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Volume III
Pages 1-87

Brookline Zoning Board of Appeals Hearing
420 Harvard Street Comprehensive Permit Application
420 Harvard Associates, LLC
August 10, 2016, at 7:00 p.m.
Brookline Town Hall
333 Washington Street, 6th Floor
Brookline, Massachusetts 02445

Reporter: Kristen C. Krakofsky

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APPEARANCES

Board Members:

Jesse Geller, Chairman

Lark Palermo

Kate Poverman

Johanna Schneider

Town Staff:

Alison Steinfeld, Planning Director

Maria Morelli, Senior Planner

40B Consultant:

Judi Barrett, Director of Municipal Services,

RKG Associates, Inc.

Applicant:

Victor Sheen, 420 Harvard Associates, LLC

Dartagnan Brown, Principal, EMBARC Studio, LLC

1 Members of the public:
2 Colin McMahon, 45 Coolidge Street
3 George Abbott White, town meeting member, Precinct 9
4 Judith Vanderkay, 16 Columbia Street, town meeting
5 member, Precinct 9
6 Hagen Mauzh, 44 Fuller Street
7 Tom Gunning, 39 Fuller Street
8 Mark Rosen, Thorndike Street
9 Steven Popper, 41 Fuller Street
10 Karen, Babcock Street
11 Sloat Shaw, Thorndike Street
12 Pamela Templer, 119 Fuller Street
13 Shulamit Khan, Winchester Street
14 Bernice Rose, 88 Fuller Street
15 Kevin Lang, Winchester Street
16 Henry Law
17 Kent Mitchell, 62 Fuller Street
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1 PROCEEDINGS:

2 7:10 p.m.

3 MR. GELLER: Good evening, everyone. We're
4 going to get started. This is the continued hearing on
5 420 Harvard Street. My name, for the record, is Jesse
6 Geller. To my immediate left is Kate Poverman, to my
7 immediate right is Lark Palermo, and to her right is
8 Johanna Schneider.

9 Tonight's hearing, again, is being -- is this
10 being tape recorded, actually or --

11 MS. MORELLI: Yes. We have Brookline
12 Interactive TV, and we do have a court stenographer.

13 MR. GELLER: Okay. So it is being kept in two
14 different formats. And I just want to repeat for
15 everyone's sake, there is -- the stenographic copy is
16 being posted online. I did notice --

17 MS. MORELLI: Within two weeks.

18 MR. GELLER: Within two weeks so that people
19 who want to review prior hearings can certainly go back
20 and see the record from prior hearings. It's at the
21 planning department's site, the website. You'll find
22 it at the town's online site.

23 Originally -- and I think we announced this at
24 the last hearing. The original intention, I believe,

1 was to hear preliminary design review. At least that
2 was the intention the last time. I understand that
3 there has been a change. The applicant has come in
4 with some proposed changes to the project, so tonight's
5 hearing is going to be largely dedicated to revisions
6 in the applicant's conceptual plan. There will be an
7 opportunity for the ZBA members to ask questions and
8 hopefully get answers, and you will also have an
9 opportunity for the public to comment.

10 With respect to comments, obviously we're
11 trying to make this an efficient process. Same rules
12 as before apply for people who wish to speak. Start by
13 giving us your name, your address. There's a
14 microphone over here. Speak loudly and clearly. And
15 what we would ask is -- as always, you're welcome to
16 submit information in written fashion. That's always
17 particularly welcome so that we can see it and have it
18 in front of us. But if you do wish to speak, be
19 conscious of time and give us new information,
20 pertinent new information. If you happen to agree with
21 somebody who's come before you, point to them and tell
22 us, I agree with them, and that will make for an
23 efficient process.

24 After we've had an opportunity to hear from

1 the applicant and from the public, there will be an
2 opportunity for the board to raise any issues that they
3 have and have a discussion, and then we will continue
4 the hearing. The next date that we have down is
5 August 30th, 7:00 p.m., August 30th, and the intention
6 is that we will receive, at that point, a preliminary
7 presentation by our urban design peer reviewer.

8 Any questions at this point, board?

9 (No audible response.)

10 No, okay.

11 Applicant?

12 MR. BROWN: Good evening, Mr. Chairman. Thank
13 you for your time. So tonight we're --

14 MR. GELLER: Tell us who you are.

15 MR. BROWN: Sorry. Dartagnan Brown,
16 architect, EMBARC Studio. With us is Victor Sheen from
17 the development team and Jonathan Parks from project
18 management.

19 So since our last ZBA presentation, we've gone
20 back and spent a bunch of time working on design
21 revisions. In addition to that, the developer has
22 purchased 49 Coolidge, which is behind our site. The
23 intention on that was it's the most affected site in
24 terms of this development, so helping put that at ease

1 and having that potentially better -- better this
2 development in terms of abilities to use that parcel to
3 help -- which I'll show you in some of these options.

4 The developer has committed that the massing
5 of the building at 49 Coolidge will not change. I
6 think there was some concerns with the abutters that
7 the parcel may be joined to 420 to make it a larger
8 project. So just for the record, the building size
9 will stay as is. We are looking at a couple different
10 configurations to work with some of the ingress onto
11 the site, and we'll talk in more detail on that.

12 So I think if everybody can see this -- okay.
13 So tonight -- the first option is coming up Coolidge
14 Street for some of the residential parking. The second
15 option is maintaining it all on Fuller. I'll get to
16 that in more details. But both of these address some
17 of the key revisions that we heard very clearly from
18 the neighborhoods at the last hearing.

19 The first is our goal to eliminate all
20 mechanical parking. So by introducing 49 Coolidge into
21 this, they're able to build up some of the ramp needed
22 on one side, which I'll show you, or on the other side,
23 Fuller, using some of 49 below grade to add parking.
24 So to maintain the count that we had before, by having

1 that extra piece of land, it allows us to eliminate the
2 mechanical parking. So I think that, we, you know,
3 feel, is a great benefit to the project. We'll remove
4 that concern.

5 So this is done by introducing underground
6 parking in the garage. We've done some preliminary
7 soil testing, water -- understanding where the water
8 table is. There shouldn't be any issue in essentially
9 extending the basement that is below the building
10 currently. In addition to this, creating the ramp
11 allows us to have more queuing space for cars, which
12 I'll get into in a little bit.

13 And then working directly with the residents
14 at 45 Coolidge, we understand a lot of the concern is
15 the massing or the intersection of the couple sites
16 coming together and how we can increase the view
17 corridors from that, again, as I mentioned, maintaining
18 the 49 Coolidge scale.

19 And then the other thing we heard that was a
20 big concern is the amount of outdoor decks and
21 balconies that we have -- or had. So at this point,
22 we've actually deleted all of them. We're moving all
23 the decks that we have in the rear of the building that
24 was overlooking both 44 Fuller and 45 Coolidge. And

1 then part of this, which will be on the revised shadow
2 study, is the shifts that we made in the building
3 helping to minimize the shadow impact that we had
4 before.

5 And with that, let me -- so can you guys see
6 the top of this? So up here, this is Coolidge Street
7 here; this is our site, 420 Harvard; this is the
8 49 Coolidge, so this is the piece of parcel that was
9 recently purchased. Again -- actually, let me just see
10 here. This outline right here is the existing home.
11 This is the house next door at 45 Coolidge.

12 So this first schematic that we have now is
13 saying there's an option to basically split the
14 residential parking from the commercial parking. So
15 coming off of Coolidge Street, we'd ramp down below the
16 existing structure. And I'll show you this section,
17 but we basically get a ramp that comes down to
18 underground parking and essentially leaves the hole in
19 the same spot. We may have to raise it up a couple
20 feet or push back the lower section of the house to get
21 the garage doors down into the ramp, which I can show
22 you.

23 But part of this scheme was taking the house
24 and moving it further away from 45 Coolidge. We

1 committed to not pushing it further back than the edge
2 of 45 Coolidge because what this allows us to do is
3 create an outdoor courtyard that we can add back to
4 420 Harvard.

5 So coming off of Fuller Street, now what we're
6 doing is coming in at grade. We have surface parking
7 for 13 spaces. We've created the loading zone right up
8 at the edge of Fuller Street, and then we have our
9 accessible spot of egress and an enlarged, again,
10 courtyard, as I mentioned.

11 Part of this, too, was working on the trash
12 room and bike storage. So we've kind of reworked the
13 retail here. Before, we had a connection coming
14 through. We've kept all of the residential off of
15 Fuller here. We have the full wrap-around retail.
16 We've added men and women's restrooms to serve the
17 retail. We've added an enclosed trash room, so the
18 idea is residents, on the way out, could come down the
19 elevator and walk out, put the trash. They could exit
20 out the lobby. And then coming off of Fuller in the
21 back there's kind of a separate bike storage room.

22 A lot of the landscaping details would be
23 revised and refined from what we had earlier in
24 creating an expanded courtyard here.

1 So going down, this is now the subterranean in
2 the basement. 420 Harvard has an existing basement
3 here. The idea would be to basically extend it at that
4 elevation, which is about negative 9 feet. This allows
5 us to get a ramp down here and fit about 27 parking
6 spaces. So coming down the ramp here, we have a second
7 means of egress up a side staircase and then fitting
8 the 27 spots here and then some storage and utility --
9 building utility space for 420 Harvard. Both the
10 elevator and main stair would come down here.

11 So looking in this section, this is basically
12 the height of the existing residential building that is
13 here today. This would be the ramp going below the
14 building. Part of the thought would be to use the
15 first floor of the home as residential services for
16 420 Harvard, so whether that would be leasing offices,
17 maybe some community room amenities, but that would
18 service 420 Harvard. You'd come underground here into
19 the parking. So again, within the footprint, basically
20 it's the same building, just slid over to get the ramp
21 to work. So that was the first scheme.

22 Then talking a little further with the
23 abutters on Coolidge, we came up with another option
24 and this is -- serves a couple -- I think addresses a

1 couple different points. So here, the idea was to -- I
2 think one of the main concerns we understood was kind
3 of -- it's hard to see here, but this is the edge of
4 the building now. So earlier we had it with a
5 five-foot setback basically running the entire length
6 back and across.

7 So the two things we got in the conversations
8 with the abutters is that the view corridor out of
9 this, basically, now that they have -- currently it
10 goes across to Fuller Street. So what we've done is
11 taken the edge of the building, what was once 5 feet
12 back here, and pulled it to 17 -- I think, roughly, 17
13 foot 6. So we've taken the edge of 45 Coolidge's
14 property line, which is between 49 and 45, and
15 basically brought that line straight down all the way
16 through the site.

17 What that does is it opens up also for
18 44 Fuller -- 44 Fuller, from the edge of the home to
19 the edge of our building will now be about 24 feet. So
20 again, before we had about 13 feet, so we've picked up
21 about 11, 12 feet in that back corner. The front
22 corner of their house to our building will have about
23 18 feet. And at the front here where we had 5, we've
24 now brought it to a little bit over 8 feet. So the

1 whole thing -- and I'll show you a little 3D view -- is
2 basically opened up, all of this. With that, this
3 option keeps all the parking accessed off of Fuller.

4 So on Coolidge, we'd basically leave the
5 existing home as it is. Something we are trying to
6 work on with the developer is -- with The Butcherie is
7 maybe creating a loading zone here, which is hatched in
8 red. So this would be the 15-by-30-foot-deep loading
9 area. The idea is that it would be our main loading
10 zone and supplemental to The Butcherie. So if we --
11 you know, we were unable to take it off of the Fuller
12 Street side.

13 And essentially what we've done here is
14 created a ramp down with the residential parking into
15 the basement, which I'll show you in a second, and then
16 keeping at grade here, about 10 spots for the retail
17 and accessible spot.

18 Similar setup on the front of the building
19 here. We have bike storage, trash, restrooms, and then
20 the wrap-around retail and the residential lobby.

21 Again, both scenarios, those would engage an
22 expanded courtyard space and, again, as mentioned, the
23 whole facade along -- between our property and the
24 adjacent property has been pushed back and opened up

1 quite a bit.

2 So moving to the basement, so as you notice
3 here on the Coolidge side, this would stay as is. On
4 the Fuller side coming down the ramp -- so this is a
5 code-compliant ramp. It would bring you down and get
6 to about 28 parking spots. So part of the 49 Coolidge
7 site allows us to get 8 spots below the courtyard that
8 I was showing above basically to the edge of the
9 existing home. So we'd have 8 parking spots there and
10 then the balance of 20 spots here and the similar
11 thing, kind of storage, elevators, stair access.

12 So on a typical floor plan, you can see this
13 section of the site has been opened up quite a bit. So
14 from the edge of the Fuller Street home here, 44, to
15 ours, again, this corner, we have 24 feet to the edge
16 of this facade. Basically it goes all the way back to
17 the abutters on the rear, massaging the interior
18 layouts, which we can get to.

19 But the main thing to see here is all of these
20 decks have been deleted. We had this really set back
21 for windows, so that's something we can continue to
22 look at on this site. But all of the decks in the open
23 area that have really been linked into all these sites
24 here have been deleted as have all the decks along the

1 exterior here.

2 So in terms of elevation, I think the planning
3 staff had relayed -- it's a little bit hard to see
4 here -- but along Harvard Street setting back the face
5 of the upper floors, so we really pronounced the retail
6 presence along Harvard Street. So we pushed -- there's
7 about a 1-foot-6 delta between the retail facade and
8 the building above. We're still working on kind of the
9 architectural design, which we'll start to refine as we
10 move through this. But basically, you'll note here
11 that all of the inset balconies have been removed along
12 Fuller Street here. So this would be the retail
13 wrapping around the residential entry and then this
14 section right here is the entry to the service parking
15 for commercial and then the ramp down for residential.

16 So cutting through the section, so the blue
17 line here essentially is the home that would remain on
18 49 Coolidge. You can see the expanded courtyard here
19 that would be combined to both sites, and then coming
20 off of Fuller, coming down the sloped ramp, basically
21 bringing you down to the edge of the site, we've got
22 the parking, eight spots below 49 Coolidge and then the
23 balance of spots on our 420 Harvard site.

24 So in terms of openings, you can see before we

1 had this stepped facade that was coming all the way
2 down, closer to five feet off the property line here.
3 So this back corner is going to be opened up to 17
4 feet, and then the deletion of all the decks on the
5 interior. And so this is the view of 49 Coolidge, so
6 the home essentially is staying as it is. This is 45,
7 and then this is 44 Fuller.

8 So in terms of the shadow study, we are
9 running additional times, but this is kind of the set
10 standard of the 9:00 a.m., 12:00, 3:00, and 6:00 p.m.
11 So what you can notice here, especially winter
12 solstices -- obviously the winter's tough because it's
13 the wintertime -- but the most impacted is in the
14 winter in the morning time. And you can see the
15 building outlined here is really engulfing a lot of
16 49 Coolidge, which was part of the development team's
17 desire to kind of mitigate that presence there. So you
18 can see the building right there is 49 Coolidge, so
19 very minimal impact to -- you can see the edge of the
20 property here to 45 Coolidge, and then you can note the
21 various times of the year. So the shadow basically
22 rotates clockwise and then comes across onto Harvard
23 Street.

24 And that is basically the overview of what

1 we've done to date.

2 MR. GELLER: Questions?

3 MS. SCHNEIDER: Yeah. Could you speak a
4 little bit more about what exactly is going to happen
5 on 49 Coolidge, how that building is going to be
6 incorporated? At one point you mentioned a ramp to
7 raise it up. Is that off the table now because you're
8 looking at the Fuller Street entrance?

9 MR. BROWN: Right. So our preference is
10 looking at the Fuller Street option. We wanted to show
11 the Coolidge just to show that we've been going through
12 a couple options.

13 If we stayed with this scheme, then the house
14 essentially just stays as it is because we've designed
15 the parking below. It's basically back onto the
16 existing foundation wall, so the way it's kind of laid
17 out and dimensioned, it fits to meet the back end of
18 this -- the home. So this structure would essentially
19 stay the same.

20 And Victor can jump in at any point, but the
21 total unit count would stay the same with this getting
22 combined. And so if this stayed as a single-family or
23 a two-unit home, the units would be reduced out of
24 this, so the overall number for the project of 36 units

1 would remain as is.

2 MR. SHEEN: So there is no change in the unit
3 counts. And as to the -- the number of affordable
4 units would remain the same.

5 MS. SCHNEIDER: So you are not going to count
6 the units that are in 49 Coolidge?

7 MR. SHEEN: We are. So right now it's a
8 single-family home. It's a large, single-family home.
9 There's probably eight bedrooms in there. The
10 intention is to renovate the home, so maybe a
11 one-bedroom or a two-bedroom on one level and then
12 another three-bedroom on another level. Those two
13 units would contribute towards the thirty-six total
14 units within the project. Because the floor plate,
15 with the reduction of -- the shifted facade, we have a
16 smaller floor plate, so we may lose a couple units just
17 by the fact that we don't have enough square footage.

18 MS. SCHNEIDER: So the number of units in the
19 new building will be decreased, but your overall number
20 will be maintained with the --

21 MR. BROWN: Exactly.

22 MS. SCHNEIDER: -- with the units that you
23 created in the renovated building. Okay.

24 MR. GELLER: How will that impact your bedroom

1 mix?

2 MR. BROWN: So I think, if anything, the
3 bedroom count will probably go --

4 MR. SHEEN: It will likely go down because we
5 still need to provide the same number of
6 three-bedrooms, which, potentially, one of the
7 three-bedrooms would now be in 49 Coolidge, given the
8 size.

9 UNIDENTIFIED AUDIENCE MEMBER: Speak louder,
10 please.

11 MR. SHEEN: Given the size of the units, one
12 of the three-bedrooms would likely be in 49 Coolidge.
13 The remaining 2 three-bedrooms will continue to be
14 within the 420 footprint. But if we were to go to the
15 floor plans as we have it right now, there would be
16 smaller units and therefore probably fewer bedrooms.
17 We will probably have fewer two-bedrooms at the end of
18 the day.

19 MS. SCHNEIDER: Going to the shadow studies, I
20 appreciate that you're showing that. Had you produced
21 shadow studies to us previously?

22 MR. BROWN: Yeah, we did.

23 MS. SCHNEIDER: Do we have materials with the
24 existing shadow conditions?

1 MR. BROWN: You do.

2 MS. SCHNEIDER: Okay. I'll just check.

3 Thanks.

4 MR. GELLER: Will we receive this in print
5 fashion so that we can use this for comparison?

6 MR. BROWN: Yes.

7 MR. GELLER: So you'll get us that?

8 MR. BROWN: Yes.

9 MS. POVERMAN: Going back to the plan where
10 the 49 Coolidge is, I guess, basically, as it is, are
11 you going to keep the building itself and just renovate
12 the inside so the outside would be maintained?

13 MR. BROWN: Correct.

14 MS. POVERMAN: That would be great.

15 Oh, I do want to commend you on what you have
16 done to change things so far and how responsive you
17 appear to have been to the neighbors and everyone. I
18 think a great deal of progress has been made, and I
19 want to thank you for that.

20 MR. BROWN: Thank you.

21 MS. POVERMAN: So right next to 49 Coolidge,
22 that red hatch is going to be a loading dock.

23 MR. GELLER: Maybe.

24 MS. POVERMAN: Maybe, right.

1 MR. BROWN: Right.

2 MS. POVERMAN: So I don't understand how that
3 gets things down into the 420 building.

4 MR. BROWN: So currently, from the edge of
5 our -- well, I think two things. So from the edge of
6 our -- this home here in -- from the edge of
7 49 Coolidge and The Butcherie, there's about a
8 17-foot-2 distance between the two buildings. There is
9 a right of way that exists there, so we're -- this is
10 more of a kind of -- we'd like to get something like
11 this to work because we think it will serve as a
12 secondary benefit to The Butcherie to have the ability
13 to actually pull a truck off so it's not -- we've heard
14 idling on the street quite a bit, and the idea is that
15 we would be able to -- it's about an eight-foot
16 walkway. We'd be able to come down through the
17 property right into the building. So if somebody was
18 moving in, they could load it -- you know, the truck
19 here and basically bring it down and right into the
20 elevator and up the building.

21 MS. POVERMAN: Is that the area where
22 The Butcherie currently keeps its garbage bins?

23 MR. SHEEN: The garbage bins currently is --
24 it's in this location right here. Currently there is a

1 loading zone for The Butcherie right there, and very
2 often the box trucks are parked here. And we've -- in
3 some of the conversations we've had with them and also
4 with the neighborhood, we're exploring the opportunity
5 to allow them to use part of our site to essentially
6 have a real off-street loading option. We don't know
7 if that's going to work for them. We're exploring that
8 currently.

9 If, for some reason, that this doesn't work,
10 we will likely lose a couple spaces on the 420 side and
11 relocate the loading onto the 420 side where currently
12 this is where the garage is right now. And they -- the
13 UPS trucks often just park in front of that garage, and
14 what will likely happen is we would turn this back into
15 just tenant parking as we have it currently. Right now
16 there's tenant parking for three to four cars on the
17 side of -- on our side of the property next to the
18 house.

19 MS. POVERMAN: So is the right of way -- is
20 that on The Butcherie's property, and the right of way
21 belongs to 49 Coolidge, or is it --

22 MR. SHEEN: So the right of way is about two
23 and a half feet in the front onto The Butcherie side
24 for the benefit of 49 Coolidge, and in the rear it's

1 about four feet into The Butcherie's side for the
2 benefit of 49 Coolidge. And so the kitchen used to be
3 in the rear corner, and my understanding is they are
4 rebuilding their kitchen sort of closer to the front,
5 as I understand it right now.

6 MS. POVERMAN: As you've heard expressed
7 multiple times, parking is a big issue no matter how
8 it's handled. And in one of the iterations, the first
9 one we saw, you had discussed building under the
10 49 Coolidge property, and in this one you envision
11 going down under the 420 Harvard property.

12 Have you considered doing both and creating a
13 really nice amount of property to park in that goes
14 under both?

15 MR. BROWN: So the thought on this scheme,
16 which we're calling access off of -- from Fuller, is to
17 basically take maybe two-fifths of the site and get
18 parking in there.

19 We did look at a scheme that was actually a
20 combination of -- let me go back to the other one, this
21 one, where we had the ramp coming down and ramp coming
22 up, but the ramp ate a large percentage of the basement
23 space, so it actually reduced the parking.

24 But in this scheme, which I think our

1 preference is here, is -- I think it does a couple
2 things. It allows us to maintain the historic nature
3 of the home on 49 Coolidge, to keep the scale literally
4 as it is. And then dimensionally it worked out quite
5 perfectly. We got the two rows of parking in --
6 basically in the courtyard below.

7 So we get -- I think the difference now is by
8 having this parcel of land, we can get the driveway to
9 work, get down and actually get the parking to do --
10 because I think from an undertaking point, it's a much
11 more costly project to fit all of the basement through
12 here to get the parking. So having kind of the extent
13 of land to go under 49 Coolidge helps, you know, pick
14 up 50 percent more parking, essentially, in the
15 basement, which I can show you. Basically this area is
16 all -- is the parking.

17 MR. SHEEN: So the current parking scheme that
18 we have with the Fuller access point, we're essentially
19 able to get to 38 spaces, which is about 9 spaces more
20 than our previous proposal with mechanical parking. So
21 I think this is a significant increase in terms of the
22 number of nonmechanical --

23 MR. BROWN: So we've essentially just deleted
24 the mechanical parking in its entirety, which is great.

1 MS. POVERMAN: I appreciate that. I don't
2 have any more questions at this time.

3 MR. GELLER: Lark?

4 MS. PALERMO: Yeah. I have a couple questions
5 on your parking plan. Is it tandem parking that you're
6 showing in the garage?

7 MR. BROWN: Yeah. So there's a combination.
8 These are two rows of four spots, so eight tandem here,
9 and then these are four single spots, and then this is
10 eight, so two rows of eight here.

11 MR. SHEEN: So let me speak a little bit about
12 how we envision the management of the parking itself.
13 In terms of our retail, we have roughly about 26,000
14 square feet, 24,000 square feet, depending on the final
15 size. We may have to make some adjustments based on
16 mechanical. And per the current zoning requirement for
17 ground floor retail, I believe it is one space per 200
18 square feet of retail -- ground-floor retail space. So
19 that translates to roughly about 12 to 13 required
20 spaces for the retail use itself.

21 The intention -- and we still need to flush it
22 out with our traffic engineer. The intention is to
23 have the daytime use of that 12 or 13 spaces being on
24 the outside row of the tenants. So during the day, the

1 outside rows will be used by the RE/MAX office users
2 and they would have -- obviously, if any of the
3 residents would want to get their cars, they just come
4 down to the office and we will have people there to
5 move the cars for them.

6 Those 12 or 13 spaces would then be
7 converted -- will be shared by the nighttime
8 residential users, because within the existing leasing
9 structure, we do have, you know, 24-hour spaces versus
10 overnight spaces in -- that we currently lease out to
11 our residents and others. So the intention is that
12 about 12 or 13 spaces that are tandem would be
13 essentially shared between the commercial and
14 residential.

15 MS. PALERMO: I believe in the first plan that
16 you showed us, you said there were 13 spaces at grade
17 when you come off of Coolidge Street.

18 MR. SHEEN: Yes.

19 MS. PALERMO: And so that plan would
20 accommodate 13 -- in that case, those 13 spaces --

21 MR. SHEEN: -- would be nontandem spaces.

22 MS. PALERMO: Those would be the commercial
23 spaces?

24 MR. SHEEN: Yes. In that situation. Because

1 of the -- once we introduce the ramp on Fuller Street,
2 because of the headroom clearance for the ramp itself,
3 we essentially lose all the spaces right here.

4 MS. PALERMO: I understand. But again,
5 assuming all the arithmetic works out, you're gaining
6 13 commercial spaces in order to comply with zoning for
7 the commercial use on the first floor of 26- or 24,000
8 square feet. That plan accommodates that?

9 MR. BROWN: Yes.

10 MS. PALERMO: I recognize that the below-grade
11 parking probably will be more expensive to build if you
12 come in off of Coolidge as opposed to Fuller. Is that
13 the only reason that you prefer the second iteration?
14 Is it a matter of construction cost, or is there
15 another reason?

16 MR. BROWN: I think -- and Victor can add to
17 this. But I think a couple of the concerns we heard
18 with the neighbors was keeping the home literally as it
19 is. So if we introduce the ramp off of Coolidge, we've
20 got to modify, raise, or rebuild the structure. To get
21 a ramp below grade, they've basically got to tear that
22 out, so we'd have to rebuild the house in kind in a
23 slightly different position.

24 And then I think some of the concern was

1 maybe -- because currently, all of the parking is
2 accessed off of Fuller, so now some of the concern may
3 be you're adding parking to a side that didn't have it
4 before in terms of coming off of Coolidge for
5 residential parking.

6 So right now, you know, between the lot on 420
7 and then the parking lot across the street, there's
8 kind of an inherent traffic pattern coming off of
9 Fuller, whereas bringing it onto the Coolidge side,
10 we'd be introducing something new, which my
11 understanding is the neighbors may have more objection
12 to that.

13 MS. PALERMO: So your preference for the
14 second iteration is based on cost, construction cost,
15 which, again, I would assume is higher --

16 MR. BROWN: It's not --

17 MS. PALERMO: It's not based on construction
18 cost.

19 Is it based on the number of spaces that you
20 can get if you go with the second iteration, or is it
21 exclusively in an effort to address the concerns of the
22 neighbors?

23 MR. BROWN: Because of the neighbors, because
24 both actually yield the same number of spots. I think

1 it's really neighbor input and also preserving the home
2 because I think we can literally preserve the home as
3 is.

4 MS. PALERMO: Okay. One other question that I
5 have is: Have you already closed on the purchase of
6 49 Coolidge?

7 MR. SHEEN: Yes. We closed on it about one
8 month after our public hearing -- first public hearing.
9 So we currently own and we're in the process of fixing
10 it up for -- to be a rental property at this point.

11 MS. PALERMO: Thank you.

12 MS. POVERMAN: Can I ask just one last
13 question, Jesse?

14 MR. GELLER: Sure.

15 MS. POVERMAN: Is it correct -- if a retail
16 facility is connected to a 40B facility, does the
17 retail facility still have to abide by the usual zoning
18 laws or can it get exceptions?

19 MS. BARRETT: It's up to the board.

20 MS. POVERMAN: It's up to the board. Okay.
21 So we can say, retail, you only get five, the rest of
22 them can go to the 40B?

23 MS. BARRETT: That's a condition you could
24 discuss with the applicant.

1 MR. BROWN: For the parking?

2 MS. POVERMAN: Yes.

3 MR. BROWN: Yes. Because I think, you know,
4 the other thing we could look at, too, potentially, is
5 maybe, you know, having this area designated for the
6 retail parking. I think it is, you know, open to --

7 MS. POVERMAN: Okay. I just wanted to know if
8 it was an option, so it's good to know. Okay. Thank
9 you.

10 MR. GELLER: In the iteration where access is
11 off of -- for the ramp to the garage is off of
12 Coolidge, can you walk through, at least preliminarily,
13 what you think that front looks like, in particular
14 moving the house and raising the house and also what
15 the front yard looks like?

16 MR. BROWN: Sure.

17 MR. GELLER: What is the impact?

18 MR. BROWN: If you can see, right here
19 outlined in red is the existing home. It comes down
20 over -- there's about a seven-foot gap between the
21 buildings, and the outline of the home here is in red.
22 Part of getting the width of the driveway and getting
23 this to come down into the space, we slide the home
24 over about roughly five feet but we have to raise --

1 MR. GELLER: When you say "over," back or --

2 MR. BROWN: Away from -- towards The
3 Butcherie, essentially, so away from this structure to
4 here. And to get the ramp down, I think we'd
5 essentially have to raise -- we'd keep the overall
6 height, but we'd have to basically internally cut out
7 some of the building here to get a garage door. So you
8 basically look at the home, something in kind with a
9 double-door garage below. Because right now --

10 MR. GELLER: Below grade or at grade?

11 MR. BROWN: So this is grade right here, this
12 would be a couple feet down, so you may see probably
13 six feet of the garage door above grade if you're
14 walking on the sidewalk. So currently you go up about
15 four feet to enter the home, so it would raise that
16 level up about two feet to get the garage door down.
17 So you'd see a house above it and then, you know, a
18 16-foot garage door going below it into the other side
19 of this home.

20 MR. GELLER: With no landscaping in front?

21 MR. BROWN: If you go back to the -- I mean,
22 we'd have a little bit of space here for landscaping.
23 There's about seven feet of space there. But you -- I
24 mean, I think you'd want to keep it somewhat open,

1 because you'd be coming down and turning into the
2 garage -- for visibility.

3 MR. SHEEN: In terms of this particular
4 scheme, what we are proposing will be -- the entrance
5 to the new 49 Coolidge house will be off the internal
6 courtyard itself from the rear. So we can -- in this
7 case, we'll literally flip the house front and back,
8 the other way around. So the pedestrian access to
9 49 Coolidge will be on Fuller Street, and the
10 vehicular -- the residential access for the below-grade
11 parking would be off Coolidge only. So they -- really
12 there would -- you would see, you know --

13 How wide is the drive isle?

14 MR. BROWN: 20 feet.

15 MR. SHEEN: 20 feet, 23 feet.

16 MR. BROWN: We just felt that, I think, it was
17 a little bit more of an impact.

18 MR. SHEEN: We're open to both options at this
19 point.

20 MR. GELLER: It would be helpful to see a
21 conceptual drawing of what that does look like from
22 Coolidge.

23 MR. BROWN: Yup. We can do that.

24 MR. GELLER: In terms of the second option

1 where you essentially cut the building back -- and
2 based on your testimony it's 24 -- it's ranges 18 feet
3 to 24 feet.

4 MR. BROWN: Correct.

5 MR. GELLER: -- where it moves away from the
6 Fuller Street abutting property, explain to me, is this
7 option not feasible in the other scenario?

8 MR. BROWN: It's the exact same.

9 MR. GELLER: It's the same. Okay.

10 MR. BROWN: The building is the same.

11 MR. GELLER: The building is the same. Okay.

12 So that's in both iterations?

13 MR. BROWN: Correct.

14 MR. GELLER: That's all I have. Okay. Thank
15 you.

16 MR. BROWN: Thank you.

17 MR. GELLER: Okay. I want to invite the
18 public -- just by a show of hands, how many people want
19 to speak?

20 Okay. So if, as we did before, people would
21 come up and speak into the microphone, start by giving
22 us your name. And again, focus your comments on the
23 proposal that we have, and obviously listen to whatever
24 your predecessors have to say. If you agree with them,

1 let us know.

2 MR. MCMAHON: I'm Colin McMahon. I live at
3 45 Coolidge Street. I'm at the top of the map here.
4 So I would like to just acknowledge that you've made
5 some progress in the right direction. I think it's a
6 very encouraging sign that we are addressing some of
7 the problems. We are relieved to hear you're not
8 thinking of bringing the building back onto the
9 49 Coolidge Street site and that the hazards raised by
10 mechanical parking are being addressed. I think it's
11 steps in the right direction.

12 There's a few things I do want to point out.
13 Since, you know, we just saw these plans in the middle
14 of the afternoon today, we can't fully get into detail.
15 The access off Coolidge Street option provides a lot of
16 potential danger. That's a very intensively used
17 pedestrian area. Coolidge Street is a virtual car park
18 after The Butcherie. So families trail around there
19 with their shopping trolleys, loading trucks are there.
20 It's already a problem to get around that street as it
21 is. There's no traffic signals to enter or exit off of
22 Harvard Street onto Coolidge, so adding 20 cars worth
23 of traffic, that would be a problem.

24 I would also just point out that between our

1 home, 45 Coolidge, and 49 Coolidge is a seven-foot
2 space which is split between the two properties but has
3 an easement for right of way between the two
4 properties, so that has to be taken into account when
5 you're considering any work that goes on on the
6 49 Coolidge site.

7 But also, just from a safety perspective, this
8 is where my kids ride their bikes, so turning left onto
9 the pavement who have a 20-car traffic egress and
10 access point is a potential danger to us as well as to
11 the pedestrians that are frequently using that site.

12 I think that, you know, some of the setbacks
13 are helpful. I think that the angulation that's shown
14 here is probably not helpful. I think that paralleling
15 the 44 Fuller border would be better. Effectively,
16 this just closes off the view corridor by getting so
17 close to the Fuller Street border at the edge of the
18 site.

19 So in terms of shadows, I think we were -- you
20 know, obviously we haven't seen the 24-hour shadow
21 study. The shadows at 9:00 a.m. are interesting, but
22 people don't have 10:00 a.m. work starts where they
23 have their breakfast and get up with their children at
24 9:00 a.m.

1 So what happens at 7:00 a.m. is the sun is
2 right about here. Okay? So it comes in just next to
3 the existing building right about here. So the further
4 over the building is in this direction at any point,
5 since the sun is coming around sort of this direction,
6 up until 9:00, you know, I agree, it's probably at a
7 point there. The further over the building is in that
8 direction, the worse the impact is, so slanting the
9 building in that way is not, probably, the best use, I
10 would say, without, you know, us having time to think
11 about this too much.

12 It's also still quite close to Fuller Street,
13 and these numbers here, just to point out in case of
14 any confusion, seem to be the distance not to the
15 property line but to the house itself on Fuller Street.

16 MR. BROWN: That's correct.

17 MR. MCMAHON: So just to make sure there's no
18 kind of ill conception there.

19 So, yeah. The other main thing is, you know,
20 we would need to look at these in detail. There is
21 more work to do, I believe. There's no addressing the
22 height as yet. As long as it's this big, it's going to
23 have a significant impact on the neighborhood as well
24 as on our light and air.

1 And obviously the setbacks, potentially, you
2 know, could use improvements here in terms of reducing
3 this kind of pinched-off volume here, which is going to
4 continue to cause a lot of imposition.

5 Those are some initial thoughts because I
6 haven't had really any time to review the project, but
7 I am encouraged by the progress made.

8 MR. GELLER: Thank you.

9 MR. WHITE: George Abbott White. I'm one of
10 the town meeting members for Precinct 9 and I'm
11 becoming increasingly interested in these large-scale
12 projects, particularly under the guise of 40B.

13 So I have three questions of the presentation.
14 I want to just underscore what Colin said about the
15 Coolidge Street as a parking lot. We live at
16 143 Winchester, which is the corner of Winchester and
17 Coolidge. It's the old Brookline Animal Hospital. We
18 often find people from The Butcherie parking, not just
19 across the street on Coolidge, across from 8 Coolidge,
20 we find them parking in front of our place at 143. So
21 I just want to underscore just how much congestion
22 there's going to be with the addition of this. And the
23 difficulty is not just for people getting in and out of
24 this new building, but the difficulty is for all

1 residents up and down Coolidge.

2 It's also -- in terms of parking, these will
3 not be the only retail spots. That's my second point.
4 There are a number of retail places on both sides of
5 Harvard Street in the immediate area, and they all
6 generate, obviously, customers who are looking for
7 places on Thorndike as well as whatever they can get on
8 Centre Street. So I think, as Colin says, parking
9 really needs to be looked at.

10 I was at a meeting the other night about
11 1180 Boylston, Route 9, and one of the issues raised by
12 the peer reviewer -- and I'm sure this may well come up
13 with this particular project -- was in terms of
14 setbacks on both Fuller and Harvard Street. It was
15 recommended by them that the first and second floors be
16 set back so as to allow less walking congestion. This
17 is a street that youngsters will be going to the new
18 Devotion from, and we're looking at 4- or 500 more
19 children, and North Brookline is where a number of them
20 will be from. So that's, I think, a thought as well.

21 I would underscore, also, the height, massing.
22 This is a great big building in an area that doesn't
23 have it, so that's -- I'd underscore that concern.

24 The last thing -- the last two things are,

1 again, from other projects I've sat in on, I'm curious
2 about the amenities for the new tenants in this
3 building. I noticed bike, and there is some provision,
4 I think, for trash. I just -- again, I'm sure the peer
5 reviewer will go into this, but just how much there is
6 and what other possible amenities that might be
7 afforded those people.

8 And the last thing is, you know, we had a
9 fire. Two bells called out nine trucks for The
10 Butcherie. And that passageway between The Butcherie
11 and 49 has a lot of cardboard in it often, and for
12 those of us that live there, a good many other things.
13 It's a dark passage. This is a neighborhood of
14 children and older people, and I would be concerned, as
15 others have, about safety issues. I'm not sure that
16 the lighting is very good, the natural lighting, and
17 I'm not sure that there's any sort of safety or
18 artificial lighting that would alleviate or protect
19 people. And not just the neighbors, but people in that
20 structure.

21 So that's it. Thanks very much.

22 MR. GELLER. Thank you.

23 Anybody else?

24 MS. VANDERKAY: Hello. I'm Judith Vanderkay

1 from 16 Columbia Street, also a town meeting member
2 from Precinct 9, and I agree with what's been said so
3 far. I also want to thank the developers for getting
4 rid of the mechanical parking, which was a source of
5 considerable concern for me earlier. I think the steps
6 they're taking are going in the right direction, but
7 the building is still too blooming big for where it is.
8 It is a monster for our neighborhood. It will dominate
9 the neighborhood, and it's just very distressing and I
10 hope you will see fit to ameliorate that issue as you
11 have taken steps to ameliorate others. Thank you.

12 MR. GELLER: Thank you.

13 MR. MAUZH: My name is Hagen Mauzh. I'm the
14 owner of 44 Fuller Street, and this ramp is a new
15 concept for me. I have a couple of concerns:
16 Number 1, I'd like to find out how close it is to the
17 border of our property.

18 My second concern is: Is there enough head
19 space for a fire truck to get in in case of a fire?

20 And the last concern I have is maintenance of
21 the home, the fence. If it's too close to the house, I
22 cannot maintain my house or paint the fence because
23 it's going to be 20 feet below ground and the ramp is
24 right next to our property. Thank you.

1 MR. GUNNING: Hi. My name is Tom Gunning, and
2 I live at 39 Fuller Street, so across the street from
3 420 and abuts the Centre Street parking lot. And I am
4 concerned that the solutions offered for the Coolidge
5 Street traffic situation just bounced the problem over
6 to Fuller Street.

7 When I was going home this week at about 4:30
8 in the afternoon trying pull into my driveway at
9 39 Fuller, normal day, nothing going on, red light, and
10 the traffic is backed up blocking the entrance to
11 Centre Street and also partially blocking my driveway.
12 With 40-odd parking spots coming off of Fuller, I can't
13 imagine how they could turn left, and if they do, they
14 will block traffic in both directions. So I'm not sure
15 if the solution works for the Fuller side of the
16 project.

17 One solution I wonder about is whether the
18 entrance could be off of Harvard Street, which is
19 commercial already and doesn't present the same traffic
20 problems to the residents either on Coolidge or Fuller
21 Street.

22 And, of course, the scope of the project is
23 the source of all of the problems, so I also am
24 concerned about the scope.

1 MR. GELLER: Thank you.

2 MS. POVERMAN: I actually have a question.
3 When you said that the traffic was going on Fuller, it
4 was going on Fuller all the way to the block past
5 Centre Street?

6 MR. GUNNING: So I was coming down Fuller from
7 Centre towards Harvard, so I'm on the right-hand side
8 driving towards the intersection of Fuller and Harvard.
9 And that's where it backs up, and it backs all the time.
10 It's a very short distance.

11 MS. POVERMAN: Right. I've certainly been
12 there. How far was it backed up? I think you sent a
13 picture in?

14 MR. GUNNING: I did send a picture. So it was
15 up and partially blocking my driveway at 39 Fuller.

16 MS. POVERMAN: And you're next to the --

17 MR. GUNNING: Centre Street.

18 MS. POVERMAN: Okay. Great.

19 MR. GELLER: Thank you.

20 MR. ROSEN: Wow. Just like old friends, huh?
21 Keep seeing each other over and over. We should meet
22 for coffee outside or something. You know? This is
23 very fun.

24 My name is Mark Rosen, and I'm over on

1 Thorndike Street, and I too have people parking in
2 front of my home going to The Butcherie and to Anna's
3 and to all of the other wonderful establishments that
4 we love to support primarily because they are
5 single-story structures. They're not six-story
6 structures.

7 In fact, let's talk about that building for a
8 minute because when we look at that slide, you know,
9 it's two-dimensional really. As much as they try to
10 make it three-dimensional, really it's a
11 two-dimensional artifact. So let's try to make it more
12 real. Okay? You're talking about a six-story, large
13 building in a three-story residential neighborhood
14 where some of the homes are two-story, most of them are
15 three stories high. So what we're talking about is
16 this building right here. This building is six stories
17 high. When you get on that elevator, that number says
18 "six." When you ride it down to the lobby, you go out,
19 that's what happens.

20 MR. GELLER: Mark, I want to try and keep our
21 focus on --

22 MR. ROSEN: I am. What I'm trying to do is
23 bring a very real object of example -- by way of
24 example, i.e., e.g. But this building, imagine the

1 scale of this building in a three-story home,
2 residential neighborhood. It's not a residential-size
3 building for that particular neighborhood. That's my
4 primary concern.

5 My secondary concern is with the integrity of
6 the developers. And I hate to bring this up, but I
7 think it needs to be spoken about because it guides
8 everyone. Not only the zoning board and the planning
9 board and everyone else, but it guides us all on how do
10 we interpret these drawings? Who comes to a business
11 meeting without having proper drawings?

12 You asked, what does this thing look like from
13 Coolidge Street?

14 Oh, I'm sorry. I don't have the drawings.

15 Who does that, and why would they do that?

16 And my feeling is that there's been a lot of
17 dancing around facts, figures, shadow studies,
18 whatever, anything that would make this project seem,
19 in a way, to be less desirable because it actually is
20 really undesirable. When you look at the massing and
21 the scale, the impact on the pedestrians, impact on
22 safety -- the fire truck people talk about this in
23 other meetings and so forth. It's a horrendous idea
24 for this particular setting. It's just really, really

1 awful. So when I talk about this building being over
2 there, that gives everybody a realistic idea of what
3 we're talking about. It's a gigantic structure and
4 a --

5 MR. GELLER: Again, do you have specific
6 comments that pertain to the changes that they've made?

7 MR. ROSEN: Yeah, I do, actually. My primary
8 comment is that I was on my computer this afternoon and
9 I got the plans. And who drops major changes to a
10 project at the 11th hour before a meeting happens? You
11 know, that's a -- I think that's what I would call an
12 unscrupulous strategy. I'm sorry. I hate to be doing
13 this in this type of a meeting, but I think we need to
14 call something whatever it is.

15 And that property at 49 Coolidge was not
16 acquired. It was purchased under false pretenses. And
17 that was given testimony in previous meetings when the
18 owner came up and said, look --

19 MR. GELLER: Way beyond what we looked at.

20 MR. ROSEN: I understand. But I think that it
21 informs the entire environment of the way facts,
22 figures, and, as somebody else mentioned, they're
23 cooking the books on the distances between the houses.
24 That's not 18 feet. That is -- it's on the property

1 line. That's what everybody talks about, on the
2 property line.

3 The other thing they're cooking the books
4 about is the shadow studies do not have any of the
5 information about air conditioning and air handling on
6 top of the building. That's does not cast a shadow?
7 That does cast a shadow.

8 And I've sent you guys photographs and
9 architectural drawings that prove that this adds
10 significant height to the building. It adds at least
11 one story. Between one and two, generally speaking.
12 But none of these drawings, none of the shadow studies,
13 none of that references this. And it makes me feel,
14 you know, why is somebody presenting it in this way?
15 You know, you can have errors of omission, you know,
16 but they're errors. And so you look at all of the
17 errors that have happened.

18 I mean, the reason the mechanical parking
19 thing was ditched was because I was the guy who read
20 the manufacturer's manual online to find out that this
21 thing does not operate around 14 degrees Fahrenheit.
22 Who is going to -- what kind of an architect or a
23 developer is going to propose this kind of thing?

24 I understand what you're saying. It's not

1 relevant. But my point is: It is relevant that you're
2 dealing with people that don't -- it's kind of like the
3 Betty Crocker half-baked architectural contest. This
4 particular design, this building for this neighborhood
5 is so inappropriate it is like what -- this to housing
6 is what fracking is to water resource management. It's
7 a disaster. It really is a huge disaster, and I think
8 people need to say exactly what it is. You don't need
9 to be politically correct about this. You're affecting
10 people lives. We have a very nice neighborhood over
11 here, and it's being destroyed. That is not a helpful
12 addition to 420 because that is a further incursion
13 into the neighborhood. But nobody's seeing it like.
14 Everybody's saying, oh, this is wonderful. You have
15 underground parking.

16 Why not scale the building back to the way the
17 neighborhood is? You know, we have yet to see an
18 architectural drawing that shows a three-story building
19 that matches the scale of the neighborhood. Nobody's
20 thinking in those terms because they're thinking in
21 terms of profit first, which is why I use the fracking
22 example. You know, fracking's got nothing to do with
23 protecting water resource management, and this has got
24 nothing to do with --

1 MR. GELLER: Again, you're --

2 MR. ROSEN: I understanding what you're
3 saying. This has got nothing to do with 40B. This is
4 an impersonation of 40B. And everybody here -- you
5 know, speaking for everybody here -- I'd be happy to do
6 that -- feels that in their gut. I mean, they really
7 do. I mean, there's a gut sense. They call it
8 "intuition," "women's intuition." Listen to that.
9 It's telling you something.

10 This is important. This proposal is going to
11 destroy not only this neighborhood but the entire area
12 for blocks around. It really is. And that's what's
13 upsetting. And I'm sorry I don't have more facts and
14 figures to talk about, but this change, this
15 distracting change was dropped in my email moments
16 before I was able put down my briefcase from work and
17 come in here and talk about it.

18 Now, if they really wanted to have positive
19 interaction about the proposal, this would have been
20 presented days ahead of time, not minutes ahead of
21 time. You know, that's the hallmark of the
22 unscrupulous. I'm sorry to say that.

23 Thank you for your time. Thank you for
24 listening to me. I don't mean to upset you. I can see

1 you have little furrows. You know, you're a nice guy.
2 But I feel I really had to say that. As a citizen, I
3 care about this town, I care about this community, and,
4 you know, these people don't. They don't. And the
5 design needs so much work. That's all I can say. Just
6 go back to the drawing board, guys, and try to at least
7 read the manufacturer's manual. That's why that
8 parking system got thrown out. You guys don't even
9 read the paperwork. Come on. Get real.

10 Thank you so much for your time.

11 MR. POPPER: I don't know how to -- I kind of
12 feel like Bobby Valentine after Terry Francona right
13 now, so I'll see what I can do.

14 My name is Steven Popper. I live at 41 Fuller
15 Street, across from what apparently is now a new exit
16 and entryway into this proposed property.

17 I agree with my neighbors. I think the one
18 thing that Mark hit on that I -- I don't know how to
19 say it any clearer. He is spot on on the size. Just
20 think about that.

21 From a presentation perspective, I also agree
22 with Mark. As a business owner, if I had a team that
23 presented this to me at 2:00 in the afternoon before a
24 6:00 presentation, that's just -- that's not smart.

1 You don't win by doing this. You guys should know
2 better. You're professionals. We've seen your other
3 work. You're talented people.

4 We implore you to think about this from a
5 residential perspective. Okay? Half of the people in
6 this room have kids or grandkids in this neighborhood.
7 That's important. We're spending \$126 million to
8 expand our school system, just that one school two
9 blocks away.

10 You're proposing 30-plus parking spots onto
11 two streets, neither of which has commercial parking.
12 A structure that size with that many parking spots with
13 that little open space shows a complete disregard for
14 the neighborhood and the structure that it's built in.
15 It does, without argument. You can't contest it. Come
16 and sit and have coffee in my kitchen. There's not a
17 building that you can see that is even close.

18 The important thing here is, as a community,
19 we have a very big decision here. This building will
20 change Harvard Street, period. This is the Murrow
21 moment. Where is the decency that we are going to move
22 forward with with our community? Will we go ahead and
23 turn it into a six-story alleyway like they've done in
24 downtown Boston? Are we going to do that? That's this

1 decision. If this goes, there will be 10 more
2 properties just like it. And there are spaces on
3 Harvard Street to do that. We know it. We saw the
4 Rubin's headlines, okay, with that property bought and
5 shut down and now reopened. Okay? There is the
6 proposal in the community about the gas station
7 property. So this is one of many properties that is
8 going to be coming forth that will be a six-story
9 animal that will change the crossing.

10 So as a community, we can decide now that we
11 don't want to do this and that we want to ask these
12 very smart, bright individuals who are working for the
13 developer who wants to maximize his investment and
14 return to go ahead and produce a three, three-
15 and-a-half-story entity that fits in with the
16 properties in the neighborhood and doesn't look like a
17 beautiful property that belongs on Route 9. And that
18 property would look great over in Chestnut Hill on
19 Route 9 by Wegmans. Okay? This property in this
20 neighborhood at this time will forever change our town.
21 We'll officially be going toward city life. That's
22 what we're going toward. We will walk away from it.
23 We will go to a city, and this property will be that
24 moment.

1 So please, as we go through this, remember
2 that. This is not one exception to a zoning
3 regulation. This is the beginning of the end of the
4 architectural design of this neighborhood.

5 So I appreciate the comments from my
6 neighbors, from Colin and his wife, for the work that
7 they've done, but we implore you, we're begging you,
8 don't do this to our neighborhood. Because if your
9 parents lived here, if your kids lived here, you
10 wouldn't want this.

11 And this is not about affordable housing.
12 This is about our neighborhood. So we suggest you give
13 it a shot. Show us that you're listening. Bring it
14 down to three and a half stories. Let's have a
15 conversation. Thank you.

16 KAREN: Hi. My name is Karen, and I live on
17 Babcock Street, and I've taken three classes in urban
18 planning. Why? Because we have no community anymore
19 outside our residential building. None. And, you
20 know, being displaced in the area is not fun. We live
21 in an excellent building. We like our indoor
22 neighbors. We love our owner. And it's a 40B project.
23 And we are displaced. We are good tenants, and we are
24 mixed income. And as a person that -- even the

1 market-rate tenants look up to me as their adopted
2 mayor.

3 I'm telling you that we don't need more
4 families in this area of Brookline. We need
5 one-bedroom apartments for the elderly, the disabled,
6 and the studious grad students. Because we want to
7 move. We no longer fit in the area.

8 And it costs less by the dozen, so that's why
9 the developer wants a 40B. But at the same time, these
10 developers need to have integrity. These owners need
11 to have integrity, which they do not have because they
12 don't do any surveys in shadows, they don't do any 3D
13 models with the noise impacts, and they give all the
14 locations in desirable areas, especially needed, which
15 is Coolidge Corner -- between Coolidge Corner and
16 Fenway for people's work and/or socialize. That's
17 where we want to be.

18 And you've given away our half of Brookline to
19 Boston without any consent from us -- our on-site, our
20 residential building without consent from us.
21 Construction at 5:00 a.m., you know, screaming at
22 7:00 a.m., cheerleading practice at 12 midnight. We
23 deserve to be part of Brookline once again as the rest
24 of Babcock and Babcock Tower. And even our landlord

1 thinks that we are good tenants.

2 And you've given away the BU armory police
3 building for \$3 to BU. And we could be placed over
4 there instead. We need our building for our healthy
5 lives as one-bedrooms.

6 And the good news is most of us don't drive,
7 so the rest of the parking is going to go to the
8 community.

9 And the other thing is, instead of giving a
10 high school -- another high school to this area, why
11 doesn't South Brookline and Newton take responsibility
12 for their high schools and their elementary school kids
13 by putting the high school towards Newton?

14 Instead -- we need a high school, but instead
15 of a high school or some 40B buildings, you place a
16 building near Brookline Village that has no residents.
17 It's the perfect place for 40B for only teachers. Not
18 a high school, not affordable places to live. It's
19 time to do what the community wants. Thank you.

20 MS. SHAW: Hi. I'm Sloat Shaw. I live on
21 Thorndike Street.

22 I wanted to talk about the tandem parking,
23 which doesn't make sense to me. Our street -- I got a
24 parking ticket -- which I've gotten a couple of

1 times -- just from parking my car outside when I need
2 to move it out of my driveway if my neighbors are doing
3 stuff. And, like, there was deleading of a house next
4 door. The painters said, move your car out. I got a
5 parking ticket for two hours and forty-five minutes.
6 That's on Thorndike Street. That's how hectic and busy
7 it is.

8 So these tandem cars parking are going to have
9 to move their cars out. It's not, like, logical that
10 everybody's working a 9:00 to 5:00 job. People have
11 different hours of their work. The residents will have
12 different times. So you can't, kind of, just do it by
13 computer of how the timing is going to go.

14 But all of the area around, the parking is
15 impossible. It's two-hour parking, and the meter maids
16 are there constantly, so I don't think it's a logical
17 thing of moving cars in and out, and that's something
18 that I noticed when I saw that design. Thank you.

19 MR. GELLER: Thank you.

20 That's actually a good question, and it
21 reminds me of a question that I forgot to ask, which
22 is: You had suggested -- or at least I thought I heard
23 you say that this was going to be a managed system?

24 MR. SHEEN: So let's go back to the garage.

1 So currently the proposed retail-use spaces will
2 roughly be about 12 to 13 spaces. So the -- and this
3 is where we still need to work through it with our
4 traffic engineer, but the initial thought is that the
5 inside spaces will be residential spaces, and then the
6 outside spaces, in a tandem situation, will be parked
7 by the RE/MAX folks.

8 So during the day, if, let's say, a resident
9 who -- parks in the inside tandem spaces and they want
10 out, you know, we will have a managed --

11 MR. GELLER: You understand what I mean by "a
12 managed system"; right?

13 MR. SHEEN: During the day it will be --

14 MR. GELLER: You will have an attendant?

15 MR. SHEEN: Yeah. We will have people within
16 the RE/MAX office to move cars during the day.

17 MR. BROWN: It's not a dedicated attendant for
18 the garage. It's somebody within RE/MAX. So if a spot
19 is blocked by a RE/MAX car, they'll move the RE/MAX car
20 so the resident can get out.

21 MR. GELLER: So what you're proposing is
22 something contractual with RE/MAX that would provide
23 that they would have to move cars if, as, and when a
24 resident came?

1 MR. BROWN: Correct.

2 MR. GELLER: So it's not a managed system.

3 Okay. Thank you.

4 MS. TEMPLER: Good evening. My name is Pamela
5 Templer, and I live at 119 Fuller Street. I want to
6 commend the developers -- the architects for making
7 some incremental changes, but I wanted to agree with
8 many of the previous speakers in that this building is
9 just too large.

10 We have two children who are now becoming more
11 and more independent. They walk -- our older daughter
12 now walks to school by herself, walks home. It's a
13 parade of children every morning walking to Devotion
14 and walking home. It's already scary enough with the
15 traffic that's around. My biggest fear is not
16 abduction these days. It's cars in Brookline. And my
17 biggest concern with that six stories of living space
18 and all these parking spots, it's just going to make it
19 an unsafe environment for our children.

20 So as the other speakers said, I just beg you
21 to please consider limiting this to three stories to
22 make it fit into the neighborhood and keep it safe for
23 our children. Thank you.

24 MR. GELLER: Thank you.

1 MS. KAHN: I'll just tell you my name. My
2 name is Shulamit Khan, S-H-U-L-A-M-I-T, K-H-A-N. I
3 live on Winchester.

4 And, actually, the last person, whose name I
5 didn't catch, said what I was going to say. So I just
6 want to, just very quickly, say at 8:00 in the morning
7 you have all these children going down the street,
8 walking down Harvard, walking down Coolidge, walking
9 down Thorndike. My children were those people. My
10 daughter is living in our first floor and will have
11 children. And adding 35 more cars is ridiculous in the
12 morning. Exactly when they're going to work is exactly
13 when the children walk to school.

14 So I know 40B is holy, but if it's a safety
15 concern, which is what we all expect to happen, then
16 40B is not relevant. This is endangering our children
17 walking to Devotion.

18 MR. GELLER: Thank you.

19 MS. ROSE: I'm Bernice Rose, and I live at
20 88 Fuller Street. I'm an owner at 88 Fuller Street.
21 I'm looking around. I think I'm probably the longest
22 resident in the area. I'm in my apartment since -- for
23 58 years, but I've been in the building since 1948.

24 I rent parking. We do not have parking. I've

1 written a letter on all these parking issues. But to
2 give you some idea of the problem, I rent parking on
3 Fuller Street diagonally opposite where this
4 building -- the proposed building. We pay every month,
5 send it in.

6 The last week, three times alone I had to ask
7 people -- as a matter of fact, today I walked up and
8 down the stores to say, please, who's in my parking
9 spot? And this is a rental spot. And the answer
10 usually is, well, I can't find parking anyplace else.
11 Today the man was washing windows at the grooming
12 place, the dog grooming place. He was very nice. He
13 said, excuse me. He went out and he moved his car.

14 But many times I've left messages. I wrote
15 notes on the car, "Please leave." Many times we cannot
16 go home until someone leaves. I no longer go into the
17 restaurants to find people who are in my spot. I now
18 carry in my wallet a card from the towing company.
19 Maybe that will help. But that gives you some idea of
20 the problem. Thank you.

21 MR. GELLER: Thank you.

22 MR. LANG: My name is Kevin Lang. I live on
23 Winchester Street. I spent 13 years on the Brookline
24 School Committee, so I know what you're going through.

1 I almost didn't speak because I've learned to sleep
2 with my eyes open through these meetings. But I do
3 thank you for staying awake, and I appreciate that.

4 I also spent -- I do not remember exactly how
5 many -- about 16 years as a town meeting member from
6 Precinct 9, and the big concern of the neighborhood was
7 two-fold. First is to preserve the character of the
8 neighborhood. We've worked very hard. We got the
9 support of town meeting to bring in the kind of zoning
10 changes that would very much prevent this type of
11 inappropriate development. It's been said before, but
12 I just have to say it again. Six stories is just out
13 of place with this neighborhood. It doesn't make
14 sense.

15 The second thing I want to say is that the
16 other thing we had a big concern about, which has also
17 been raised, is the safety of our children. And
18 Coolidge Street, in particular, was one of our biggest
19 problems. We worked very hard with The Butcherie, and
20 I thank them. They worked with us to work with their
21 customers, with the people who brought products to
22 their store in order to deal with the safety problems
23 that arose with deliveries and with people double
24 parking and parking in front of people's driveways and

1 all those things.

2 And I live far enough away that this does not
3 affect me personally. This is just a major issue for
4 the neighborhood that took a lot of time for the town
5 meeting members, and I'm very concerned for the current
6 town meeting members that this will get much worse.

7 And then the third thing I want to say is:
8 I'm actually an economist. That might seem irrelevant,
9 but I know that one of the considerations in judging a
10 40B is the expectation that there will be a reasonable
11 return on capital.

12 There's a concept called the "Averch-Johnson
13 effect" in economics, which is when you regulate
14 something on a basis -- a rate of return. There's a
15 tremendous incentive to overinvest in capital. In the
16 setting that we're looking at, the price of the
17 property paid for by a 40B developer is essentially
18 irrelevant. In fact, it's positive. The more they
19 pay, they get a return on that money and they make even
20 more profit.

21 So assessing whether, in fact, this is really
22 a business necessity, I think you have to take into
23 account the extent to which property values themselves
24 are being inflated by the 40B property developers

1 because they don't care how much they pay. Thank you.

2 MR. GELLER: Thank you.

3 MR. LAW: My name is Henry Law. I'm a civil
4 engineer. I want to point out Fuller Street and
5 Harvard Street intersection is a very important
6 intersection. It is a very important intersection
7 because in Coolidge Corner, the intersection of Beacon
8 and Harvard, Beacon Street inbound, they cannot make a
9 left, so people have to make a left on Centre and then
10 come back on Fuller and then go to Harvard. Then they
11 can go to Cambridge, turnpike, or Boston. On the way
12 back, probably the same way because in Coolidge Corner
13 there's a lot of traffic.

14 So now if we put another two entrances -- a
15 parking entrance here and then here, across the street,
16 there's a public parking lot. That's another entrance.
17 You will create a lot of traffic-turning movement in
18 this important intersection.

19 And this Fuller Street is two-way traffic,
20 just not for through traffic. They are making left-
21 turn movement. They are making left turn. The other
22 side cannot let you go through. Then you wait and you
23 block out the traffic, back up all the way to Harvard
24 Street or back up on Centre Street.

1 Another thing I want to point out is the
2 ventilation. You have a lot of exhaust air from the
3 parking -- parking garage and then also the underground
4 parking. Existing is also a parking lot, but it's open
5 air. The exhaust air, it just gets up in the air, but
6 now you put a building on top. All the exhaust air, it
7 just goes from three sides of the building.

8 And next door, 44 Fuller, you are putting a
9 wall. That means you have just two sides, front and
10 out -- front and back, and you create a tunnel, wind
11 tunnel. All the exhaust air is going to be coming out
12 from the other side of the -- from the Fuller Street
13 side, so the neighbors will hate all the exhaust air,
14 and also your tenants because if you come up, the air
15 will go up the building.

16 I live in the apartment building. I live --
17 next door, they barbecue. They smell. But when you
18 have exhaust air all coming up, all the tenants, all
19 the neighbors going to hate it. So I think you have to
20 think about the ventilation system to resolve this
21 issue. That's what I wanted to say.

22 MR. GELLER: Thank you.

23 Anybody else?

24 (No audible response.)

1 MR. GELLER: No. Okay. I want to thank
2 everyone. I want to give the applicant an opportunity
3 now to respond to questions or to testimony that's been
4 offered.

5 MR. BROWN: So I think we'll touch on a couple
6 main ones. I think, just for -- firstly, for pavement
7 at Fuller Street, next door, we do -- just so it's
8 noted here -- are maintaining a five-foot landscaped
9 buffer. So if there was ever any issue on fencing,
10 there is buffering that you can walk on the edge of the
11 driveway ramp. It's held off, just for the record. So
12 that is held off there.

13 The distances are marked very clearly, 18
14 feet, in this red line from the corner to the building.
15 We're not trying to change the numbers. We also have
16 additional distances that are marked from the property
17 line to the building, so both sets of numbers are
18 provided.

19 I think for the garage parking, we definitely
20 will -- once we kind of get to the building footprint,
21 we'll have to bring on full mechanical, electrical,
22 plumbing engineers. Everything has to be designed to
23 building codes, so there would be a mechanically vented
24 garage exhaust system. So it's probably a vertical

1 shaft that goes up through the building, so any CO2 or
2 anything would rise through an exhaust fan up through
3 the building. So there will definitely be no way we
4 can get an engineer to certify it with no kind of
5 off-gassing, either front or back of the building,
6 because that does -- for a garage system, you have to
7 be ventilated.

8 And then I think -- oh, so part of this, I
9 guess, whole study on the ramp is -- which the traffic
10 engineer will definitely get into more detail -- the
11 idea on having the ramp is to allow for room to queue,
12 so if Fuller Street does have cars on it, anybody
13 coming either out of the parking here, which is -- as
14 we know today, there's -- a curb cut actually goes from
15 here to about here.

16 So, in essence, we're pulling it about 15, 18
17 feet back from the intersection of Harvard and Fuller
18 because in this spot right here is the existing garage
19 that has a curb cut in front of it, and then where
20 these two arrows are are the existing curb cut to the
21 10 or 12 spaces that are on the site. But the ramp
22 here allows for cars coming out to hold, if they should
23 see that the intersection is full, before they pull out
24 onto Fuller.

1 MR. SHEEN: I just want to sort of touch
2 upon -- you know, a couple of the neighbors touched
3 upon the shortness of the time in terms of us
4 delivering materials to the board for this hearing.
5 It's not our intention to rush anything. You know,
6 previously, our scheduled meeting was actually at the
7 end of August. And as we are working with the urban
8 design reviewers, it was suggested that we make an
9 interim presentation to the ZBA so the reviewer will be
10 reviewing the upgraded set of drawings rather than the
11 old set of drawings which we were amending in the first
12 place. So there was no deceit on our part.

13 In fact, we're actually trying to be as
14 transparent as possible in this process, that we want
15 the neighborhood as well as the zoning board of appeals
16 to have an opportunity to look at our current thinking,
17 which we believe is moving in the right direction,
18 rather than having the urban design reviewers reviewing
19 the old set of drawings, which we were changing in the
20 first place.

21 So I apologize that it's last minute, but
22 literally, the architectural teams were literally --
23 you know, what we call in our trade "en charrette,"
24 meaning that, you know, that we literally work until

1 the last minute before --

2 MR. BROWN: Right. And I think, to further
3 that, in terms of the chairman's request for elevations
4 and what the building would look like, this is all more
5 of a work en charrette. We're happy to produce all of
6 that in terms of mechanical systems on the roof.

7 Typically, in multifamily buildings, condenser
8 units are laid out on a four-foot grid. The units are
9 about two feet in height, and they're set off on
10 isolation dampers and basically an assembly where the
11 top of the units are about four foot off of the roof
12 deck, and we would typically put it in the center of
13 the building so it doesn't affect shadows and stuff.
14 We'll definitely add that to the building. But
15 typically, a building like this would have a ring of
16 units in the middle that are screened with a fencing
17 for noise, but it's certainly not anywhere from a one-
18 to two-story structure above this building to meet any
19 of that.

20 MS. POVERMAN: One of the concerns I have with
21 the introduction of these new plans -- which, as I
22 said, I think are a great step in the right
23 direction -- is that analyzing them and having the
24 experts analyzing them and getting these studies in is

1 going to make it very difficult for us to keep our
2 180-day deadline. And I think that -- maybe not, you
3 know, right now, this second, but it may be necessary
4 to extend that to some degree, whether it be a month or
5 whatever, and I want to know if you are willing to
6 consider that.

7 MR. SHEEN: I think it's too early for that
8 because, quite frankly, our intention is to provide as
9 much information prior to our review with the design
10 reviewer. So we actually, in fact, are meeting with
11 the design reviewer tomorrow, so we actually haven't
12 lost any time. In fact, we've probably gained about 30
13 days --

14 MR. BROWN: By not waiting.

15 MR. SHEEN: -- by not waiting until the 30th
16 of October -- of August.

17 MS. POVERMAN: Yes. But we haven't seen all
18 the designs that you would otherwise provide in terms
19 of, you know, the 3D views, et cetera.

20 MR. SHEEN: Sure. So we will be providing
21 that to the design reviewer as the process moves
22 forward.

23 MS. POVERMAN: Right. But we should also have
24 gotten them, is what I'm saying.

1 MR. BROWN: Right. So I think for us today --
2 and Victor can correct me otherwise -- but today's idea
3 was to get this in front of you to get opinions from
4 the board if there's a direction that we should move
5 in. Our preference is to move in a forward direction.
6 If that's acceptable to the board, we will now create
7 all of the materials that we can then forward to you in
8 advance of any meeting -- in advance of meetings coming
9 up.

10 MR. GELLER: I think the ask has been made,
11 and we'll obviously see, as we move forward, whether we
12 need more time. So I think the notion is that just
13 given the changes that you've proposed, we may come
14 forward with an ask.

15 MR. BROWN: Sure. Thank you.

16 MR. GELLER: Is there more?

17 MR. BROWN: No. I think that's it. Thank
18 you.

19 MS. SCHNEIDER: Can I just make one point?
20 And I understand that things are still in process, but
21 I think one concern that we have heard a lot about with
22 respect to the Fuller Street access for the parking --
23 there's a lot of concern about safety for pedestrians,
24 children, in particular, and elderly residents in the

1 neighborhood.

2 I know that this is something that is often
3 fraught with technical details and problems, but I'm
4 wondering if you could give some thought to how you
5 might install some safety or notification devices at
6 that entrance.

7 Again, I know sometimes we ask people to do
8 that, and the neighbors say there are lights, there's
9 noise, they're too sensitive, they're not sensitive
10 enough. But I think that there probably is a balance
11 that could be struck there if you are going to move
12 forward with the Fuller Street entry, and I think it's
13 not too soon to start thinking about how you might
14 build in some safety mechanisms to get people more
15 comfortable with that as the access point.

16 MR. SHEEN: Sure. We are working with our
17 traffic engineering consultant on that particular issue
18 in conjunction with working with the city, with the
19 town's traffic department. So I -- my understanding is
20 that the traffic counts on both intersections of
21 Harvard and Fuller as well as Harvard and Coolidge have
22 been taken, and we're working through the design and --

23 MS. SCHNEIDER: But I think regardless --

24 MR. BROWN: I think, to your point, we could

1 supplement that with understanding the direct egress
2 onto the site regardless of the traffic itself on how
3 that is -- how that impact is addressed so that there's
4 some sort of safety device. And you see it, you know,
5 in other garages. If somebody's coming up, there's the
6 little light that flashes to let you know a car is
7 coming out. We could start to look at all of that
8 stuff separate of the traffic.

9 MS. SCHNEIDER: Yeah. And that's really what
10 I would suggest, is to start building that in but also
11 realize that in doing that, you need to be sensitive to
12 the impact of what you select on the abutters.

13 MR. BROWN: Yup, certainly. Thank you.

14 MR. GELLER: Thank you.

15 Just -- I'd like to at least start the ZBA
16 members thinking about a discussion. One of the
17 handicaps in this particular case is that we have not
18 had peer review yet. We haven't had urban design, we
19 have not had traffic, and, frankly, we haven't even
20 heard from the fire department.

21 MS. STEINFELD: Alison Steinfeld, planning
22 director.

23 What the planning department needs is some
24 direction from the ZBA at this point in terms of what

1 we tell the urban designer to review. So I hope you're
2 getting there, but I need --

3 MR. GELLER: I'm getting there. But the point
4 I'm trying to make is that giving clear, concise
5 direction is a little difficult without having had the
6 opportunity to review traffic design. So those
7 issues -- I think people can speak from gut responses,
8 but there's obviously peer review that needs to be
9 done.

10 MS. STEINFELD: No. What I'm asking is: What
11 do I tell the peer reviewer to review? You currently
12 have three plans before you, three conceptual plans.
13 What is he reviewing so we can present his report to
14 you on August 30th?

15 MS. PALERMO: If I can make a comment, I was
16 going to say we've just -- I feel like the people in
17 the neighborhood. We've just seen, hours ago, a
18 substantial redesign of the parking, so I don't,
19 frankly, feel prepared at all to comment on any of
20 these iterations in terms of which I think is better.

21 It sounds to me as though the developer
22 responded, frankly, very positively on all the negative
23 input he received about stacked parking, which is a
24 very good sign. However, there is also a number of

1 comments about the entire size of the building.

2 So it sounds to me as though design is
3 evolving. You're en charrette. That's great. It
4 sounds more fluid than it can, you know, be locked into
5 something that we would ask for input because at this
6 point -- well, I mean, we're looking at two different
7 entrances to parking, two different streets. We don't
8 know what the traffic counts are. I don't. So it's
9 hard for us, at this point, I think, to have an ability
10 to give guidance on what the peer reviewer should be
11 reviewing.

12 MS. SCHNEIDER: But aren't we just talking
13 about -- there's three development scenarios that are
14 in front of us right now. I think that it's the
15 developer's -- ultimately, it's the developer's call.
16 But I think it's the developer's preference that we
17 disregard the first proposal, so we take that off the
18 table, and it's a question of whether or not --

19 MR. GELLER: Before you make that assumption,
20 ask the developer.

21 MS. SCHNEIDER: They were nodding.
22 Is that correct?

23 MR. BROWN: Yes.

24 MS. SCHNEIDER: You have now moved away from

1 what we originally saw as the first proposal?

2 MR. SHEEN: Right. Quite frankly, our
3 preference is to keep the existing traffic patterns the
4 same and move forward with the Fuller Street option.

5 MR. GELLER: I think we don't get there yet.
6 I think the base question now is -- so you are -- you
7 are proposing what you have come in with today, not
8 what you originally came in with?

9 MR. BROWN: Correct.

10 MS. SCHNEIDER: But I also think I heard them
11 say, and -- I think I heard them say that they were
12 showing us the Coolidge Street entry proposal just to
13 give us a sense of what they worked through. It sounds
14 to me that the Fuller entrance is the proposal that we
15 now have in front of us. Is that correct?

16 MR. SHEEN: That's accurate.

17 MS. SCHNEIDER: You had to make a choice;
18 right?

19 MS. STEINFELD: So I'm confirming that that is
20 what the peer reviewer will review. You will have a
21 preliminary report from the peer reviewer on
22 August 30th, at which point, then -- consistent with
23 the process that we've undertaken in other projects,
24 then you discuss amongst yourself and give the

1 developer direction as to what other issues you want to
2 address. On August 30th, we're back in the normal
3 sequence.

4 MS. BARRETT: I really think it's the
5 applicant's call. They're the ones who are sending --

6 MR. GELLER: No. I understand that. But we
7 have had in 40Bs, in the past, situations where the
8 applicant has come in with two or three options --
9 suboptions within a project for discussion and have
10 said, can you vet these three options and then give us
11 guidance.

12 MS. BARRETT: I just think it's difficult for
13 the board -- I just don't want to see the board in a
14 position where you somehow have to own this decision
15 before you've had any input from the reviewer.

16 So if they hadn't come in with two
17 alternatives tonight, there would be a plan from the
18 developer that the peer reviewer would be reviewing.
19 So if they're now coming in with a couple of
20 alternatives, I think it's really up to them to say,
21 this is our proposal now, this is what we want you to
22 review, and let the chips fall where they may. They
23 own it, not the board, at this juncture, in my opinion.

24 MS. STEINFELD: So just -- I'm sorry.

1 MS. SCHNEIDER: I was going to say exactly
2 what you were going to say. Just to be clear, what you
3 are owning in this context is what we're looking at
4 right now?

5 MR. BROWN: That's correct.

6 MS. SCHNEIDER: The plan with the Fuller
7 Street entry for the parking?

8 MR. BROWN: Correct.

9 MR. SHEEN: We are amending our initial
10 application to this particular design.

11 MS. PALERMO: I have a question. Has the
12 agency who issued the PEL -- which agency was it?
13 MassHousing?

14 MR. SHEEN: MHP.

15 MS. PALERMO: Have they had an opportunity --
16 well, probably not because we just saw it today. They
17 haven't had an opportunity to review this?

18 MR. SHEEN: We have had ongoing discussions
19 with them since the acquisition of 49 Coolidge, and the
20 feedback that -- not in this level of detail, but in
21 sort of -- in the draft stages, their decision was to
22 come back and re-review it at the end of the 40B
23 process.

24 MS. BARRETT: I asked this question, too,

1 because I knew it was going to coming up. And that is
2 true that typically the procedure is that they will
3 leave it to the board of appeals to work out whatever
4 they work out, and when the project comes to the agency
5 for final approval, that's when they'll look at the
6 revised plan.

7 However, if the town or the applicant asks the
8 subsidizing agency to take a look at the revised plan,
9 they will consider that request.

10 Now, they're not going to reopen the project
11 eligibility process. They're not going to issue a new
12 PEL. But if the board feels that it's appropriate for
13 the subsidizing agency to provide some input to you on
14 this relative to the findings that have to be made for
15 project eligibility, you may make that request. I
16 can't say they're going to honor it, but they will
17 consider it. So you have to decide, I think, if you
18 would -- if it would benefit you in your
19 decision-making to have input from the subsidizing
20 agency.

21 MR. GELLER: What is it that we would
22 potentially get out of the subsidizing agency that
23 would assist us?

24 MS. BARRETT: I imagine that you would be

1 asking the subsidizing agency whether any of the
2 findings they made in the project eligibility letter
3 would change had this been the original submission.
4 Because their role is very much defined by the
5 Chapter 40B regulations. They're supposed to look at
6 projects against a series of criteria and make
7 findings.

8 So really, all you can do is -- well, I don't
9 want to minimize it. I mean, the issue is: Would
10 their decision have been different or are there things
11 that perhaps they might have imposed as conditions of
12 approval for the PEL had this been the submission? And
13 I think you just have to decide whether that would help
14 you.

15 MR. GELLER: And why wouldn't we ask?

16 MS. SCHNEIDER: Well, I don't think that the
17 project has changed that much. I mean, the size is the
18 same, the unit count is the same, the parking is the
19 same.

20 MS. PALERMO: I strongly disagree. I think
21 it's changed dramatically. We're now talking about
22 another piece of land being incorporated into this
23 project and another building that's been incorporated
24 into this project. I think it has changed, from my

1 perspective.

2 UNIDENTIFIED AUDIENCE MEMBER: Does 420 LLC
3 own 49 Coolidge? Because the owner of 420 --
4 (inaudible).

5 (Interruption by the court reporter.)

6 UNIDENTIFIED AUDIENCE MEMBER: 49 Coolidge is
7 not part of the same legal entity that owns 49 Harvard.
8 Is the ZBA aware of that?

9 MS. POVERMAN: You're correct. There's a
10 49 Coolidge LLC that owns the 49 Coolidge property.

11 MR. SHEEN: It's owned by the same
12 partnership.

13 MS. POVERMAN: Underlying beneficiary?

14 MR. SHEEN: It's a single entity that can be
15 combined with 420 Harvard.

16 MS. POVERMAN: How do we know that?

17 UNIDENTIFIED AUDIENCE MEMBER: There's no site
18 control.

19 MR. SHEEN: There will be -- you know, I defer
20 to my consultants on that. But, you know, the same
21 entity -- the same underlying partnership that owns
22 420 Harvard Associates owns a fee simple of
23 49 Coolidge LLC. We can provide -- we can provide --

24 MS. POVERMAN: Legally, I don't know if that's

1 true.

2 MR. SHEEN: I can provide additional
3 documentation.

4 MS. POVERMAN: One of the reasons LLCs exist
5 is to keep separate ownership and separate liability,
6 so I don't think --

7 MS. BARRETT: The board is -- let's just go
8 back to the very beginning. What allows anyone to come
9 before the board and seek a comprehensive permit is
10 three things: evidence of site control; an entity that
11 is either a public agency, a nonprofit corporation, or
12 a limited dividend organization; and approval by the
13 subsidizing agency. So certainly, if there's any
14 question about site control, the board is entitled to
15 know that that is secure for the plan that the
16 applicant is asking you to consider. That's a
17 statutory issue.

18 MS. POVERMAN: Well, I would like -- how do we
19 ask -- so we would like evidence of that.

20 MS. BARRETT: Yes.

21 MS. POVERMAN: And by -- certainly by
22 August 30th, but I don't know if that determines
23 whether or not --

24 MR. SHEEN: Site control can be established

1 through a simple purchase and sales agreement.

2 MS. POVERMAN: I mean, I've seen the deed.

3 MR. SHEEN: Right. But just to clarify, site
4 control can be established through a simple purchase
5 and sales agreement, so we will provide that purchase
6 and sales agreements by next week.

7 MS. POVERMAN: For both entities?

8 MR. SHEEN: For 420 Harvard Associates
9 purchasing 49 Coolidge LLC.

10 MS. POVERMAN: Okay. That's fine.

11 MS. STEINFELD: Would that suffice the board
12 if the applicant submitted the material to you or to
13 MHP?

14 MS. BARRETT: It's up to the board. I'm just
15 saying the board may ask MHP to review or not. It's
16 entirely up to the board.

17 MR. GELLER: Well, I think we've heard one
18 board member say that, to her, it seems unimportant.

19 MS. SCHNEIDER: I just don't think it's worth
20 the extra step.

21 MR. GELLER: And we've heard one board member
22 say that it is relevant.

23 MS. PALERMO: Oh, actually, what I said is the
24 project has changed. I didn't necessarily indicate

1 that the agency needs to review this particular project
2 change. I haven't made a decision about that, but I'd
3 be happy to have any extra input we could get on the
4 project, so I would say yes.

5 MS. POVERMAN: I would actually like the
6 advice of our 40B consultant on whether or not she
7 thinks the project has changed sufficiently to get
8 additional PEL review.

9 MS. BARRETT: I think you should ask MHP for
10 them to just take a look at this and provide you with
11 an opinion on whether they think their determination
12 would be materially different or if they have any,
13 perhaps, conditions they might have suggested had this
14 come in this way in the first place. I don't see any
15 harm in it.

16 Boards are entitled to go back to the
17 subsidizing agency and ask for input, ask questions,
18 and often they don't because boards don't feel like
19 they can have communication with the subsidizing
20 agency, and you can.

21 Now, they may say, we've just taken a quick
22 look at this and we don't think it's material. But you
23 can ask, and it would actually, perhaps, open up a
24 dialogue between the board and the subsidizing agency,

1 which --

2 MS. POVERMAN: As a practical matter, doesn't
3 this actually happen through the planning department?

4 MS. STEINFELD: We'll be happy to do that on
5 your behalf and with our consultant's assistance.

6 MS. BARRETT: The board, you know, has
7 requested that the MHP take a look at this and provide
8 further determination or review -- comment on the PEL,
9 if anything has changed that, to them, would be
10 significant enough to, perhaps, warrant more of a
11 review.

12 MR. GELLER: I see no reason not to do it.

13 MS. BARRETT: It doesn't slow you down. I
14 mean, they'll respond right away, so ...

15 MR. GELLER: I wasn't worried about that. It
16 seems to me there's no reason not to.

17 MS. BARRETT: Yeah. That's what I'm thinking.
18 I can't hurt. It would be really novel for a board to
19 actually communicate with the subsidizing agency. I
20 don't think it's a bad idea.

21 MR. GELLER: It might throw them.

22 Okay. So, Alison --

23 MS. STEINFELD: We'll take care of that.

24 MR. GELLER: Thank you.

1 And the applicant will provide evidence of
2 site control?

3 MR. SHEEN: Yes.

4 MS. BARRETT: There's a question from the
5 back.

6 MR. GELLER: Question from the back, and then
7 let's finish up our discussion.

8 MR. MITCHELL: Thank you. I'm Kent Mitchell
9 from 62 Fuller Street. Many of the details that we've
10 heard for several meetings can be consolidated into one
11 idea: size, scale. That is the elephant in the room,
12 and it's not talked about. Thank you.

13 MR. GELLER: Where is the question?

14 MR. MITCHELL: Why is it not talked about?

15 MR. GELLER: We haven't had urban design
16 review yet.

17 MR. MITCHELL: Will they be informed of the
18 number of people who have raised that point and it just
19 is not addressed?

20 MR. GELLER: I'll leave urban design review to
21 the urban design reviewer, and then the board will be
22 able to have a full discussion.

23 So I don't want you to misunderstand. There's
24 a process that's going on that may be frustratingly

1 slow, but there is a process. And we have engaged peer
2 reviewers to go over things like traffic, like parking,
3 and like urban design. And August 30th will be
4 preliminary urban design, and at that point what you'll
5 find, if you come to the hearing, is that the board
6 will start to have a conversation, and I suspect that
7 that conversation is going to include a discussion
8 about size and mass. So there's a process, and bear
9 with the process is what I would ask.

10 MR. MITCHELL: I appreciate that, but I am
11 struck that it's just not addressed so far, and it is
12 the common denominator to all of the rest that we are
13 talking about. Thank you.

14 MR. GELLER: Thank you.

15 Okay. Any further discussion?

16 (No audible response.)

17 MR. GELLER: No.

18 Okay. So we are continuing this hearing until
19 August 30, 2016, at 7:00 p.m., at which point we will
20 hear a preliminary presentation from our urban design
21 peer reviewer.

22 Alison, do we have anything else for that
23 hearing?

24 MS. STEINFELD: Urban design. That will

1 certainly fill up the meeting.

2 (Proceedings adjourned at 9:03 p.m.)

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1 I, Kristen C. Krakofsky, court reporter and
2 notary public in and for the Commonwealth of
3 Massachusetts, certify:

4 That the foregoing proceedings were taken
5 before me at the time and place herein set forth and
6 that the foregoing is a true and correct transcript of
7 my shorthand notes so taken.

8 I further certify that I am not a relative or
9 employee of any of the parties, nor am I financially
10 interested in the action.

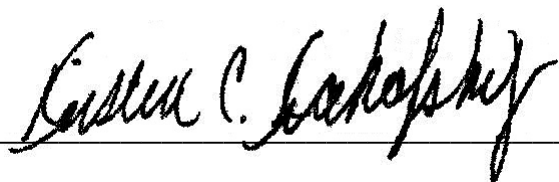
11 I declare under penalty of perjury that the
12 foregoing is true and correct.

13 Dated this 22nd day of August, 2016.

14

15

16



17 Kristen Krakofsky, Notary Public

18 My commission expires November 3, 2017.

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