

The changes stayed pretty close to what the Planning Board had suggested. There was some discussion about the policy regarding minutes, transcripts, and executive sessions. We got some fairly clear direction from the Law Department on that, and so the draft reflects that.

There were several changes having to do with the timing of submissions to the Planning Board and how materials were handled. We tried to clarify those in accordance with what the board members had asked us about the last time.

Probably the most significant change has to do with the model requirements which were discussed quite a bit the last time. And the way the rules -- this draft version of the rules have

suggested framing the requirement, is that essentially for any project that proposes new construction or substantial enlargement, the default would be that a model would be required and there would be some discretion for the staff to waive the requirement if it seems that what's being proposed is not a significant change to existing conditions, but in all other cases it would, a model would be required. So even for smaller projects if it's proposing a new building, then the applicant would be expected to bring a model of that.

H. THEODORE COHEN: Okay, I'll point out a couple of the other proposed changes in case members of the public have not had a chance to take a look at them.

It's made clear that there need to be photographs of the site and abutting properties,

and the material provided to the early community engagement phase so that everybody in the public will know the -- and understand the surrounding context of the area.

It's made clear that all -- for continued hearings, all supplemental materials must clearly show any changes so that we can be addressing, you know, keeping track of all the documents and of all the changes.

There was question about when staff could post everything, put it on the website, and the language has been added but to the extent feasible, all additional language from -- well, actually from everyone will be made available on the City's website at least one week prior to the hearing date.

Just clarified a little with regard to e-mails and other communications that come to the

Board, that everything received before five p.m. on Thursday will be forwarded to us, but that the Board cannot guarantee that any communication received after that time will be transmitted to the Board in advance of the hearing.

Those are the changes in the rules. And one change in the CDD guidelines for early community engagement is it's recommended that members of the public are given the time and opportunity to discuss the project among themselves at the community meetings. This is to address the concern that when the group was together, there would be a private opportunity for them to discuss things without the applicant being present.

So those are the -- and I'm sorry, also under the CDD guidelines that community meetings are to be advertised by mail or e-mail no less

than two weeks prior to the meeting date.

So those were the things, the issues that were raised by the Board and by staff and by the public, and I think that they've now been addressed.

Do board members have any questions?

AHMED NUR: I was just looking at the -- thank you, Mr. Chair. I was just looking at the 3.2. I don't remember that language but I welcome it obviously. The two associate members will alternate voting. So --

H. THEODORE COHEN: That has not been changed. That's always been there.

AHMED NUR: That's always been there?

H. THEODORE COHEN: Right.

And the Chair which I probably fail to do occasionally is to definitely designate if there's need for an alternative to vote, who the

associate member will be. Fortunately Jeff and the rest of the staff keep me and other Chairs on board and determine who voted on it, who is the appropriate voter.

Any other questions? Then --

STEVEN COHEN: Just one question. It's probably if I read this more carefully, I would have the answer, but so are we saying now that a public hearing will not be scheduled until CDD certifies that the application is complete, and a complete application would include the pre-application, you know, early engagement report? So --

H. THEODORE COHEN: Yes.

STEVEN COHEN: -- that has to be complete. The report has to be in before it's even scheduled and -- okay.

H. THEODORE COHEN: Yes.

STEVEN COHEN: Just wanted to confirm.

H. THEODORE COHEN: That is correct.

Should we open it up to the public for any comments they may have?

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

JOHN HAWKINSON: There is not.

H. THEODORE COHEN: There is not.

Anybody who wants to speak you of course know the drill, please come forward, state your name and address, and spell your name if the stenographer does not know it, and we ask that you speak only for three minutes.

JOHN HAWKINSON: Good evening, Mr. Chair.

John Hawkinson, 84 Massachusetts Avenue.

I'm pretty happy with all the changes.

I'm just left with two nits. So I'll see them as nits because they are.

With respect to Section 6.1, it has the language about deadlines and it's two weeks unless the Chair in his or her discretion shortens the time for submission. And I think this is sort of grammatically wrong because when you shorten the time, that means they have less time to submit. But I think the intention here is to allow extensions, that is that they can get their stuff in later. So I think the wording is not quite right. And I don't have proposed wording, so I apologize. And I think the intent is clear so if you guys can't come up with anything, it's certainly better than nothing, so, you know.

H. THEODORE COHEN: I think we know what it means and it's been through us, it's been through staff, it's been through the Legal Department. I'm not inclined to change language

now unless it's clearly something that's in an error.

JOHN HAWKINSON: Fair enough.

And the second concern is with respect to early community engagement. It's not apparent from this procedure that there's a way for people who don't receive the notice from the proponent to find out about the meeting, that is, there's no requirement that it be listed on the City's website or otherwise advertised in some way. And perhaps that's outside the scope of the rules and maybe staff intends there will be a listing on the website, which is great but, you know, that's an omission that I observed.

Thank you.

H. THEODORE COHEN: Well, the regulation does or the guideline does say it should be advertised by mail or e-mail. So I --

JOHN HAWKINSON: But not to the world, just to the narrow scope of abutters. I mean, I picture myself and other interested members who might not live near the affected area, but would like to find out and I don't see a good mechanism for that.

H. THEODORE COHEN: Right. Well, they're always posted on the site. So whether staff will ultimately decide whether they need to put it on the website or not, I think we'll leave it up to staff and see how things evolve.

JOHN HAWKINSON: Thank you.

H. THEODORE COHEN: And, you know, I think in concept the early community involvement is really for the community in which the building is located, but of course there are some projects, Kendall Square, which impact on the entire city.

Yes.

STEVE KAISER: My name is Steve Kaiser, 191 Hamilton Street. I'm concerned a little bit about the addition of Section 4.5 to the effect that public testimony is taken during a public hearing. The Board generally does not solicit public comments, but may do so in its own sole discretion. That's at the bottom of every notice for the Planning Board agendas. And I've always worried about that wording, and let me suggest slightly different wording:

The Planning Board generally supports public comment but shall accept it at its sole discretion. And there may be a need for an additional clause in there that allows the Board to shut down the comment -- public comment period at any time if you wish to use your -- at your own discretion. The reason I suggest that is I

went to the MBTA fiscal management control board when they voted on the fare increase, and there were some protesters there who stood up at the meeting with a bullhorn and took over the meeting. And so I think that in the difficult situations you may find yourself as a public board, taking public comment, sometimes things can get a little out of control and this would allow the Board to basically say okay, we've had enough tonight and we're going to shut the comment down or to open it up at any time. So, I think that would serve your purposes and mine if Section 4.5 were actually put in there more positively with respect to public comment because I think quite frankly, the -- this is the one Board in the city which doesn't have a regular public comment period and we suffered through that with the Volpe petition I think, that when

you were assembling that whole petition, it would have been useful to have some public comment during that time when you were putting it together. So when you go to the public hearing, you've got a reason for the public to support you in which you did. And when we went to the hearing last June, there was nobody there to speak for your petition. And it's also possible you could get some good comments from the public that would assist you when you assemble your petitions and it would benefit things all around. So, I would try to take a more positive view towards this and I'm taking more positive view towards the Board itself because I think in the last year you've become more open to comments, so let's try a more gradualist approach to allowing for comments as we are tonight, because in the agenda tonight it says public comment will be

taken so everybody coming to this meeting will know.

Section 6.12 it says except as provided in 6.13, no oral or written testimony will be accepted after the public hearing on an item that's closed. Now we've always been able to request of the Board, oh, after the hearing is closed, will you still accept written comment? And usually we say yes. You know, do so in the next two weeks or something like that. This section would prohibit that flexibility. So you could add "at its own discretion, the Board may extend the deadline for written comments." I think that would serve your purpose.

H. THEODORE COHEN: Well, actually that is a remnant -- well it's not a remnant. It has always been in the rules and the Board has changed its policy. You may recall that in the

past we closed the public hearing much earlier.

STEVE KAISER: Okay.

H. THEODORE COHEN: And then when there were questions and the proponent came back with information, there was -- it was conceivable that the public was not given an opportunity to speak in response to that. We have changed the policy so that we do not close the public hearing until everything is in and all the public has spoken and the Board is ready to make its final deliberations and vote on it.

STEVE KAISER: Okay. That's a logical reason, but when you have a very complex zoning petition in front of you and we've only got three minutes to speak, being able to have the option to elaborate in writing and say many of the things we couldn't say in three minutes would be useful.

H. THEODORE COHEN: Well, we don't close the hearing until we're really ready to vote on it. And so when that occurs, it's that point is really going to be too late to wait for further information to comment.

STEVE KAISER: Okay, if you're working that way, you've taken care of it.

H. THEODORE COHEN: That's the way we're working on it.

STEVE KAISER: Okay. 6.14, outside the setting of an open door hearing, members and associate members will refrain from discussing pending Special Permit applications from any party having an interest in the matter.

And it was those last phrase that, you know, got my interest. "Any party having an interest in the matter." Could that include other officials in the City such as the City

Solicitor? I would like to assure that the -- any decision made by the Board is made by the board members themselves and not influenced improperly by another outside force.

So, I think this is a very good provision in here, but it will require some awareness and caution so that if anybody does try to interfere with the board member outside of a meeting of this sort, you will be totally prepared to say whoops, 6.14 doesn't allow me to comment.

H. THEODORE COHEN: That has been in the regulations since time and memorial.

STEVE KAISER: Yes.

H. THEODORE COHEN: And generally we do not speak to -- certainly not intended to encompass the City Solicitor, but in general any questions with the City Solicitor are transmitted through staff.

STEVE KAISER: Yes.

Finally one last item here is, there should be a provision for citizens if they don't have an open public comment period generally to request of the Board that an item be placed on the agenda for discussion. It could be, you know, something to do with master planning or just even something with, to deal with people who are hard of hearing like myself. So I don't know is there a provision now for doing that? I think informally you can take a written request, that would work.

H. THEODORE COHEN: I think probably informally if someone made such a request, it goes to Liza and she either schedules it because she thinks it's in the way to take up or she'll ask us at the Board if we wish to take up such a matter.

STEVE KAISER: So you have that
privilege.

H. THEODORE COHEN: I think it's in
practice.

STEVE KAISER: And one last item which is
somewhat humorous, I would like to raise my
comment concern as PowerPoint. It should be
banned as a hopelessly communication device. I
know I'm going against the ocean of world opinion
here. Our meetings are drowned by PowerPoint,
but tonight they're not and I appreciate that
very much.

Thank you.

H. THEODORE COHEN: I would probably join
you in closing PowerPoint presentations but
that's what a developer wants to do, that's what
we'll put up with.

YOUNG KIM: My name is Young Kim, two

comments:

First of all very quick, a comment on 4.5 to follow this gentleman. The cases for the design review where public is not generally given permission to speak up, but that it is very unfair when the developer's given a chance to present his new design, his new changes, but the abutters have no chance to abut that. This happened at 44 Norris Street project. Initially design review we're allowed to speak, but the next time when the developer presents a case, there were many issues that was in error really that we were not allowed to point out. So in that case there has to be some way for public to give comment.

But my major concern is I have brought this up before, and the last meeting I was very hopeful that when the Chairman called Mr. Bacci

to call for document control for the Special Permit cycle. And the only change that I see is that in Section 6.1 type Special Permit public hearing was modified now to read "for continued hearing all supplemental materials must be clearly show any changes." That is a good start. But major problem is it seems that the process after the permit is granted to the completion of the project when the occupant is granted, it goes into black hole. There is many agencies involved. The developer will go to one agency to submit change for one thing, but forget to inform the Planning Board. And unless the neighbors are very keenly aware of what following every single step of the way, we might not have a chance to prevent something. Most recent example that I can cite is Porter Square Hotel. They changed the size of the transformer into the garden area

and it was only when the neighbors found out that there was meeting where the NSTAR was requesting permission to dig a trench to lay the cables, that we came in and we pleaded and said there was many discussion at the Planning Board, that what's submitted must be bounced off the Planning Board, and that's how the design, part of the reason the design review was processed. If it's left up to the developer to say whoops, here's a major change, we need to bring it up to you for review, who do that? Because every single minute of a delay will cost them money. So they say okay, this is, to me it's a minor change, so in this Building Permit, permit so they go before them, they have no participation during the debate and Special Permit hearing, they do not know what your intentions were and they look at it oh, it meets the Building Code, it doesn't

look too bad and so go ahead and do it. But it goes completely against the intentional -- initial decision. So we really need to firm up a rule of what happens after the permit is granted. And the decision at the very least has to be clear guideline as to what will trigger design review and there has to be somebody in the CDD who will follow up with all these so-called minor changes to bring the developer back to the Planning Board for a hearing.

Thank you.

H. THEODORE COHEN: We understand your concern, and, you know, we agree with it to a large extent, however, these rules relate to what happens through our process here and through the decisions and what you're concerned about and what we're concerned about is post-decision changes, and so it seems most appropriate to

leave that within the hands of CDD to develop their own guidelines and their own checklist of how that's going to be dealt with. We can consider I think whether we want to start putting some language in the decisions if it's appropriate about what types of changes might necessitate bringing it back to the Board. The decisions all now do state that we retain the power to review everything and that if it's beyond the change that CDD or staff would approve, that it would come back to us. But we certainly understand your concern and we certainly understand the changes that were made in the couple of recent projects that have exacerbated that concern.

YOUNG KIM: Thank you. But since the CDD and Planning Board has taken this big step to try to improve the process, we somehow have to

restart the process to improve what happens after decision is made. If it's -- if somehow no action is taken, this process is going to continue and that I --

H. THEODORE COHEN: I'm not disagreeing with you about that and I think that's something that we will be talking to staff about, but I don't think that ends up in these particular rules right now.

YOUNG KIM: Yeah, maybe a Planning Board has --

HUGH RUSSELL: It could end up in Section 7.

YOUNG KIM: The CDD take action to address the issue.

HUGH RUSSELL: It could end up in Section 7 by a reminder to us to incorporate language in the decision that deals with a question of

post-decision changes.

H. THEODORE COHEN: If you think that's -- I mean, as you know, it's in the decisions now so I don't know that putting it in the rules changes anything other than -- I think it's just everybody has got to be more --

HUGH RUSSELL: Well, I think, you know, in a sense we don't need the rules. We have a history and procedure working. The rules are there to explain to the public what the -- how we behave and how will we deal with cases and what their rights are and what to expect. So the fact that we actually do things that aren't in the rules maybe is a defect. And here we have, you know -- this is a situation that occurs occasionally and is of great concern to the public, so maybe it warrants a paragraph to just say this is how we, how we approach this

question.

H. THEODORE COHEN: Do you have any language to suggest so that we could resolve it right now?

TOM SIENIEWICZ: It's simply I think making a standing finding which I'm sure is in the decision already --

H. THEODORE COHEN: It is.

TOM SIENIEWICZ: -- which that the work will be in substantial conformance with the drawings, and you cite the specific date on the drawings. And after that it's an enforcement issue. And, you know, I'm happy to steer a process up until the point we make a decision. I think the enforcement is out of our hands, it's for ISD, it's for CDD, it's for the police department, whoever, the courts, but it's an enforcement issue. I think that's way beyond

what this Board can do. I'm very sympathetic, and I agree, Hugh, from time to time we run into this issue where people fly -- proponents, developers fly in the good public process that we spend so much time and effort in and it's galling, and so I think that that tonight, I think what the results should be is a very clear communication to CDD and ISD and whoever else is going to listen, the City Council that this needs to be addressed.

LOUIS J. BACCI, JR.: How would we ever know that it's not addressed? That's my problem. We never seen the final outcome of these projects until they're in brick and mortar. Does anybody have any check off at some sort?

CATHERINE PRESTON CONNOLLY: Yes, ISD looks at the plans and makes a determination with CDD. I mean it's not for us to make that

determination.

LOUIS J. BACCI, JR.: When we asked about the Porter Square Hotel, they said they have those drawings from their permit set. That's a tough one on me.

AHMED NUR: Mr. Chair, can I respectfully request that we move on with the public hearing and then we continue our discussion afterwards?

H. THEODORE COHEN: Surely. I think that's a good idea.

Is there anyone else who wishes to speak?
Heather.

HEATHER HOFFMAN: Hello. Heather Hoffman, 213 Hurley Street.

I wanted to comment on a couple of provisions. One is 6.11 talking about when things come back and the possibility of limiting comments only to changes. I think that that's a

bad idea for two reasons that immediately came to my mind:

First one is that it can well be that someone for some reason either didn't know about the original hearing or was unable to attend and has something that you ought to hear.

The other thing is that if we can only talk about things that changed, what about the things that didn't change that we wanted to change? And that's really important because people can -- I have -- I can't count the number of times that I have seen developers say no, I don't feel like doing that. So if we can only comment on the stuff they did feel like doing, I think that that does a disservice to the decision making process.

The next thing I wanted to address is in the guidelines, and this is No. 2. Now I was --

I was going along reading this, and the grammatical part of me was saying they're using the subjunctive properly, this is good. And then we get to the underlying thing there and it really needs the subjunctive and it doesn't have it. And so I would strongly request that you stick with the grammatical beauty elsewhere and fix that.

And I might also suggest that you clarify it because it's not just among themselves, it's among themselves without the developer present, without the developer in its, his, their, whatever, surrogates.

And the other thing, this was speaking of things that don't change. This was a thing that I brought up before, and Steve Kaiser alluded to it, you know, all of us who can see and hear can, and can walk around, can decide at the last

moment to go to a meeting. And it is too bad that so many of our friends and neighbors don't have that luxury. If they don't -- I think it's pretty well established that meetings should be in a place that's accessible, but if meetings are inaccessible to people who can't see well, you know, it is not hard for developers to present materials ahead of time so that people who need big print or other things because of vision issues can deal with that. I am 100 percent certain that all of these developers are preparing their materials on computers, they can provide this stuff ahead of time and they should have to. Not only that, they will often get better questions if people have something -- have some chance to look at it ahead of time. Which reminds me that sometimes we want to make comments after we've heard what other people have

said in a meeting because that brings up things that we hadn't thought about, and so I had noticed with great pleasure that the Planning Board does indeed keep the hearings open as late as possible and I want to thank you for that, because it really does permit people to give you the best comments that are in them.

And getting back to the accessibility to everybody issues, CDD has, has a really good procedure for making meetings accessible to people if they know ahead of time, and that should be communicated to developers so that people know that if they, for example, need sign language interpretation or something for a meeting, that that can be provided as long as someone knows a little ahead of time.

It would really do a whole lot to make these meetings accessible to people we do not

normally hear from who are just as affected by all of this as the people that we normally do.

Thanks.

H. THEODORE COHEN: Thank you.

ATTORNEY JAMES RAFFERTY: Good evening, Mr. Chairman. My name is James Rafferty. I live at 40 Larch Road in Cambridge, but I come here often representing clients because I also am a lawyer here in Cambridge.

My attention was drawn to Section 5.1, the pre-application early community engagement. And I know you have been wrestling with this concept. But the use of the word "hosted" has been the subject of concern of mine only because as I understand the purpose of early community engagement. Frankly much of what's embodied here takes place already; people who I think retain experienced counsel to help them through this

process, quickly advise their clients and proponents how important it is to engage early. But there exists a community meeting infrastructure in some neighborhoods of the City that is very effective. I think the classic one is in East Cambridge.

The East Cambridge Planning Team has a long history of doing all of this. They meet twice a month. They have an established communication network. They -- I have been going there for over 25 years. You get a range of opinions. Everyone is given an opportunity to speak. It's a very effective place to vet projects with. It's a neighborhood that the association always used to make an effort to be apolitical, and it had a range of views in Cambridge. Frankly some organizations have more of a political bent and they approach projects

frankly with a certain bias. I don't say that critically, but I think if you look at the materials that they promulgate and the activities that they engage in around municipal elections, it would suggest there are less community groups and more advocacy groups, which is fine. But a situation in a place like East Cambridge, my -- I find myself in agreement with Heather Hoffman a month ago when I was here, when she noted that one of the nice things about East Cambridge when you go there, when you're done, they always leave a half hour and they say to you politely now leave so we can talk about you. It's their meeting, we leave, and then it allows the community people who frankly many of whom are very experienced in evaluating these projects, they raise their issues, they vet them, they craft a response either to the Historical

Commission or here or to the BZA. And it would seem to me that in a neighborhood where that infrastructure exists, that CDD should have the authority within the approval process, and we say look it, here's my project, it's in East Cambridge, and what I propose for my early action community engagement is I'm going to present at the East Cambridge Planning Team. I would think CDD ought to be able to say okay, that serves the purposes of what we're trying to achieve, rather than I've got to rent a room at the Kennedy School, I've got to pick a night when some other community groups it conflicts with a schedule, whether it's a weekly bingo game or something else that is important in the community. There's a rhythm and a schedule, second and fourth Wednesdays of the month in that particular neighborhood, and you can get on agenda and if

they're full, you got to adjust your timing to their schedule. I would just urge the rules to allow enough flexibility that an applicant could choose to submit a proposal to rely upon an existing neighborhood organization to satisfy the hosting requirement, still host it, still provide all the information that's being asked here, but why are we reinventing the wheel when the best community organizations frankly are organic. I don't think you can impose things on an applicant to say okay, you know, I've got to create a mailing list. I've got to figure out who gets mail. The database is, you know, if you use the abutters' lists are typically used for meetings, they come out of the assessor's office so only the property owners learn about it. In a place like East Cambridge, their list serve you could be a tenant, a multi-family household, you've

already, you're in their network because you have expressed an interest, you've attended a meeting. So I would just urge the Board to allow CDD to include the use of an established neighborhood organization to satisfy or to meet these objectives, because I think you'll find that they're very consistent with the objectives you got here.

The last thing I would add is I think it's worth noting, and I know the Board knows this, many members perhaps more than others, there are statutory requirements associated with granting of the Special Permit and the burden of proof is upon the applicant, so the notion that we should -- so why is it the applicant gets the last say? We all know what burdens of persuasion and burdens of proof, does need to be an opportunity for the applicant to present its

evidence through testimony and presentation in order for the Board to make a determination as to whether that criteria has been met by the applicant, because ultimately you're acting in a quasi judicial capacity and you're making a determination findings based upon evidence presented, not just by the applicant, who certainly also has testimony and evidence from others, but at the end of the day, the burden of proof rests with the applicant and the framework and the rules should -- and I think it does, but I think it's worth remembering does reflect the fact that's where the burdens lie.

Thank you.

H. THEODORE COHEN: Thank you.

If I could just respond. I think the word hosted was important because we wanted to make certain that everybody and every developer

was going to do as a minimum what is set forth in the rules and in the guidelines. I would not read the guidelines as precluding a meeting to be held say co-hosted by the proponent and by say an existing neighborhood association. And I think the intention of those guidelines is that the proponents will meet with CDD to determine exactly how the meeting will be scheduled and where it will be held and the details of it. And so I think it envisions that something along the lines of what you're suggesting would be done.

Is there anyone else --

HUGH RUSSELL: There's a single word in the second paragraph of the guidelines that may be, that cuts to the heart of this question. That word is additionally, which seems to say that there is a --

JAMES WILLIAMSON: Where?

HUGH RUSSELL: That in addition to a meeting that's held not with a community group, there can be meetings with a community groups. I would agree with Mr. Rafferty to think that if the word "additionally" were removed, it would give the department the ability to have a meeting with the East Cambridge Planning Team that would serve this purpose provided the other sections -- there's a burden on the applicant to advertise and e-mail and do all the other things, but it could happen at the East Cambridge Planning Team meeting. The word additionally seems to imply that it could not.

H. THEODORE COHEN: Okay. I point out that we're not going to actually ending up approving the guidelines since they are CDD's guidelines, but we can make recommendations to them.

IRAM FAROOQ: Well, if I may just add one thing that when we did hear through the course of the focus groups that we had was that a lot of people feel that they are not -- if they're not really regular attendees or part of a particular neighborhood group where they go with some frequency, they don't necessarily feel as comfortable showing up just for the one project and really weighing in the way everybody else does. And so it seems like there would be -- there was a great desire expressed for something that felt more neutral. And I would say also that there's great deal of diversity across the city in terms of the various neighborhood groups and how to bust their process and how objective the processes are, and they probably will vary over a time depending on where the attendees -- so this is just a way to say that there should be

some neutral way that is convened by the developer where everybody is equal and can weigh in. So that was the attempt just so you know.

H. THEODORE COHEN: I guess maybe we would recommend that, assuming that we adopt the rules, that staff think about that when we adopt the guidelines whether it could be modified or -- you know.

CATHERINE PRESTON CONNOLLY: I guess from my point of view, part of the point of having the CDD guidelines the way they are is so that CDD can implement them and experiment and change them far faster than we can. So if CDD thinks this is the right way to start and see if it works and see if it does end up in the greater community engagement that I know we all want, great. And if it doesn't or if adjustments need to be made, I trust they will make them.

H. THEODORE COHEN: So anyone else wishes to speak?

JAMES WILLIAMSON: James Williamson, 1000 Jackson Place. Thank you.

And I was among the group who attended I think one big session in this room at least when these discussions were launched.

Picking up on this current topic, what I would -- we think about -- like, I'm familiar with an East Cambridge Planning Team and the North Cambridge Stabilization Committee in particular. I think that the East Cambridge Planning Team have been very good in many ways, but I do think there have been times when there are controversies where people haven't felt comfortable, they haven't felt represented and even organized other groups even around courthouse issue. So I would concur with what

Iram just said about some people maybe not feeling comfortable or not feeling represented or maybe the ability to be heard.

On the other hand, I wouldn't want to lose the opportunity, the traditions of the customary meetings at these recognized neighborhood groups. So I would like to see, you know, those continue and the sort of you guys really ought to have a meeting where, you know, you do the community engagement process and --

AHMED NUR: The developer.

JAMES WILLIAMSON: I'm sorry?

AHMED NUR: The developer you mean.

JAMES WILLIAMSON: Right, yeah.

And so if that -- if the current customary meetings aren't lost but a new format is, you know, required, I don't think -- I think that's probably a good idea, especially if we're

talking about major projects that require a Special Permit. So at first I was finding myself agreeing with Jim, but then I thought, hmm, yeah, I remember what happened in East Cambridge and not everybody -- North Cambridge Stabilization Committee are sometimes perceived as skeptical of everything that comes before them and not everybody shares that. So it, you know, cuts different ways for different established groups.

I think -- I really appreciate the flexibility that has been shown by the Planning Board on inviting people who may be seen to have special involvement with the neighborhood group that's implicated in a particular proposal or somebody -- this happened to me, I've been asked to comment because I live in a particular development. And I think those practices are good and welcome and I appreciate them and I like

that they're I think alluded to here.

I would like to see a summary of the written communications to the Planning Board the way that -- I think the BZA do this. They'll just go through a quick summary of who have sent in written communications. Now, I don't know if it's customary to have every written communications available over here. I don't think so. But just to let people know, here's who we've heard from on this issue without going into detail necessarily.

I often have felt left out when everybody at the table seemed to have drawings that admittedly are available on-line I guess, if you go and, you know, have the wherewith all to print them out, but it would be helpful often to have perhaps a few copies available here the night of the hearing so that you don't just get the memos,

which I have found quite useful, especially the summaries of what's being requested, but to have the actual plans, the images, the renderings, the same material that you have in front of you. I know that there are, you know, some feasibility, you know, and practicality aspects of that, but I, you know, from my point of view it's sort of like pretty essential sometimes.

As far as the time, I do sometimes feel that there's an imbalance in the time that's allotted, the proponents obviously have a lot of material that they need to present, there's important information there, but I do think that there ought to be comparable time allowed for if there's a big turnout for people from the community. I mean we all live here, we ought to have -- there ought to be -- and I don't know how that's spelled out explicitly in the guidelines,

but I'd like to see a move toward a commitment to some kind of balance there.

And then my last comment is just last week, it's sort of like, you know, I think all of us have contributed over the years to, you know, conflict at times in these situations and it's gonna continue because we disagree about some of these proposals, with the developer, with members of the Planning Board, or the public. But last week when the ladies got up, and I think I sort of disagreed with them, and they got up and they talked about the concerns about the siting of the marijuana place, I didn't necessarily agree with them, but I kind of wish that somebody on the Planning Board had said, publicly after they spoke, you know, we appreciate your concerns, not that we agree with them, and not that, you know, but somehow to have some of that happen sometimes

. You know, just to acknowledge that these are folks who live in Cambridge who come before you, maybe you don't agree with it, maybe it's not relevant, it's exactly to the criteria that you're going to be applying, but to appreciate that, you know, here are people that, you know, they're concerned and thank you for showing up. And I think that does happen sometimes and sort of like, you know, wishing that maybe, you know, it had happened at that hearing.

So anyway, thank you.

H. THEODORE COHEN: Thank you.

If it's not clear, we do appreciate everybody who shows up and who speaks on whatever side and whether we agree or disagree, we do appreciate hearing everything from the public.

LEE FARRIS: Good evening. Lee Farris, 269 Norfolk Street. Thanks.

I wanted to appreciate you guys and CDD for all the work that has gone into this, and I think it will be really interesting to see what the community meetings are like, community engagement meetings, and to start that process of experimentation that you described. So -- and I appreciate that we have another chance to make a few more requests tonight.

I want to start with a question, which I don't know if you guys can answer it or if it's gonna go to CDD staff, but one of the concerns that I had raised was with sequencing and time of the developer's material, any material by CDD, like a memo, and public comment. Because the way that it was happening before was that the CDD memo was arriving at the same time that public comment was due, so that the public comment couldn't take into account what CDD had written.

I think that that problem is fixed here, but I am not sure. So my question is in 6.2 it says all supplemental materials must be received by CDD two weeks prior to the continued hearing date. And then further on it says CDD staff will provide the Board all applicable Zoning Ordinance criteria or other material, and to the extent feasible will make such information available on the City's website one week prior to the hearing date.

So my question is: Does or other material include the CDD staff memos? And if it does, then am I right that there would be -- that staff memo would be available for a week before the hearing?

And then further on on 6.10, the public testimony is due Thursday prior to the hearing. So am I right that that's fixed or is it written

in a vague way that doesn't fix it?

H. THEODORE COHEN: It is written in a vague way because it is the intent that CDD can get everything up a week before the hearing or a continued hearing, but they have a lot of work to do and that.

LEE FARRIS: No, I know that.

H. THEODORE COHEN: And it was intentionally to the extent feasible --

LEE FARRIS: Right.

H. THEODORE COHEN: -- was to give them --

LEE FARRIS: Right.

H. THEODORE COHEN: -- the option that if something else comes up --

LEE FARRIS: Yeah. I don't have a problem with the wiggle room. I'm just trying to clarify if the intent is as I've just stated.

H. THEODORE COHEN: Yes. The intent is yes, that everything will be there a week in advance and people will see the CDD memo before they made any public comment they intended to.

LEE FARRIS: Great. That's --

H. THEODORE COHEN: That's the hope.

LEE FARRIS: Yeah, yeah, no, I understand. We're working our way towards a new thing, but that's a great improvement I think.

And so a couple of other points. Section 5.2, it's talking about the summary that the developer or the proponent has to send to CDD of the community engagement phase, and I just did make this point before, and it didn't make it in, so I'm gonna suggest another way to do it, which is the suggestion is that the people that attend the meeting get to read what the developer submits to CDD. In other words, that the

developer communicate that report directly to the people that attend the meeting. And so I can understand if you don't want to put it in the Ordinance in the Zoning, so maybe it's something that could go into the guidelines? And I think it would go sort of -- at the tail end of the guidelines. And it might be good anyway for the guidelines to refer to that report and say something like, after this community engagement process, then the developer is going to write the summary as described in 5.2 and CDD will encourage the developer to share that summary with the people who attended the meeting who gave their contact info. And that way it stays in the flexible thing but there is a strong suggestion.

Okay.

And I completely agree with the points that Heather made. I thought that all of them

were very helpful and important.

Several other people have addressed Section 4.5 and the ability of the public to comment on things that are not Special Permits, and I want to join that concern. One possible thing to do is, for example, the BZA hearings and so forth, to change it from the default being "public comment will not be taken unless the Chair says that it will" to "the public comment will be taken unless the Chair says that it won't." So I know that's a relatively big change at this stage of the consideration, but I wanted to throw that out there, because as you know, some of these signs on top of buildings and stuff can get pretty heated and people can have a lot of feelings about them.

I think I have only one more thing.

Yeah, under -- at the very end, Section 7

Special Permit decision. I know of one case where an agreement was reached ahead of time by abutters and a developer on things that the abutter would do and somehow that agreement didn't get attached to the Planning Board decision. And when the abutters found out and asked for it to be attached, because in their negotiation it was understood to be binding, but there's no way for it to be binding if it's not attached to your decision, there wasn't any way to remedy that. There doesn't seem to be a way for the public to say, Dear Planning Board, your decision such-and-such is fine, but you yourselves talked about these things and here's an agreement that we made on them, but it didn't make it into your report. So I don't have suggestive language but, you know, just saying if a member of the public wanted to ask for a change

afterwards, who would it be that they should speak to?

H. THEODORE COHEN: That would not be possible.

LEE FARRIS: Okay.

H. THEODORE COHEN: Because, you know, there is a statutory scheme, and once the decision is rendered and filed with the town -- with the City Clerk, then the 20-day appeal period starts running. So if there was an error, I would say, you know, somebody would probably have to appeal it. I don't recall the situation you're talking about. I think if it occurred, it was unfortunate. I think it would, you know, it's necessary if such a decision is made that somebody brings it to the Board's attention so that it can be incorporated into the decision.

LEE FARRIS: From what you're saying, are

you saying that the only way for there to be an addition or a change is through the appeal process, the 20-day appeal process?

H. THEODORE COHEN: I think that's correct. And once the appeal period has expired, then, you know, Special Permits could be amended but it would require a whole amendment process, you know. I don't know the situation that you're referring to. If it happened, it was unfortunate, but, you know, there is a procedure that has to be followed under the state statutory code and --

HUGH RUSSELL: And also people can make agreements that we cannot put into a decision --

H. THEODORE COHEN: Right.

HUGH RUSSELL: -- because they're outside of the zoning framework.

H. THEODORE COHEN: Right.

HUGH RUSSELL: So that's -- I don't know whether that was the case, but if somebody comes and, you know, there's an agreement that includes such an item that's beyond what we -- the authority we have, we can't include it, so therefore what we need to do is look at those requests and do the ones that we can do, consider the ones we can do. And then assuming we agree, get them as conditions in our decision.

H. THEODORE COHEN: Which is indeed what we've done fairly recently.

CATHERINE PRESTON CONNOLLY: Yes.

HUGH RUSSELL: I think it's a longstanding practice, but it's not -- like everything, it isn't always perfect.

CATHERINE PRESTON CONNOLLY: Right. And certainly if people enter into a contract, they can always sue to enforce the contract in the

courts as well.

LEE FARRIS: Well, that is true, but as we all know the amount of money that it takes to do that is --

CATHERINE PRESTON CONNOLLY: I'm not saying --

H. THEODORE COHEN: I think you're pointing out one situation that unfortunately occurred.

LEE FARRIS: Okay.

H. THEODORE COHEN: And it's not something that we can address here.

LEE FARRIS: I understand.

H. THEODORE COHEN: And if it was so significant to someone and they felt it was supposed to be in the decision and felt it was something we could put in the decision, then, you know, they could appeal the decision.

LEE FARRIS: And then lastly, this again does not lie with you, but with CDD, when we had the focus group process, there were many other changes in the planning process that were discussed that fall with CDD and not with the Planning Board, and I don't think CDD has outlined any timeline or next steps recently on dealing with those. And all the time lines and next steps that were in the document from about a year ago have now all, all those time lines are now passed. So as a resident and a participant in the focus group process, I would love it if there would be some follow up. And that includes the things that we talked about like the changes in this room and all that stuff.

So thank you very much.

H. THEODORE COHEN: Thank you.

IRAM FAROOQ: I can actually provide an

update on the changes in this room which are imminent the week that the Board will not be meeting, I think it's the April -- the week of April 11th is when work is scheduled in this room unless --

JOHN HAWKINSON: Iram, can you speak up? Some people are having trouble.

STEVE KAISER: Use the microphone.

IRAM FAROOQ: I'm normally so loud nobody ever tells me this.

But I was just providing an update on the work in the room. It's anticipated that we will have an additional monitor that will go in and I think it's planned for this wall so that the audience can see directly. There will also be a -- we will be switching to -- the Accela program that City Council is using for their agendas. That may not happen immediately, but

that's in the works. And in order to facilitate that, there will be a camera installed so that the Planning Board meetings can be recorded and streamed webcast. And so it will, it will be a station -- we won't be able to zoom in on the Chair for instance, but we will have a stagnant view that will just be -- I believe it's supposed to be there so it will capture everybody. So those are a couple of improvements for this room that are planned.

I know Stuart is working hard to get us a timer that has lights and so that should be coming.

Do you have it?

STUART DASH: Shortly.

IRAM FAROOQ: Shortly.

JOHN HAWKINSON: And a new video projector.

IRAM FAROOQ: And a new projector.

JAMES WILLIAMSON: How about a new podium?

JOHN HAWKINSON: That's on the list.

IRAM FAROOQ: It's not scheduled yet but will happen separately in the not too distant future. Soon. Shortly.

H. THEODORE COHEN: Is there anyone else who wishes to speak?

(No Response.)

H. THEODORE COHEN: If not, then why don't we discuss these amongst ourselves.

You know, a couple of comments I would like to make. You know, as this Board knows, we're very busy most of the time. We in theory meet twice a month, we've been meeting at least, sometimes four times a month. And, you know, we're required by statute, by ordinance to have

public hearings on special permits and zoning matters but not necessarily on the other matters, and I personally think I would prefer that we leave the issue of public comment on things that are not mandated as, you know, up to the discretion of the Board whether we would take it or not.

CATHERINE PRESTON CONNOLLY: Ted, if I could just weigh in on this. One of the things that was suggested is that we have it be generally open but up to the Board to close it. And I think that legally creates some really problematic issues. So I don't think -- and I think it's worth saying that, but that the idea that you could have it as default open and then cut off the public comment after -- that is really not legally feasible, could create some really problematic issues with our process and

open us up to a lot of appeals that we don't need and the City doesn't need of course.

H. THEODORE COHEN: Sure. I think those were -- I think the comment that this -- the guidelines clarify that the public has the opportunity at the early community engagements to meet without the proponent present is good and hopefully that can be included in the guidelines.

I think the other issues about the guidelines are, you know, a lot of this is new. I think, you know, we're going to have to see how everything works and see what works and see what doesn't work and that if the guidelines will allow fairly rapid changes and the rules, you know, we've been working on these for a number of months now, it's obviously a slower process.

HUGH RUSSELL: So I have three suggested changes in response to the comments that were

made.

In 6.1 I wonder if we could take the last three words, "time for submission" and replace them with the words "two-week period"?

H. THEODORE COHEN: I'm sorry, where are you?

HUGH RUSSELL: 6.1. So take out "time for submission" at the end and replace it with "two-week period."

CATHERINE PRESTON CONNOLLY: So instead of having to be received two weeks prior to the continued hearing date, that period could be shortened?

HUGH RUSSELL: Right.

So that --

CATHERINE PRESTON CONNOLLY: Yes. That deals with the grammatical issue that was raised.

H. THEODORE COHEN: So I'm sorry, and

what was your proposed language?

HUGH RUSSELL: So delete words "time for submission" at the end of the paragraph --

H. THEODORE COHEN: Right.

HUGH RUSSELL: -- and substitute the words "two-week period", which is the time for submission.

CATHERINE PRESTON CONNOLLY: Right, but it makes it clear.

AHMED NUR: It makes it a lot more clearer.

H. THEODORE COHEN: Okay.

HUGH RUSSELL: Okay.

I share everybody's difficulty with the language of 4.5 but I have no suggestions to make.

And similarly in 6.11, Heather made some good points, and so I think the wording there

isn't particularly prescriptive, and the intent is that we should not be hearing this -- each hearing shouldn't duplicate the previous one. And if there was a better way to express that, that would be nice, but this language is old language and it seems to have worked.

H. THEODORE COHEN: It's old language and it's been working I think.

HUGH RUSSELL: Right.

And now in terms of Heather's grammatical comment on the guidelines paragraph 2 in the last sentence, I'm wondering if the last sentence were to read: Members of the public should be given the time and opportunity to discuss the project by themselves at such community meetings.

HEATHER HOFFMAN: Just "be," not "should be" just "be".

HUGH RUSSELL: So that's my suggestion as

corrected by -- grammatically by Heather, but I think that might, I think changing the word "among" to "by" makes it clear that it's --

H. THEODORE COHEN: I mean --

AHMED NUR: Is that it should be --

H. THEODORE COHEN: Well, should throughout the rest of the paragraph, so I think to be consistent.

HUGH RUSSELL: Yes, that's why I --

CATHERINE PRESTON CONNOLLY: I guess the only question, Hugh, is are you suggesting we delete the words "it is also recommended that"?

HUGH RUSSELL: Yes.

CATHERINE PRESTON CONNOLLY: Okay. So members of the public should be given --

H. THEODORE COHEN: Should be given the time and opportunity to discuss the project by themselves at community meetings.

HUGH RUSSELL: And then there was a suggestion made by John Hawkinson which I first put a 4, because we do generally --

H. THEODORE COHEN: Are they in the guidelines or --

HUGH RUSSELL: I'm in the guidelines now. And it's about can people who are generally interested in this process be notified sort of automatically? And there is I believe a long list of people who receive our agendas. So people can sign up to do that. And so, you could just add a D, persons who had requested.

Or you could add it in 5, because in the context of a broader outreach, it's really a broader outreach question.

H. THEODORE COHEN: Well, if you did that in 4, it would be similar to the statutory right that people have to be -- to give written notice

that they want to be notified of Planning Board hearings.

HUGH RUSSELL: Right.

H. THEODORE COHEN: So if somebody did notify the CDD general notification that would work.

HUGH RUSSELL: Right. I mean, I think it's our desire that these meetings are among the people who are most effective with perhaps a few trusted advisors that might be brought in and that they not be citywide forums where the local voices get overwhelmed.

CATHERINE PRESTON CONNOLLY: Right, but at the same time we don't want to obviously preclude other residents from attending.

HUGH RUSSELL: Right.

And there are people in this room in fact who follow certain issues citywide and come to us

and comment to us, and their advice might well be helpful in a community meeting.

And then you could add a numbered line, a reporting paragraph that would describe the -- who the report has to be given according to Planning Board rules to the staff, and that it should also as a matter of courtesy to the people who attended to the extent that addresses are available.

That's not really rocket science here, but just, we did get some suggestions and I think we can implement them.

H. THEODORE COHEN: Fine.

Anyone else have any other comments?

AHMED NUR: The only other comment I have which is also in support for Iram, is the Jim Rafferty's point of if he's representing the proponents and he's exhausted with East

Cambridge, for example, they asked him to leave and now we're telling him to go and set up a meeting with those who are not sympathized. I had a house of my own in East Cambridge and I don't really want to have anything to do with East Cambridge Planning Board and that is my own problem. And I want to be able to be given an opportunity to what the proponent is proposing. So I think I could see both sides.

I mean, maybe make a suggestion is probably not going to go far but that CDD should give them a room or something for advice, the developer to meet up with these particular neighbors who called in to find out what's going on and give them -- and the reason being is landowners and so on and so forth pay taxes to the city and the city owes them to make sure as opposed to going to the East Cambridge Planning

Board that, you know, so that's the only suggestion that I have.

HUGH RUSSELL: I had a suggestion for Mr. Rafferty that might address this.

Could not an applicant set up a neighborhood meeting in the same place that the East Cambridge Planning Team meets, say an hour before the scheduled East Cambridge Planning Team meeting, and then the discussion occurred at the discretion of the planning team roll on into the formal meeting. And that might meet the criteria and it would also -- now, I don't know when they meet, and it might be that doesn't work because it's not a time people can --

H. THEODORE COHEN: Well, I think, you know, something that's staff could work on. But I think the issue of people who might be uncomfortable going to an East Cambridge or North

Cambridge meeting because they don't feel they're part of the in crowd let's say. So I don't disagree with the comment that it might be appropriate sometimes to have it jointly hosted or to have it located in the same place, but at a slightly different time, but I think I'd like to leave it to staff to figure out with the proponent how this is going to work.

CATHERINE PRESTON CONNOLLY: Which again is why it's in the CDD guidelines which we can make recommendations on, but ultimately we trust that we're asking the staff to try some things and see how it works.

AHMED NUR: Yeah.

IRAM FAROOQ: I'm sure that everybody in this room will tell us anyway, but we would appreciate feedback over the next, you know, once we implement this over the next few months of how

things are working out. And sometimes when we've already started to tell developers that this is coming, and we've heard from some of them that they might want, you know, different formats, so it might not be a meeting, but it might be a series of drop-in sessions. So they may end up doing different creative engagement strategies.

STEVEN COHEN: The thing is to the extent that this is a matter of guidelines CDD has great flexibility to adapt, but they can't be contrary to the rules. And the rule says that there shall be a meeting hosted by the applicant. And I suspect that's what Mr. Rafferty was getting at. I mean, there isn't any wiggle room, any flexibility built into that phrase, and I think, you know, what I've heard so far from the Board is that, you know, we're not going to have any flexibility in that phrase that we want there to

be a separate meeting hosted by the applicant. But then I've also heard that CDD should have flexibility on that, but I don't think you have the flexibility if it's contrary to the words of the rule.

H. THEODORE COHEN: Yes. Although I don't see that hosting it precludes -- leaving aside the issue of whether some people would be uncomfortable going to an ECPTs meeting. I don't see that hosting it precludes it from it being held in the same location where ECPTs holds their meeting although I think it probably needs to be at a slightly different time.

STEVEN COHEN: Yeah.

H. THEODORE COHEN: Or that, you know, just that we have on occasion jointly hosted a hearing with another board that it couldn't be jointly hosted.

STEVEN COHEN: Well, you know, I don't have a horse in this race. But I think to the extent, you know, that the underlying rationale or policy --

H. THEODORE COHEN: Right.

STEVEN COHEN: -- for this is that some people may be uncomfortable --

CATHERINE PRESTON CONNOLLY: Yes.

H. THEODORE COHEN: Right.

STEVEN COHEN: -- and want to provide for an independent forum, perhaps it shouldn't be at the place. And I just think that we should be clear, either we're saying that CDD can, you know, adapt procedures as they see fit or we're saying that this is the rule that shall be a separately hosted meeting and if that's the rule, then CDD cannot and should not change that. It's one way or the other.

CATHERINE PRESTON CONNOLLY: I guess from my perspective what the rule says is that your first -- a community, a community group regular meeting can be your first stop, it may not be your only stop. There must be one additional meeting or forum or venue or drop-in session or something. There must be an opportunity outside of the usual meeting time and place for an organized community group for a person who's interested to come in person to talk about the project.

STEVEN COHEN: And as drafted, CDD could not vary that. There isn't a method.

CATHERINE PRESTON CONNOLLY: Correct.

H. THEODORE COHEN: Correct.

STEVEN COHEN: And that is the intention of the Board here.

H. THEODORE COHEN: Right.

Any other comments?

(No Response.)

If not, are we ready to take a vote?

So.

STEVEN COHEN: I'm sorry, Ted, could I ask one question before we vote? And it's, you know, it has to do with the changes. And I guess you've suggested that that's not really going to be part of these rules?

H. THEODORE COHEN: To the guidelines?

STEVEN COHEN: No, I'm sorry, changes that the applicant might make after a decision has been rendered.

CATHERINE PRESTON CONNOLLY: They're outside of our scope.

H. THEODORE COHEN: They're outside of the scope.

STEVEN COHEN: Could I just ask a couple

quick questions?

I think Iram and Jeff could answer them very quickly --

H. THEODORE COHEN: Go ahead.

STEVEN COHEN: -- and I would appreciate your indulgence just for a moment.

Iram, Jeff, applicant applies for a building permit first of all, does ISD request, require that staff somehow certify that the plans being submitted conform to the approval granted by this Board?

JEFF ROBERTS: Yes.

So every condition or every decision is conditioned on review at the Building Permit stage and then final review prior to Certificate of Occupancy -- prior to a final Certificate of Occupancy for a project. So the way it works is if a project comes in the Building Permit phase,

and if there are changes that appear to be substantial from what was originally approved, it will come back to the Planning Board.

The kinds of cases that I think people are remarking upon are cases where there might have been changes or adjustments made throughout the course of development which sometimes happens where a developer, developments have changed owners or changed architects or something, and sometimes those changes are made without, without going back through that process because we're not, we're not daily monitoring construction of Planning Board projects. So --

STEVEN COHEN: That leads me to two quick questions, Jeff, if I can interrupt you for a moment.

So if a change is made and it's a change which requires warrants, an approval by ISD, when

a change is required from ISD, do they come back and require a certification from CDD staff?

JEFF ROBERTS: They will generally notify us if there's a change that's come before, that's come to them. We don't -- we can't speak on behalf of ISD for every possible permitting requirement that they need to go through to get ISD approval. But if there is a -- if it's a Planning Board project, and they know in their system that it's a Planning Board project, and so if there's something that they feel should be reviewed, then it will bounce to us at CDD so we can look at it. And if we continue to have -- if we feel that it's an issue, it will come back to the Planning Board.

STEVEN COHEN: I guess just one last question. After a project has been approved, does any staff member from CDD ever make any sort

of periodic inspections of the project to ensure conformity?

IRAM FAROOQ: During construction?

STEVEN COHEN: During construction.

LOUIS J. BACCI, JR.: Right.

IRAM FAROOQ: No, that's an ISD rule. So ISD from time to time -- they don't really go during construction, but they will, you know, at the end of construction they, there are certain things that they look at. Just so you know, I mean this is something clearly that we've heard and we've noticed and we are starting to think about it as well. As the Board has said, this is something that is different and beyond the role of the Board as a decision-making body, but -- and I don't know that we have real solutions yet, but we are starting to have some conversations among city staff as to how best we can streamline

operations and we'll probably take a while for us to come up with -- with real solutions. In the meantime we are all much more on the alert I would say. But what is also happening is that as the volume of stuff expands, it is -- the things that everybody was able to do at CDD, but probably more importantly at ISD, those are becoming -- it's becoming harder, a little bit to have all of that level of, same level of inspection coordination. So these -- but these are all things that the City is starting to really think about and take on. So, we'll hopefully be able to solve, but really it's an information management problem that --

STEVEN COHEN: And I understand it's beyond the scope of today, but I'm just -- I just want to comment and state the obvious matter that with all the time and energy and attention that

we devote to this process and then to review applications and delving into, you know, all sorts of details that we consider to be important to the community to then find that a project is built in contravention to our approvals, as you can imagine, is extremely frustrating to us, is extremely frustrating to neighbors who have such concerns. And, again, I understand it's beyond the scope today, and nothing is ever perfect in this world, least of all in government, but, you know, if you can give some time and attention and thought to that process to avoid at least the most egregious violations of our approvals, I think that would be worthy goal.

IRAM FAROOQ: Absolutely. And I would say that -- were you going to talk about the adverse source?

STUART DASH: No, I was going to mention

just in general just so we probably actually informally keep an eye on more projects than most people realize. It's not done structured formally as Iram is saying, but informally. The problem with many of the cases that are being discussed are -- they're clear just illegal actions or clear actions that were in violation of the approvals and the agreements just the way, you know, if you said to someone we're in agreement, you shake hands, you walk out the door, and someone does something different when they walk out the door. So there are still those actors in the City that we actually do catch, periodically, sometimes and I've dropped a dime on more than a few just on my bicycle and called up ISD and said there is someone who said they were going to stop doing something, not in the plans, they were told not to do it, I'm watching

the guy hammer the nails right now. There are those people who are actors in the City and that's part of also, you can't stop all of those kind of things, and sometimes they're interior to a building as in 44 Norris. And you, you know, you might look on the outside and say it looks like it's going, drive by and say it looks like it's going well and find out the guy is putting in ten extra walls inside. There are things like that and they can occur after you've left the inspection. So Inspectional may go we were there yesterday and it was fine. So there's, there's a variety of things going on that we'll have to look at as we talk about the, you know, improving those kinds of ways to monitor those things.

LOUIS J. BACCI, JR.: But what would be the remedy?

STUART DASH: Well, actually -- as any

person acting illegally under a city regulation, they are taking a financial risk.

LOUIS J. BACCI, JR.: But has that ever happened?

STUART DASH: What? Yes.

LOUIS J. BACCI, JR.: Have you ever used it on them?

STUART DASH: Yeah, they've been asked to take things down. More famous ones in New York where whole floors are taken off buildings. But there are things also Inspectional, you know, will ask people remove that.

LOUIS J. BACCI, JR.: And the other part of this is a lot of this sometimes is not shown on the drawings.

STUART DASH: That's right.

LOUIS J. BACCI, JR.: So....

HUGH RUSSELL: Right, I think that's

actually -- they're like, they're the bad people who don't feel that the promises they make bind them. That's one issue.

There's the problem with mechanical equipment often that shows up where it's not shown on the plans, and that's in part a result of a process in which we approve things at the schematic or design development stage and people or inexperienced developers may not understand that somebody hasn't worked this out.

And the third thing is when you're dealing with existing buildings, you -- problems often arrive and opportunities arrive, and sometimes the opportunities are ones that go well beyond what's permitted.

And in Norris Street all of those things happened. It was a perfect storm. But I'm -- I have a project underway right now where we're

doing the interior demolition, taking the plaster off, and we are discovering things that, you know, we were -- quite unexpected. So I'm trying to think about what do I do about the unit that has a column right in the middle of the doorway and in front of the bathroom? And, you know, but I'd understand as that -- I can't change the number of units in the building. I might fiddle with the design of the units, but I'm -- my inclination is to say I've got to do -- I've got to get rid of that column, and so it's exciting to go to this project every week and see how they built the building, because a few clients will spend \$300,000 to strip the building in the design phase.

So there are, you know, I think the kind of vigilance that's generally given to things in the City usually works out pretty well, but

sometimes things show up. And if there are big pieces that cannot be put on the roofs of buildings, we've tended to try to work around them, perhaps we shouldn't, in some cases but I think sometimes that's going to happen sometime. Where, you know, there was a guy who put an extra elevator stop on the roof of his building in extremely prominent space where -- at Alewife because he figured out he wanted to put a roof deck up there in the next phase.

AHMED NUR: Yeah, I remember that one.

HUGH RUSSELL: Remember that? It was a big surprise to all of us. And it was a modern building so it showed up really quickly.

CATHERINE PRESTON CONNOLLY: I think on that, you know, we all have gotten a lot more vigilant about asking in the schematic phase that even if you don't know what it is, show us what

we're gonna see. And maybe that means you know you're going to have a certain amount of equipment if you don't know what it is or where it is, but show us what the screening is going to look like. Show us that, you know, so we're not surprised by ugly boxes appearing at the end.

And the Planning Board being vigilant about demanding that level of detail, it is on us to say that that's important and I think, you know -- especially recently we have been much more aggressive about doing that. And it is important to say that to architects who aren't used to doing business in the City because they may not be used to that, but it is very important to us what we see from the street. And the more we reinforce that with folks doing business before the Board, the more I think we're going to have -- we're not going to be surprised by what

we see.

H. THEODORE COHEN: Can we go back to the rules?

AHMED NUR: Yes, please.

STEVEN COHEN: Sorry.

H. THEODORE COHEN: No, no, it's valuable for all of us.

So, I would -- so Hugh has made a couple of proposals to add to 6.1, change -- shorten the time for submission to shortens the two-week period.

Does anyone have any objection to that?

MARY FLYNN: No.

CATHERINE PRESTON CONNOLLY: No.

H. THEODORE COHEN: Okay. And I think the -- I think that was the only change in the rules.

MARY FLYNN: Right.

CATHERINE PRESTON CONNOLLY: The only changes were suggested --

H. THEODORE COHEN: The other changes were suggestions in the regulations.

JOHN HAWKINSON: Guidelines.

H. THEODORE COHEN: To the guidelines. I'm sorry.

So could we have a motion to adopt the rules as set forth in the most recent draft as amended in Section 6.1?

TOM SIENIEWICZ: So moved.

H. THEODORE COHEN: Is there a second?

STEVEN COHEN: Second.

H. THEODORE COHEN: Any further discussion?

(No Response.)

H. THEODORE COHEN: All those in favor?

(Show of hands.)

H. THEODORE COHEN: Unanimous.

And are we in agreement that we would recommend to staff that in the CDD guidelines the changes -- the considered changing Section 2 the last line to say members of the public should be given the time and opportunity to discuss the project by themselves in such community meetings?

CATHERINE PRESTON CONNOLLY: Yes.

STEVEN COHEN: Yes.

MARY FLYNN: Yes.

H. THEODORE COHEN: And add probably to Section 4, perhaps to Section 5 some provision that additional notice be given to any person or entity that has given written -- made a written request that they receive such notices of community meetings?

CATHERINE PRESTON CONNOLLY: Yes.

H. THEODORE COHEN: And that also CDD

consider adding some language relating to reporting back to the people who have been present?

CATHERINE PRESTON CONNOLLY: Yes.

MARY FLYNN: Yes.

H. THEODORE COHEN: At the early community meetings, what transpired there and perhaps what actions were taken. Okay?

We all in agreement with that?

STEVEN COHEN: Yes.

CATHERINE PRESTON CONNOLLY: Yes.

MARY FLYNN: Yes.

H. THEODORE COHEN: And somebody make a motion to make that recommendation. Okay.

We have one other matter to take up which is a BZA hearing with regard to cellphone antennas at 25 Eighth Street.

LIZA PADEN: This is a telecommunication

antenna case for T-Mobile. It is replacing the existing antennas at 25 Eighth Street.

Suzannah looked at the plans and made a number of constructive comments about them. One was that the color of the proposed antennas should not be -- should not include a brick pattern. It should just be a color that blends in with the existing facade which is a brick facade.

The other comment was that the antennas themselves should be installed lower on the face of the building so that the antennas don't break the roof line or the membrane that's wrapped around the roof line. And that the cabling should be installed in such a way that it doesn't create additional shadows on the building. So right now the cables seem to be coming out and just sort of attached wherever, and so I've

talked to the applicant about this and he is looking into having the antennas also be the same size. So one of the antennas by function is larger than the other, it's longer, and he's going to find out about just making them both the same size even if it means that there's some kind of a cover on the shorter frame so that they're just same length.

LOUIS J. BACCI, JR.: Uniform?

LIZA PADEN: Yes.

HUGH RUSSELL: Is this on the elderly housing?

LIZA PADEN: Yes.

TOM SIENIEWICZ: Harry Truman.

H. THEODORE COHEN: Suzannah's comments seem all right to me, appropriate.

Anyone else have any further comments?

STEVEN COHEN: Do what Suzannah says.

LIZA PADEN: Suzannah also has another suggestion -- excuse me.

Suzannah also had a suggestion that we sort of put together a list of design guidelines I guess is what you would call them for the antennas. So that maybe we can cut this out from your agendas.

STEVEN COHEN: Do what Suzannah says again.

AHMED NUR: Do what Suzannah says.

H. THEODORE COHEN: Suzannah, if you wish to put together such a draft of guidelines, that would be wonderful.

I think we are adjourned.

(Whereupon, at 8:45 p.m., the
Planning Board Adjourned.)

* * * * *

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BRISTOL, SS.**

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

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

IN WITNESS WHEREOF, I have hereunto set my hand this 8th day of April, 2016.

Catherine L. Zelinski
Notary Public
Certified Shorthand Reporter
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My Commission Expires:
April 29, 2022

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