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Brookline Zoning Board of Appeals Hearing
1180 Boylston Street Comprehensive Permit
Application
Chestnut Hill Investments, LLC
January 25, 2017, at 7:00 p.m.
Brookline Town Hall
333 Washington Street, 6th Floor
Brookline, Massachusetts 02445

Reporter: Kristen C. Krakofsky

1 APPEARANCES

2 Board Members:

3 Johanna Schneider, Chair

4 Jonathan Book

5 Mark Zuroff

6

7 Town Staff:

8 Alison Steinfeld, Planning Director

9 Maria Morelli, Senior Planner

10 Peter Ditto, P.E., Director of Engineering and

11 Transportation

12

13 Applicant:

14 Raj Dhanda, Chestnut Hill Investments, LLC

15 Rachna Balakrishna, Chestnut Hill Investments, LLC

16 Bob Engler, President, SEB, LLC

17 Haril A. Pandya, AIA LEED AP, Principal,

18 CBT Architects

19

20 Members of the Public:

21 Julie Gross, 629 Hammond Street

22 David Kobes, 629 Hammond Street

23 Janice Khan, town meeting member, Precinct 15,

24 63 Craftsland Road

1 PROCEEDINGS:

2 7:09 p.m

3 MS. SCHNEIDER: Okay. Sorry for the delay.
4 It's after 7:00, so we're going to get started with
5 tonight's continued hearing on the 1180 Boylston
6 Street comprehensive permit application.

7 In terms of our agenda for tonight, the
8 applicant is going to present its revised
9 architectural plans, we are going to hear from the
10 ZBA's peer reviewer with respect to his comments on
11 the revised plans, and then we're going to hear
12 testimony from town staff and boards about various
13 matters including the loading zone on Hammond and
14 rubbish, and I think there's a traffic and trash
15 recycling plan that we got comments on. And I think
16 there's also something about a street tree.

17 Maria, is that correct?

18 MS. MORELLI: Yes.

19 MS. SCHNEIDER: Okay. Maria, do you want
20 to start by giving us sort of the overview of where
21 we are in the process? Thank you.

22 MS. MORELLI: Thank you, Chairman
23 Schneider.

24 If you recall, at the last hearing,

1 December 21st, the ZBA gave the developer the latest
2 charge, which was to continue articulating the upper
3 floor, especially on the west and south facade, and
4 to provide a more refined visual to help the ZBA
5 envision what this building would look like in
6 context, preferably provide a 3D model. And Cliff
7 Boehmer also had a list of issues that were
8 outstanding. They could have been unresolved
9 questions or issues that pertain to the design and
10 the materials.

11 Early in January, after that staff
12 meeting -- that hearing -- we had a staff meeting
13 with the project team and Cliff Boehmer and, of
14 course, myself. And the project team was very
15 responsive to the issues concerning articulation of
16 the two upper floors on the west and south facade.
17 They also provided a 3D model with context, which was
18 very helpful to Mr. Boehmer and myself. And I'd have
19 to say, overall it was a very positive meeting, and I
20 do have to compliment the team for putting that much
21 effort into the model and into the charge at hand.

22 So, Cliff, again, will be responding to
23 that. He has provided a report, which was forwarded
24 to you yesterday.

1 One of the outstanding questions in Cliff's
2 report concerns the geotech report provided by GEI.
3 That report was based on a four-story building with
4 two levels of parking below grade, and, of course,
5 the scope was revised to have six stories and one
6 level of parking below grade. And Fuss & O'Neill did
7 acknowledge that they were aware of the change in
8 scope, and actually reducing the number of levels
9 below grade actually reduces the impact or pressure
10 below grade, so it's really not an issue.

11 One of the things that they did want to
12 emphasize with a change in scope was not having the
13 underdrainage below the foundation, and they just,
14 you know, emphasized that the ZBA have a condition
15 that in the future, if the applicant were to want to
16 put an underdrain, that it would have to be approved
17 by the director of engineering and transportation
18 first, not to increase the load on the municipal
19 system.

20 MS. SCHNEIDER: Maria, do we have a written
21 recommendation from them to that effect?

22 MS. MORELLI: So, yes, we do have a letter.
23 I sent an email summarizing my conversation with
24 Daniel LaFrance of Fuss & O'Neill, and Mr. LaFrance

1 did respond by email, and I do have that and I'll
2 give that to you before the evening is over.

3 MS. SCHNEIDER: Thank you.

4 MS. MORELLI: The other thing is, regarding
5 transportation, we wanted to clarify that the
6 transportation board -- whether they have
7 jurisdiction over the loading zone that is proposed
8 for Hammond Street. And town counsel did confirm
9 that the transportation board does not have
10 jurisdiction. This is within the ZBA's purview.

11 However, we have emphasized that the
12 transportation board, like any other loading zone
13 request in the public way, is asked to provide a --
14 conduct a hearing, hear any information -- or request
15 any information regarding the analysis or any loss of
16 metered spots, and that actually took place on
17 January 17th.

18 The applicant did respond to the
19 transportation board's request for information, and
20 you have a letter not only from the transportation
21 board's chair supporting the proposal with
22 conditions, you also have a letter from Mr. Ditto,
23 the director of engineering and transportation.

24 I also wanted to clarify that we wanted

1 MassDOT to -- we wanted our staff to contact MassDOT
2 regarding some of the issues going on at the edge.
3 As you know, it's a state highway. MassDOT has
4 purview over the state highway. We wanted to know if
5 they needed to comment now on that proposed curb cut
6 or the new driveway on Route 9. And they responded
7 by email that they did not need to see that -- or to
8 comment on that before the public hearing process
9 ends.

10 If you could just give me a moment, there
11 were two other questions. One has to do with any
12 concern about the loading bay and its proximity to
13 the intersection at Route 9 and Hammond. And the
14 only thing they were concerned about -- and I just
15 want to verify that this loading zone is actually not
16 within MassDOT's jurisdiction. We have a map that
17 shows where MassDOT's jurisdiction ends on Hammond.
18 They just want to make sure that the vehicle pulling
19 into the loading zone does not encroach into the
20 travel lane to the left or sits on any vehicle
21 detections. Those are called "loop detectors" that
22 are in the survey. So we have reviewed that
23 extensively with staff.

24 And the other question, it had to do with

1 does MassDOT have any comments about enforcing no
2 parking on Route 9 in front of the site itself? And
3 they just did say that no parking would need to be
4 enforced, but they did not provide any other
5 recommendations or conditions beyond that.

6 And very quickly, I did recall that there
7 was some correspondence from Mr. Giles Ham, who is
8 the applicant's civil engineer regarding traffic, and
9 there was some consideration -- it's not something
10 that the applicant has committed to, but possibly
11 will consider 15- to \$20,000 toward a traffic signal
12 upgrade, which would be a longer wait time for
13 pedestrians at the traffic signal at Route 9 and
14 Hammond. So that's just something to keep track of
15 when we're talking about conditions throughout this
16 public hearing.

17 MS. SCHNEIDER: Maria, may I ask a question
18 about that? If there's a longer traffic signal in
19 order to facilitate pedestrian crossing, does that
20 require additional analysis of the impact on traffic
21 flow at that intersection?

22 MS. MORELLI: Right. So that would
23 actually affect the timing, so it's not something
24 that we could actually -- I mean, MassDOT controls

1 the operations of that signal. So this is just a --
2 I believe it was a recommendation, but it would have
3 to be vetted, certainly, with the state.

4 MR. ZUROFF: Can I ask you a backtrack
5 question about the point you brought up before? The
6 no parking on Route 9, they say it has to be
7 enforced. Who actually enforces it? Is it Brookline
8 or is it the state?

9 MS. MORELLI: It could be both, I
10 understand.

11 MR. ZUROFF: So if they want to enforce it,
12 who's going to tow a car away?

13 MS. MORELLI: Like I said, the Town of
14 Brookline, you know, can. It certainly could be
15 striped to actually emphasize. It might be unclear
16 if there is parking allowed or not, and we are just
17 talking about in front of the site.

18 MR. ZUROFF: I understand that. The
19 mechanism is what I'm inquiring about.

20 MS. MORELLI: Like with all enforcement, we
21 really can't condition the town to do anything, but
22 we can certainly provide some visible cues that
23 emphasize, or additional signage, perhaps, to make it
24 really clear.

1 Okay. And I just wanted to follow up with
2 the tree. So I'm not sure if someone from the
3 transportation division is here. When you are ready,
4 I will read letters from the transportation board,
5 transportation division, and Pat Maloney from public
6 health.

7 One thing I just wanted to comment on:
8 There is a tree and a metered spot very close to
9 where this loading zone is proposed. And one of the
10 conditions of this loading zone is that it will not
11 work unless that tree and one metered space is
12 removed. That is the recommendation from both the
13 transportation board and the transportation division.

14 The process for removing a public shade
15 tree triggers Chapter 87 of the state statute. Tom
16 Brady would oversee the public hearing process, which
17 is outside the ZBA's purview. The applicant would
18 initiate that process. And it's very likely -- I
19 would assume that the applicant would initiate that
20 after the comprehensive permit is reviewed.

21 If the health of the tree is good, it's
22 very likely Mr. Brady will say that it has to remain.
23 And the recourse for the applicant is go to the board
24 of selectmen, and the board of selectmen can look

1 more broadly at public benefits pertaining to the
2 loading zone. But I want to emphasize that with that
3 tree there, that loading zone would not work.

4 And the last thing, I just wanted to remind
5 the ZBA that the state has given an extension, so we
6 are now scheduled to close Monday, March 6th on this
7 case.

8 If you have no further questions...

9 MS. SCHNEIDER: Okay. Thank you.

10 Okay. We'd like to have the applicant now
11 come up and present changes to the plans since the
12 last time you were before us.

13 MR. PANDYA: Good evening. Haril Pandya,
14 principal, CBT Architects.

15 So we're going to go through probably a
16 similar presentation that we had last time, which is
17 a series of sort of before and afters, if you will.
18 The afters now represent discussions and
19 conversations that we've had with Cliff and others,
20 just to make sure that those things are -- have
21 advanced. And then we'll also demonstrate the model
22 that Ms. Morelli was referring to earlier to kind of
23 walk you through the project.

24 So if you -- again, so each one of these

1 slides currently -- because it's small, we'll have
2 the actual current plan at the ending, so I'll
3 demonstrate here.

4 So the plan on the left is where we were
5 with the original 80 spaces we had. We are currently
6 at 69. We've done a fair amount of things as far as
7 space reduction and limiting the number of stackers,
8 increasing the drive aisle widths and property
9 setbacks. And we had conversations with trash and
10 recycling, so we've added locations for both trash
11 and recycling to it and had conversations with the
12 folks that are involved with that. And we talked
13 about, again, increasing the widths of the elevators
14 themselves to accommodate larger vehicles. So this
15 is more of a side-by-side comparison. There's also a
16 stair egress that you see here, which wasn't there in
17 the previous version. And the stormwater and those
18 components have also been advanced.

19 So this is the representation of that plan
20 that you saw on the right, just enlarged. This is
21 how we'll be going through side by side, just so you
22 can get a more closer view, if you will. So this
23 is -- also includes staging areas and a drive aisle
24 staging area, so there's seven spaces up top, and

1 really the 62 spaces, which are housed in the
2 below-grade garage level. Again, this is a valet
3 operation. I think we've talked pretty extensively
4 about how this operates and timings and whatnot.

5 MR. ZUROFF: Can I just ask you a
6 clarification?

7 MR. PANDYA: Sure.

8 MR. ZUROFF: I assume that those two boxes
9 with the crosses there, those are the lifts?

10 MR. PANDYA: Yes.

11 MR. ZUROFF: So the actual edge of the
12 building where the cars come out is right outside of
13 those?

14 MR. PANDYA: It'll be on the right,
15 right --

16 MR. ZUROFF: Right here?

17 MR. PANDYA: Yeah.

18 MR. ZUROFF: So those other spaces outside
19 of those --

20 MR. PANDYA: And below --

21 MR. ZUROFF: -- are actually under the
22 driveway. Okay.

23 MR. PANDYA: Good question, actually.

24 So the left image, again, represents where

1 we were. We had a much narrower 17 foot 4 gap
2 between the property line and the building, which was
3 adhering to setback requirements, etc. And then, of
4 course, with everyone's input and further design, we
5 increased that to 30 feet. We increased our ground
6 floor setbacks from the property line to 4 feet on
7 Boylston, almost 9 feet -- 8 foot 10 -- on the
8 Hammond Street side. We've increased the green
9 buffer to almost 5 feet, which is the buffer between
10 the properties -- between the six-family and ours on
11 this side.

12 MS. SCHNEIDER: Mr. Pandya, could I just
13 interrupt you for a second, because I think the board
14 is getting a little bit confused. What we were
15 hoping that you would be presenting to us tonight are
16 any changes to the project since the last time you
17 presented to us, and these are looking like changes
18 that we've seen at intervening hearings. We don't
19 need to go through the evolution of the whole
20 project. We're familiar with where you were the last
21 time. Just anything that's new since then, please.

22 MR. PANDYA: Perfect. Thank you. So I'm
23 just going to click through these, then, if you don't
24 mind.

1 As you get up to the upper floor plan,
2 these are where some of the changes to the overall
3 massing begins, so these are changes from the last
4 time. We've increased the step-back that is here on
5 floors five and six, so these units have become
6 significantly smaller and actually changed so that we
7 can actually -- from the street level to the sixth
8 unit, as you look up, you essentially get more blue
9 sky, if you will. So the setback of the building,
10 push-back of the mass, in theory, allows you to see
11 more sky. So we've been able to -- we've done that
12 on that side of the building. And you can see here
13 the increase in the setback. This is since the last
14 time you've seen it as well. We increased the
15 setbacks here as well.

16 MR. BOOK: I'm sorry. Just for a
17 clarification, so is it the dark line -- so the --

18 MR. PANDYA: The dashed line represents the
19 property line.

20 MR. BOOK: Okay.

21 MR. PANDYA: The solid line here represents
22 the edge of the roof below. So this entire edge is
23 pushed back. You'll see that once we get to the
24 massing and to the elevations. But this edge used to

1 be further, probably where this mouse icon is now,
2 and now it's over here.

3 MS. SCHNEIDER: How many feet is that?

4 MR. PANDYA: I think we've pushed it again
5 an additional 2 feet from where we were before, which
6 it was already set back then.

7 So this is where we start seeing -- again,
8 I apologize because this is a similar slide, but the
9 lower image, which is this image, actually shows the
10 updates. So the updates here now are a couple of
11 things. One is you can see here by the dashed line
12 on the left represents the -- you know, sort of an
13 estimate of where the six-family is. So the overall
14 intention here is the stepping down of the massing
15 from Hammond down towards the neighbors. And you can
16 see here, by the time we get to this line, we're
17 actually very close to their deed line.

18 Now, that that's front facade material, and
19 then the sort of setback material, which is set back,
20 which is glassier, sort of takes the edge off of the
21 entire building completely forward towards Boylston.
22 So not only are you getting the brown tones, if you
23 will, massing down or stepping down along Boylston
24 Street, but you're also getting a setback into the

1 page, if you will. So you'll see that, when we get
2 to the 3D views, a little bit clearer. But now we've
3 created this massing separation with these larger
4 joints and reveals, so the sort of horizon
5 proportion, if you will, is actually more in keeping
6 with a lot of the buildings that are within the
7 neighborhood.

8 So similarly here along Hammond, this is
9 part of the setback, so this is lowered on the
10 Hammond Street side. Here, again, this part where
11 the hand icon is stepped back.

12 And then conversation that we had with
13 Cliff and others at the meeting were about really
14 demonstrating the fact that these materials are not
15 just limited to the Hammond and Boylston Street side,
16 but this cladding would actually continue around.

17 So this is the south side, if you will,
18 coming -- I guess the two cars on the right represent
19 the driveway, so this is really the back side if you
20 were on the Heath Street side looking back. So it
21 still is a cementitious material that we're
22 proposing. Less of a rain screen, but you can see
23 the joinery and everything is actually still in line
24 with everything else. So it's not like an EIFS or

1 any kind of other materiality. It's actually in
2 keeping with the same sort of -- almost all our
3 per-foot cost that we have everywhere else.

4 MR. ZUROFF: Could you go back to that
5 prior slide? Is that dotted line -- does that
6 represent the adjacent structure?

7 MR. PANDYA: On the right, yes.

8 MR. ZUROFF: On the left.

9 MR. PANDYA: I apologize. This is the --
10 yeah, this box is the -- how would I describe that?
11 Oh, that's the sushi place. I'm sorry. So if you're
12 looking on Hammond, that's the sushi place. You
13 would see this much of the building beyond, and
14 you're sort of behind the sushi place here, and then
15 you kind of look through the driveway and this would
16 be the six-unit on the Boylston side.

17 MR. ZUROFF: Do you have a representation
18 that would show the view from Heath Street?

19 MR. PANDYA: Yes. It's coming up.

20 This is the -- this completes all four
21 sides of the building. This is the east elevation,
22 so this is the section essentially cut through the
23 driveway and, you know, again, demonstrating the fact
24 that the materials do return around the side.

1 And then, as we had mentioned in the
2 previous meeting, before shortening of the building,
3 because we're at the angle is why the -- the right
4 side feels compressed. But we're really focused here
5 on the left, which is, again, demonstrating the fact
6 that the materials continue around.

7 This is sort of a -- a more blown up
8 section of the facade system, kind of showing the
9 intricacies of the elements within the facade. So at
10 the lower portion here, having the storefronts, and
11 then the windows as you go up, and you can see on the
12 upper level, this over here is your balconies, the
13 glass rails, and then the residential units up there,
14 the more glassier system, the setback.

15 So here are the views. Again, you can see
16 the setbacks once more. Up here are the balconies,
17 the setbacks here, and also you can see the setbacks
18 stepping as well.

19 This is just a more fish-eye view from the
20 Hammond Street side looking up.

21 This is looking the other way, down at the
22 sushi place here, right here. You can see parts of
23 the building beyond set back again, even on the Heath
24 Street elevation side of those two we set back. So

1 it's almost wedding cake style, if you will. It just
2 keeps going up and stepping back. This is the view
3 back from Heath Street. Looking back up, again, the
4 right side significantly changed from the last time
5 you've seen it as far as it being stepped back.

6 This is the view from Boylston Street, the
7 sidewalk view, the stepping down and then the
8 stepping back.

9 MS. SCHNEIDER: Is the height of the first
10 level before the step-back equivalent to the height
11 of the neighboring six-unit residential --

12 MR. PANDYA: It's a little bit taller.

13 MS. SCHNEIDER: By how much?

14 MR. PANDYA: I'll have to go back a few
15 slides to get you the exact number.

16 About seven or eight feet.

17 Okay. So coming from this view that we
18 just had, Heath Street previously right there.
19 Adding -- we've added as much context as we could in
20 the immediate vicinity to kind of just show
21 relationships.

22 This is the view coming down the sidewalk,
23 the setback from the parking entry.

24 And then just a quick acknowledgment of the

1 shadows. Again, last time we had talked about the
2 shadows, you know, really realizing that south being
3 behind the building, most of the shadows are on
4 Route 9 because it's just east to west. That's how
5 the --

6 But as you're coming from westerly sun, you
7 know, you get to a point where a lot of the shadows
8 are from other buildings, frankly, anyway. And the
9 blue really indicates the delta. Not just the shadow
10 of the building, but the delta being what this
11 building would be adding and where you can see how it
12 misses a portion of a lot of the buildings.

13 And then even so, because of the winter sun
14 being the lowest sun and casting the longest shadow,
15 you can imagine that from the longest shadow at
16 3:00 p.m., the sun's pretty much gone at 4:00, so
17 we're talking a delta of like an hour of time on the
18 lowest sun of the winter solstice where the sun is at
19 its lowest point. So the incremental changes at that
20 point really don't impact that shadow very much. So
21 the shadow, again, is really -- we're talking --
22 we're really conversing about an hour to an hour and
23 a half of time in the worst and lowest sun case
24 scenario on December 21st. So that's what we're just

1 redemonstrating -- we've shown this slide before, but
2 just to reiterate that point.

3 And then this is the final slide that --
4 again, this is sort of a -- just to reiterate the
5 setbacks, the life -- what we're trying to create,
6 the lit pedestrian -- the safety of the light and
7 whatnot coming out from the storefronts.

8 Questions?

9 MR. BOOK: You don't happen to have -- so
10 this rendering, do you have the one that you last
11 showed us? I'm just curious, sort of in terms of the
12 change from the last --

13 MR. PANDYA: Oh, you mean the previous full
14 rendering?

15 MR. BOOK: Yeah.

16 MR. PANDYA: I don't have that. No, we
17 don't. Sorry. We can send it. It's not a problem.
18 But I do want to show the animation, if that's okay,
19 of the model.

20 MS. SCHNEIDER: Please.

21 MR. PANDYA: So this is just trying to
22 stitch together everything we've sort of seen to
23 date, and we're just taking multiple passes through
24 the roads around the different approaches. You can

1 look for this on IMAX probably later.

2 So I'm sure my associate here, Brendan, can
3 attest to the fact that we tried to capture the
4 accuracy of trees as best as possible. We went down
5 the streets counting trees, roughly guessing widths
6 and heights and that sort of thing. Obviously winter
7 is different than summer, but nonetheless, I think,
8 you know, although not everything is the exact inch,
9 I think this is pretty close.

10 MS. SCHNEIDER: Thank you.

11 MR. ZUROFF: I have a question about your
12 shadowing. Driving westbound in the late
13 afternoon --

14 MR. PANDYA: In the animation or the --

15 MR. ZUROFF: No, no. Just in general.

16 Driving westbound on Route 9 near sunset,
17 you're confronted with a ball of fire right in your
18 eyes. Sometimes when you're taking a left turn from
19 Route 9 onto Hammond Street, you can't really see
20 what's going on in the intersection. You've said
21 that the building will have primary shadowing effects
22 on Route 9. Will that actually improve the
23 visibility? It's hard to tell from your rendering.

24 MR. PANDYA: Yeah. And I think the right

1 answer is it's subjective to the eye of the beholder
2 as to how you're sitting in your vehicle and walking
3 and driving.

4 The second part of that answer is how
5 affected you really are. I know I personally can't
6 stand it when, also, I'm confronted with blaring sun.
7 And I think that that is definitely the case in the
8 sense that if you're coming up -- the interesting
9 thing about this is you get a little bit of a crest
10 as you're coming up from the east heading west. And
11 as you're coming from there, as you're catching it at
12 100 percent dead west and you're coming up, yeah, the
13 building will probably help you for that moment. But
14 you know, as you saw in the animation, if there's a
15 green light, it's sort of a four- to six-second, you
16 know, duration in which the building could be
17 helpful.

18 So I think -- it's probably not the most
19 scientific answer to give you, but at the same
20 time --

21 MR. ZUROFF: I was just wondering --

22 MR. MCKENZIE: It would be helpful in the
23 morning heading eastbound.

24 MR. PANDYA: That's a good point. So the

1 sunrise sun as it kind of starts moving south --

2 Brendan, thank you. That is a very good
3 point.

4 -- heading east as the sun is actually
5 coming over the building, it's starting to come
6 behind, it would helpful in that light going in that
7 direction.

8 MR. ZUROFF: Another question: There's
9 virtually no street lighting along that stretch of
10 Hammond Street -- I mean on Route 9 -- I believe.
11 None that I could notice. Will there be any
12 street lighting as part of this development?

13 MR. PANDYA: There's not, like, city
14 street lighting, if you will. That, I think we
15 discussed. There is -- because of the fact there is
16 a retail presence, we have that brow, if you can kind
17 of see here.

18 MR. ZUROFF: A light shining down --

19 MR. PANDYA: There will be enough foot-
20 candles and luminance not only from that lighting and
21 the storefronts themselves -- emitting enough light.
22 We see this type of thing all over the city, and
23 those questions absolutely come up.

24 And especially, the funny part in the city

1 is when you're doing a building in between
2 streetlights and you can't seem to consolidate
3 because you're not in front of it. So we're getting
4 better. We're getting more energy efficient with
5 those types of fixtures to actually have better
6 output control for less energy use. So I think
7 you'll be pretty pleased from the emittance of the
8 building.

9 MR. ZUROFF: Will the brow lighting
10 continue around the clock?

11 MR. PANDYA: Not around the whole building.
12 So I think that'll be tough because I think, really,
13 it'll begin at the entrance of the residences and
14 it'll come around, all the way around the retail
15 frontage. And then as it turns into the driveway,
16 there will be a different kind of lighting to, you
17 know, illuminate that, not only for safety, but
18 visibility.

19 MR. ZUROFF: I'm also concerned that after
20 you pass the building and you get in front of the
21 six-family, it all of a sudden becomes totally dark.
22 And I know there's nothing you can do about that part
23 of the street, but it is a concern for the safety of
24 the pedestrians walking from the dark into the light.

1 MR. PANDYA: I think the first light pole
2 is actually past it, if I recall.

3 MR. ZUROFF: I think it's the past the
4 liquor store, if I'm not mistaken.

5 MR. PANDYA: I don't exactly recall.

6 So, I mean, just, you know, although we're
7 not 100 percent sure where we are in the LEED or
8 sustainability, it's just our professional practice
9 to be conscious of light spill and light leakage and
10 light pollution and all that sort of thing. So we're
11 very conscious of that just professionally.

12 MR. ZUROFF: Okay. Thank you.

13 MS. SCHNEIDER: All right. We're going to
14 have Cliff Boehmer, our peer reviewer, come up next.

15 And unless my fellow board members object,
16 Mr. Boehmer, I'd ask you to focus your presentation
17 on three things. We do have your report, which I
18 think we've all been through, so if you could start
19 by explaining to us what has been done with this
20 project that you feel is responsive to the feedback
21 we've provided previously, what concerns, if any,
22 remain?

23 And I also -- I think there had been a
24 comment at some point that your review was very

1 broad. And if you could keep your comments sort of
2 focused to the area of urban design as opposed to
3 also talking about parking -- because we've heard a
4 lot about parking from other consultants -- or
5 transportation -- we've heard that from a number of
6 other consultants, Geotech, etc. If you could really
7 stay focused on the urban design component of your
8 review, that would be, I think, most helpful to the
9 board. Is that all right?

10 MR. BOEHMER: Well, I guess I would say
11 that I don't have -- I mean, I'm here to answer
12 questions because, as you know from looking at my
13 report, there is not a lot of new material from the
14 very beginning to two reports or sort of two and a
15 half reports ago. My concerns have not been about
16 the height of the building or even really about the
17 style of the building.

18 I've mainly been concerned, and trying to
19 really help push the project in the direction of
20 fitting into the neighborhood, acknowledging the
21 existing neighborhood. Again, the size of the
22 building is not inappropriate for the road that it's
23 on, but how it relates to its neighbors does matter,
24 so my concerns have really been focused on sort of --

1 I guess I'd call it the fit and finish of the
2 building, because a building of this size and impact,
3 you certainly want the finish on the buildings to be
4 one that will be long-lasting and quality materials.

5 I'm probably where I was last time. Again,
6 I think from the fit side was a lot of concern about
7 the south side of the building. In previous
8 iterations of the design, it really was looking like
9 the back of the building. And that has been, for
10 me -- between really developing the design in the
11 back of the building, carrying the higher quality
12 materials around to that, and really acknowledging
13 context in both directions along Hammond Street as
14 well as on Route 9 towards the six-family building
15 has been, I think, really seriously pursued by the
16 developer in a direction that I think works.

17 Again, the style of the building is -- you
18 know, there are a lot of different buildings that
19 could sit on that corner, but I think that they've
20 done a good job of making a building that is clearly
21 a corner building but still acknowledges its
22 neighbors on both sides.

23 I think the other big concern I had
24 urbanistically was making sure that this is clearly

1 an opportunity to really kind of wrap the pleasant
2 pedestrian experience along Hammond Street, wrap it
3 around the corner, and extend it along Route 9 over
4 the length of the building. I think that also has
5 worked out very well through a lot of moves that
6 matter: decreasing the space -- the retail space, by
7 setting the first floor back, making a more generous
8 sidewalk, committing to street trees, the lighting
9 with the overhang, the location of the residential
10 entry on Hammond, a clear separation of that
11 residential entry from the commercial strip I think
12 has all been -- has been resolved quite well as the
13 project has developed.

14 So, really, I don't have a lot of
15 comments -- a few outstanding concerns that I think
16 would normally be resolved in the normal course of
17 developing the drawings. Probably the biggest one is
18 just -- actually was that geotechnical issue because
19 that is an impact. It has potential impact on the
20 neighbors. I'm sure that that makes total sense that
21 the geotechnical engineer would be less concerned
22 with the one-story-deep garage than a two-story-deep,
23 so I'm sure they're on their way to resolving that as
24 well. So I don't really have a lot of issues. I've

1 been satisfied with the progression of the project.

2 I'll say one thing about the shadow impact.

3 The shadow is -- because of the orientation of the
4 building, most of the -- you know, it's sort of the
5 fate of north-facing buildings. The advantage of
6 north-facing buildings is you have a brightly lit --
7 when you look out your windows towards the north,
8 it's brightly lit from the south, and that really
9 hasn't impacted the neighboring buildings.

10 And the setbacks -- my concerns that you
11 read in previous reports were more about access to
12 the sky on those west-facing windows in the adjacent
13 building, and that has been cut back, so the angle
14 from the windows -- and I think there are only --
15 that isn't really the main facade of the neighboring
16 building. But from those windows on the neighboring
17 building, there is now increased access to the sky --
18 to bright sky in the west.

19 But, again, I think you saw from my report,
20 I didn't really have a lot of remaining comments,
21 certainly, conditions that I could imagine. But from
22 my urban design perspective and from the
23 architectural perspective, the project has advanced,
24 I think.

1 MS. SCHNEIDER: Okay. I have some
2 questions. I know that you have not been as
3 concerned as members of the board about the height or
4 the massing that's proposed for this project.

5 Can you remind where there is another
6 building -- how close a building of this size and
7 scale is in proximity to the -- because especially
8 when we were looking at the little 3D movie model,
9 that really kind of underscored for me, I think, what
10 has been a primary concern all along, which is that
11 there's nothing really this size as far as the eye
12 can see from this perspective.

13 MR. BOEHMER: I think the closest one is
14 actually the one that you and I looked at an image
15 of. It's towards the east. I don't remember --

16 MS. MORELLI: I think it's Cypress --
17 Cypress Lofts.

18 MR. BOEHMER: Yeah.

19 MS. SCHNEIDER: That's the next closest
20 building that's --

21 MS. MORELLI: A six-story -- you're talking
22 about comparable heights.

23 MS. SCHNEIDER: Yeah, that's what I'm
24 talking about, comparable heights. So Cypress

1 Street, okay.

2 And what about if you were to go west? Is
3 there anything closer that's comparable?

4 MR. BOEHMER: Well, towards the west it's a
5 whole variety of things that happen. Most of the
6 buildings towards the west, except in the first block
7 immediately west, have parking, are set back from the
8 street; there's lower-scaled buildings with parking
9 lanes in front. So there's nothing quite comparable.

10 MR. PANDYA: The Citizens Bank building,
11 which is further west.

12 UNIDENTIFIED AUDIENCE MEMBER: On Route 9.

13 MR. BOEHMER: Is that set back?

14 MR. PANDYA: It's set back.

15 MR. BOEHMER: That's kind of the biggest
16 difference. I think the building that Maria
17 mentioned is also kind of a street-wall-making
18 building as well, unlike what happens when you go
19 towards the west on Route 9.

20 MS. SCHNEIDER: Okay. My next question has
21 to do with the comments that you just made in your
22 presentation having to do with what you think is an
23 improvement in terms of the design. I think the
24 words you used was "acknowledges its neighbors on

1 both sides."

2 I'm still having a really hard time seeing
3 how this building as designed is acknowledging its
4 immediately adjacent neighbors. You've got the
5 really small retail building on one side and a much
6 smaller residential building.

7 Can you get a little bit more specific for
8 me in terms of how you reached the conclusion that
9 this is acknowledging its neighbors? Because to me
10 it seems like it's sort of -- it's still not
11 interacting well with its neighbors.

12 And, again, I understand, Mr. Engler, that
13 it's not up to the board to design the project and
14 your objection from the last time is duly noted. But
15 I'm just trying to understand how our peer reviewer
16 came to this conclusion that he's using to advise us.

17 MR. BOEHMER: Well, the way that I've
18 gotten to where I am at this point, actually, was
19 from the detailed context models that were made,
20 because that's really the experience. What I really
21 wanted the developer to provide for us was exactly
22 that animated model with lots of context.

23 So from my perspective, I think given -- it
24 isn't that it's exactly matching its neighbors,

1 because certainly it is a bigger event that happens
2 at the corner, so there -- it may be a more accurate
3 way to put it. It acknowledges the scale and builds
4 up to something unique at the corner. The way it was
5 in previous iterations, it's much more monolithic.
6 It really didn't step down.

7 And I think "acknowledge" maybe is the
8 right word. It doesn't match, but I think that the
9 views from the street in particular coming -- I think
10 the view that works really well is coming north on
11 Hammond Street.

12 I don't know. Maybe you could put that one
13 up again.

14 Yeah, that's there. I mean, for me it
15 actually was the real street views, where you do see
16 the building stepping up to get to this building,
17 where you can see the stepping right there. The
18 immediately adjacent building steps up. So it
19 doesn't match.

20 MS. SCHNEIDER: I guess -- did you ever
21 discuss with the applicant -- and this goes back to a
22 question I asked during the architectural
23 presentation about why this stepping back of the
24 building at the side that's adjacent to the

1 neighboring residential building doesn't begin sort
2 of equal to that building and then it goes up another
3 7 or 8 feet and then it starts to step back.

4 Wouldn't it be providing a little bit more
5 light and space and acknowledgment of that building
6 if it were stepping back more on that side, sort of
7 the lower height?

8 MR. BOEHMER: It would definitely provide
9 more access to the bright sky. It wouldn't have a
10 huge shadow impact, but it would -- for those windows
11 on that west side, you would see more sky.

12 MR. PANDYA: Well, we're starting out with
13 a higher point because of the retail component coming
14 all the way across and the change in grade. So we're
15 starting out with the fact that it's sort of a wedge
16 shape coming along Boylston Street. So we want to
17 maintain a reasonable market-level retail height that
18 makes sense, use that as the datum line, and then
19 you're adding very minimal heights for your floors
20 above. So by the time you have a retail height plus
21 the residential height, that's where that 8-foot or
22 7-foot differential that we discussed earlier comes
23 from, versus, say, the six-family, which actually
24 just starts residential from the bottom up.

1 But you're starting at a lower scale
2 anyway, just from the sheer fact that it's
3 residential on the lower floor versus retail on the
4 lower floor, if that's what you meant.

5 MS. SCHNEIDER: Yeah. I mean, I guess I
6 would have -- I would have felt like this building
7 was acknowledging its residential neighbors a little
8 bit more if the step backs -- and I don't know if
9 there's an angle that we can look at -- if the step
10 backs were a little bit more pronounced along the
11 side of that building. And, again, this goes back to
12 the question I was asking you earlier.

13 Cliff, do you have any thoughts about that?
14 Is that something that you discussed with them?

15 MR. BOEHMER: No. It's definitely
16 something we discussed, and I think it was a question
17 of how much space that they felt they could give up
18 and still support the project, I think is --

19 MS. SCHNEIDER: Is that correct? So that
20 really is a cost and programming issue, not something
21 having really to do with retail, whatever? It's --

22 MR. PANDYA: The height is the retail
23 issue. The setbacks are the program issue.

24 MS. SCHNEIDER: But you didn't want to use

1 the units?

2 MR. PANDYA: Right.

3 MS. SCHNEIDER: Okay. And how many units
4 would you have lost, do you know, if you had started
5 the stepping back a little bit lower down?

6 MR. PANDYA: We've set back now 4 feet
7 aggregate since the -- we came there, so I would say
8 going any further, we'd lose a whole unit.

9 MS. SCHNEIDER: On each floor?

10 MR. PANDYA: On the upper two floors.

11 MR. ENGLER: On the upper three if it comes
12 down a floor.

13 MR. PANDYA: Right.

14 MS. SCHNEIDER: So three units?

15 MR. PANDYA: There's, I think two units
16 on -- there's two units on this side all together, on
17 the driveway side, per floor.

18 MR. BOEHMER: What I'd recommended -- I
19 think the drawing that would help imagine the change
20 in impact would actually be the street elevation so
21 you could imagine the difference. Because, again,
22 you're just talking about those windows on the west
23 side.

24 MS. SCHNEIDER: Right. And I know you said

1 it's not the primary facade, but I'm assuming that
2 those windows in people's houses -- that they would
3 appreciate having more light into.

4 Anyone else?

5 UNIDENTIFIED AUDIENCE MEMBER: Can I just
6 ask one question from the audience?

7 MS. SCHNEIDER: We will have audience
8 questions perhaps a little bit later on, but right
9 now the board is asking questions of this peer
10 review, so if we can just continue with that.

11 MR. ZUROFF: Did you give any consideration
12 to lowering or pushing back the corner? Because as
13 I -- all the views of the building that I see that
14 look at the corner of Hammond and Boylston, one thing
15 that strikes me the most is this massive structure
16 just rises from the corner. And it was mitigated to
17 a degree by the setbacks, but the corner itself is
18 like a monument. It's right there.

19 And I know the developer is looking for as
20 much as space as they can get, but it would seem to
21 me that it would also benefit from a push-back on at
22 least the upper floor to have that reduce the impact
23 so that you don't see it as obelisk.

24 MR. BOEHMER: Well, I think the -- I mean,

1 I'll speak as an architect on this one strictly.
2 It's not my building. For me in reviewing where it
3 sits on the corner really had the most to do with the
4 pedestrian tie-in, so broad sidewalks, open
5 transparent retail spaces. So, again, encouraging
6 that pedestrian movement.

7 Many buildings are meant to be corner
8 buildings, and they really -- I mean, the S.S. Pierce
9 Building is a good example right in Coolidge Corner
10 that is right on the corner. And I think that's kind
11 of what they're working with here, is -- I don't want
12 to use the word "celebrate," but it's something
13 architects say a lot.

14 But, again, for me it really was making
15 that pedestrian experience work. It certainly is
16 bigger than any other corner building in that
17 neighborhood, but --

18 So, actually, no. I did not try to
19 encourage them to push it further back than what they
20 did. My concern was getting some overhang at the
21 first-floor level, you know, along the sidewalk, and
22 the second-floor overhang more, and making sure there
23 were broad sidewalks that were landscaped and well
24 lit.

1 MR. ZUROFF: Do you think that as you
2 approach on Hammond Street toward Boylston to take
3 the corner that there's enough visibility, not only
4 for cars, but for pedestrians as they come around the
5 corner?

6 MR. BOEHMER: I think so. It's not -- I
7 don't know if the -- did the traffic reviewer look at
8 sight lines?

9 MS. MORELLI: That wasn't raised as an
10 issue regarding -- that's the Hammond/Boylston, that
11 right turn -- unofficial right-turn lane. There was
12 nothing raised by the peer reviewer regarding that.

13 MR. PANDYA: So it's rounded to ease that
14 visibility, for one; and two, we've also set back the
15 retail from where it was before, so we've actually
16 added more visibility, frankly.

17 MR. ZUROFF: As you come up the corner, can
18 you see through the retail space?

19 MR. PANDYA: Sure.

20 MR. ZUROFF: Okay.

21 MR. BOOK: I would just be repeating what
22 the two of you have already said. I forgot which of
23 you had said it, but I was -- during the model, as
24 we're coming down the street in both directions, east

1 and west on Boylston and then on Hammond, it really
2 was sort of emphasized -- it looks like a big
3 building. And I think of all that I would have liked
4 to have seen, in particular heading west on Boylston,
5 is some stepping back -- more stepping back or
6 lessening the impact as you look at the building
7 beyond the six-family residence, and I don't see
8 that.

9 MS. SCHNEIDER: We're still questioning our
10 expert. Do you want to turn that into a question?

11 MR. BOOK: Well, I think he's already
12 answered it. I guess I'll go back to what -- the
13 first thing I said, which is really just echoing the
14 questions that raised for Mr. Boehmer, so...

15 MS. SCHNEIDER: Okay.

16 Cliff, thank you. We appreciate it.

17 Maria, do you want to step up and start
18 reading into the record some of the letters that
19 we've received from the other town boards?

20 MS. MORELLI: Mr. Ditto is here. If you
21 want me to read the transportation board's letter,
22 and then Mr. Ditto can...

23 This is a letter dated January 23rd from
24 the chairman of the transportation board regarding

1 1180 Boylston Street.

2 "Per Chapter 317 of the Act of 1974, the
3 transportation board for the Town of Brookline is the
4 local governing body which has authority to enact
5 rules and regulations regarding the movement of
6 vehicles, bicycles, and pedestrians on a public way.

7 "However, as you are aware, Massachusetts
8 General Law, Chapter 40B, Sections 20 to 23, and
9 760 CMR 56.02 supersedes our enabling legislation for
10 not only permitting, but also for creating and
11 altering the traffic rules and regulations for the
12 town's public ways. Therefore, we are writing this
13 letter to provide comments and recommendations to the
14 zoning board of appeals relative to the proposed
15 1180 Boylston Street Chapter 40B comprehensive permit
16 application.

17 "At the January 17, 2017, meeting of the
18 transportation board, we reviewed the plans for the
19 proposed 40B development at 1180 Boylston Street with
20 representatives from the proponent, including Raj
21 Dhanda, Rachna Dhanda Balakrishna, and Jake Carmody
22 of Vanasse & Associates.

23 "It is the board's understanding that the
24 project will entail the removal of the existing gas

1 station and construct in its place a mixed-use
2 development with 45 units; one level of underground
3 parking accommodating 69 vehicles utilizing stackers
4 and 24-hour valet service with an access driveway
5 from Boylston Street; first-floor retail space;
6 tenants will be age restricted to 55-plus; a 60-foot
7 curb-side loading zone accommodating a single-unit,
8 30-foot vehicle for commercial use is planned for the
9 public way on Hammond Street requiring the relocation
10 of the granite curbing, removal and replacement of a
11 street tree, removal of one metered parking space,
12 and reduction of the public sidewalk to 4 feet.

13 "The hearing included a discussion with the
14 developer, their consultant, and staff on the design
15 elements of the proposed loading zone, which were
16 modified from previous designs to meet the concerns
17 of the town and the Massachusetts Department of
18 Transportation staff, and now includes in its
19 location being 30 feet from the stop bar at the
20 intersection; a 60-foot length, which allows a
21 vehicle to pull straight in and not back up in
22 traffic; restrictions not allowing it to be used
23 during peak morning and evening commute times; an
24 easement to provide a 10-foot sidewalk, etc.

1 "In response to this discussion and our
2 review of the plans in general, we offer the
3 following comments and recommendations on this
4 project, which were anonymously adopted by the
5 transportation board:

6 "1, support for the creation of the
7 proposed loading zone provided that all of the
8 following conditions are met:

9 "A, the use of the loading zone is
10 available to any vehicle authorized by the traffic
11 rules and regulation for the Town of Brookline and
12 not the exclusive use of the tenants of 1180 Boylston
13 Street.

14 "B, the developer provides a permanent
15 easement to the town to ensure a 10-foot continuous
16 path of travel that's available to the public at all
17 times.

18 "C, the area be posted "Commercial Loading
19 Zone" and "No stopping any time, tow away zone,
20 7:00 a.m. to 9:00 a.m., 4:00 p.m. to 6:00 p.m.," and
21 all signs and poles initially installed are paid for
22 by the developer and meet the Town of Brookline
23 specifications.

24 "D, the developer be responsible for the

1 cost of removal and installation of all materials and
2 labor needed to construct the new loading zone,
3 including the installation of a new street tree,
4 which is to be overseen by the town's tree warden, in
5 compliance with all relevant state and local laws.

6 "E, the developer reimburses the town for
7 the estimated loss in parking meter revenue for a
8 two-year period. The sum should be provided by the
9 transportation division.

10 "F, any changes in design must be approved
11 by the director of the engineering and transportation
12 division.

13 "2, the driveway entrance should not be
14 depressed, but should be at the elevation of the
15 sidewalk to minimize impact by pedestrians. If
16 either staff or the peer review consultant believes
17 that the design of the driveway poses a safety
18 concern, the developer shall pay for the purchase and
19 installation of both an audible and visual warning of
20 vehicles exiting to ensure pedestrian safety on the
21 sidewalk.

22 "3, no parking should be allowed on
23 Boylston Street between Hammond and the building
24 driveway to ensure adequate vehicle sight lines for

1 those exiting the site driveway.

2 "4, transit screens should be available in
3 the building lobby for use by residents, visitors,
4 staff, and retail employees to know the on-time
5 arrival of nearby MBTA buses and Green Line trollies.

6 "5, covered bicycle racks should be
7 provided on-site for use by residents, visitors,
8 staff, and retail employees. The board recommends
9 that the developer be required to utilize City of
10 Cambridge bicycle parking guides as a best practice
11 for siting, dimensions, rack styles, etc., but not
12 necessarily for the minimum ratios of required
13 bicycle racks.

14 "6, require that the building owner be
15 responsible for snow removal on the sidewalk
16 immediately abutting the loading zone to ensure
17 access.

18 "Thank you for this opportunity to comment
19 on the proposed 1180 Boylston Street Chapter 40B
20 comprehensive permit application. Because the
21 proposal may change throughout this process, the
22 transportation board does reserve the right to
23 provide comments further in the process when this
24 information is made available for review by the

1 public.

2 "Sincerely, Joshua Safer, Chairman,
3 Brookline Transportation Board."

4 MS. SCHNEIDER: Thank you.

5 MS. MORELLI: Mr. Ditto did submit a letter
6 dated January 25th which does emphasize the comments
7 made in the letter. He also does recognize that the
8 separate public hearing process could present some
9 issues for permitting, and so he did take it upon
10 himself to extensively analyze if that tree could
11 remain. And he looked at two possible scenarios, and
12 in both scenarios he determined that that wouldn't be
13 possible. The tree would need to be removed. And
14 he's available to speak to that further.

15 MS. SCHNEIDER: Mr. Ditto, could you come
16 up for just a moment, please.

17 Do you have anything to add beyond what's
18 in your letter that Maria just summarized?

19 MR. DITTO: No, that summarizes it pretty
20 well. But I just want to let the board know that the
21 loading bay was always a concern. And as Maria said,
22 we did actually go out there and look at all possible
23 options to save the tree, but with the restrictions
24 that MassDOT has on their limits as well as the

1 minimum load zone of at least 60 feet, we just
2 couldn't make it work without the tree coming out.

3 MS. SCHNEIDER: Okay.

4 MR. DITTO: I did touch base with the tree
5 warden today to find out exactly how close I could
6 come to that tree with new granite curbing, and he
7 said basically about 4 feet, and that just won't work
8 for us.

9 MS. SCHNEIDER: Do we have any -- and I
10 know this is sort of outside of your jurisdiction,
11 but I understand from your comments that you've
12 spoken to the tree warden. It's my understanding
13 that a tree removal -- the subject of a tree removal
14 hearing really is the health of the tree. Do we have
15 a preliminary read on whether or not this tree is
16 considered healthy?

17 MR. DITTO: I don't know if Mr. Brady has
18 done that.

19 MS. SCHNEIDER: Maria, is that anything
20 that's been communicated to you?

21 MS. MORELLI: I did ask Mr. Brady to
22 provide a letter. He said that he would not be able
23 to provide a report regarding the health of the tree
24 in time for this hearing.

1 MS. SCHNEIDER: Okay.

2 Mr. Ditto, thank you.

3 Do we have any questions?

4 MR. ZUROFF: I just have one question. How
5 many actual spaces -- parking spaces are lost as a
6 result of the loading zone?

7 MR. DITTO: One.

8 MR. ZUROFF: Just one, okay.

9 MS. SCHNEIDER: Are we anticipating having
10 any information about that tree prior to the close of
11 this hearing? The reason I'm asking is that
12 obviously if removal of that tree is a precondition
13 to the town's approval of the loading zone and the
14 tree can't be removed -- I mean, I know that there's
15 some recourse to the board of selectmen, etc., but
16 what happens if that tree has to stay?

17 MS. MORELLI: So we've discussed -- let's
18 look at it this way: If you were to approve with
19 conditions, obviously it would be subject to the
20 public hearing process pursuant to Chapter 87. Okay?
21 And the applicant would initiate that public hearing
22 process.

23 So say the tree is healthy and Mr. Brady
24 does narrowly interpret the law and would state that

1 if the tree is healthy, it doesn't get removed, the
2 applicant can appeal to the board of selectmen. The
3 board of selectmen would have a hearing. They would
4 look at, a little more broadly, not just the health
5 of the tree, but any public benefits relating to
6 having a loading zone in that area.

7 So let's just say the -- if the board of
8 selectmen actually doesn't want to grant an approval
9 to remove that, then it's really -- it's either the
10 applicant doesn't have a loading zone, and it would
11 be up to them if they can live with that, or if that
12 presents a problem for permitting, then they can't do
13 the project. And only the applicant can speak to
14 that.

15 MS. SCHNEIDER: Okay.

16 MR. BOOK: Permitting from who? I mean,
17 we're the --

18 MS. SCHNEIDER: No, we're not --

19 MR. BOOK: No. I know not for the tree,
20 but what if they can't have a loading zone?

21 MS. SCHNEIDER: Well, we have to build in a
22 condition with respect to the tree coming out; right?
23 Because if the tree doesn't come out, they can't
24 build the loading zone; if they can't build the

1 loading zone, what happens to them?

2 MR. BOOK: Right. We're not -- we
3 wouldn't -- I don't think --

4 MS. MORELLI: Actually, I don't mean to
5 interrupt, Mr. Book, but I actually didn't -- we
6 really do need to think of a provision. So this site
7 would require a loading bay on the site because
8 there's the retail, so the applicant would have to
9 ask for a waiver for no loading on the site. And so
10 it's up to you if you want to grant that waiver or
11 not. That is something to keep in mind.

12 MR. BOOK: So that's something they would
13 have to come back for after the fact. We don't know
14 that --

15 MS. SCHNEIDER: Or they may be
16 prospectively asking for that in their waivers list.

17 MS. MORELLI: Right. Because they're not
18 providing one on the site. There's one in the public
19 way. I just need to ask if that should be -- I'd
20 have to ask the building commissioner if they should
21 be requesting that waiver. Clearly it's not provided
22 on the site.

23 MS. SCHNEIDER: Right. Okay.

24 Maria, were we also going to hear something

1 about the trash and recycling plan?

2 MS. MORELLI: Yes. So you do have the
3 trash and recycling narrative based on discussions
4 the project team has had with Patrick Maloney, who is
5 the chief of environmental health. And in that --
6 that's a six-page narrative that does include some
7 site plans that show where the trash compactor would
8 be located and where receptacles would be located on
9 the driveway off Boylston. Okay?

10 In response to that, Mr. Maloney sent us a
11 memo dated January 24th to the board regarding
12 1180 Boylston.

13 "Please be advised that this department has
14 reviewed the above-noted project plans and offers the
15 following recommendations:

16 "Plans propose a trash compactor and two
17 2-yard dumpsters for the building trash and rubbish.
18 The rubbish and recycling is proposed to be picked up
19 together twice a week by the applicant's private
20 waste management service. The pickup location will
21 be in the drop-off area of the site's driveway off
22 Route 9 Boylston Street. That means that trucks will
23 back into the site's driveway for pickup. The
24 applicant's trash management consultant, Casella, has

1 confirmed that it will enter the driveway and not
2 stop on Route 9. DPW will submit a separate letter
3 to the ZBA regarding the safety of backing up into
4 the driveway from Route 9."

5 And as an aside, I did discuss this issue
6 with Mr. Ditto, and he feels that that is a safe
7 thing to do. It's better to back up into the
8 driveway rather than to back out.

9 "It is recommended that four 96-gallon
10 toters be used for recycling. Rubbish and recycling
11 storage rooms must be maintained in compliance with
12 state sanitary code requirements. The plans indicate
13 that separate rooms be designed for recycling and
14 trash storage respectively, and this should be
15 conditioned as well.

16 "It is recommended that noise-reducing
17 sheetrock, that is quiet rock, or other methods be
18 used to reduce noise impact in the compactor room.

19 "The applicant has presented that the
20 proposed retail occupancy will not include food
21 preparation or service, including not serving coffee,
22 tea, or packaged food. I recommend a condition be
23 placed that no food preparation or service be offered
24 on the site.

1 "The health department would request to
2 revisit the issue of rubbish and recycling compliance
3 when the property is 90 percent occupied to ensure
4 the approved measures are adequate."

5 MS. SCHNEIDER: Thanks, Maria.

6 Anybody have any questions about trash?

7 (No audible response.)

8 MS. SCHNEIDER: Okay. I don't intend to
9 have a full public comment period tonight, but I'm
10 wondering -- there was somebody in the back who had a
11 question. I just want to make sure that it got
12 answered.

13 Ma'am, did you have a question? And if
14 you're going to ask a question, I'm going to ask you
15 to please come up to the podium.

16 MS. GROSS: I just have two questions.

17 MS. SCHNEIDER: I'm sorry. Could you give
18 us your name and address, please.

19 MS. GROSS: Julie Gross. I'm at
20 629 Hammond Street.

21 And I'm still really extremely worried
22 about the height and the massing of the building.
23 And I just wondered, since this is the first time
24 I've been through this kind of process, do we get any

1 access to the financials behind this? So when
2 they -- the builders say that, you know, removing a
3 couple of units is not going to make it economically
4 feasible, how do we really know that?

5 MS. SCHNEIDER: That's something that the
6 board is going to discuss this evening.

7 MS. GROSS: Okay. All right. And then I
8 think some of the people might have more -- there
9 seems to be -- this picture looks a little distorted.
10 And I don't know if it's just the view, you know, the
11 height of the other building versus this building.
12 From a lot of what we in the audience see on a daily
13 basis, it doesn't seem like that could potentially be
14 how close they are in height, so just -- I don't
15 know. Some of the people that live there can
16 probably comment a little bit more on that.

17 MS. SCHNEIDER: Is there a response for
18 that from the architect? Is there a perspective
19 issue here?

20 MR. PANDYA: It could just be where the
21 snapshot is taken. I mean, you can surf around the
22 video that we just showed you. It's going to look
23 different here, just the parallax of the lens that's
24 used in the software tools. So it's going to look

1 different depending on how your head goes up and down
2 and looks at anything. The building is modeled
3 correctly in height. Our building is modeled
4 correctly in height. So, again, we're down to
5 inches, but this is definitely not a question of
6 feet.

7 MS. SCHNEIDER: Okay. Thank you.

8 Were there any other questions or
9 clarifications that we're looking for?

10 Yes. Mr. Kobes?

11 MR. KOBES: I'm David Kobes. I also live
12 at 629 Hammond Street.

13 And I think I do have some questions
14 that -- answers to the questions that you asked Cliff
15 earlier in a slightly different form since I'm not an
16 architect. And that is, first -- two answers -- two
17 questions.

18 The first is: You asked him if he were
19 standing right there, what else would he see, and it
20 was sort of in that visual that they had. But in
21 reality, if you stood right at Hammond and Boylston
22 on the opposite side of the street from the project,
23 you could look around 360 degrees and not see
24 anything nearly as tall as this. There's nothing.

1 The second is that you asked for some
2 comparisons to other buildings in the neighborhood.
3 Well, I have done those comparisons, and what I've
4 looked at is two things: the building height and,
5 what I think is equally important, the -- pardon
6 me -- the setback to the -- I don't have these fancy
7 names. I'm sorry. At any rate, the setback, because
8 the two in conjunction is what seems to make this
9 building that's being proposed to be so looming over
10 the street and over the neighborhood.

11 So, if you remember, back in June the
12 planning board presented a picture that showed a map
13 of the area going up west on Boylston from the
14 project. And in it, it showed which were the very
15 large buildings. Well, I can tell you that --
16 because I went and I looked at the distance of the
17 setback from each of those buildings, and it came
18 down to this: I'll summarize.

19 I looked at 10 buildings, those 10
20 buildings in that picture that were 45 feet or
21 taller. Of those, there were three buildings that
22 were essentially the size of the project, the 70
23 feet. The closest to the project houses a Citizens
24 Bank. It's about two blocks down going west. It has

1 a very large driveway that comes out from Boylston,
2 it has parking, and it even has trees between the
3 street and the building. I'd say it's about a
4 60-foot setback from the street. So that compares to
5 what was originally 2 feet 6 inches, I think. Maybe
6 now it's 4 feet on Boylston -- 60 feet.

7 The next closest is the Hammond Park
8 condominium building. That's just off of Boylston,
9 and it's facing Hammond Pond Parkway. There it has a
10 lawn, and then parking, and then shrubs and more
11 lawn. Total setback is at least 60 feet as well.

12 The third is a very large complex, the
13 Avalon Apartments. Now, it mainly faces a parking
14 lot which is perpendicular to Boylston, and there's a
15 ramp that comes off of that and onto Hammond Pond
16 Parkway. The corner of that building, that which is
17 closest to Boylston, is set back 30 to 60 feet. It's
18 kind of a jagged edge, so it's not just one number.
19 But the very smallest part of that that's closest to
20 the street is 30 feet, and that's -- at that point,
21 that building is lowered to just two stories. So
22 those are the three 70-footers.

23 There are three buildings that are 60 feet
24 tall, and two are in the shopping center called

1 "Street," which I think you're all aware of, and you
2 know how far set back that is. And the third is a
3 Wingate Residences, which is a retirement community.
4 That's not really on Boylston. It's set back and it
5 has a huge parking lot across from it.

6 Lastly, there's four buildings that are
7 40 feet high. And that's the whole sum that was in
8 the picture that was presented to you back in June.
9 One is on the street, so that has the same setback
10 that we just mentioned.

11 And across from that is 1280 Boylston.
12 That has a large driveway and parking lot between it
13 and Boylston, so it's set back about 50 feet. And
14 remember, we're all comparing this to either 2 feet 6
15 inches or 4 feet of this project.

16 A third one fronts Sheafe Street, which is
17 parallel to Boylston, and it's just a three-story
18 frame house.

19 And then the fourth and final is the
20 Hammondswood Condominium, which was approved as a 40B
21 project. It qualifies. Its qualities satisfied the
22 goal of 40B without destroying the character of the
23 neighborhood. As far as I can see, it sets a 40B
24 precedent for you all. Specifically, it's on the

1 corner or Hammond and Heath. It was proposed as six
2 story, but it's cut down to four. It has a 40- to
3 60-foot setback, a full sidewalk, lawn, shrubs, a lot
4 of open space. It has two regular underground
5 parking spots per unit and a large guest parking
6 area. Its trucks are accommodated by the wide end of
7 a large driveway that's set far back off of Heath
8 Street.

9 So finally, if we look -- those are all
10 large buildings. And then if we look at what's
11 immediately across the street from the project, if we
12 look toward -- straight across going north, of course
13 we have the street where we have the tennis
14 association or whatever it is. If we go down
15 Boylston, the next block on the south side of
16 Boylston, those are pretty much one-, maybe two-story
17 buildings, and they're interspersed with driveways
18 and parking -- surface-level parking. It's so very,
19 very low, very, very different from this site here.

20 So, to summarize, this project's 70-foot
21 height compared -- at most a 4-foot setback, doesn't
22 compare to any of these other buildings. And so you
23 had asked, you know, what the comparison was. That's
24 the comparison. And I think we just ask the board

1 that you follow the immediate neighborhood, the 40B
2 precedent that's already been set.

3 MS. SCHNEIDER: Thank you. Thank you for
4 the information. We appreciate it.

5 Okay. Unless there are any more questions
6 or clarifications -- I do not intend for this to be a
7 rehash of people's prior commentary or reading of
8 letters or anything like that. If there are specific
9 questions that either the peer reviewer or the
10 developer needs to answer at this juncture, that's
11 what we're limiting this to, please.

12 MS. KHAN: Thank you very much. Janice
13 Khan, town meeting member, precinct 15. I live at
14 63 Craftsland Road.

15 So I just want some clarification. I was
16 surprised to see trees on Boylston Street on this
17 design, and I was just wondering how many trees there
18 are.

19 Also, how many parking spaces are being
20 lost compared to how many currently exist? This is a
21 pretty fragile commercial area as it is with no
22 parking.

23 MS. SCHNEIDER: I believe that question was
24 already asked, and the answer was one parking space.

1 MS. KHAN: But compared to how many are
2 there now. I mean, if you lose one -- if there are
3 three and you lose one, that's significant. If there
4 were ten and you lose one, less significant. So I'm
5 just wondering. And also on Boylston, if there are
6 spaces lost on Boylston.

7 MS. SCHNEIDER: Well, I don't think there
8 are any legal spaces on Boylston right now. Isn't
9 that right?

10 MR. PANDYA: There are none.

11 MS. SCHNEIDER: There are none.

12 MS. KHAN: Okay. Thank you.

13 And also, just the number of trees on
14 Boylston, I was surprised to hear that they're going
15 to be planting trees on the Boylston side, and I just
16 wondered how many trees.

17 MS. MORELLI: So regarding the metered
18 spot, part of the analysis the transportation board
19 has to consider is what is the adverse impact to the
20 town because you're losing a metered spot. Not only
21 is that impacting the retail area, but it's also lost
22 revenue. And the transportation board's rationale is
23 that because they would be providing a load zone,
24 which is actually needed in this area, that does

1 compensate for the loss of one metered spot.

2 MS. SCHNEIDER: I think that Ms. Khan's
3 question, though, if I understood it, was she wants
4 to know what's the total number of metered spots
5 and --

6 MR. PANDYA: There's four trees, one
7 metered spot.

8 MS. MORELLI: I cannot tell you how many
9 metered spots are between Heath and Hammond.

10 MS. SCHNEIDER: Okay. We don't know the
11 answer.

12 And did you hear the four trees being
13 planted? Four trees being planted.

14 MS. KHAN: Thank you.

15 MS. SCHNEIDER: Maria, do we have anything
16 else from any town boards, etc.?

17 MS. MORELLI: No.

18 MS. SCHNEIDER: So are we expecting or
19 waiting for any further testimony from anyone from
20 the town?

21 MS. MORELLI: No.

22 MS. SCHNEIDER: Is the applicant planning
23 on submitting anything new or different?

24 MR. ENGLER: No. But I wanted to make some

1 summary comments, but I'll wait until the end of the
2 process.

3 MS. SCHNEIDER: Okay. I mean, I think --
4 and maybe you want to make some summary comments now,
5 because I think what we're going to be talking about
6 next are next steps. So if you want to sum up what
7 you've presented so far tonight, now's probably as
8 good a time as any.

9 MR. ENGLER: Why not?

10 Bob Engler of SEB for the applicant.

11 First of all, before I get to the final
12 questions, the issue of the tree. I've had negative
13 experience in another community on this where the
14 state law does allow -- even though the local tree
15 warden here -- sounds like the same one we had, which
16 was only the health matters. But the state law says
17 safety also matters, that you can take a healthy tree
18 down if there's pedestrian or vehicular safety
19 involved, which we see with the backing up of a truck
20 and a loading zone.

21 Now, Maria mentioned that the board of
22 selectmen should take the wider view. I don't,
23 frankly, know the answer to how you would appeal that
24 if they said no, whether we go to Superior Court or

1 we lose the permit or we have to appeal the comp
2 permit or whatever.

3 So I would encourage you to look at the
4 language of your condition, which you just talked
5 about. And this is my point, which takes some of the
6 heat off the selectmen by saying, we can kill this
7 project if we just say no. If there's a condition
8 that says, subject to an approval, there's a loading
9 bay, the selectmen say, no, there's still a project.

10 I'm trying to think of a way that we don't
11 have to end up in court for a year, because that tree
12 could be moved and we're willing to replant it, and
13 it could be done. But we don't want to be stopped,
14 because there's a state law that actually takes into
15 account things that the board of selectmen in this
16 town had never been approached, and I doubt your
17 board has ever been approached for the issue of a
18 tree warden saying, I won't take it down, but you can
19 override me. So having had one bad experience, I'm
20 just throwing that out.

21 The second issue is a complicated one, and
22 we've heard it all tonight about the height massing.
23 And we know one of the conditions -- the local
24 concerns that the board can take into account is

1 contextual design, and that's a very subjective
2 discussion. You have a peer review architect, site
3 planner, urban designer that made his case, and we've
4 been working with him for many, many months. You
5 also have a lot of lay people who say, we don't like
6 the design. We think it should be this that, this
7 that, whatever.

8 We have listened to your peer review
9 expert, and we believe that that testimony is
10 important to us if we have to go beyond. Because the
11 issue is, in the language of the statute, that the
12 housing and the site planning has to be seriously
13 derelict to overcome the presumed need for affordable
14 housing. We don't see that at all. And, in fact, we
15 think what we've got to at this end of the process is
16 where we're presenting to you our plans for you to
17 take a vote on, as opposed to making continuous
18 changes. We think we responded to Cliff. He said
19 he's okay with it. We've given you the plans. So
20 you can talk now if you want, and you will, about the
21 economics of the project, but from a design point of
22 view, we think we've met the contextual test.

23 The other point I want to make on that is
24 the density and massing is a measurable thing. I sat

1 on many of the task forces that wrestled with how do
2 you quantify inappropriate design on a 40B? And the
3 answer was not anything that you could quantify, but
4 you could measure the impacts.

5 What are the negative impacts of design and
6 density and massing? Shadows, we've talked about it;
7 parking, we've talked about it; pedestrian safety,
8 we've talked about it. We've talked about the
9 measurables of what impacts can result from a certain
10 type of design as opposed to aesthetically
11 displeasing, which is a tough one to deal with
12 because nine people have eight different points of
13 view. So we think we've answered the measurables
14 about what the impacts are on height, massing, and
15 design. And you now have our project, so you're
16 welcome to ask us questions economically or whatever.
17 But from a design point of view, I think I speak for
18 the team by saying we've pretty much given you what
19 we're going to give you.

20 Thank you very much.

21 MS. SCHNEIDER: Thank you. Thank you.
22 That's helpful.

23 So I think at this point the board needs to
24 make a decision about where we go from here. Before

1 we start talking about, you know, people's feelings
2 about the project and the direction to take it, I
3 mean -- and, Maria, correct me if I'm wrong -- but we
4 can go into pro forma review with the applicant if we
5 feel like there still needs to be changes to this
6 project.

7 I'm understanding from Mr. Engler's
8 comments at this hearing and the last that this is
9 the project. There's no more room to change. And so
10 if there are significant changes to this project that
11 we still feel are necessary, the next step is going
12 to be to go to pro forma review where we would get a
13 better understanding of why the changes we would like
14 to see cannot be made without rendering the project
15 economically infeasible.

16 The other option is at our next hearing we
17 would start discussing the applicant's waiver
18 requests and then move on to a discussion of
19 conditions that would go into a decision were we to
20 approve the project.

21 So we're at a critical juncture here, and I
22 guess I'm interested in taking the temperature of the
23 board to see which way you all feel we are headed.

24 MR. BOOK: So I'm concerned -- you know, I

1 do have concerns about the massing. I appreciate
2 what Mr. Engler just said. You know, there is an
3 impact on the six-family house to the east, and that
4 could be ameliorated more by stepping it back and
5 letting more light into the westerly windows of that
6 house. I'm concerned about that, and I'd like to see
7 that.

8 I'm concerned -- well, I don't know if
9 "concerned" is the right word. But if we go to a
10 pro forma review, I wonder -- the way that this
11 project is set up, I almost can see that there's a --
12 probably a justification for these units to support
13 the number of units that they have identified, that
14 they want to build, that I'm -- I'll be surprised if
15 they don't need them in order to support what I think
16 is a kind of expensive building, and with the valet
17 parking.

18 You know, I think this project is really
19 unusual in terms of the other 40Bs that we have seen.
20 You know, it's an affordable unit, for the lack of a
21 better -- it's really sort of an uber luxury building
22 with amenities, and that has to be paid for in some
23 way. And I think the way they pay for it is they
24 need these units.

1 And so we can go through this process, but
2 I'm just wondering, you know, at the end of the day,
3 are we just going to be back to the same 45 units?
4 So I'm both presenting a concern with the massing of
5 the building, but also at the end of this process,
6 where we're going to be, if we're going to be in the
7 same place.

8 MR. ZUROFF: I don't actually know what
9 your point is, but I'll try to take that in context.

10 MR. BOOK: That's all right.

11 MR. ZUROFF: First of all, in our context,
12 we have not had a pro forma review on a 40B, so I
13 don't know how that actually goes. And that's the
14 context of what we're about to discuss.

15 I think that the developer has done
16 significant work in terms of reiterating the project
17 and trying to address the concerns of our peer
18 reviewers. It's clear to me that all of the peer
19 reviewers that have been engaged by the town have
20 basically said the project is okay. It meets all of
21 the necessary requirements.

22 My concern with this project, it is unusual
23 for the context of the neighborhood, it is not in
24 character with the neighborhood, but I understand

1 that progress has to be made.

2 I also understand that this is Brookline,
3 and this piece of property was probably expensive.
4 We don't really know what that was. And as you have
5 said, Jonathan, to build a building of this quality
6 and character is expensive. No doubt.

7 The process of a pro forma review would
8 challenge the developer to show that its costs are
9 justified for the project, and that is subject to
10 some objectivity and subjectivity. I honestly don't
11 know what the town's accounting review will take into
12 consideration, and I'm not capable of saying whether
13 the expense of this project is justified based on
14 what I know at this moment.

15 My concern, really, with this project as it
16 stands and has been presented to us is really the
17 impact on the neighborhood, not from the point of
18 view that this is not attractive or that it's on its
19 face too large, although I think it is large. But my
20 major concerns center around the impact on this
21 neighborhood and all of these neighborhoods that feed
22 traffic, children, school buses, and trash collection
23 through this intersection.

24 Because I know this intersection extremely

1 well. I've spent most of my life in this area, and
2 that intersection is a very difficult intersection,
3 to say the least. The fact that the school --
4 there's a school being built around the corner, and I
5 anticipate that this project will lead to other
6 similar projects along this corridor because all the
7 other buildings -- all the commercial buildings are
8 all single story or two story. It will open the door
9 for further development.

10 In the big picture, 40B is created so that
11 there's more affordable housing in our town. But I
12 always question on these 40B projects whether the
13 amount of affordable housing that is created by a
14 project like this is not somehow offset by the fact
15 that this brings in nonaffordable housing in
16 quantity. You know, 20 percent of affordable units
17 is a benefit to the town, no question. The
18 legislature felt that that was necessary. But when
19 you're bringing six affordable units and you add 38
20 more or however more that there are, I don't know if
21 that's really a benefit. I don't know if we need
22 more housing in Brookline, per se. That's my overall
23 perspective.

24 As I said, these are my concerns. And it's

1 not the design. I thinks it's incorporated very nice
2 materials, you've stepped back the building in
3 certain places. I'm more concerned about adding 45
4 units to the area and what the impact is going to be
5 long term for the neighborhood. And the only shield
6 that we have -- if I wanted to convince the rest of
7 the board that we have to go to pro forma review,
8 that would be my argument. I don't know if it's
9 enough to sustain turning down a project.

10 And the public has to understand that if we
11 say no to a project and they can prove that it's
12 worthy financially, then they get what they want and
13 we don't have any more input. So we're faced with
14 sort of a difficult decision here.

15 My inclination is to ask for the pro forma
16 review fully expecting that they'll probably, as
17 Jonathan said, be able to justify it. And I'm sure
18 you're prepared for it. So is that going to satisfy
19 the town as far as the goal of controlling
20 development? Again, this is 40B. It's not 40A. So
21 I'm inclined to request the numbers and to see them
22 and we'll see where it goes. But I recognize that
23 there are factors that I don't know about, and I will
24 only know about them when I see those numbers.

1 MS. SCHNEIDER: Okay. I'll try to make my
2 comments short. Thank you for your thoughtful
3 analysis.

4 I mean, I think this is a situation where
5 we're all kind of feeling that we're in a difficult
6 position because we are operating under 40B. I have
7 said, I think, consistently throughout this process
8 that I do not feel like this project is
9 appropriately -- the fit is not good, in my mind, and
10 I do not feel that the developer -- while the
11 developer has done a lot to be responsive to Cliff
12 Boehmer's comments, I am disappointed that the
13 developer has not done more to be responsive to the
14 comments and the concerns of their immediate
15 abutters. This is a small six-unit affordable
16 housing project next door, and you are hulking over
17 it. And we have made repeated requests that there be
18 more of an effort to respect the residents of that
19 building, and I feel like the efforts the developer
20 has made really fall short, and I'm very disappointed
21 to see that you've not made more progress on that.

22 That said, I've been through 40Bs on many
23 different sides of the equation, and I can say that
24 if we go to pro forma review, they're going to come

1 up with a pro forma that justifies everything.
2 They're going to talk about the cost of the land,
3 they're going to talk about the environmental
4 remediation, they're going to talk about, you know,
5 the market demands this kind of product for a 55 and
6 over with this demographic. And we're going to be
7 left at the end of the day with the exact same
8 project. So I'm not sure that calling for a
9 pro forma review gets us anything other than dragging
10 this out, keeping the people in the neighborhood, you
11 know, in suspense.

12 The next step is discussing waivers and
13 conditions and we continue to have some discussion as
14 to how those pieces come together. But at the end of
15 the day, I'm not sure looking at the books -- and we
16 know exactly what the books are going to prove --
17 gets us anywhere. I'm not saying that I can't be
18 convinced otherwise, but I know the playbook. I know
19 what this is going to look like, and I'm wondering
20 what that gets us at that point.

21 MR. ZUROFF: So does that not take us to a
22 place where we request of the developer, based on our
23 feelings about the project, that we're asking for you
24 to downsize it a little bit more. I know you said

1 you're not going to do it, but I'm representing my
2 opinion here by saying I would find it far more
3 palatable if you could make some progress in
4 decreasing the size of the project. Not the
5 appearance of the project, the size of the project.

6 MR. ENGLER: Can I respond to some of those
7 questions before you decide?

8 MS. SCHNEIDER: Sure.

9 MR. ENGLER: I've been through this many
10 times. First of all, you're saying -- I want you to
11 remember, where you think it's a problem -- and I
12 don't think we go back far enough to the traffic
13 study that said we are literally 25 percent of the
14 cars that used to come in on a daily basis for the
15 gas station. Three times more cars than we're going
16 to be showing. So that's certainly a benefit that
17 seems to get lost.

18 But let me talk about the pro forma because
19 that's my business. I've been doing it for 40 years
20 and maybe 150 -- I'll just tell you that I've never
21 lost a case. That's neither here nor there because
22 we're going to talk about it.

23 The way it gets measured -- and I want you
24 to be aware and the neighbors to be aware that we're

1 measuring our original proposal versus what you're
2 going to ask us to do, not what we've done for the
3 last six months in making this more expensive and
4 cutting it back and all this. We're allowed to go
5 back to the beginning, so -- and what was our return
6 on total cost when we submitted this to MassHousing.
7 That's our baseline, return on total cost, which is
8 measured against the 10-year treasury at that point
9 in time. We're entitled to make 450 basis points
10 above putting your money in a very safe vehicle
11 compared to taking a risk and doing real estate. So
12 that's the first step.

13 Now you compare it to what you want us to
14 do. You have to tell us what you want us to do, and
15 we'll look at that and say, how does that compare to
16 what we were going to do? And I'm going to tell you,
17 we were uneconomic by 40B standards coming in. The
18 valet cost for 45 units 24/7 is an enormous expense
19 along with the building. So I'll show you all that,
20 and I'm happy -- I know who you might hire, and I'm
21 happy. I've worked with them before.

22 The question to you is when we come back --
23 and I think you're absolutely right. You're not
24 going to get anywhere with this. You're going to

1 come back and say, okay, now we've seen we can't do
2 that. You're still entitled to do it. And then the
3 question is are we going to go to the state and have
4 to fight about this and spend money on your side and
5 our side to say it's uneconomic what you're asking us
6 to do? You're entitled to do that. We're happy to
7 respond. But we don't want to go through that any
8 more than you do.

9 So let's see what the peer reviewer says,
10 and -- if you want to do it that way. I'm just
11 telling you that it's going to cost us money to hire
12 somebody. You can tell us to do that. We pay for
13 it, you review it, we've lost another month, and I
14 think we're going to be back to where we were. But
15 that's all I have to say.

16 MS. SCHNEIDER: Mr. Engler, can I ask you a
17 question just for my own education? This is
18 something that's been weighing on me. You mentioned
19 the cost of the valet and how there's going to be,
20 you know, 24/7 valet parking. I mean, isn't it the
21 case that in order for your parking plan to work and
22 in order to convince the town and our peer review
23 staff that the parking for this project was not going
24 to create a dangerous impact, that you kind of needed

1 to do the valet?

2 MR. ENGLER: Yeah. I'm not saying you
3 forced us to do that. I'm just saying it's an
4 expensive project, and that's the baseline on which
5 we're going to measure what you're asking us to do.
6 I'm not saying that you said, you have to have a
7 valet. I can go back and check the record.

8 MS. SCHNEIDER: No. I know we never said
9 that. I guess my point is that, you know, baked into
10 this project are certain luxuries and particularly
11 expensive features that are absolutely necessary for
12 the project to be approvable, even under 40B. So how
13 does that factor into the equation of whether it's
14 economic or uneconomic? Because, really, some of the
15 costs are part of having a project that you could
16 just go forward --

17 MR. ENGLER: Yes. That's a very good
18 question. And the Woburn case wrestled with that and
19 said, what you come in with, Mr. or Mrs. Developer,
20 is your baseline. If you come in on an uneconomic
21 basis -- which you're entitled to do, by the way,
22 because there's a lot of reasons to build housing and
23 you don't have to meet the 40B standard. But if
24 that's what you came in at when you submitted to

1 MassHousing, that's your baseline. You and your
2 investors said the treasury bill was at 2 percent,
3 and we need to get to 6 1/2 percent to be uneconomic
4 and we're willing to live with 5.8. Okay?

5 Now what's happening is -- let's look at
6 what you've asked us to do, and we're going to add up
7 the costs and take a look at that compared to what we
8 were originally going to do. And if it renders it
9 more uneconomic -- it doesn't have to go from
10 economic to uneconomic. It could go from uneconomic
11 to seriously more uneconomic. And that's a question
12 the housing appeals would say, we can't do that. So
13 that's where we would be, depending on what you ask.

14 If you ask for one unit, I can't defend
15 that. But if you ask for something that, you know,
16 has the same building and the same parking and the
17 same land costs, as you indicated, we have to take
18 the appraised value as is -- not what we paid, but
19 what is it worth. It's an expensive site. We look
20 at all the operating costs in all things we do all
21 over, and then say, you know, where are we going to
22 come out with this thing? So it is a very expensive
23 property. I've done a lot of these in Brookline and
24 other towns. This is pretty expensive. But we're

1 willing to do that. When we submit it, now the
2 question is how much more are we getting hit? That's
3 what we'll have to look at.

4 And I just think it'll be giving you a
5 dilemma by saying, well, gee, we're not going to win
6 the uneconomic argument, but local concerns can trump
7 uneconomic. If you're serious now -- honestly -- and
8 you can check with Judi Barrett, your consultant --
9 there's never been a case that said casting shadows
10 on a neighborhood building is going to trump the need
11 for affordable housing. It's just never been that
12 case. And we don't see anything else. The health
13 and safety is serious, and we think we've solved
14 those questions. So what is it under the local
15 concern rubric that's going to rise to the level to
16 say that's more important than the need for the
17 housing?

18 And you say you only get a couple units. I
19 agree with you, but you get to count them all because
20 of the silly way the state counts these, so you get
21 to count 45 units, even though all of the market --
22 so that's a benefit to you. I think, as an
23 affordable housing person -- I think it's a crappy
24 law, but that's the way it works.

1 MR. ZUROFF: I appreciate your point of
2 view, and I will summarize my final comment this way:
3 You're going to be -- I know that your development
4 team are Brookline residents. You have to live --
5 and developing this area -- and live with your
6 neighbors. And so I would hope that in the spirit of
7 being neighbors, that you appreciate the fact that
8 what we're trying to do is protect the neighborhood
9 and not take away your profits.

10 MR. PANDYA: This is just a -- this is an
11 added piece of information as you're contemplating,
12 thinking, and deliberating. You know, having done
13 100 housing projects -- I'm not going to say 40B or
14 affordable or otherwise, but just housing -- there's
15 a lot of efficiencies that you tend to look for as a
16 designer to bring to the table. And I think when you
17 try to do that -- you know, we understand that the
18 efficiencies mean a multitude of things. If you can
19 regularize things by creating, you know, square
20 shapes and that kind of thing, you get efficiencies
21 and you can increase certain -- you know, either
22 increase units or do a myriad of things.

23 The one thing that this site does not
24 afford us are any efficiencies. It is an odd-shaped,

1 L-shaped, trapezoidal, you know, odd-ball, frankly,
2 of a site. And, you know, we've tried in the early
3 iterations to get a ramp so we wouldn't have to do
4 this thing. We've tried in many iterations. There's
5 just -- it's infeasible to create those conditions to
6 allow those efficiencies to exist.

7 One scenario could be if it was a fully
8 rectangular site, maybe, you know, you could still do
9 this and do that and you could kind of make out and
10 still have the same unit count. We don't have that
11 opportunity here. We don't have the opportunity to
12 create a ramp because we just don't have the turning
13 radius that's required by -- you know, that the cars
14 require to actually manipulate and maneuver yourself
15 in a ramp.

16 And I think all those considerations are,
17 you know, to your earlier point, is what makes this
18 thing a challenge in so many different ways. And not
19 just from, you know, the increase of housing or not
20 increase of housing. I think it creates efficient
21 housing. Because sometimes when you're doing
22 affordables, you want to be efficient. And that, you
23 know, plays a role in your bottom line. And I think
24 that's one thing that when you look at pro forma

1 costs, is that certain efficiencies are, frankly, out
2 the window, just from the geometry.

3 And I will add that I think that, you know,
4 when we were at 17 feet, which was the required
5 setback, and we've increased to 30 feet, to just
6 comment on the fact that we have tried -- or haven't
7 tried hard enough, I think adding 13 feet and pushing
8 the entire building further west, frankly, I think is
9 one huge piece that I think was really helpful in
10 that component on the lower level, and we also did it
11 on the upper level. So that would be my last
12 comment. Thank you.

13 MR. DHANDA: Raj Dhandu.

14 From where we started, we are very
15 different. We've given up a lot. We've given up
16 13 feet, and for length we've given up many thousands
17 of feet on the -- not many, but a couple thousand for
18 retail. We've changed dimensions on the top. And I
19 don't know what more we can give. You want to go
20 through the process, we'll go through the process.
21 This is the best we can do.

22 MS. SCHNEIDER: Okay. Thank you.

23 Alison?

24 MS. STEINFELD: Thank you. Alison

1 Steinfeld, planning director.

2 Obviously, the board's at a critical
3 juncture at this point, and unfortunately, you're at
4 a disadvantage in that your planning staff, Maria
5 Morelli and I, do not have 40B experience. I've been
6 dealing with six 40Bs since I got here, but I have
7 never -- I certainly don't have the experience
8 Mr. Engler has, nor do I have the experience that
9 Judi Barrett has.

10 I do know enough to know, however, that if
11 you do proceed to pro forma, we run a serious risk
12 that -- and to quote you -- we will not be left with
13 the same project. So clearly it's the board's
14 decision, but I would respectfully recommend that if
15 you're inclined to take that route, that you at least
16 postpone the hearing until we can have Judi Barrett
17 here so she can more adequately advise you. Because,
18 quite honestly, I'm not equipped to do so.

19 MR. BOOK: So I have a question, which you
20 probably can't answer, but I'll throw it out there.
21 So if we do go to pro forma, merely asking for it,
22 does that give the applicant the ability to go back
23 to its original project?

24 MR. ZUROFF: Good question.

1 MS. SCHNEIDER: That is a good question.

2 Mr. Engler, at the risk of --

3 MR. ENGLER: I'll try -- I won't speak for
4 Judi, although I've known her for many years.

5 MS. SCHNEIDER: You're the best resource
6 we've got at this point, but we'll take what you say
7 with a grain of salt.

8 MR. ENGLER: I'm schizophrenic. I'll work
9 both sides of the table.

10 What Judi's mentioned is if you condition
11 it in such a way that you might lose, the HAC would
12 give us the original application, so you lose the
13 kind of things that we've been negotiating.

14 My opinion, you don't lose them by asking
15 for the financial review. That's a question of what
16 the numbers look like based on what you want us to do
17 versus what we submitted. We can show you that, and
18 then it's going to be up to you to say, okay, we
19 didn't get the information that really we need. Now
20 what are we going to do about what we want permitted?
21 And that's when Judi will come in and say, you're apt
22 to lose all the little things that Raj just mentioned
23 we gave you. If we chose to go back to the
24 beginning. Nobody's saying that we'll do that, but

1 that's the risk, and that's just the way 40B works.

2 MR. ZUROFF: Let me turn the question to
3 you, then. And, again, I'm not -- I'm going to
4 encourage us not to require that at this point
5 without expert consultation. But are you saying that
6 if we do force the issue, that you would go back to
7 the original proposal, or are you willing to say if
8 the pro forma is satisfactory, as I assume you
9 believe it will be, that you will stay with the
10 reiterated project?

11 MR. ENGLER: Well, I don't speak for the
12 client, and it all depends on what you're going to
13 put in as the conditions. We have every right to
14 look at those and say, can we afford that? And we're
15 certainly willing to -- what we have to date, if
16 that's what you're going to be approving, we're not
17 going to appeal it. But if you add things to it, we
18 have every right to look at the costs that are
19 involved with that. So that's where we are.

20 And, you know, you have 40 days to
21 deliberate, and we have another 20 to appeal. We'd
22 like to be in one mind so we can comment to you, as a
23 lot of boards say, can you live with this or not live
24 with that? And you can take our advice or not in

1 terms of the economics of any particular condition
2 you put on.

3 Or you don't grant us a waiver, and that's
4 a discussion you're going to have. And it's funny to
5 me that -- waivers to me just mean, what do you need
6 to build this building? If you don't need it, don't
7 ask for it. Or if you can't afford it, tell us that
8 and it's an economic issue. But those are the only
9 two reasons we would ask for a waiver: if we can't
10 afford it or we cannot build the building. So we can
11 go through that list. But if you say, gee, we're
12 inclined to give you the project, but we're going to
13 deny these three waivers so you can't build it, then
14 it doesn't really work.

15 MR. ZUROFF: I don't think that would be
16 our approach.

17 MS. SCHNEIDER: We know better than that,
18 at least.

19 MR. ZUROFF: No. I appreciate that.

20 MS. SCHNEIDER: Okay. So --

21 MR. ZUROFF: My feeling -- not to cut you
22 off.

23 MS. SCHNEIDER: No. Go ahead, cut me off.

24 MR. ZUROFF: -- is that we should have Judi

1 Barrett's input before we make any decision on
2 whether to proceed with a pro forma. But I
3 appreciate that Mr. Engler has opened the door for us
4 to continue the cooperative process.

5 MR. BOOK: I agree. We have until --
6 March 2nd is the other -- 6th.

7 MS. SCHNEIDER: 6th.

8 MR. BOOK: So we have time between -- we
9 still have time to have a meeting with --

10 MR. ZUROFF: Judi will no doubt consult,
11 and then we will discuss.

12 MS. SCHNEIDER: So I have a couple of
13 procedural questions. Alison, did you want to say
14 something?

15 MS. STEINFELD: Well, just in terms of
16 procedurally, we honestly don't know when Judi is
17 available. It's going to be hard to figure this out
18 in terms of timing.

19 But could I ask the developer, if
20 necessary, in order to accommodate this plan and seek
21 guidance from our consultant, is it possible that if
22 we were to ask for an extension, you would grant it?

23 MR. ENGLER: We've got to see why. You've
24 already had a few extensions, so I don't see why you

1 need that, frankly. Judi can answer your questions
2 at the next hearing.

3 MS. STEINFELD: No. But what I'm saying is
4 if they wait a week or so for another hearing and
5 they decide to go pro forma -- I'm just asking in
6 case we can't pull this off in terms of the
7 scheduling. Obviously, we're going to try.

8 MR. ENGLER: Let's wait and see what
9 happens. You're asking us to prejudge something,
10 which puts us in a very awkward position tonight.

11 MS. STEINFELD: Well, quite honestly, we're
12 all in an awkward position tonight, so...

13 MR. ENGLER: Well, hopefully everything
14 will work out. We're not trying to stop anything,
15 but this has been a long process, and I know it takes
16 a while to get a pro forma review done.

17 MS. SCHNEIDER: Well, I think that's what
18 the issue is, that in the event -- and I understand
19 at this point it's still hypothetical. But let's say
20 that in three weeks' time, or whenever we're next
21 scheduled, February 15th, that's when we get the
22 advice from Judi Barrett. And let's say we ask for a
23 pro forma review at that point. I don't know how
24 that gets accomplished with a March 6th deadline.

1 MR. ENGLER: Why are we waiting till -- do
2 you have to wait until the 15th?

3 MS. SCHNEIDER: Isn't that our next
4 scheduled meeting?

5 MS. MORELLI: I think our schedule is
6 February 7th.

7 MS. SCHNEIDER: Is it February 7th? I'm
8 sorry.

9 MS. MORELLI: I believe so, if the board is
10 still available then. I think we had scheduled that.

11 MS. SCHNEIDER: Okay. You're absolutely
12 right.

13 MR. ENGLER: If you schedule it then and
14 you decide -- Judi gives you information and you say,
15 let's go get the review, it'll take the pro forma
16 consultant three weeks, maximum to do -- they don't
17 do their own. They don't go out and design and build
18 and get -- they look at our numbers. They critique
19 them. And then we can speak to them in between and
20 we can answer all their questions. So by the 6th,
21 you would have all that information and you could
22 talk about what you wanted to do. And if we were
23 real close and you needed some more time to solve
24 something, we'll talk about that.

1 MR. ZUROFF: We can discuss waivers at the
2 next meeting.

3 MS. SCHNEIDER: Well, I guess, that's the
4 question. Can we double up on the next -- no. I
5 guess the real question is can we proceed down a
6 concurrent path here? Can we go through the waiver
7 discussion at the next hearing, notwithstanding that
8 we may, at the outset of that hearing, request
9 pro forma review?

10 MS. MORELLI: Sure. Because you might want
11 to deny certain waivers. There might be, you know,
12 something that they're asking for, and you might not
13 want to grant that waiver. And they can respond and
14 say, that's not acceptable then, and that would also
15 trigger a pro forma.

16 MS. SCHNEIDER: Okay. Fair enough.

17 MR. BOOK: The town has a consultant for a
18 pro forma review, or --

19 MS. STEINFELD: The town has engaged two
20 separate peer reviewers, and they're under contract.
21 I haven't spoken to them for a while, but our
22 understanding is it takes about three to four weeks
23 to conduct a peer review upon receipt of the
24 pro forma.

1 MS. SCHNEIDER: Okay. So we are going to
2 continue this hearing to February -- Tuesday,
3 February 7th at 7:00 p.m. At that hearing we will
4 make a determination as to whether to seek pro forma
5 review with the advice of Judi Barrett. It would be
6 great if she could be here. If she can't, though,
7 can we have something from her in writing to read
8 into the record?

9 MS. STEINFELD: Obviously, we'll make every
10 effort to --

11 MS. SCHNEIDER: Sure. I know we don't
12 control her schedule, but --

13 MS. STEINFELD: She's down the Cape right
14 now on business, and we can't even reach her, quite
15 honestly.

16 MS. SCHNEIDER: But I guess my question
17 is -- and this may be a question for the board. Are
18 we okay proceeding without Judi Barrett live if we
19 can't get her on February 7th?

20 MR. ZUROFF: Yes.

21 MR. BOOK: Yes.

22 MS. SCHNEIDER: Okay, great. So at the
23 next hearing we'll hear from -- we'll make a
24 determination with respect to pro forma review and

1 we'll begin a review of the requested waivers by the
2 applicant.

3 This hearing is continued. Thank you.

4 (Proceedings adjourned at 9:07 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
7 of my shorthand notes so taken.

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

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

13 Dated this 3rd day of February, 2017.

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Kristen Krakofsky, Notary Public
17 My commission expires November 3, 2017.

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