

PLANNING BOARD
FOR THE CITY OF CAMBRIDGE
GENERAL HEARING
Tuesday, November 1, 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
Mary Flynn, Member
Steven Cohen, Member
Ahmed Nur, Associate Member

Iram Farooq, Assistant City Manager Community
Development Department

Community Development Staff:

Liza Paden
Jeff Roberts
Stuart Dash

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H. THEODORE COHEN: Good evening, everyone. Welcome to the November 1st meeting of the Planning Board. We will start with the update from the Community Development Department.

IRAM FAROOQ: Thank you, Mr. Chair. Well, it's actually great to be back here. But tonight's meeting includes two public hearings on the lighting order -- on the zoning related to the outdoor lighting as well as on medical marijuana dispensary related zoning changes. And then there are some general business items, including BZA variances and looking at cases.

Our next meeting will be November 15th. November is unfortunately a three meeting month but we have election day off.

We will have on the 15th an update on

Envision Cambridge, the citywide planning process. And then we will also have public hearings on the Mass. and Main residential development in Central Square and also 47 Bishop Allen Drive.

On November 22nd we will have discussion of North Point design guidelines and a public hearing on 35 CambridgePark Drive. It's a continued hearing.

November 29th, which is last meeting in November, will be a public hearing on Central Square zoning petition which is a citizen petition supported by Central Square Business Association and citizens -- residents of Central Square. It is somewhat based on the C-2 work that is different in certain ways, so it's comprehensive petition.

In terms of what is -- other items of

interest, tomorrow evening the City Council's neighborhood and long-term planning, public facilities, parks, and celebrations committee will hold a public hearing on bicycle safety in the city which we think is actually a pretty important meeting. There's work that the City has been doing that will be talked about there in conjunction with our vision zero goals and really trying to figure out how best to address -- as the ridership in bicycles is increasing to a great extent a result of the good work of our department as well as the Planning Board, how can we make sure that there is safe passage for all modes including bicycles.

There's also Ordinance Committee hearing on the Medical Marijuana Zoning that you are discussing today which will be on November 9th. And the Council is slated to have a roundtable on

Envision Cambridge on November 14th.

So, that is -- those are the major updates. I think Jeff may have mentioned before, but the Volpe process has kicked off so the Volpe working group has been formulated. They met a few weeks ago. Hugh is on that group along with residents of neighborhoods surrounding Kendall Square as well as residents off Kendall Square and also representatives of businesses from the Kendall Square area. So that's a process where the goal is to develop some parameters and principles that will guide the zoning and the Ordinance Committee at the time that the zoning actually comes into discussion again.

So those are my updates. Thank you.

H. THEODORE COHEN: Thank you.

Liza, are there any transcripts?

LIZA PADEN: No, not this week.

H. THEODORE COHEN: Okay, thank you.

All right, so then we are now going to have a hearing on the Lighting Ordinance Zoning Petition by the City Council to amend four sections in Article 19 of the Zoning Ordinance of the city. The proposed changes are intended to complement the proposed new municipal lighting ordinance by strengthening the review of outdoor lighting.

So we're going to have a hearing on the Lighting Ordinance Zoning Petition from the City Council to amend four sections in Article 19 of the Zoning Ordinance of the City of Cambridge. The proposed changes are intended to complement the proposed new municipal Lighting Ordinance by strengthening the review of outdoor lighting in significant new development.

What we are not here and are not hearing

today is the terms of the proposed municipal Lighting Ordinance. That is not within our jurisdiction. That is a matter for the Ordinance Committee and the City Council. What we are here for is the very limited purpose of four very specific amendments to the Zoning Ordinance to coordinate the Zoning Ordinance to a certain extent with the proposed Municipal Lighting Ordinance should it be adopted.

So, we are going to have a brief presentation about the proposed Municipal Lighting Ordinance to put it into the context of what we're going to be looking at with regard to zoning, but when we get to the public hearing section segment, please remember that all we are talking about is the zoning, not whether the Municipal Lighting Ordinance is a good or bad idea, whether it includes everything that should

be included, whether things should be excluded from it. Those are not within our purview and are not matters that are before us this evening. So if you'd like to start.

LISA HEMMERLE: Just trying to make the set up work a little bit. So thank you very much for letting me present today. My name is Lisa Hemmerle. I'm the director of economic development with Community Development Department. I'm going to give you a brief overview of the Lighting Ordinance.

Can you hear me okay?

So just to give everybody a little bit of background, the outdoor lighting ordinance came from the creation of a task force and policy order No. 29, and the mission being mitigating light trespass and glare and light pollution in the City of Cambridge as well as promoting energy

conservation. And out of that, those efforts became a three-tiered recommendation which included the lighting ordinance, the zoning changes, as well as an education and outreach initiative should the ordinance, proposed ordinance pass. And I just wanted to say that the ordinance as drafted right now is fairly groundbreaking in the sense that nobody, no other municipality has really tried to do something in such a dense urban environment where you have obviously commercial and residential abutting in such close proximity.

And to give a little bit of background on why -- or the basis of the ordinance itself.

It's based on the mod lighting ordinance, it's developed by the illuminating engineering society and the International Dark Sky Association over the course of seven years, and it was really

designed specifically for this purpose which was to help municipalities address outdoor lighting in their cities and in their towns. And the purpose being to reduce glare, light trespass, and sky glow. And these are just really good examples, pictures of glare. And you can see obviously like with the unshielded bulbs here that it's actually preventing you from seeing the creepy stranger by the fence.

And then light trespass, you know, this is a really good picture of basically light going beyond the property boundary in this picture. And then on the right obviously lighting to the purpose that it was designed to do.

And then sky glow is that artificial light, reflective light, going into the night sky and causing that kind of pinkish orange glow that we're all kind of familiar with.

And then just to go over some of the draft ordinance highlights, we're gonna talk a little bit about applicability. So whether new replacement, substantial renovation or existing buildings throughout the city. We've designated some color temperature standards which I'll explain in a few minutes.

We have two standards, prescriptive or performance standards, that people can choose from and I'll talk about that in a second. And then oversight with the Inspectional Services Department as well as the exemptions there included in the Ordinance as written, the proposed Ordinance.

As far as applicability, new and replacement lighting would have to comply immediately after the effective date.

Substantial renovation over 50 percent of the

gross floor area of the building or an exterior wall area would also have to comply immediately after the effective date. And existing lighting is given five years after the effective date to comply, but we've included interim measures, you know, basically be a good neighbor and try to, and minimize your light trespass as soon as possible. By doing things like shielding the bulb or changing the bulb or just changing the fixture if at all possible.

And this is a good example of, good picture of the color temperature. The correlated color temperature and the light source is not allowed to exceed 3500 kelvin and in any circumstances except in facade or landscape lighting. There is an exemption so, you know, for example, the engine building lights the facade in blue, and that's kind of a good example

of why we wanted to exclude facade and landscape lighting from the color temperature standard to give people a little bit of creative leeway from the color temperature standards. But in other cases it has to be 3500 or below, and you see that color temperature is lower than moonlight, for example, but a little bit above the kind of tungsten halogen for anybody who is nerdy and is interested in lighting in this way.

So there are two standards which are the proscriptive and the performance standard. And the proscriptive standard is really geared toward residential and small commercial property owners. It's really simple and an easy standard to follow for anybody in those types of buildings. And then we have the performance standard which is directly geared towards larger commercial properties and those looking for a more creative

lighting design.

And I'll just go into a little bit of the proscriptive standard. So there are kind of four things I wanted to talk about within the proscriptive standard, which is -- there's light category which is whether it's shielded or unshielded. There's a maximum lumen level which is the wattage equivalent that the industry is really going towards now. And then the maximum height above the surface to be illuminated, and that you are required to have a licensed electrician to file your permit which is no change from today that has to happen. Which I guess is a surprise for some people.

So, outdoor lighting category 1 is an unshielded or partly shielded light placed not less than four feet apart. The lumen max on that is 315 which is a 25-watt equivalent depending on

the brand of bulb you get, and then the maximum height is 12 feet above the surface to be illuminated.

And then for outdoor category 2, outdoor lighting category 2 is up to two unshielded or partly shielded above -- lights, excuse me.

Again, not less than four feet apart over a main entry area with a lumen max of 630, 40-watt equivalent, maximum height 12 feet above the surface to be illuminated again.

And then outdoor lighting category 3 which are shielded directional light fixtures placed not less than four feet apart for entries, walkways, and facade lighting with a lumen max of 1050. Again probably 75-watt equivalent and the maximum height of 12 feet to be illuminated. So, you know, as we get into those higher lumen levels, we have to have a more shielded fixture.

And then outdoor lighting, Category 4 which is shielded directional light fixtures for parking areas, driveways, and outdoor loading bays with a lumen max of 1260. Which I'm finding in stores is usually about 100-watt -- you know, 90 to 100-watt level. And the maximum height of 14 feet above the surface to be eliminated. And all of the proscriptive standard again derived from the modelled, from the lighting ordinance.

And then going into the performance standard which is based on the U.S.U.B.C. LEED light pollution reduction credit Section 4, and which is again based on the model lighting ordinance. And the lighting plan has to be submitted by a licensed architect or engineer. In this case we've kind of taken it up from just a licensed electrician to say a licensed architect, lighting engineer. And in this case

is that you have to refer to the lighting zones as defined within the Ordinance, and so we've broken the city out into lighting Zones 2 and 3 with a light yellow buffer that you can see is a little bit bigger.

And I'm sorry that's not a little bit bigger.

So under the model lighting ordinance there are lighting zones 0-4. Zero being the middle of the woods.

Two -- excuse me, lighting zone 1 being really just rural areas, rural residential areas.

Lighting zone 2 are more urban residential areas.

Lighting zone 3 are more dense commercial areas.

And lighting zone 4 is Times Square.

That's really a good example.

And so we picked 2 and 3, lighting zones 2 and 3 for the City of Cambridge are very apt. However, knowing that you have high density residential against commercial, so basically the light yellow to the blue, we've added a buffer of 100 feet around those blue commercial areas so that if anybody's in that adjacency, they have to light at the lower lighting level. So they basically are not allowed, even if you're in that commercial zone at that adjacency to that building you have to light at the lighting zone 2 level if you're within 100 feet of those residential areas. And we thought that was an important distinction.

There are two options within the LEED light reduction of pollution credit and architects and engineering can choose between the two. And one is the bulk rating which is

backlight, up light, and glare. And it's a fixture-based system. They go through -- the pictures go through a pretty rigorous calculation process to be rated. This was developed by the Illuminating Engineering Society and makes comparing and evaluating outdoor luminaries easy and, you know, for the standard system. And more complete than the older system.

And this is just an example of the up light, backlight, and the green being the green area being the actual useful light that you want to see coming out of any kind of a light fixture.

And this is just a really good example of a bulk, these bulk rated fixtures. The one on the left would actually be allowed in Cambridge, and the one on the right would not be allowed because it's got very high, that green level that you can see that's kind of coming out from in the

calculation, the model, it just radiates too high and so it wouldn't actually be allowed in Cambridge under the proposed lighting ordinance. I thought that was really interesting.

And then the other option, option 2 is a calculation method, and this is a computer modelling system. Without getting into too much detail, this is part of the reason you hire a licensed architect or a licensed engineer to do these types of modelling systems. And they're also required to meet the lighting trespass and up light standards as derived by LEED and the model lighting ordinance.

And this is all going to be overseen by the Inspectional Services Department. So this kind of gives an idea of under the proscriptive standard, you have to have the electrician sign your Affidavit. Under the performance you would

have an architect or engineer sign. For the performance standard you have to have a lighting plan, it's required. And then if you use a proscriptive standard if your project is over 10,000 square feet, you would do the same. And then we have an administrative waiver process. So if you have a demonstrably unreasonable hardship or it's materially detrimental to your health, I think a person with a visual impairment needs a brighter light bulb and they would have to work through the waiver system.

This is a complaint-based system. So it would be basically based on complaint they could have for administrative waiver in terms of the ordinance. And ISD will be enforcing through enforcement officials and dealing with complaints and violation remedies.

We also have a list of exemptions within

the ordinance. Things like public way, seasonal lighting, which is allowed to be up for a period of no more than six weeks, construction lighting. If there's a city-appointed panel of any sort, you know, that would be exempted. And then any kind of federal state or local laws for public safety.

And this is kind of wrap it all together and saying what does it all mean? So for replacement or new lighting, it's immediate compliance.

For substantial renovation, again, it's immediate compliance.

And then for existing lighting you have five years to comply but we're asking people to be a good neighbor and try for sooner.

And as part of this process, I mentioned at the beginning we're working on an Inspectional

Services's department website really focussed on a good neighbor brochure, complaint system, just facts about the lighting ordinance itself.

And then a good neighbor brochure, which we'll be sending out brokers, relators, obviously the residents and the commercial folks in Cambridge.

And that's the outdoor lighting ordinance. So thank you very much for giving me a chance to talk about it.

H. THEODORE COHEN: Thank you.

And is someone going to be talking about the proposed zoning?

JEFF ROBERTS: Yes, just as a little bit of a transition, I'll just put -- and to put a little bit of context on it, I believe it was way back in '013 that the Planning Board was looking at a zoning, a zoning petition at the time that

related to lighting, and it was the Planning Board's recommendation, and ultimately the recommendation of the City Council, because lighting and zoning were somewhat of an awkward fit, zoning regulating land use and having a lot of particular limitations on what it could or couldn't control, that the, that this issue of lighting be addressed through a separate municipal ordinance that would be targeted specifically at lighting. So what Lisa just presented is the outcome of that process that's gone on for the past several years. One of the notes about that is that while the Planning Board recommended doing it that way, this really takes this aspect of lighting regulation out of the hands of the Planning Board. So the Planning Board isn't being asked to make a recommendation on this being that it's not a Zoning Ordinance,

but similarly the Planning Board won't have any jurisdiction over reviewing these regulations or applying or making any decisions related to these particular regulations.

So, what I'm going to transition to talking about is an accompanying zoning petition which rather than looking at lighting, looks at the Planning Board's review processes for developments which come to the Planning Board as well as some projects that don't necessarily come to the Planning Board but are also covered within the project review parameters of our Zoning Ordinance.

I have a very boring presentation I'm going to give on that. Before I do, I was actually going to ask the Chair if it was appropriate for the Board Members to ask any questions about the lighting ordinance itself

because we'll be moving on from that.

H. THEODORE COHEN: Well, I certainly do. Any Board Members have any questions about the Ordinance?

(No Response.)

H. THEODORE COHEN: None appearing. I will say thank you for your really excellent presentation. I wish other people could do such presentations. They don't seem to be very good with.

LISA HEMMERLE: Thank you.

H. THEODORE COHEN: And so, Jeff, if you have a boring one.

JEFF ROBERTS: That being said, so these proposed zoning changes are a response to issues that, at least is related to me, these are issues that came up during the task force process where there were particular concerns related to new

development projects. So not just looking at -- not looking at lighting per lighting but looking at how issues around lighting have played out around some of these developments.

So what these zoning changes focus on are developments that either -- or that trigger some sort of project review requirement. In some cases, in fact in most cases, those are projects that come to the Planning Board for review. In some cases it involves projects that don't come to the Planning Board and I'll explain that. And the intent of these is really just to strengthen some of the existing review requirements to be a little bit more detailed, a little bit more targeted when it comes to lighting or issues that might be related to lighting. And, again, it's not meant to supersede or really to take any place of the aspects of lighting that are

regulated under the lighting ordinance. Those will have to be met under the, under the provisions of that ordinance and they don't crossover into zoning.

So, these are just a summary of the changes that are proposed and I should have put them A, B, C, D because I think that's how they're written in the petition. Here they're 1, 2, 3, 4.

The first one is just to be more explicit about facade, landscape, and rooftop lighting being included in the Special Permit applications that come to the Planning Board.

The second is to explicitly mention those facade, landscape, and rooftop lighting in the criteria that the Planning Board requires when reviewing a project that comes in for a Special Permit.

And then for projects for 250,000 square feet or more, which have a trigger of a particular section of the Zoning Ordinance, and I'll explain in a second, that there would be additional limitations on lighting and mechanical equipment and beyond that, prohibition on lighting above the rooftops where the projects are proposed that are 25,000 square feet or more. And those are provisions that can be modified by Special Permit. Again, it's part of the section of the Zoning Ordinance that currently exists at all, it's not one that's well known but I'll explain it.

So the -- this just sort of separates those two different types of projects. The ones that the Planning Board are familiar with are the projects that are 50,000 square feet or more. Under current zoning those fall under Section

19.20. And in some areas there are smaller projects that come to the Planning Board but as a general rule it's for 50,000 square feet or more.

The section I was referring to before is Section 19.50, and that is a section of the Zoning Ordinance pertaining to projects of 25,000 square feet or more. And what that section does is it lays out a specific set of requirements that are reviewed by staff and they are requirements that basically they're pretty straightforward requirements that either can be met or not. In most cases they are met.

There is a provision that says that if a project elects to -- that's 25,000 square feet or more elects to come to the Planning Board to seek a Special Permit just like a project 50,000 square feet or more would do, that the Planning Board's review and Special Permit approval can

supersede the specific requirements in 19.50. To my knowledge I don't think a project in that category has elected to come to the Planning Board for that Special Permit. Generally they meet the requirements. And we only see a couple of those projects I think every year. It's a much smaller number of projects than the number of projects that come to the Planning Board for Special Permit.

So just going over the viewing how the proposed changes fit in. On the left side where the Planning Board is reviewing a project, there are application materials that are required. And the purpose of the urban design portion of the review is for the Planning Board to determine if it conforms with the citywide urban design objective. So what we're proposing to do add in the application requirements specific text that

says that they must include a material related to measures taken to mitigate light pollution from outdoor lighting, including facade, landscape, and rooftop lighting.

And so for the other category of projects we -- and these, what's shown there is a list of the things that are currently included in that set of building and site plan requirements.

19.50 has to do with heights, setbacks. And so an example is for buildings that are close to a zoning boundary where there's a change from a taller height limit to a lower height limit.

There are requirements of 19.50 of how the building has to be set back and stepped back in order to, in order to graduate the difference in height between those two districts. There are other requirements like that.

The proposal here is to add no exterior

lighting shall be allowed above the roof of a building. And what that means is that for a project between 25,000 and 50,000 square feet they wouldn't be allowed to light above the rooftop. If they wanted to come to the Planning Board and seek a Special Permit, they could -- the Planning Board in approving the Special Permit could modify those requirements.

And then the other two changes adding in the Planning Board's review or in the urban design objectives where currently the zoning or currently the urban design objectives state that one of the indicators for the Planning Board to review is that outdoor light is designed to provide minimum lighting and necessary to ensure adequate safety night vision comfort while minimizing light pollution that we would specify, including facade, lighting, and rooftop lighting

just as a way to direct more attention specifically to those aspects of lighting that have come up as a concern.

And then, again, for the building and site plan requirements, that for, for the lighting of mechanical equipment or for -- in the provisions where they use the mechanical equipment, adding a requirement shall only be lighted to the minimum extent necessary to meet applicable safety regulations. And, again, that's something that would have to be met. Projects 25,000, 50,000 square feet if they're coming to the Planning Board, then it could be modified. That's in a nutshell the changes in what those zoning changes would do and how it would relate to the Planning Board's review.

H. THEODORE COHEN: Thank you.

Do any board members have any questions

at this point?

TOM SIENIEWICZ: That wasn't a boring presentation.

H. THEODORE COHEN: It didn't have the zoom in and zoom out.

Fine. Why don't we go to the public hearing aspect?

So when I call your name, please come forward to the microphone, state your name and address and spell your name, please, for the stenographer. We ask that you only speak for three minutes. There is a lighting -- we have our own lighting system.

So you'll start out with a green light and when you get near the end of the three minutes, it will turn to yellow. And when your three minutes are up, it will turn to red and we ask that you stop speaking at that point.

If someone has not signed up, you will not be foreclosed from speaking. Everyone who wishes to speak will have the opportunity.

Ellie Yarden (phonetic).

Please right there. And there's a button on the front of the microphone, if you push that, it turns green.

ELLIE YARDEN: Despite appearances I am here largely at the insistence of my neighborhood association. Members -- I'm an active member of the Cambridgeport Neighborhood Association where for some reason or another lighting issues and jurisdictions keep coming up frequently.

However, what I am interested --

H. THEODORE COHEN: Could you state your name and address, please?

ELLIE YARDEN: What?

H. THEODORE COHEN: Could you state your

name and address?

ELLIE YARDEN: Oh, excuse me. My name is Ellie Yarden. I live at 143 Pleasant Street. That's a corner of Putnam and Pleasant in a condo unit which bought about two years before it was built. And I've lived in Cambridge for a long time. And any other questions, I will answer.

In all of the effort that I've made to understand the Zoning Ordinance, the one thing that remains unclear to me, and that is perhaps because I just participated as a representative of my neighborhood association as well as the representative of a particular political party, the problem that came up at the last meeting of the Cambridge Climate Congress, the second one, had to do with the problem of wasteful consumption.

Now, when we speak of -- about a lighting

ordinance and the purpose of a lighting ordinance, I'm trying to figure out what the purpose of a lighting ordinance is. We are speaking of artificial lighting. We're not just speaking of lighting. And artificial lighting consumes energy, and not a single word has been said here. I'm aware -- I have read (inaudible). I am aware of the role of conspicuous consumption and display in our society, but we're also living in a period that represents climate change. And some of us are responding to this with a question, which was the main question before the climate congress, what can individual citizens and groups of citizens do to mitigate, to counteract, to meet the disasters which will arise from this? And here I see a concern with how much bright light go out without a single word about the consumption of energy. That

doesn't seem to be involved in the Ordinance in any way.

That's it, thank you.

H. THEODORE COHEN: Thank you.

CATHERINE PRESTON CONNOLLY: Mr. Chair, before we go on, the receiver on the podium doesn't seem to be showing up. Is there a way to get that working?

JEFF ROBERTS: It's on now.

H. THEODORE COHEN: Robert Winters.

ROBERT WINTERS: Hi, my name is Robert Winters and I live at 366 Broadway. Let me just say upfront this is not a topic that particularly excites me. Honestly. But I did speak back when it was the Teague Petition some years ago in order to make the recommendation at the time, because I was confused that this whole thing didn't seem to be appropriately part of a Zoning

Ordinance and suggested we should really be a municipal ordinance and that's taken place. So I'm really pleased.

The only thing I really wanted to say about this is that when we were talking about a municipal, you know, the Teague Petition, the ordinance, so much of the focus was on things like intrusion and light and things that are really kind of annoy you, keep you awake at night, things that are really kind of offensive to neighbors. I have at least some concerns about what is being proposed here in that I don't necessarily. I never got to see the Zinc lighting by the way. So I don't know was that really bright? I don't know. All I saw was one photo that somebody showed, and I have no idea whether that was accurate or not.

I've gone on walks down in the Seaport

District where this kind of LED band lighting and stuff, you see it on a lot of buildings now. It seems to me -- but I never saw the thick band.

It's more like accent lighting, and I didn't find it particularly offensive at all there. So I would just hope, and this is all I really want to say was that, not to let -- that I would hope that the Planning Board would not move toward absolute bans, and to allow at least some flexibility for what you might call more than accent lighting type of, sort of, you know, architectural things that might actually be perfectly fine and not particularly offensive.

And I think that there is, should be some room at least a little bit of room for play. You know?

So it's not garish. I don't know how you

legislate or decide on aesthetics here. I think that's a dangerous road to go down on any day,

but if there's some way in the way you set criteria to kind of say that's a little too much but that's sort of okay, that would be all I would ever ask.

Thank you.

H. THEODORE COHEN: Okay, thank you.

If I could try to reiterate what Jeff said before, the Municipal Ordinance will control in all situations regardless of what the Planning Board may do. There is only one type of circumstance where there would -- where what is proposed in the zoning is an absolute ban. That is if people were buildings 25 to 50,000 square feet choose not to seek a Special Permit, then there are standards that they have to comply with, and one of those is a ban on exterior lighting above the roof line. Those people could alternatively seek a Special Permit which would

allow the Planning Board at that time to allow such exterior lighting above the roof line subject, however, to the Municipal Lighting Ordinance and what it would allow. And the -- or the other alternative is that proposed developer didn't want to come to the Planning Board, is they could go to the BZA and seek a Variance from that one particular provision. But it's only a very limited type of building where there is that prohibition.

Okay. Carol O'Hare.

CAROL O'HARE: Good evening. Carol O'Hare, 172 Magazine Street. I apologize, can you hear me?

CATHERINE PRESTON CONNOLLY: Yes.

CAROL O'HARE: I have a bad cold and my brain is like molasses. There is an inexplicable overlap and interplay between the two proposals.

Unless you understand the huge gaps in the Ordinance you won't understand why the Zoning Amendments are not adequate.

With respect to the Zoning Amendments, I feel that they are premature as was evident at the Ordinance Committee hearing. The Lighting Ordinance needs essential amendments and clarifications. Until the Lighting Ordinance is finalized, we won't know what lighting on large buildings needs further controls by the Planning Board. The Zoning Amendment should be recast as a working document, not amendments, that impose unnecessary pressurized deadlines for action. The mantra we always can fix or amend the zoning later simply won't cut it. For reasons of environmental conservation, which was as Mr. -- as Ellie mentioned. And because essential and essential health considerations were completely

ignored and that is why I sent you the e-mail today with its long list of health and environmental depredations caused by lighting, and in this case, unnecessary lighting. We are not talking about lighting for safety. We're not talking about street lighting, which by the way, had a panel that was, that dealt when the street lighting was amended to include LED lighting. There was a lighting panel with experts called on to talk about the health effects of LED lighting. That topic was non-existent during the two and a half years during which the CDD and the task force reviewed both the Lighting Ordinance and your Amendments.

As an example of the dramatic omissions in both these plans, we prepared a schematic. These are not real zones. The red zone is our lighting group's demarcation of those areas where

rooftop lighting would be permitted in the City. Rooftop lighting brighter than Zinc. And believe me, I saw the Zinc lighting from coming south on Route 93. And I said as a passenger, what is that?

H. THEODORE COHEN: Ms. O'Hare, could you wrap up our comments?

CAROL O'HARE: I am wrapping up.

H. THEODORE COHEN: We have received your e-mail.

CAROL O'HARE: Okay.

In that red zone you could have that lighting that shines into currently protected by zoning, green zone residents. It shines one quarter of a mile and neither the Ordinance nor the zoning addresses that at all. This is really important.

Thank you.

H. THEODORE COHEN: Thank you.

Nick Cohen.

UNIDENTIFIED MEMBER FROM THE AUDIENCE: I
didn't need to speak.

H. THEODORE COHEN: Sorry.

Marilyn Milton (sic).

MARILYN WELLENS: May I put this down?

JEFF ROBERTS: Sure.

MARILYN WELLENS: It's distracting.

Thank you, Mr. Chair, my name is Marilyn Wellens. I live at 651 Green Street. I am happy to follow Carol O'Hare, and I'd like to second her points that if -- as you've heard, the amendment you're considering has to be, is in the context of the Lighting Ordinance. I need to tell you that the Lighting Ordinance is grossly inadequate. Now, it was drafted under the auspices of Community Development's economic

development staff and they did their job. But one of the major, major failings of their effort is that there was a complete ignoring of the public health aspect of the issue before you and the Planning Board should you take on this additional power of review of rooftop and facade and landscape lighting.

And now, as we all discovered in the almost three years of the task force that I attended all but one of the meetings, it's a highly technical subject, and the health effects are increasingly being known, the receptor in the human eye that understands -- reacts to blue light has only recently been discovered. We know, for example, the color that you've been shown, the kelvin number is very important. It has to do with a sleep disruption, and so I'm gonna have to pull back from a launch about the

lighting ordinance itself to say that. When I read what has been proposed for your additional powers and the responsibility that's being given to you and I compare it, for example, to the care that went into the Special Permit provision for wind turbine systems, analogous rooftop systems, that have public health issues of noise and visual disturbance, I'm really sort of surprised at the lack of care that went into what you're being asked to do and the way you're being asked to do it. So, it's like the economist who assumes a can opener. You are assuming the expertise. You're either going to hire it or you have somebody on the board who has it, but in fact in the context of the Ordinance this is inadequate because the power to pass on this kind of lighting is disbursed among the -- the Historical Commission, the Arts Council,

Inspectional Services, the Planning Board, the police, all right? And so all right, that's within the context. And in addition, just within the terms of what's before you, I would like to tell you yet again about the situation my neighborhood faces. Okay. So near us on Massachusetts Avenue in a Business B Zone is 1100 Mass. Ave. and 1050 Mass. Ave. And then in Business B1 Zone abutting Residence C1 is 1030 Mass. Ave. --

H. THEODORE COHEN: Ms. Wellens, could you wrap up your comments?

MARILYN WELLENS: Sorry?

H. THEODORE COHEN: Could you wrap up your comments?

MARILYN WELLENS: I'm sorry, I really need this time because this is important for you to know.

H. THEODORE COHEN: I'm sorry, everybody gets three minutes.

MARILYN WELLENS: You didn't say that at the beginning.

H. THEODORE COHEN: I did.

MARILYN WELLENS: I didn't hear that. And I won't --

H. THEODORE COHEN: Yes, I did.

MARILYN WELLENS: All right, so you would not review with a Special Permit a facade, a rooftop lighting for those buildings because even though they're more than 50,000 square feet, they were built without Special Permits and they, and if they were converted to lab use of 20,000 square feet, it wouldn't meet the 25,000 square foot threshold. You wouldn't have anything to do with it.

H. THEODORE COHEN: Thank you.

Heather Hoffman.

HEATHER HOFFMAN: Hello. Heather Hoffman, 213 Hurley Street. And I just offer that I think the quality of the presentations was an inverse proportion to the quality of the proposals.

UNIDENTIFIED MEMBER FROM THE AUDIENCE:
Can't hear you, Heather.

HEATHER HOFFMAN: Oh, sorry. Can you hear me now? Okay, I was saying the quality of the presentation was an inverse proportion to the quality of the proposals.

With respect to what's before you I'm very glad to see no rooftop lighting. I saw Zinc. People talk about it was visible from a quarter mile. That's actually not true. It was quite visible from Kendall Square. It was shining into people's homes a quarter mile away

at least. And a thing to remember is that Zinc came before you and you guys said no rooftop lighting and look what we got. So, this is really important. And the good decisions that you made were completely discarded. So I wish that you would actually take a look at the proposed lighting ordinance because it was not written by people who have any planning experience and it seems amazing to me that something as pervasive as light throughout our environment had absolutely no one with planning expertise looking at it. So with respect to this particular proposal that you are looking at, I would say that yes, there are probably some improvements that could be made. I hope that -- I know because of Zinc and other things that you already consider light and I think that the important thing about this is that it is making

it even more obvious to people that light is an important thing to look at. I have a lot of respect for the way you have become increasingly aware of that with signs and other things. I think that actually many of these decisions would be in good hands if they were here. I'm not so sure that where they are right now is that place.

Thanks.

H. THEODORE COHEN: Thank you.

Ken Taylor.

KEN TAYLOR: Good evening. My name is Ken Taylor, 2 Craigie Street. Very much interested in lighting in the city. Several points about the specific language of the Zoning Ordinance that you're looking at right now. There are four sections, four modifications, the first of which is requiring an applicant to explain measures taken to mitigate light

pollution for outdoor lighting including facade landscape and rooftop lighting. So you're asking the applicant to tell you what they're doing in order to mitigate light pollution.

Second one is related to guidelines which say that outdoor lighting, including facade lighting, landscape rooftop lighting is designed to provide minimum lighting necessary to ensure safety, night vision, etcetera.

So those are two things related to the general guidelines.

The third one is related to the mechanical equipment shall only be lighted to the minimum extent necessary to meet applicable safety regulations.

And the last one says that for most new developments of 25,000 square feet or more no exterior lighting shall be allowed above the roof

of the building. However, this may be modified with a Special Permit approval from the Planning Board. So theoretically you can override this particular exclusion. I think it's important for the public to understand that -- I believe I heard the Chairman say this, that nothing that you do will override the outdoor Lighting Ordinance per se. You're not offering an exemption from the Lighting Ordinance for any thing required by them. Now the Lighting Ordinance does not have a ban on rooftop lighting, so that's specific to the language of the Zoning Ordinance.

The last thing I want to say is that I encourage you to be much more precise about what rooftop lighting is. The simplest interpretation of rooftop lighting is the flat roof. You may have a parking deck on it and you may have, you

may be lighting the parking deck. So if you say there's a ban on rooftop lighting, does that mean there's a ban on lighting the rooftop parking deck? Don't know about that.

Then there are the penthouse screens. Now they're not mechanical equipment per se. If you look at the definition of facade, facade lighting and the facades are the surfaces of the building that have architectural treatment. Many penthouse screens have architectural treatment. So is a penthouse screen facade lighting or is it lighting above or rooftop lighting.

And then the third category is the really difficult one, and that is when in -- and if you go to New York, for instance, and look at the tops of buildings in New York, they take all kinds of forms and it's impossible to identify what the top of the roof is. If it's the very

highest part of the building, that's one thing.
If it's the eave line of a conventional building,
that's something else. I've taken my time --

H. THEODORE COHEN: Wrap up.

KEN TAYLOR: I appreciate your efforts.

H. THEODORE COHEN: Thank you very much.

Is there anyone else who wishes to speak?

(No Response.)

H. THEODORE COHEN: None appearing, then
Board Members, questions? Comments?

Hugh.

HUGH RUSSELL: So I've been thinking
about the ban on rooftop lighting and it's not
really a ban on rooftop lighting.

CAROL O'HARE: Could you speak into your
microphone?

HUGH RUSSELL: I'm an inch and a half
away.

The -- I think what it's saying is that if you're going to in a building of 25,000, 50,000 feet subject to administrative review. If you're going to have rooftop features like decks or something else that need lighting, or as Ken Taylor said, what if it's a rooftop parking deck, then you need to get a Special Permit. And I guess I would think it would, might make sense to have some rooftop decks or patios have some compliant default that the staff could evaluate and maybe that's in the guidelines that they use or in the language that they use to approve the projects. That could be a lumen level, it could be shielding fixtures or something. If there's a way to do it properly that the staff can evaluate, then it doesn't seem like it's a great public purpose to have somebody come here for a hearing.

Parking lot lighting might be something that is not subject to those kinds of, you know, prescriptive defaults. Maybe if you've got rooftop lighting for parking, you really have to come for a Special Permit.

H. THEODORE COHEN: Just, Iram or Jeff, do you have any comment about that, whether there are standards that can be applied if somebody is seeking that lighting on a building in the 25,000 to 50,000 square foot range where they're not seeking the Special Permit?

JEFF ROBERTS: So I think certainly that could be written in a different way to be more -- to be a little bit more detailed. I think that -- or a little bit more descriptive maybe. I think if you look at the full text of 19.50, most of the provisions are fairly descriptive. There aren't very many that say you can't do something

at all. Really the purpose of those provisions if I might venture to say what they are because I wasn't around when they were adopted, but you know, they're really meant to provide an alternative for projects that are of some substantial size but not deemed to be of such substantial size that they have to come for a Special Permit review and have to go through the traffic study and the other elements of that review. So if there was some, if there was some way to translate the kinds of, the kind of issues or the kinds of criteria that the Planning Board would normally be applying if it were coming to the Planning Board, and the Board could say just sort of thinking a little bit generically and in advance about those types of projects, what are the things that the Planning Board would be looking for and is there a way to write those

into the text of the zoning so that rather than having them come to the Planning Board and have you tell them that, they could just see it in the Zoning Ordinance, then that would be, I think, a sensible approach. I don't think we've developed those standards at this point but they would probably -- I mean, I think that, again, we wouldn't want to crossover onto the provisions of the Lighting Ordinance. I think we would still want to maintain that they're two separate things, but the zoning provisions could be more use oriented. So as you suggested, it could be specifically meant to call out lighting for rooftop, usable rooftop spaces or lighting for rooftop parking areas or something that could lay out some specific things that could be lighted with such that they are directed towards the interior of the site. And then, then they would

still need to comply with the Lighting Ordinance.

H. THEODORE COHEN: Ahmed.

AHMED NUR: Thank you, Mr. Chair.

I second Hugh's comment and also listening to what the answer is. As far as the glare and the trends passing to the abutter is concerned, I wondered if the Cambridge Street lighting or that LED lighting poles that were -- for example, I live on Kirkland Street, and it seems that pole is probably 30 feet, 35 feet high and it's glaring all over and into people's houses and so on and so forth. I was wondering if that was taken into consideration, if this were to be passed, if it would be thought over to comply with it, because I don't think it's complying with it now. It's too bright.

H. THEODORE COHEN: Well, that has nothing to do with the Zoning Amendments that are

before us. That's all within the municipal, the municipal lighting ordinance which does exempt the street lights from its purview.

AHMED NUR: And I understand that. I just wanted to voice over to say that we're talking about Cambridge lighting. I understand exactly what you're saying, but we're talking about Cambridge lighting and this is a particular street lighting that's affecting us as abutters in Cambridge that, you know, somewhat relevant.

The second question that I had is 50 percent renovation or the GFI floor area, if it's all interior renovations and we have these exterior existing lights that are not in compliance, you know, inspectors work in the daytime. The lights work at night. So how do we get the two -- I mean, we get an abutter calling and say hey, this person just did a 50 percent

interior renovation and therefore they should comply with these lights that's been bothering us. That's the only way -- there's got to be a way that we could maybe -- the City could help out in that, in that term. I just wanted to see how that works out.

H. THEODORE COHEN: Any other comments?

STEVEN COHEN: Tom?

TOM SIENIEWICZ: Just quickly. And I was touched by what Mr. Winters said relative to just a caution to not ring out the light in lighting. That lighting can offer some delight in the urban environment. And I don't think that the proposal's in the Zoning Ordinance are among the modest proposal that we're looking at tonight would disallow the Planning Board the discretion to offer architectural accents as long as they were reasonable and affect neighbors or cause

light pollution. So I think that's, to the extent that zoning is a relatively blunt instrument, I think there's room then to not ring out the light.

I think the other question that were raised by a couple of people whether there's the cart before the horse here on the zoning? It's up to City Council to determine in what order they would pass either the Zoning Amendment or the Lighting Ordinance, it's not up to us on that timing. But I am anxious to get provisions within the Zoning Ordinance relative to lighting, and I think it's not perfect perhaps, mindful of all the science and the health effects, it's not perfect, but it would give a little bit of teeth to us right now to begin to bring our Ordinance, you know, into conformance with say, you know, a well established LEED standards that have been

out there and studied pretty thoroughly. And I would be anxious to get that tool in our toolkit.

H. THEODORE COHEN: Catherine.

CATHERINE PRESTON CONNOLLY: Yeah. I'll just quickly -- I second Hugh's thought on the administrative review. I think it is worth taking the time to lay out some details so that those can be administratively reviewed. And I also appreciated Mr. Taylor's comments about better defining what constitutes rooftop and facade lighting and making sure that everyone is clear on those. But aside from that, I felt like these were very reasonable interventions and additions to our existing Special Permit process to make it clear that these, that looking at lighting and its effects are within our purview and are appropriate consideration for the Board.

H. THEODORE COHEN: Steve.

STEVEN COHEN: Yeah, I must admit I'm a little bit confused about the boundary and jurisdictional boundary between the Ordinance and the Planning Board and maybe it's just me, but if I could just ask a couple of simple questions. In our review in the past design review and so forth we've always looked at lighting to some extent from an architectural and aesthetic as well as functional. Are we now foreclosed from that review or is it only to the extent that the issue is light pollution to the extent that light spills over from the parcel in question?

HUGH RUSSELL: So as I understand it, the Light Ordinance says there are certain kinds of lighting that you can't use. And so we would not be able to, you know, effect that. But within the kinds of lighting that you can use we could review a project to see if it was effective or

whatever.

H. THEODORE COHEN: I liken it to the Noise Ordinance where we impose certain screening and certain other things with regard to mechanical equipment, however, there is the separate Noise Ordinance that we don't administer which has to be complied with regardless of what we've said. And so I think this is very similar to that.

STEVEN COHEN: So when we say that the Ordinance governs, right, it doesn't foreclose us from a fairly substantial scope of review; is that correct?

H. THEODORE COHEN: That's correct.

CATHERINE PRESTON CONNOLLY: Yes.

STEVEN COHEN: I'm sorry.

H. THEODORE COHEN: I was going to say that I think the three of the four sections that

we're looking at really are simply us gathering more information.

TOM SIENIEWICZ: Right.

H. THEODORE COHEN: In order to comment about the lighting and perhaps make recommendations in the design stage that this won't comply with the lighting ordinance or it may comply but we prefer one thing over another.

STEVEN COHEN: When the proposed amendments make specific reference to rooftop facade and landscape lighting, are there elements of lighting in a project that would not to be reviewing?

CATHERINE PRESTON CONNOLLY: No, that's why it says including those.

STEVEN COHEN: Oh.

And I --

CATHERINE PRESTON CONNOLLY: Should I get

on my lawyer hat, and say including but not limited to?

IRAM FAROOQ: Mr. Chair, if I might add something?

H. THEODORE COHEN: Yes.

IRAM FAROOQ: I would suggest that there's nothing in terms of the Board's jurisdiction that is being reduced. In fact, you are being given some additional responsibilities here as well as additional information on all projects, because right now there are some projects that call out the lighting but not every single project. And in this instance, we would be in fact requiring that information as part of Special Permit documentation, and so that the Board has much better information to be able to evaluate from a design perspective. What the Ordinance would govern, I mean there's a larger

scope, but basically I think the Chair's analogy to the Noise Ordinance is a really good one. It would govern the amount to the light levels that are able to be emanated from a project.

STEVEN COHEN: But where it's provided and how it's provided and so forth, we would still have jurisdiction over?

IRAM FAROOQ: That is correct. The design elements would still lie within the Board's purview.

But you couldn't -- like, if somebody wanted to do a big, you know, like a whirly thing that's flashing and lighting and maybe there's, maybe we all think it looks fantastic, but it may not be permitted by the Ordinance, there might -- that might be a constraint where it says that the Board will not be permitted. I mean even if the Board loves it, this will not be permitted by the

Light Ordinance if it's adopted. There may be --
I suspect that those situations will be
non-existent or --

STEVEN COHEN: Are there provisions for
exceptions or variances under the light
ordinance?

IRAM FAROOQ: The Commissioner of
Inspectional Services as it's drafted would have
authority to provide waivers in very discrete
circumstances relating to hardship or --

LISA HEMMERLE: A detriment to their
health or welfare.

STEVEN COHEN: I guess one final point as
a City and as a Board, we've talked a lot about
energy efficiency and that's a big topic in the
area of lighting nowadays. At least in my
experience it usually ends up meaning LED
lighting in the commercial work that I do

everything has gone LED. Does that enter into the calculus here at all either in terms of our role or in terms of the Ordinance that you folks have put together Lisa?

LISA HEMMERLE: Thank you, Mr. Chair. So under both the prescriptive standards as well as the performance standard there are up light and light trespass provisions, basically restrictions, and maximums so it certainly limits the amount of light in the city under the proposed Ordinance.

STEVEN COHEN: I guess I was just asking the question about using LED lighting rather than other forms of less energy efficient lighting?

LISA HEMMERLE: Well, so I think in some cases the color, correlated color temperature will get to some of that, because -- and which is why we landed on that 3500 kelvin number because

actually as you get towards warmer temperatures, the lights become less efficient. Technology is changing rapidly and so that actually, you know, may adjust over time, but the 3500-K is actually in that range of being at a very energy-efficient light color temperature. And so in some cases LED light at 3500-K would be acceptable under those solutions.

JEFF ROBERTS: And I would add as well that we have provisions -- we do have other provisions related to energy conservation. The building code, the stretch energy code which is applicable in Cambridge, as well as our green building requirements in the Zoning Ordinance. Those are all, those all have elements of energy conservation and energy efficiency and use reduction.

AHMED NUR: Mr. Chair, this is for Lisa.

In terms of this 3500 Kelvin, the lighting temperature, where, like, you know, example comparing to what we used to see that clear, warm light that is no longer used, you know, like I think it's 25 watt that you would normally have it at Faneuil Hall, Quincy Market, urban downtown streetlights, municipal, where is that, like in comparing to such bright light, is it warm, yellow light, like is there an example of that, how do we see that? Like, bring that into reality and vision.

LISA HEMMERLE: It's hard to explain because it -- the lumen level and the color temperature are not necessarily connected. And so to have a 25-watt bulb which is essentially 315 lumens, the color -- it could be -- it depends on what color the light bulb is. It could still be in the blue range but still be a

25-watt light bulb or with 250 lumen where it falls or in which case it's in the, you know, thousand-K color temperature standard. You know, so it's hard if people -- if we get too focussed on color -- correlated color temperature and kind of forget about the lumen level and actually the height that you're lighting from and the shielding that you're using, I think it's just a really good -- and that's why the model lighting ordinance I find is really great because they've taken all of these things into account depending on all of these different factors.

H. THEODORE COHEN: Any other comments?

HUGH RUSSELL: I guess I have two comments:

Last week we heard a case, I think it was 605 Concord Avenue? They have a roof deck.

H. THEODORE COHEN: Yes.

HUGH RUSSELL: There was no discussion at all about lighting. We should put them on notice.

H. THEODORE COHEN: Right. This will give us additional information.

HUGH RUSSELL: And the other is a story about a project we did in South Shore tri town which is the old naval air station in Weymouth. We were asked to design a building around the block and we, you know, this facade was important, that facade was important, the other one was important, and the fourth facade wasn't as important. And so because we needed to put some cars there, we ended up with a parking lot along the fourth side. I mean, there's a field there now. They actually built a street for us. And we had to reduce our parking lot lighting because of a light trespass between our parking

lot onto the public sidewalk that was adjacent to it that was not too well lit, frankly, under the town -- and in the interim solution which may last for decades, was a kind of a wasteland where light was probably contributing to public safety.

Now, they were doing everything by the book there and so we did it by the book, but it's not -- it's like sometimes you want to have people with some sense look at stuff and say, hey, you know, yeah, it would have made sense for you not to change your light at this point to -- I don't know, ten-foot poles instead of 14 foot down in the rest of the parking lot. 100 percent down light, and at ten feet you can't do much lighting actually.

So, that's -- I'm hoping that the Ordinance, the lighting ordinance has some word built into it, the ability to be sensible and

reasonable and recognize that when you, when you set out to writing words to achieve goals, you can't necessarily cover all the possible things that might happen.

As to what's before us tonight I don't think that's the case.

H. THEODORE COHEN: Yeah, right.

So, I guess the question is whether we wish to make a recommendation to the City Council now with regard to these four proposals, three of which I see as just being purely providing additional information to this Board and to help us make more informed decisions.

The fourth one, there's been some question about whether -- rather than a total ban, there maybe needs to be some standards by which one could decide whether things fall within the exterior roof or don't fall within the

exterior roof or should otherwise be exempt. I imagine none of us feel qualified to try to amend that here and now.

CATHERINE PRESTON CONNOLLY: No.

TOM SIENIEWICZ: No.

H. THEODORE COHEN: And so I guess is that something that staff could look into and provide us with some guidance?

JEFF ROBERTS: Certainly if that was -- if the Board wanted to hold onto it a bit longer, we could try to fill in some of that detail, bring it back to the Board at some point in the future. I'm not sure off the top of my head what the time frame on this is. I know that the Ordinance Committee hearing was last Thursday, so it will be about three months before it would be up for final action. But since it was held in committee, it doesn't appear that the Council is

anxious to move on this any time soon, so I think the Board would have time to think about it a bit more.

HUGH RUSSELL: It seems like this is a technical question, can some standards for lighting and rooftop use areas be written up in such a way that it will fit within the structure of the Ordinance? And none of us wouldn't be able to tell by looking at the words whether it worked or not. So I don't feel like any particular expertise in reviewing those words. If the -- so there's a political question whether this is something that Council wants to have in the Ordinance or not. And if they do, then they could direct the staff or maybe they would simply hire a consultant to come up with some technical standards that could be in the Ordinance.

H. THEODORE COHEN: So I suppose we could

make a recommendation with regard to that one particular thing that the concept of a ban on exterior lighting on those limited class of buildings makes sense subject to, you know, the adoption of design standards which would clarify what is allowed and what is not allowed.

HUGH RUSSELL: Yeah.

IRAM FAROOQ: Yes, that makes sense as a recommendation if you're comfortable forwarding that.

As I'm thinking about it, I just -- we will obviously work with folks to -- with consultants to try to figure out what might be reasonable. But lighting on the rooftop can be potentially even more challenging in terms of how it interacts with neighbors. So I would be much, much more careful in terms of how we develop that, and we may find that despite trying to find

standards, if we're unable to come up with something that is universally acceptable, we may end up having to leave it the way that it is so that -- so that if somebody wants to put parking on the rooftop and light it, that it may make more sense for them to come to the Board anyway simply because it's hard to have a standard that will not, will definitely not negatively impact abutters. So --

H. THEODORE COHEN: It seems to me that it's ultimately up to the City Council to decide and may say we want to ban it in this case -- in all cases, but there is the alternative that the developer can go to the Planning Board and get a Special Permit. And so if that is, you know, creating a problem for you, there is a Special Permit option.

STEVEN COHEN: So when we use that word

"ban," we're really saying it's not permitted as of right.

IRAM FAROOQ: That's right.

H. THEODORE COHEN: Right. That's correct. That's a good way of putting it. For those particular buildings it would not be permitted as of right, but there is a permit provision which would allow it.

So, Board, what do we wish to do?

AHMED NUR: I second Catherine's suggestions of supporting it as the way she put it.

CATHERINE PRESTON CONNOLLY: So what I was suggesting is that we can then forward a positive recommendation but note that we think that there may be an opportunity with regard to the fourth item to institute some standards that if they can be administered by staff, would give

additional flexibility. But are comfortable that if not, then the, you know, because it is just a ban on as-of-right rooftop lighting, that there are opportunities for the Board to review any necessary rooftop lighting. I think that -- I'm comfortable with moving forward of the recommendation with the Ordinance based on that.

IRAM FAROOQ: Mr. Chair, one more thing. If I recall, you had mentioned also better definition of rooftop lighting and south lighting which we could approve into the recommendation.

H. THEODORE COHEN: Right. I see some of the things that we're requesting could be defined in the Municipal Ordinance, so perhaps people could go back and look at that. When making further presentations to the City Council, there might be some additional definitions. So I think we're assuming that the definitions are either

already in the Zoning Ordinance or will be provided in the Municipal Lighting Ordinance.

AHMED NUR: Although, as a builder I'm used to using rooftops on structures with just a mechanical and screening not really parking lot tops, and so I don't know if the zoning you want to defer to the rooftop. Everything is in rooftop then can really be confused as opposed to parking lots, we should consider the parking lots than the rooftops.

H. THEODORE COHEN: Right. Again --

IRAM FAROOQ: Rooftop is actually defined in the Zoning Ordinance.

AHMED NUR: Okay.

H. THEODORE COHEN: All right?

So if I deem Catherine's statement as a motion, is there a second for that?

STEVEN COHEN: Second.

H. THEODORE COHEN: Any discussion?

(No Response.)

H. THEODORE COHEN: All the those in favor?

(Show of hands.)

H. THEODORE COHEN: Unanimous. Thank you.

Jeff, do you have enough?

Why don't we take a five minute break and we'll come back and have another hearing with regard to approving Zoning Amendment relating to registered Medical Marijuana dispensaries.

(A short recess was taken.)

H. THEODORE COHEN: All right. We are back in session. This is now a hearing on the Medical Marijuana Zoning Petition by the City Council which would delete the existing Section 20.700 Medical Marijuana Overlay Districts,

create a new Section 11.800 Medical Marijuana, and list Registered Marijuana Dispensaries within section 4.35 of the Table of Use Regulations allowed only by Planning Board Special Permit within Business A, Business B, Business B-1, Business B-1, Business B-2, Business C, Industry A-1, and Industry B-1, and Industry B-2 Districts.

Is there anyone here to make a presentation?

(No Response.)

H. THEODORE COHEN: If not, Jeff.

JEFF ROBERTS: For people in the audience, Jeff Roberts with the Community Development. This isn't a CDD Zoning initiative so I can't really speak much to the intent -- what the particular intent of the proposal is, but I can try to help explain what the effect of

it might be.

So, what's being proposed -- well, maybe the first thing to start with is what's not being proposed to change. So under current zoning, Medical Marijuana Dispensaries or Registered Medical Marijuana Dispensaries as they're called RMDs are regulated under a Special Overlay District Zoning which requires that any RMD proposal come to the Planning Board for a Special Permit. And the Planning Board has now reviewed, well, actually reviewed one such proposal and I believe there will be more on the way.

In the proposed zoning, that same requirement would be retained. So the text of the current Medical Marijuana Overlay District where it pertains to the requirements for the particular use, the Special Permit application requirements, and the criteria for the Planning

Board to review and approve those applications are all the same and they're proposed to be retained in the proposed zoning but in a slightly different way.

What's being proposed to change is that rather than making RMDs permissible only within these specific Overlay Districts it would shift the use regulations into our base zoning and regulate them through the Table of Use requirements. So one of the aspects of the zoning proposal that is, that's interesting, and it changes in a way due to the proposal, is that by moving it to the base zoning, not only is it, is it opening up some additional districts where RMDs could be allowed, it also has some relation to where our base zoning has use regulations that are established by reference to other districts. So we have some districts, largely overlay

districts, but also some special based districts, those are sort of our SD districts where the zoning says well, the uses in this district are the same uses that are allowed in this other district. So what we did, and it took some amount of effort with this map was to go through the Zoning Ordinance and to take inventory -- well, both to show and shown sort of in solid colors there the specific districts that are named in the petition, and those are the base zoning districts that the Chair just read where RMDs would be allowed, and then in sort of the striped layers showing other districts where either by right or by Special Permit, and of course all of these would be -- ultimately require a Special Permit, the use regulations from one of those named base districts carries over into another district.

So, this is our best attempt. And, again, I can't really speak to the intent of whether the intent was to include all of these districts or just those particular base districts, but that's something that the Council could -- may need to look at and the Planning Board may want to weigh in on. So that's one aspect of the proposed zoning.

One other particular provision in the zoning where the Planning Board and the Council have recently looked at these Medical Marijuana related zoning petitions that create overlay districts in areas that are traditionally a little bit more retail oriented than the areas that were originally adopted as Medical Marijuana Overlay Districts, and as a result, those special districts, and particularly those with the MMD-3 and the MMD-4 Districts, which are sort of in the

middle of the city, one in Harvard Square and then kind of between Central Square and Harvard Square, those include some special provisions related to, first of all, only allowing retail dispensing activities. And under the state law RMDs can include any activity from cultivation, through processing, and all the way to sale in the way the state law on medical marijuana actually requires a single entity, a single corporate entity to undertake that entire process from cultivation to sale but not necessarily in the same location.

So that provision isn't necessarily included in the zoning and in the proposed zoning. So another issue to note as a proposed, as a potential change is that it could potentially change where not just dispensaries but also cultivating activities may be located in

the city. So that is, that is another substantive piece of the zoning proposal to look at.

When we were analyzing this petition, we went back to the set of factors and criteria that were applied that we actually redeveloped and applied back in 2013 to evaluate potential areas for RMDs, and those include the -- where commercial uses are allowed, where there's access of transportation, where there is readily -- where there's an easier ability for emergency vehicles to access the site, where an RMD would be consistent with the urban design objectives of an area, and where there were suitable sites that were at least 500 feet buffered from schools or other facilities where children normally congregate. Now those criteria don't necessarily have to -- we don't necessarily have to look at

the locations according to those criteria, but that was our, that's been our system for looking at it. And so when we looked at these proposed areas relative to those criteria, we found in some areas, and these were areas that I believe the Planning Board directed us and recommended the City Council look at where there is a strong commercial character, where there's access of transportation, those areas include Central Square, Harvard Square, Porter Square, Kendall Square. Those areas are included within this proposal, so it would allow RMDs to be reviewed and potentially permitted in those areas.

There are also some areas that are maybe a little bit outside of what we would think of as being the most centrally located, transportation accessible, you know, commercial districts, areas our sort of on the edges towards the river over

by Fresh Pond along Cambridge Street, Inman Square, those areas -- and it's sort of in the middle and former industrial area of Cambridgeport. Those are areas that may warrant looking at a little bit more closely. And there are two potential issues that, two main issues that we raised in our analysis.

One, being transportation. Are these places where if they were to, if they were serving a large area, would they, would people really be able to get to them that effectively.

And then secondly, just that the question of urban character. A lot of those areas are places that despite allowing commercial uses are predominantly residential, the character of those areas tends to be more the type of buildings that have residential above ground floor retail. And so in those areas an RMD that is established say

on the ground floor might displace a more publicly serving use. And, again, as we've talked about many times, the state regulations for RMDs make them relatively closed off from the public. So that could be both from an urban design standpoint and just a land use and urban character standpoint. Those could be potentially problematic.

The other things that we noted in our analysis that could have gone beyond the zoning, that under the state administrative processes there are other avenues that the city could employ to have more of a direct say in RMD approval and selection, it doesn't necessarily have to be done just for the zoning Special Permit process. There is the process by which cities are asked to submit a letter of support or in non-opposition that's an avenue aside from

zoning that could provide some opportunities to maybe fill in where there needs to be some additional control.

And then the final point is just some of the uncertainty that's been raised around the recreational marijuana ballot question. There are -- the City Solicitor was asked to look at by the Ordinance Committee a question of is there a relationship between the medical marijuana and recreational marijuana? And it turns out the way the ballot initiative is written, while it says that the two laws will remain separate and so that it won't -- the proposed ballot issue won't directly change the current law related to medical marijuana, that there are some areas where the two are linked. Where it says or suggests that if there are areas where medical marijuana is allowed, then recreational marijuana

would not be able to be restricted or controlled in a substantially different way. So that is something that is a consideration that the Council has asked about and either believe is interested in and something that we don't fully know the answers to because it's still an ongoing matter in the election.

So I'm happy to answer questions as best I can. Otherwise I'm interested in hearing what the Planning Board has to say.

H. THEODORE COHEN: Well, I guess I have an initial question for the Board and it really relates to your last point. So the election is a week from today and things may change or not change depending upon the outcome of that. And my concern is the provision in the ballot question that states that Zoning Ordinance or by-laws shall not prohibit placing a marijuana

establishment which cultivates, manufactures, or sell marijuana or marijuana products in any area in which a medical marijuana treatment center is registered to engage in the same type of activity.

If that were interpreted to mean that if a registered medical marijuana facility can be located in a particular zoning district, that that zoning district also has to allow recreational marijuana facilities, then I might have a very different perspective on the question of where we should allow registered marijuana facilities to be.

STEVEN COHEN: Exactly.

H. THEODORE COHEN: And so since we are so close to the election, I wonder if whether we should not simply continue this hearing to a date after the election when we'll have further

guidance because, you know, I might be happy to see registered medical marijuana in many districts of the city if not every district, but not feel the same about recreational marijuana.

STEVEN COHEN: Mr. Chair, I think it's a no brainer actually. I agree entirely that we should continue the matter. The most critical factor that affects our discussion here is still unascertained. It totally changes the discussion. I would be prepared to make that motion as soon as we finish the discussion.

TOM SIENIEWICZ: I agree. I came with the same note on my documents when I reviewed them earlier this week and also wanted to seek, you know, actually one step further, let's build and operate a medical marijuana dispensary. We've got a couple permitted. Let's see what those look like out of scale before we begin to

consider broader changes. But that notwithstanding, your point relative to the election is good. I would also recommend a continuance.

H. THEODORE COHEN: Anyone else?

HUGH RUSSELL: I guess my only comment is when people have come to speak on this matter, it's sort of a shame to tell them to come back because we really don't know what we're, what the issue is going to be after -- until we --

H. THEODORE COHEN: Well, we could hear the people who are here right now and then continue the matter and you could, you know, those people could come back at a continued hearing --

HUGH RUSSELL: They probably would.

H. THEODORE COHEN: -- or not.

Is that the sense of the Board what we should do?

TOM SIENIEWICZ: I think so. I would appreciate some framing of the question in front of us. We've had a lot of testimony over the last, since 2013 on the merits of medical marijuana and I think that case has been won. You want to talk about the zoning and planning issues.

H. THEODORE COHEN: Right, and I think actually City Council has taken our suggestions that rather than doing it on a case-by-case basis or under the special district basis, there should be a citywide view on that, which, you know -- and this may be where we should go, but I'm just scared to go there or unhappy to go there without knowing what the election results are.

So, if that's the case, then why don't we go to public comment. And I don't know, is there a sign-up sheet?

JEFF ROBERTS: No names.

H. THEODORE COHEN: Anybody who wishes to speak will have the opportunity to speak. But please, we have heard many cases about medical marijuana and we really don't need people going into great detail about why there are good facilities and should exist in the city. Right now we prefer comments that are limited to the concept of changing the Ordinance from what it is now to what it is proposed.

HUGH RUSSELL: Ted, I think for those who have not been part of the process, they should know that we have unanimously supported the rezoning petitions. We've granted the permit. And so we believe that this is an important thing to do. Your comments could have been interpreted that we've already made up our mind that it's a bad idea. But in fact we've made up our minds

that it's a good idea.

H. THEODORE COHEN: That is true. We have made up our minds that it is a good idea and we have suggested to City Council that rather than doing it on a piecemeal basis, there should be a policy for the entire city.

So anyone who wishes to speak, when you're recognized, please come forward, state your name and address and spell your name. We ask that you speak only for three minutes. You'll see green lights and then yellow lights and then a red light. When the red light goes off, you know please wrap up.

NICOLE SNOW: Sure. Nicole Snow, 190 Bridge Street, Salem, Massachusetts. I'm the Executive Director of the Massachusetts Patient Advocacy Alliance. We advocate for patients and implementation of the medical marijuana program.

I've been following this as you know, and I appreciate the expansion of the map that is so widespread. But I'm -- I just wanted to inject a couple of comments. I'm kind of concerned about, you know, potentially changing the map because of our feelings about adult use. So I just want to remember that these are medical facilities.

There is a question on the ballot that says that, you know, Cambridge is to treat adult use facilities like medical marijuana facilities and I understand that, but to us there is a difference. So when we go to vote on election day and we come back here later on, I just don't want to see that we manipulate the map in such a way that it reduces the access because of how we might feel about adult use. So that's it.

Thank you.

H. THEODORE COHEN: Okay, thank you.

Anyone else who wishes to speak?

JOHN HAWKINSON: I have a very brief comment, Mr. Chair.

John Hawkinson, 84 Mass. Ave. I just thought that the City Solicitor's memo was rather silent on the extent to which Special Permit discretion for medical marijuana or for recreational marijuana was tied to Special Permit discretion for medical marijuana. And it seemed to me that was something that the Board and the Council would want to understand if indeed the initiative petition passes. So if that were to come to pass, perhaps a request to the Solicitor for clarity on that point is appropriate.

Thank you.

H. THEODORE COHEN: Thank you.

Is there anyone else who wishes to speak?

GEORGE SOMMER: So my name is George

Sommer. Spelled with an O, S-O-M-M-E-R. I live on 29 Otis Street, Cambridge, Massachusetts, 02141. We were just concerned because we had a run-in with this last -- I think in 2014 where there was a zoning just across the street from us basically just across the O'Brien Highway and someone tried to rent a commercial unit in our building. We have 193 residential units and we have four commercial. And one of the commercial units which was a Finagle A Bagel tried to rent their facility, that space to a medical marijuana outlet. And there was a tremendous uproar in our building because of that because we have a lot of families, small children, and so forth. And they thought it was a totally inappropriate location for that. Although there is a lot of retail space nearby, but we felt that the heavy traffic in our building, and I just want to bring it to

the Board's attention when you have residential areas next to commercial areas, there is a certain sensitivity to the people living there. So hopefully we won't have that problem again. But that's, that was a big problem that -- you probably remember it happening a couple years ago.

Okay, thank you.

H. THEODORE COHEN: Okay, thank you.

Anyone else wish to speak?

JIM CLARKSON: Yes, my name is Jim Clarkson. I actually represented an LLC that owns property at 20 Second Street. The only question I really have was, and this is probably for this gentleman, how -- did you give any consideration to, you know, whether you'd be catering to communities beyond the borders of Cambridge or whether since it is regulated by the

City, there would be a way to keep the customers within your city boundaries?

JEFF ROBERTS: I'm not sure I'm the best person to answer that question. I think my understanding of the state law related to medical marijuana is that it doesn't, it doesn't restrict patients, registered patients to a particular community. That's something that's regulated at the state level. So a registered -- a Massachusetts registered patient could go to a Massachusetts registered dispensary. I don't think we ever investigated the question of whether through local regulation or permitting we can put restrictions on the patient, the residency, and I don't know that it would be effective if we could --

H. THEODORE COHEN: I don't see how we could. It seems to me it violates the

Constitutional right to travel. And that the original Medical Marijuana Regulations envisioned just a limited number of facilities throughout the state and that there would be, they would be drawing from a larger geographic area simply than one municipality. So I wouldn't imagine that there's any way that the patrons could be limited to residents or taxpayers or whatever of a particular municipality.

STEVEN COHEN: And the original proposed locations in Cambridge were in the peripheral areas precisely to serve those coming from other communities.

H. THEODORE COHEN: Right. And access to transportation.

STEVEN COHEN: Yeah.

H. THEODORE COHEN: Anyone else wish to speak?

(No Response.)

H. THEODORE COHEN: If not, then I would suggest that we continue this matter.

Liza, is it possible to give us a particular date?

LIZA PADEN: You want to do it, Jeff? I mean, I could give you a date if you think it's a good idea to do it.

JEFF ROBERTS: Right. I mean we, I mean we have a lot of business coming in before the Board. I think this petition has not had its Ordinance Committee hearing yet. It has it next week.

LIZA PADEN: Next Wednesday.

JEFF ROBERTS: It will be three months from next Wednesday or 90 days from next Wednesday when it will expire. So I -- partly it's, you know, the election is next week. I'm

not sure how soon the results will be known. But I guess a question back to the Board is how much does the Board want to have, you know, to understand the election results before -- is this something the Board feels good to come back relatively soon after the election or would you want to have some time to think about it.

H. THEODORE COHEN: I think we already have four sessions in November and thankfully only two in December.

LIZA PADEN: I was actually going to suggest January 3rd.

CATHERINE PRESTON CONNOLLY: That sounds right.

MARY FLYNN: Yes.

LIZA PADEN: Okay, thank you.

H. THEODORE COHEN: So I suggest a motion to continue this matter to January 3rd.

CATHERINE PRESTON CONNOLLY: So moved.

H. THEODORE COHEN: All those in favor?

(Show of hands.)

H. THEODORE COHEN: It's unanimous.

Thank you all for coming. And you're welcome back on January 3rd.

And now we have a couple of ZBA cases.

CATHERINE PRESTON CONNOLLY: We have a matter of general business first, right?

H. THEODORE COHEN: We have a matter of general business, correct.

LIZA PADEN: So before Catherine leaves, the general business item is a Planning Board Special Permit at 180 -- I'm sorry, 303 Third Street is Planning Board Special Permit case No. 189. This is similar to what the Planning Board has done for cases at Cambridge Research Park across the street. So a fast order food

establishment which is usually a Board of Zoning Appeals Special Permit has requested to go into a space previously occupied by a therapist's office at the residential building. It's the b Good Restaurant. And I sent you copies of their plans and their floor plans. And so I'm here to answer any questions. I will tell you their signage is minimal. They have signage on the awning.

Do you need a copy, Ted?

H. THEODORE COHEN: If you have an extra.

LIZA PADEN: Yes.

They have listed they're going to have 44 seats. They're looking to start off with being open for business for 10 to 12 hours a day, seven days a week, which actually is pretty good because a lot of the stores when they open up in the Kendall Square area, have not been opening on the weekends, but b Good is committed to opening

up on the weekends.

STEVEN COHEN: Exactly what action is required?

LIZA PADEN: So when the Planning Board granted the PUD, one of the things in the findings is that you approve all of the uses that are allowed in the building; residential, the office, whatever. And so because fast order food is a separate item, it's a Special Permit from the Board of Zoning Appeal in most districts, it's never been listed in any of the PUDs. So they have to come back for a determination. There's a section in the Ordinance that allows the Planning Board to make a determination on any use not listed in the Special Permit. So the Planning Board has to make a determination that this is an appropriate use and will meet the guidelines and the standards for the PUD itself.

STEVEN COHEN: I would propose that this is appropriate use and therefore move that the use be permitted.

CATHERINE PRESTON CONNOLLY: Liza, can you clarify if we find that fast order food is appropriate for this particular store? If it switched to something else, do they need to come back again?

LIZA PADEN: Right. So the way that this has been working with Inspectional Services is that a different use, a different operator, a different restaurant, even if it was fast order food, would have to come back for its own individual finding.

CATHERINE PRESTON CONNOLLY: Thank you for clarifying that.

LIZA PADEN: Is there a second?

H. THEODORE COHEN: Any further

discussion?

MARY FLYNN: I was just going to second the motion.

H. THEODORE COHEN: All those in favor?

(Show of hands.)

LIZA PADEN: Thank you.

The rest of the materials for the meeting will be sent to you under a separate package.

This is the Central Square case so I didn't know if you wanted to start looking at the materials.

H. THEODORE COHEN: Why don't the developers and proponents pay for the postage?

LIZA PADEN: I don't know, Ted. I don't know.

HUGH RUSSELL: They pay a \$10,000 to file the Special Permit.

H. THEODORE COHEN: So we roll the postage into that.

LIZA PADEN: Ten cents a square foot is what we're getting right now.

So there's two telecommunication antennas. There actually is a third one that was heard last week. It was, was it last week?

ATTORNEY DANIEL GLISSMAN: Yes.

LIZA PADEN: And that was at Saint Peter's Church where it was -- it's totally inside the steeple so you don't see any of it. So unfortunately we don't have a lot of those options here.

So the first one that Suzannah actually looked at was 955 Mass. Avenue, and I don't know if people got a chance to look at this particular installation. So Suzannah felt that this was taking advantage of the -- at the top of the building using the vertical screening and the antennas. The addition of the antennas would be,

was a pretty good solution just adding --
replacing what they would be replacing and adding
the additional ones. And you don't really notice
it given everything else with the building.

STEVEN COHEN: Lovely.

LIZA PADEN: Okay?

Any comments for that one?

H. THEODORE COHEN: I mean, this didn't
trouble me at all. You know, they're adding
some, but they're adding them in appropriate
locations and instead of two we have three.

TOM SIENIEWICZ: It's already ugly.

H. THEODORE COHEN: I'll let you say
that.

LIZA PADEN: You want me to put that
down?

STEVEN COHEN: Put that in our
recommendation.

HUGH RUSSELL: It's surprising because it was (inaudible).

TOM SIENIEWICZ: But I think (inaudible).

LIZA PADEN: Okay.

The other case is the one for 2500 Mass. Avenue. So people may remember this building, it's the Marino Health Center up on North Mass. Ave., almost in Arlington. So some of the things that it's now been purchased by Mount Auburn Hospital. I don't know if that has anything to do with anything, but....

So one of the concerns that Suzannah had was on the roof installation they're proposing to put up a faux wall around and block --

TOM SIENIEWICZ: They're building --

LIZA PADEN: Pardon?

TOM SIENIEWICZ: They're building a steeple.

LIZA PADEN: Yeah, they're building a steeple.

H. THEODORE COHEN: Only on three sides.

LIZA PADEN: Suzannah said the only thing that she would suggest is from the rear of this installation it's open so it's only on three sides. So if they could put the fourth wall in, it --

TOM SIENIEWICZ: Yeah. The photo sim had a tree I think in front of it. It was hard to see the side was missing.

LIZA PADEN: Yeah. So we do have the representative here if anybody wants to ask him any questions.

H. THEODORE COHEN: Well, I guess the question for you or Jeff is does the screen take it above the allowed zoning height?

LIZA PADEN: Well, because it's a screen

and it's not the building itself, it wouldn't be counted in the height. Right.

HUGH RUSSELL: I guess I understand that they would do a photo sim you could exactly match the texture, but the addition is fiberglass which it has to be for radio transmission, and the below is concrete, so it does strike me that it's not going to match the -- it can't possibly match as well as it does, unless they use the technique which was, I was working at for Bill Wainwright at Geometrics, and one day a guy came in with fiberglass brick and had molded a brick wall and then they sprayed glue on -- the fiberglass comes out of it. It blew brick dust onto it and they had women with toothbrushes putting the mortar joints in. So for the last, you know, 50th of an inch it was absolutely authentic. Bill thought it would be fabulous to build a house boat out of

it.

H. THEODORE COHEN: Build a what?

HUGH RUSSELL: House boat.

So I mean you could, using the same kind of technique actually, accomplish that, but I just don't believe they're going to do that. So you have to ask, well, what happens if it doesn't match, do we care?

H. THEODORE COHEN: Well, I guess a related question is if they couldn't make it match and they just sort of missed, would it be better to have it be a totally different material so that there wasn't any question that they tried but missed?

HUGH RUSSELL: That's exactly the question.

STEVEN COHEN: It would certainly be the safer approach.

HUGH RUSSELL: So in one way to address that is to suggest to the Zoning Board that they attach a condition that the sample be reviewed by somebody and we have -- there normally would be Suzannah if that's a legal construct that works.

LIZA PADEN: I don't know why it wouldn't, but I'm doing it for signs now.

HUGH RUSSELL: She's advising the Building Department that has the jurisdiction.

TOM SIENIEWICZ: So just, I think communicate to the Zoning Board that we have that concern about the inconsistency in the end and the detail of that surface and they can deal with it as they see fit. And look under advisement.

H. THEODORE COHEN: That is looking at it on the sims looks fine, but if they can't match it perfectly, then they probably, I don't know, come back to the BZA with some alternative.

STEVEN COHEN: Yeah.

H. THEODORE COHEN: And that we do want them to do --

TOM SIENIEWICZ: Do four sides.

H. THEODORE COHEN: -- do four sides.

LIZA PADEN: Okay, sure.

HUGH RUSSELL: Assuming they can do it. It's a pretty clever solution. It responds to the usual architecture.

JEFF ROBERTS: I just haven't looked at it, just to be clear, the purpose of CDD reviewing it would be to assess whether it's matching the texture in the photo sims?

H. THEODORE COHEN: Right. Have you seen the photo?

JEFF ROBERTS: I have not.

LIZA PADEN: Well, to see if it matches the existing element that they're trying to add

this to.

JEFF ROBERTS: Right. I think it's okay for us or Suzannah to review a sample, but it might be helpful to have a little bit to just describe what exactly it's being reviewed for. That's helpful.

H. THEODORE COHEN: Right. In the photo sims they show it matching the existing perfectly. And Hugh I think is quite valid in raising the difficulty of matching something perfectly rather than having it just sort of miss.

LIZA PADEN: There's actually a question about the fourth wall.

ATTORNEY DANIEL GLISSMAN: Yeah, I just wanted to interject a couple of comments.

First, with respect to the fourth wall, so the reason that with -- as the installation

exists currently, all the antennas are installed on the penthouse. They're facade mounted to the penthouse of the building. There were new HVAC units that were installed directly in front of the antennas which are blocking the signal. So we've had to work with the landlord to try and come up with a creative solution as to how, how best to still deploy our antennas and not have them blocked by the HVAC units.

So, that's where the idea to move it to the edge of the building and install this six-foot screen wall. But as a result, those same HVAC units actually would block the installation of the fourth wall behind it because they really are right there. And even as the installation exists currently, it was a lot of roof for the antennas to travel in terms of broadcasting their signal, so it's a better

solution to have them at the edge of the roof but the HVAC units really cover the gambit behind it.

H. THEODORE COHEN: Well, it certainly doesn't like that way in your sim.

ATTORNEY DANIEL GLISSMAN: If you look at the plans and they depict it a little bit better. I don't know based on the angle and the photo sim may not show entirely. It's actually better here. This is the wall that they're proposing and the HVAC unit is actually in front of it.

LIZA PADEN: Okay, so this is what he's talking about on the page. So here's the wall that they're proposing to construct.

H. THEODORE COHEN: Right.

LIZA PADEN: Here's the existing HVAC box that's there in the midst of the three sides. This is what he's talking about.

H. THEODORE COHEN: Well, could they put

a diagonal that encloses -- also encloses the HVAC?

LIZA PADEN: Yeah, so you can't -- can't you put the a fourth side here?

ATTORNEY DANIEL GLISSMAN: Well, then now you're getting into where the -- so there's a door on this penthouse and, you know, there's a lot of activity on that roof. But with, with the fact that there is a penthouse there and HVAC units, it does somewhat block the view of the rear of that screen wall.

TOM SIENIEWICZ: Presumably the landlord gets some income from the installation of antennas that work properly, so you know, it's, you know, it's incumbent on him to figure out how to make it look good. And whether that means moving an HVAC unit or coming up with a --

H. THEODORE COHEN: Right. Your view

south of Mass. Ave. which shows it --

LIZA PADEN: It doesn't look like it from here because this is the elevation, and here it is and there's the unit, that's why we didn't think it was a problem.

HUGH RUSSELL: So where's the floor plan that shows -- and it shows the units.

ATTORNEY DANIEL GLISSMAN: Yeah, so and this is, I think, only one of them. So this is not the exact roof plan here. This is just a depiction of the existing antenna plan and the proposed antenna plan. So this isn't where the penthouse is in relation to the new screen wall, but this is a portion of where the existing HVAC units are.

HUGH RUSSELL: So could you turn the corner a bit?

ATTORNEY DANIEL GLISSMAN: So, here's a

better view. So we have HVAC units here and HVAC units here. And HVAC units here.

HUGH RUSSELL: And it's -- this piece from here to here that's going to go up?

ATTORNEY DANIEL GLISSMAN: Right, right. So they're building here, here, and here. And you see these are the supports for the new mount. So we have to support a new mount here. I think it gets very difficult. These are the problem HVAC units primarily I believe, but, you know, before the antennas were here and here so they were carrying the roof. And now because of all this new equipment, and I'm not sure -- I know it was in -- it was fairly recent so I don't know if it has something to do with the new ownership, but we have -- they looked at this extensively.

LIZA PADEN: Even with that, even a small amount.

HUGH RUSSELL: It makes the corner stronger.

LIZA PADEN: Right.

ATTORNEY DANIEL GLISSMAN: You still have to, you know, have a new support and I'm not exactly sure of the dimensions but you can see the new supports here, here, and here. They stick out a good amount.

TOM SIENIEWICZ: There's got to be a solution.

H. THEODORE COHEN: Yes, it could be done.

TOM SIENIEWICZ: There's got to be a solution.

H. THEODORE COHEN: I mean, so either if that's accurate, then your sim is not accurate because that's showing it quite visible without something in the way.

ATTORNEY DANIEL GLISSMAN: Yeah, it's -- it must have, you know, with respect to the angle that you're looking at it from, obviously there's a different view.

H. THEODORE COHEN: Right. Well, that's what a lot of people are going to see and driving on Mass. Ave.

ATTORNEY DANIEL GLISSMAN: Right.

H. THEODORE COHEN: And that's what we're opposed to. So I think they need to come up with some fourth wall solution to make it appear logical and more attractive from people on Mass. Ave.

ATTORNEY DANIEL GLISSMAN: And so, you know, to the best of my knowledge and from the site acquisitions and the engineers that have looked at this, they, they did not propose a rear screen wall. It was actually one of the first

comments that we made to them as well from our office, and they're telling me that it's not possible. I'm happy to go back to them again and push harder.

H. THEODORE COHEN: I think you should go back to them and tell them that we did not like only three sides and that maybe it's an easy solution for them, but that they should try to find a better solution.

TOM SIENIEWICZ: Figure it out.

ATTORNEY DANIEL GLISSMAN: Yeah, I mean they're already building a screen wall, so adding an additional corner, if it's feasible, is not a -- you know, it's not a large expense that they're not already incurring by building a six-foot wall. I think, you know, if they could, they certainly would have loved to do that.

H. THEODORE COHEN: Well, in our

experience, the engineers don't necessarily do what they could do, but what is easier for them. And so with a little pushback and saying that this Board wants that. I think that they'll probably come up with another solution.

STEVEN COHEN: This really doesn't look like rocket science. I mean, they'll come up with something if pressed to do so.

HUGH RUSSELL: It seems the front corner is more important than the back corner. I'm losing my pages so I can't find it.

STEVEN COHEN: Any other matters?

HUGH RUSSELL: But --

MARY FLYNN: I think it might be in here somewhere.

H. THEODORE COHEN: Page 11.

Is that what you want?

HUGH RUSSELL: No. The sketch.

LIZA PADEN: It must have been in the beginning.

ATTORNEY DANIEL GLISSMAN: Yeah, here.

HUGH RUSSELL: So Mass. Avenue is here. So as you're looking at this corner.

LIZA PADEN: No, actually I think -- Mass. Avenue is here. This is Mass. Ave.

This is, I believe, Edmunds Street and this is the Dunkin' Donuts on the other corner.

HUGH RUSSELL: So I'm wrong. Okay.

TOM SIENIEWICZ: It's actually people coming from Arlington.

MARY FLYNN: They're going to have a bad view.

LIZA PADEN: People coming home to Cambridge.

TOM SIENIEWICZ: Sorry.

LIZA PADEN: Okay.

ATTORNEY DANIEL GLISSMAN: Oh, and just one other comment, the Cambridge -- the Zoning Board does in fact include a condition in their approval that we comply with the plans and photo simulations. So in theory the standard that we have to live up to is what's shown in the photo simulations. So that is already covered.

H. THEODORE COHEN: I still think Suzannah should be involved in reviewing it.

MARY FLYNN: Yeah. Better before it goes up.

HUGH RUSSELL: As my client says, sometimes it's easier to get forgiveness than to get permission. If you see a sample and you see that it's going to work, then you don't get into that situation.

H. THEODORE COHEN: We are adjourned.

(Whereupon, at 9:40 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 23rd day of December, 2016.

Catherine L. Zelinski
Notary Public
Certified Shorthand Reporter
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