1   Volume I

2   Pages 1-74

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4   Brookline Zoning Board of Appeals Hearing

5   1299 Beacon Street

6   Comprehensive Permit Application

7   Chestnut Hill Investments, LLC

8   May 9, 2018, at 7:00 p.m.

9   Brookline Town Hall

10   333 Washington Street, 6th Floor

11   Brookline, Massachusetts 02445

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16   Reporter: Kristen C. Krakofsky

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 1                      APPEARANCES

 2  Board Members:

 3  Jesse Geller, Chairman

 4  Johanna Schneider

 5  Kate Poverman

 6  Randolph Meiklejohn

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 8  Town Staff:

 9  Alison Steinfeld, Planning Director

10  Maria Morelli, Senior Planner

11  Ashley Clark, Planner

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13  40B Consultant:

14  Judi Barrett, Barrett Planning Group, LLC

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16  Applicant:

17  Raj Dhanda, Chestnut Hill Investments, LLC

18  Rachna Balakrishna, Chestnut Hill Investments, LLC

19  Bob Engler, President, SEB, LLC

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

21  CBT Architects

22  F. Giles Ham, P.E., Managing Principal,

23  Vanasse & Associates, Inc.

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1   PROCEEDINGS: 7:08 p.m.

2   MR. GELLER: Good evening, everyone. This

3 is an application for a comprehensive permit under

4 Massachusetts General Laws, Chapter 40B. This

5 involves property at 1299 Beacon Street.

6   For the record, my name is Jesse Geller.

7 To my left is Randolph Meiklejohn, my immediate

8 right is Johanna Schneider, to Ms. Schneider's right

9 is Kate Poverman.

10   Tonight's hearing -- what you will find is

11 we will have a series of hearings that will focus on

12 different topics, so that this evening, to kick off

13 this matter, we will review administrative details,

14 we'll get an overview of the Chapter 40B process,

15 which is unusual, to say the least, and we will hear

16 the applicant's presentation. We will then, barring

17 there being any surprises, continue until --

18   MS. MORELLI: We haven't confirmed a date.

19 We can leave that for last.

20   MR. GELLER: We will continue this to

21 another date certain, at which time we will pick up

22 the hearing.

23   And at that point -- do we have a sense of

24 outline at that point, what the next one --

1   MS. MORELLI: Yes. I can certainly speak

2 to that.

3   MR. GELLER: Okay. So Maria's going to

4 address that in a moment.

5   But each hearing itself will be dedicated

6 to a different topic or topics which we will focus

7 on until we get to the end of the process, at which

8 time the board will deliberate and give its

9 decision.

10   Tonight's hearing, as well as the continued

11 hearings, are all recorded for record, and we are

12 doing that -- I don't know if we're also doing a

13 tape-recording, but we have a transcript. We're

14 also, I understand, live on Brookline Cable. But

15 we're not doing a separate tape-recording; correct?

16   MS. MORELLI: Not a separate

17 tape-recording, but that video is memorialized.

18   MR. GELLER: Materials that pertain to this

19 hearing, like the transcripts, are available at the

20 town's site, planning department, and there will be

21 a listing under 1299; correct? And you can find all

22 these submittals as well as presentation materials.

23 And approximately two weeks after an individual

24 hearing, the transcript should also be available for

 1 anyone who wants to take a look at those.

 2   Other administrative details?

 3   MS. MORELLI: No. Just if you want to go

 4 over my staff report, which is very administrative.

 5   MR. GELLER: While you do that, I'm going

 6 to raise one more thing.

 7   MS. MORELLI: Sure.

 8   MR. GELLER: At varying points, there will

 9 be opportunities for testimony. What I typically ask

10 of people, everyone who wants to offer testimony,

11 listen carefully to what others have to say. This is

12 a long process. Believe me, it is a long process.

13 And therefore, in an effort to make this somewhat

14 more efficient, rather than repeat things that other

15 people have said, simply point to whomever said it

16 before you. If you happen to agree with them, say,

17 "I agree with them." We certainly want to hear any

18 new information that people have. That pertains to

19 everyone. Let's try and make this a more streamlined

20 process.

21   Also, if you are offering testimony, we ask

22 that you speak into the microphone at this dais.

23 Start by giving us your name and your address. I

24 think those are the basic rules.

1   Maria, do you have a report?

2   MS. MORELLI: Yes. I'm Maria Morelli. I'm

3 a planner at the planning department, and I'm working

4 with my colleague Ashley Clark in the front row who's

5 a planner as well on this project.

6   The state regulations at 760 CMR 56.05(2)

7 paragraphs A through H have a list of requirements

8 for a complete application, as do our local rules and

9 regulations for the zoning board of appeals under

10 Section H.

11   So I've gone through the application

12 according to the standards in the regulations and our

13 local regulations and just noted some very minor

14 things that I put in a letter to the applicant. Some

15 of the things that we like to see in the application

16 are just more clarity on the site regarding

17 dimensions, height methodology.

18   And then a few other things that are not

19 really required -- they're not requirements for a

20 complete application but really help us get off on

21 the right foot. Namely, a digital 3D model that has

22 the details for the project and the abutting

23 structures. That could simply be massed as gray

24 cubes. That really helps us to -- especially the

1 peer reviewers -- to understand the relation to the

2 surrounding context.

3   The other thing is shadow studies, fall and

4 summer.

5   MR. GELLER: Have you requested these?

6   MS. MORELLI: I have requested them. It is

7 in writing, and the applicant did receive them.

8   MR. GELLER: Okay.

9   MS. MORELLI: Other administrative details:

10 Throughout this process, there is going to be plenty

11 of testimony from staff, departments, boards and

12 commissions. And the ZBA, as Judi will note, also

13 has the opportunity to work with peer reviewers --

14 consult with peer reviewers on a variety of technical

15 areas, namely parking, traffic, site and building

16 design. And so we just -- for the record, if you

17 could ask the applicant if the applicant would be

18 willing to pay for the independent technical peer

19 reviewers for design, traffic, and parking.

20   MR. GELLER: Yes. And I'm also going to

21 throw in there the stenographer.

22   MS. MORELLI: Yes.

23   MR. GELLER: Will the applicant pay for

24 those?

 1   MS. BALAKRISHNA: Yes.

 2   MS. MORELLI: The other thing that I wanted

 3 to say in terms of the trajectory -- for this

 4 hearing, it tends to be very administrative. There

 5 will be an overview of the proposal, certainly Judi

 6 Barrett's overview of the process. And what we will

 7 do is -- usually like a month before a hearing, the

 8 topics are really finalized, and we can put them on.

 9 We don't necessarily put the whole schedule in at

10 once because it is fluid, but there are standard

11 milestones throughout this process, and I just wanted

12 to assure, especially members of the public, for the

13 next couple of hearings -- the June hearing, we'll be

14 hearing testimony from staff, boards, and

15 commissions. And then for the July hearing, we will

16 have testimony -- probably two hearings, one devoted

17 to parking and traffic. I think starting with that,

18 and then going to the site and building design.

19   And at that point, it's, as much as

20 possible early on in the process, for the ZBA to form

21 a list of local concerns and begin giving an initial

22 charge to the developer early on. The developer will

23 address your charge and may work with staff, and then

24 staff will give a report at the next hearing. So

 1 that's kind of how it works.

 2   So we can just talk a little bit later

 3 about when in June you can meet. I think the week of

 4 June 18th is not good for folks. We do want all of

 5 the ZBA members to attend. If one person misses a

 6 meeting, then that person has to stay off and can't

 7 vote.

 8   MR. GELLER: Which is why we have four

 9 members.

10   MS. MORELLI: Right. So if you just want

11 to -- by the end of this hearing -- just want to look

12 at your calendars to see what date in June. Mondays

13 or Wednesdays would work. Keep in mind that the

14 Wednesday, 6/13/20, this hearing room is not

15 available because of other assignments. So it's not

16 that we couldn't have a hearing on that date. It

17 just means that we wouldn't have it televised, if

18 that's important to you. That's just something to

19 keep in mind.

20   Other than that, that is what I have for

21 you, unless you have any questions for me.

22   MR. GELLER: Any questions for Maria at

23 this point?

24   No. Okay.

 1   What we're going to do next is -- we've

 2   worked with Judi Barrett on four, five, six -- many

 3   projects in the past. Judi is our 40B consultant.

 4   And as we typically do, we ask that Judi give a

 5   somewhat brief overview of the 40B process as well as

 6   the dos and don'ts.

 7   MS. BARRETT: Good evening. I have a bit

 8   of a talk I like to do about Chapter 40B and how the

 9   process works with the board of appeals. I tweak

10   this presentation from time, so, board members,

11   you'll see some new content, and any of you who have

12   been at previous hearings, this will be a little bit

13   different. But a lot of it is the same because, of

14   course, the process has been in place for a very long

15   time.

16   One of the things I have discovered over

17   the years is that there's a lot of confusion about

18   what Chapter 40B actually is. And most of what I

19   talk about tonight after this slide will refer to

20   Chapter 40B the way most people do, which is

21   that it's the law that, in short, provides for a

22   permitting process to create low- or moderate-income

23   housing.

24   But I think the most important thing

1 everybody needs to understand is that Chapter 40B

2 overall is actually the state's regional planning

3 law. And it's important to understand that because

4 sometimes people don't quite understand what the

5 statutory scheme is for this provision.

6   In 1964, the legislature adopted the

7 regional planning law which created agencies like the

8 Metropolitan Area Planning Council and all these

9 other regional planning agencies, or RPAs, as they

10 call them, throughout the state.

11   Five years later, that law was amended to

12 introduce the Low and Moderate Income Housing Act.

13 And the reason it's in the regional planning law is

14 that the whole nexus of this law is about regional

15 housing needs. So certainly, while you're trying to

16 create more affordable housing in a community and

17 trying to address local needs while you're doing

18 that, the real kind of framework for this law is

19 about meeting regional housing needs.

20   So it assumes that if your community has a

21 certain percentage of your housing that is available

22 and restricted for occupancy by low- or moderate-

23 income folks, that you have met your, sort of,

24 regional fair share responsibility for providing

1 affordable housing in your region, which happens to

2 be the Boston Metropolitan area. And so that

3 fair-share standard is this 10 percent rule, which

4 I'm sure many of you have probably heard of, and

5 that's mostly what I'm going to talk about from time

6 to time tonight when I talk about the decisions that

7 the board needs to make.

8   Affordable housing, therefore, is housing

9 that counts toward that 10 percent statutory minimum,

10 and it needs to be affordable to households with

11 incomes at or below 80 percent of area median income.

12   And how those limits are determined is

13 mainly by the federal government, which does this

14 nationally. The income limits are pretty much the

15 same, and they're created through the same

16 methodology across the 50 states, but of course

17 they're sensitized to regional differences in wealth.

18 And area median income kind of recognizes that there

19 are differences in wealth between regions, so the

20 income limits that apply in communities around Boston

21 are very different from the income limits that apply,

22 say, out in Berkshire County where I've also done a

23 lot of work. You happen to be in the Boston Metro

24 area, which is comprised of 114 communities. And so

 1 the income limits that we're talking about here are

 2 derived from a median for those 114 communities and

 3 all the households that are within them.

 4   These are kind of a snapshot of the most

 5 recently published income limits, just to give you a

 6 sense of what this all means. 80 percent of the

 7 median for a family of four -- which we almost have

 8 none of any more, but a family of four is the sort of

 9 standard -- is $81,100. So a household that makes

10 that or below would typically be eligible for an

11 affordable home, down to a household of one where the

12 maximum income limit is $56,800. So this just gives

13 you a little bit of a picture of what the income

14 limits look like.

15   And arguably, some housing developments

16 actually aim to address people who have more need

17 than that. So you will sometimes see income limits

18 that are lower than those, and that's because

19 programs are aimed to address the needs of people who

20 are below that 80 percent median standard.

21   To count on the subsidized housing

22 inventory, that 10 percent affordable housing has to

23 be available to everyone who's income eligible in

24 that sort of metropolitan or regional area that's

1 defined by the federal government.

2   And just to be clear, these regions are

3 basically labor market areas. So if you think about

4 where do people live and where do they go to work,

5 it's sort of a labor market geography, and that's

6 what you're in in this Boston Metro area. So housing

7 has to be available to anybody who's income eligible

8 in that region, and it has to be offered for sale or

9 for rent through what's called "an affirmative fair

10 housing marketing plan" that is designed to ensure

11 that people know there's a housing opportunity in

12 your community or any other town that happens to be

13 creating low- or moderate-income housing in the

14 Boston area.

15   Of course, some so-called local preference

16 is allowed. The board can't dictate that. The town

17 can request it, and the state subsidizing agency

18 that's involved with the development can certainly

19 approve it. But it is allowed. It's just that you

20 can't do it for all the units in a particular

21 development.

22   So under Chapter 40B, the most common thing

23 we talk about is this 10 percent minimum. There are

24 two other ways in which the town might be deemed to,

1 quote, comply with the law. "Comply" is kind of a

2 misnomer because you can be over 10 percent and still

3 be approving comprehensive permits. But just to sort

4 of be clear, if you meet any of these so-called

5 thresholds, the board would be able to either deny an

6 application or continue to approve it but perhaps put

7 conditions on it that the applicant would not like

8 very much. And the bottom line is that the applicant

9 could not appeal through the so-called expedited

10 process with the state Housing Appeals Committee.

11   So the thresholds are, first of all, are

12 you at or above 10 percent of your total year-round

13 housing units that are affordable.

14   Another threshold is even if you're not at

15 10 percent on housing units, is enough of the land in

16 your community occupied by low- or moderate-income

17 housing that you meet the low land area minimum,

18 which is 1.5 percent. And some of you may have heard

19 about that. There's been a lot of controversy about

20 that recently in the Boston area.

21   And the third threshold is kind of a

22 temporary one. It's if you have a lot of low- or

23 moderate-income housing under construction in your

24 community at a given point in time so that it's

 1 covering land equal to or greater than .3 percent of

 2 your total land area, the board would be able to deny

 3 an application or impose conditions and not be

 4 overturned by the state Housing Appeals Committee.

 5   So the reason that applications are in

 6 front of the board, and have been for the past few

 7 years, is that A, this is a very desirable community;

 8 and B, Brookline hasn't quite yet met that 10 percent

 9 threshold.

10   There are other ways that the board can

11 exercise more control over these developments. I

12 don't really like to describe it that way, but

13 they're able to impose conditions, perhaps, or even

14 deny. And these are all a creature of regulation.

15 These are not in the statute. These are things that

16 the Commonwealth has tried to create to sort of

17 encourage towns to create more low- or moderate-

18 income housing, and one is having a housing

19 production plan that is certified.

20   And Brookline was actually in that position

21 recently. A housing plan was created a couple of

22 years ago, and the board then approved enough

23 comprehensive permits to reach a numerical target

24 that allowed the board to say, we can take a break

 1 for a year, or not. And no surprise, the stream of

 2 Chapter 40B applications kind of slowed down at that

 3 point.

 4   Another way to kind of hit a threshold is

 5 even if you don't have a housing production plan, if

 6 you create enough units in a given year to meet

 7 what's called the "recent progress rule," the board

 8 could also deny an application if it wanted to.

 9 That's a higher standard.

10   Alison, I think we computed that one. It's

11 590-something.

12   MS. STEINFELD: 524.

13   MS. BARRETT: You know that number in your

14 sleep, don't you?

15   A third standard is a review of large

16 projects. There is a cap -- sort of cap in the state

17 regulations over which an application really

18 shouldn't go because it would be deemed to be too

19 much housing infused in the community's housing

20 market in a short period of time. That would be

21 another threshold that might allow the board to turn

22 down a development.

23   And then finally, this concept of related

24 applications, which is simply someone applies for

 1 approval to build a project, they're turned down, and

 2 out of anger they come back to the town and say, I

 3 want to do a Chapter 40B application. And the

 4 regulations say you can't do that. There has to be a

 5 cooling off period between a denial of some other

 6 development for a site and a Chapter 40B application

 7 for that same piece of land.

 8   The critical application requirements,

 9 Maria, you know, sort the alluded to this, so I'm not

10 going to spend a lot of time on it. But the

11 applicant has to meet three sort of basic statutory

12 requirements in order to even be here.

13   One is that it's either a public agency, a

14 nonprofit organization, or a for-profit developer

15 that agrees to a limited dividend agreement, if you

16 will, to basically limit their profits from the

17 development. And that's a piece of documentation

18 that comes later in the process, but they have to

19 agree to that or they can't even be here.

20   Another is that they have evidence of site

21 control, meaning they either own the site or they

22 have a purchase and sale agreement or something that

23 says, I do control this property.

24   And the third and kind of a critical piece

 1 is a letter called a "project eligibility letter"

 2 from a subsidizing agency, which is typically

 3 MassHousing. It could be MassHousing Partnership; it

 4 might be MassDevelopment; it might be the Department

 5 of Housing and Community Development. Those are the

 6 four agencies in Massachusetts that tend to issue

 7 what we call PELs.

 8   Without those three pieces of

 9 documentation, the application doesn't belong here in

10 front of the board. So there's an assumption, if

11 they're here, that they have that information.

12   They have to provide at least a preliminary

13 plan showing what their proposal is. These are not

14 final plans. These are not to the level of detail

15 that a planning board might see if it were doing site

16 plan review on a development. They're allowed to do

17 sort of a preliminary plan which is, you know, better

18 than a sketch, but it has to be -- you know,

19 dimensions have to be apparent on the plan, and you

20 have to have a sense of what the applicant's

21 proposing. They don't necessarily have to do a lot

22 of, you know, site studies and so forth at this

23 point. They do those later.

24   They have to give you an existing

 1 conditions assessment of the site; preliminary scaled

 2 architectural drawings, what is this thing going to

 3 look like when it's built; a tabulation of the

 4 proposed buildings by type, size, and ground

 5 coverage. Often in your community they tend to be

 6 one building. Not in every suburb that's the case.

 7 So they have to give a tabulation of how many

 8 buildings are we talking about, how big are they, and

 9 how much of the ground do they cover on the site.

10   Sometimes a 40B application might involve a

11 subdivision, and if does, there has to be a

12 preliminary plan showing how the land will be divided

13 into lots. There has to be a preliminary utilities

14 plan and a list of waivers.

15   And this is really key because the law

16 essentially works this way: There's an assumption in

17 the statute that but for the relief an applicant can

18 get from the board under Chapter 40B, they would not

19 be able to build the proposed low- or moderate-income

20 housing. So the law sort of vests in this board the

21 authority to grant waivers from local regulations,

22 zoning, a local wetlands bylaw, whatever is sort of a

23 local creature. This board assumes responsibility

24 for all those local rules and has the authority to

 1 grant waives. It also, of course, has the authority

 2 not to. But it is in their hands to decide what

 3 local regulations will be waived in order to allow a

 4 proposed development to go forward. So the applicant

 5 has to tell the board, these are the things that we

 6 need you to waive in order for our development to be

 7 built.

 8   There are some deadlines that are really

 9 critical for Chapter 40B applications to conform to.

10 I'll just go over this briefly. When an application

11 comes through the door, the department -- the

12 board -- really the planning department does this for

13 them -- has 7 days to get the application out for

14 review. The public hearing has to be advertised for

15 this type of development -- just as it does for any

16 others -- at least 14 days before the opening of the

17 hearing and then again 7 days before.

18   The hearing must open within 30 days of the

19 board's receipt of a comprehensive permit. That's a

20 tighter timeline than many other types of submissions

21 to, say, a planning board. Sometimes that's as long

22 as 65 days, but in this case it's 30.

23   And, again, the intent of the statute is to

24 promote the construction of affordable housing. So

 1 these kinds of condensed timelines and reduced

 2 submission requirements are all around an assumption

 3 that affordability is more likely to be achieved if

 4 you take some of the burden away.

 5   If the town believes that it meets one of

 6 those safe harbor provisions I talked about or if the

 7 town thinks it's actually at 10 percent or 1.5

 8 percent, the board has to notify the applicant within

 9 15 days of opening this hearing that it believes it

10 could deny the application based on one of those

11 standards. And then the applicant has 15 days to

12 say, I don't agree with you. And then the whole

13 thing ends up at the Department of Housing and

14 Community Development, which has 30 days to decide

15 whether the board is right or the applicant's right,

16 and their decision is generally final for now.

17   Once that process, if it happens, is

18 complete, then the process goes on and the board is

19 essentially charged with completing the hearing

20 process within 180 days. Now, of course, applicants

21 do grant extensions of that 180 days if necessary,

22 but, again, the intent is to consolidate the

23 permitting timeline in order to promote the

24 construction of affordable housing.

1   Once the hearing closes, the board has

2 40 days to file its decision with the town clerk, and

3 then, of course, the usual 20-day-appeal period that

4 applies to any other type of permitting process kicks

5 in. Someone has 20 days to appeal.

6   If the developer is unhappy with the

7 board's decision, the developer appeals to a state

8 agency called the Housing Appeals Committee. If

9 abutters or other interested parties are unhappy with

10 the decision, they can appeal to a court of competent

11 jurisdiction, which in this case would be the

12 superior court or land court.

13   It's important for boards to kind of

14 understand what is in front of them. And, you know,

15 to really get that, you have to have more than a

16 plan. So typically, boards will either schedule a

17 formal site visit or at least agree at the individual

18 level that people will go out and take a look at the

19 site so you can kind of understand, from a board

20 member's perspective, what is this neighborhood, what

21 are the existing conditions, how is this proposed

22 design going to sit on the site, and where are

23 abutters who will be most affected by the proposed

24 development?

1   So it's good that the local regulations

2 require kind of at least a representation, Maria, of

3 where abutting structures are. My experience -- and

4 I also happen to be on a board of appeals in another

5 town -- is that seeing it on the ground is extremely

6 helpful. So we often recommend that if a board can,

7 that they do a site visit either as a board or as

8 individual members before the process goes on too

9 far.

10   The board has the authority to retain peer

11 review consultants if it needs assistance reviewing

12 an application. The chairman referred to that

13 earlier, and Maria referred to that earlier.

14 Typically, here in Brookline we see traffic and

15 parking review, we see design review, sometimes we

16 see the stormwater review that's done outside the

17 planning department. Your town is lucky that you

18 have staff -- professional staff who can assist with

19 this. But bringing in outside consultants can be

20 very helpful to the board and the staff as well.

21   So, you know, if it's necessary for the

22 board to get into an analysis of the financial

23 feasibility of the project, they can do that too, and

24 they can request a peer review of what's called the

 1 applicant's pro forma. That generally happens much

 2 later in the process, if it needs to happen at all.

 3   And, of course, everything that the board

 4 receives and considers is all part of the record for

 5 the project. Again, fortunately in Brookline you

 6 have the staff to keep a good record online, so

 7 anything that is done here ends up on their website

 8 and people can find the information easily, which is

 9 great. It isn't like that in every town.

10   Generally, it's a good idea for boards to

11 sort of get -- focus on the real issues with the

12 project as soon as they can. It just makes the

13 project more efficient, and not only for the

14 applicant, but certainly for the board. These people

15 are volunteers, and it's a lot of work.

16   If they need additional information from

17 the applicant, they certainly can request it. If

18 they need sort of graphics or something to better

19 understand the massing and height of the project,

20 they should ask for those things. And it really is

21 up to the applicant to make sure that the board

22 understands the project. It just doesn't help

23 anybody to have vagueness or ambiguity in the

24 documents for a given development.

1   The board, as I said, has jurisdiction over

2 kind of all the local approvals. They all sit here.

3 A good example of where there's a difference is if a

4 project is near a wetlands, it's regulated by the

5 state wetlands act. Your conservation commission

6 retains jurisdiction over that. But if you have a

7 local wetlands bylaw, anything that's in that that

8 exceeds the state law would come to this board either

9 for approval as though they were the conservation

10 commission or a waiver of the local bylaw. But the

11 applicant has to say, these are the waivers we need,

12 and it's up to the board to kind of evaluate each of

13 those, which this board always does.

14   There are things that are not in the ZBA's

15 purview, and there are things -- I just want to make

16 sure everybody understands this. Because really what

17 the board's job is is to evaluate the physical and

18 operational and design aspects of the project. Like

19 any other proposed development, those are the things

20 that you look at: what they're going to look like,

21 how they're going to operate on the site, is it safe,

22 is access safe? Those are the things that

23 development review entails.

24   What it does not entail, in this process

 1 certainly, or ideally in any other one, is the

 2 particular impact on municipal school facilities,

 3 which are available to all the other residents in the

 4 community; fiscal impact studies: What will this

 5 cost our town if anything, or what will the surplus

 6 revenue be, if any? The board can't control

 7 tenant/homebuyer selection. They certainly can

 8 request that the applicant consider working with the

 9 town to seek local preference but can't require it;

10 can't dictate what the affirmative marketing plan

11 will be. That is all a function of state regulations

12 and state guidelines. Monitoring for profit is done

13 by the subsidizing agencies, not by the community.

14 And a market study is also kind of beyond their

15 jurisdiction. Typically the subsidizing agencies

16 will require that when you get to a point later in

17 this process, after this board is done, called final

18 approval.

19   This board has done an outstanding job

20 negotiating with applicants. I have to tell you, I'm

21 impressed. I brag about Brookline all the time

22 because I think you've just done such an exemplary

23 job here.

24   But ultimately, when all the testimony is

 1 in hand and the waivers have been discussed, the

 2 board then has to negotiate with the applicant. And

 3 in some communities, that continues to be done at

 4 this level, in some communities it's done in what's

 5 called a "work session." Those happen in a variety

 6 of different ways. I think that the practice here

 7 has been for the staff to kind of work with

 8 applicants in work sessions at a staff level and

 9 report back to the board what particular conclusions

10 or findings were made. Of course, the authority

11 always sits with the board. You can't have a side

12 process going on that's invisible to the rest of the

13 world and having decisions made in that. But

14 sometimes, for the sake of efficiency, staff will sit

15 down with the applicant and try to work through

16 specific details and come back to the board and make

17 recommendations.

18   Ultimately, what the board needs to do in

19 this process is balance a series of local concerns

20 with that regional need for affordable housing. That

21 is what this law is all about. It's balancing

22 regional need for affordable housing with what are

23 considered valid local concerns under the statute.

24 And those consist of public health, public safety,

1 environmental impact, design, open space, local

2 planning, and sort of other local concerns, which is

3 kind of a catch-all. But don't get carried away with

4 it, because it's really still all about the physical,

5 operational, and aesthetic characterization of the

6 project. These are the issues the board can

7 consider. These are the things that they end up

8 having to balance against that regional need for

9 affordable housing.

10   There are typically deliberations involved,

11 and you try to sort of do this in an orderly way.

12 The chairman is correct that you take these topics up

13 one at a time and kind of go through them and

14 determine are you okay with things as proposed or as

15 revised or not?

16   Ideally, the board would discuss kind of at

17 least the conditions of a decision before closing the

18 hearing so the applicant has a chance to say, you

19 know, I disagree with that, or this is going to make

20 my project uneconomic -- or the public knows what the

21 conditions will be.

22   The board has three options at the end of

23 this process. It's either to deny the application

24 outright, to approve it as submitted, or approve it

 1 with conditions.

 2   In most cases, what boards do is approve

 3 with conditions, and that's simply because the

 4 standard -- the legal standard for justifying a

 5 denial is so high in a town that doesn't meet one of

 6 those statutory thresholds that it's just really hard

 7 to sustain a denial. I'm not saying it's not done.

 8 I'm not saying it's never upheld. I'm just saying

 9 that typically what you try to do is get to an

10 approval with conditions that make the project the

11 best project you can get for your community that has

12 the least negative impacts on surrounding properties.

13   Conditions really kind of can't make the

14 project uneconomic, meaning that the applicant can't

15 build the development. So that's part of this

16 balancing thing, is how far can you go to make it a

17 better project before you've made it uneconomic.

18   The conditions or requirements kind of have

19 to be consistent with those local needs I referred to

20 earlier, so any conditions in the permit have to be

21 in that -- in the box of those local concerns. You

22 can't go outside that.

23   And the board can't reduce the number of

24 units, you know, simply because they don't want the

 1 density. There has to be some technical reason

 2 anchored in those local concerns that are within the

 3 board's purview.

 4   Appeals, as I said, by the applicant would

 5 be made to the state Housing Appeals Committee; or to

 6 others, to the superior court or the land court.

 7   I won't talk about this too much, except to

 8 point out that several years ago there was a state

 9 supreme court decision that kind of framed, really,

10 what the board's authority is. And those local

11 concerns I mentioned earlier are both in the statute

12 but also reinforced in this Amesbury decision, which

13 is basically a decision that says there are things

14 the board doesn't have the jurisdiction to regulate,

15 and thou shalt not go there. And that relates to the

16 things I had on an earlier slide about matters that

17 the board really can't regulate in its decisions.

18   After this process is over, the applicant

19 still has to go to whatever the subsidizing agency is

20 for what's called "final approval." That is when

21 more detailed plans will be prepared. Typically a

22 market study is done at that point. The final kind

23 of location of the affordable units will be

24 determined at that point.

1   Changes, sometimes often, do come up after

2 this board has done its job, in part because the

3 applicants only have to do preliminary plans up

4 front, and invariably they're not adequate. So it's

5 not uncommon for an applicant to have to come back

6 and request some kind of a change to the permit, and

7 the board has to decide, is this a big change --

8 meaning we should open the public hearing -- or is

9 this a moderate change that really is consistent with

10 the plans that we approved and basically a di minimus

11 impact on the original decision?

12   There are a lot of other things that

13 happen, too, outside Brookline: the regulatory

14 agreement, which is what regulates the project, the

15 pricing of the units over time, resale values for

16 homeownership units, rents for rental units, and then

17 a monitoring agreement. How is the restriction going

18 to be monitored? If any of you are familiar with

19 conservation restrictions, then you know that

20 so-called CRs have to be monitored. Well, affordable

21 housing restrictions are the same way. They have to

22 be monitored to make sure that someone's in

23 compliance with them.

24   If there is no activity under a permit

 1 after three years, it lapses. Most of the applicants

 2 will try to make sure that doesn't happen.

 3   There could be a transfer of the

 4 comprehensive permit. The board would be informed of

 5 that, but the subsidizing agency is the one with

 6 final say over whether the recipient of the permit

 7 actually is competent to proceed.

 8   And then, of course, inspections during

 9 construction to make sure the project is being built

10 as proposed.

11   So that is it, but I'm happy to take any

12 questions, if you wish.

13   MR. GELLER: A couple of nuance issues.

14   MS. BARRETT: Sure.

15   MR. GELLER: One, just clarify -- we talked

16 about the possibility of meetings and the ZBA

17 members' charge to the developer. But to be clear,

18 we don't design this project.

19   MS. BARRETT: That's correct.

20   MR. GELLER: And that's an important

21 difference. We can't take a pen out and a piece of

22 paper and say, build this.

23   MS. BARRETT: Right. And you can't hire an

24 architect or have a peer reviewer come in and say,

 1 why don't you -- they can make recommendations. You

 2 can make recommendations. You can make requests.

 3 But what the board has to respond to is the

 4 application in front of it. So thank you for that

 5 clarification. That's an important point.

 6   MR. GELLER: And then secondly, the role of

 7 existing conditions. It's rare that a project exists

 8 where it's on raw farmland.

 9   MS. BARRETT: Right.

10   MR. GELLER: And certainly rare for

11 Brookline.

12   MS. BARRETT: Yes.

13   MR. GELLER: And the role that existing

14 conditions play in the consideration.

15   MS. BARRETT: Uh-huh. Now, that's a good

16 question too.

17   If there is an existing safety issue that

18 the town has not addressed, the board can't impose on

19 the applicant responsibility to cure that entire

20 problem. The board can certainly say to the

21 applicant, you're going to make it worse, so you have

22 a financial responsibility for fixing a piece of it.

23 That would be true in any kind of development. But

24 if there's a condition right now that kind of creates

1 a safety problem for cars or for pedestrians, for

2 bicyclists, it's important for the board to know

3 that, but the board can't really make the applicant

4 take responsibility for fixing the entire problem.

5 So does that get at --

6   MR. GELLER: That's exactly -- yeah.

7   Any other questions for Judi?

8   (No audible response.)

9   MR. GELLER: No. Thank you.

10   Okay. We're going to call the project --

11 the applicant's team to give us their presentation

12 now.

13   MR. ENGLER: Good evening, members of the

14 board, members of the public. My name is Bob Engler.

15 I'm a 40B consultant, but really I'm pinch-hitting

16 for my son. He's the one involved with this project.

17 He couldn't be here tonight, so they dragged me out

18 of the grave to bring me back to this situation.

19   I think what Judi said was terrific, and

20 the questions you raised. Just a couple things I was

21 going to mention just as preparatory to our

22 presentation tonight, which is focused on design and

23 traffic, and the balancing act for those two items.

24 One, traffic, as pointed out, what are the existing

1 conditions there now? And there's always problems.

2 And then my experience, everybody raises those

3 problems as if it's the zoning board's purview to

4 solve them, or even the applicant's. The applicant

5 has to solve problems on their own site or mitigate

6 if they make things worse.

7   And they have to look at safety. Volume is

8 not as critical in 40B as traffic safety. The

9 balancing test, is this unsafe for pedestrians,

10 unsafe for the cars, and not, well, now it's gone

11 from a Level of Service B to C. That's really not

12 the issue, but it is information that gets discussed.

13 So that's part of the traffic issue.

14   The more complex thing is really the design

15 question because the balancing test talks about

16 appropriate design and the impacts of design on the

17 neighbors, which some things could be measured, like

18 shadows. Other things can't be measured. Quality of

19 life, things like that become very difficult. And

20 even under 40B and all the case law, it is not at all

21 clear that five people won't have three different

22 opinions about what's contextually appropriate.

23   And we know that design in 40B is going to

24 produce waivers for height and massing that don't

1 exist because otherwise you wouldn't get the

2 affordable housing built, because it's very expensive

3 to put the burden on the developer to build the

4 affordable units, so it's usually not done within

5 current zoning. Therefore, there's issues about how

6 much bigger will we allow this project to be than

7 what's allowed under current zoning in order to meet

8 the balancing test with the regional need.

9   So that's difficult. And I have to say

10 that Brookline has done a terrific job, in my

11 experience, with several of these with their peer

12 review consultants and with their staff help and with

13 the board to really fine-tune the design issues so at

14 the end of the process we have something either that

15 nobody likes that's successful or that people

16 begrudgingly agree this is a better product at the

17 end than it was at the beginning.

18   So we have to get there. And it's been

19 said here earlier it's a lengthy process. We'll get

20 there, and we'll see where we come out.

21   But to quote Joel Embiid from Philadelphia,

22 unfortunately, trust the process. This is a 40B

23 process, and whether you trust it or not, at the end

24 of 180 days there will be something coming out of it.

1   So with no further ado, we'll discuss

2 architecture and traffic tonight with our same team

3 that you met and dealt with at 1188 on Route 9 and

4 Hammond Street, with that project, which was also for

5 55 and older, as this one is. It's targeted to

6 seniors that -- 55 isn't even a senior anymore, from

7 my point of view. But at any rate, that's what the

8 law says. So it's targeted to people over 55. And

9 we'll let Haril go through the design process first,

10 and then we'll get to the traffic.

11   MR. PANDYA: Good evening, everyone. My

12 name is Haril Pandya. I'm a principal at CBT

13 Architects in Downtown Boston. And, you know, we're

14 a 240-some-odd-person firm in the city and really

15 focused on urban planning, master planning,

16 residential, office, workplace, and also some

17 building repositioning and strategy. And I think a

18 lot of these things kind of fall into purview when we

19 look at projects like this because I think it

20 requires a sensitivity that's greater than simply

21 just being good at residential design.

22   You know, here I think we have to look at

23 things from many, many angles. And I think, you

24 know, Judi points out some really germane topics that

 1 are valuable, and we will be going through a lot of

 2 that in this process. And as, you know, Mr. Engler

 3 mentioned earlier, you know, we have a ways to go,

 4 and I think, you know, we're -- we've been very, I

 5 think, collaborative in the process on previous

 6 projects, and we look forward to that on this project

 7 as well.

 8   You know, a lot of things are really

 9 positive to be said, obviously, about the location of

10 this site and where it sits in Brookline. And I

11 think a lot of it really has to do with understanding

12 the context, and I think that's really an easy place

13 to begin. This is not a debate, per se, necessarily,

14 about height and stuff quite yet, but I want to talk

15 about a few other things first.

16   One is the fact that this is an incredibly

17 powerful and vibrant and energetic corridor that is a

18 conduit and an artery into the City of Boston. And I

19 think that's a very important point to make. The

20 reason neighborhoods like this become very sought

21 after are because of those things. The reason school

22 systems survive and do really well are because of

23 those things. The reason people want to live in

24 towns like this are because of those things. And we

 1 see this in other cities that border Boston and

 2 border major hubs, and I think those are really

 3 important urban, you know, considerations.

 4   I consider Brookline pretty urban,

 5 actually, because it has very transit-oriented

 6 residences, it has office, it has hotel, it has

 7 incredibly amazing retail, it has, you know, just a

 8 very rich and vibrant community. And I think from

 9 that perspective you have to think about just, you

10 know, urban development over time.

11   And I think when you look at streets,

12 especially that are like Beacon Street, that are

13 massive thoroughfares, visually that can see --

14 literally right there on Beacon Street, you get a

15 shot of the City of Boston. And it's such a heavy

16 east/west connector. I live not too far away, and I

17 rely on Beacon Street very frequently to get in and

18 out of town. And I think that's just a really

19 important point to make. When you look at streets

20 like that, I think the thing to remember is that they

21 become very attractive components to urban

22 development.

23   And when you look at the scale of, you

24 know, buildings and components of cities that do that

1 in a town like Brookline, I think that it's an

2 opportunity. And I know that's going to be a point

3 of conversation, but, you know, doing this for so

4 many years and working with so many, you know,

5 committees like this and trying to collaborate with

6 neighbors and making sure everyone is happy, is that

7 we have to understand, many times, the broader

8 picture, which is, you know, as urban development

9 happens -- and it will. That's undeniable, whether

10 it's through 40B or others processes -- that, you

11 know, these are really vibrant components of doing

12 successful urban development and design, and this

13 site is no exception.

14   So this site, being on Beacon Street and

15 such a nexus of so many -- of the cross streets and

16 an east/west connector -- I think this is, you know,

17 a really great opportunity. That's how we see it. I

18 know I might be the minority here tonight, but I

19 think at the same time, you know, I have to look at

20 this broadly as a -- sort of a city planner kind of

21 role as well. And I think this is a really positive

22 component.

23   And we're going to address many pieces of

24 this building, and we're going to address many

 1 components of it. And I think that everyone should

 2 realize, and as Mr. Engler pointed out, we are in

 3 concept. We are in early phase. We have a ways to

 4 go to figure out the building's design. The

 5 designers are also going to spend more time delving

 6 into details, but this first, you know, concept,

 7 broad-brush, tries to address many things.

 8   So the site is depicted here right now and

 9 is kind of symmetric in that yellow shadowed zone at

10 1299. This is the view looking the opposite way.

11 And, you know, undeniably, there's definitely some

12 buildings in the area that are short, tall, multiple

13 scale, multiple materials. There's a lot of warmth

14 in the bricks and the precast and other materiality

15 that's in the area that creates that rich dynamic

16 that is -- that makes up this neighborhood. You

17 know, the scale varies, as you can see, from multiple

18 sides of the street.

19   So, I mean, Brookline is not -- you know,

20 not new to the fact that there are tall buildings or

21 short buildings or multiple-scale components, you

22 know, throughout the city. If you just go, you know,

23 1/3 or .2 miles away in the other direction, there

24 are 12 and other story buildings in the area. So

1 this is nothing new, in many ways, for Brookline in

2 general.

3   So if you look at, you know, some of the

4 components, you know, there is a residential

5 component to a lot of these buildings as far as when

6 you look at bays or when you look the geometry or you

7 look at the rhythm or the symmetry of a lot of the

8 buildings and the verticality. You can kind of see a

9 sneak peak here. There's some bays down here,

10 there's some vertical components here, you know,

11 where things are organized in sort of columnar

12 vertical bays. I think that's pretty common,

13 especially when you get into some of the richer,

14 older buildings in Brookline where they have the most

15 bay windows, and that kind of creates a sort of 1/3,

16 2/3 kind of geometry. And I think we look at that

17 in -- as modern architecture sort of moving forward.

18   And these are more inspiration images.

19 These are not, obviously, buildings in the area.

20 But, you know, some of the things that are going on

21 here are sort of a more modern, contemporary use of

22 things like brick and modern, contemporary uses of

23 precast, and thinking of ways to actually advance

24 architecture. So, you know, obviously, as architects

1 and designers, we don't like to do sort of control C,

2 control V. You know, the designs that are in the

3 area, just copy and past things around. I think for

4 us we try to, like, reinvent, look at, and see how

5 forward progressing we are as architects and

6 designers to try to advance the development of

7 Brookline in that particular fashion.

8   So these are just -- there's probably many,

9 many more. But, you know, the upper left is a little

10 more warehouse, industrial; the lower left might be a

11 little bit more rhythmic that you would see in

12 New York or something like that.

13   But, you know, we try to -- we drive

14 inspiration not only from states and cities and towns

15 in the area, but even internationally. I think it's

16 important.

17   You know, I think just as a matter of

18 exercise, we look at buildings that are not too far

19 away from the site and get an understanding of, you

20 know, how tall certain buildings are in the area and

21 just get, you know, a sense of where things are. You

22 know, who's to say in several years from now that

23 buildings aren't even taller than that. We're seeing

24 it right now in many parts of other towns and cities,

 1 and I think that's just inevitable.

 2   Again, I think we look at the

 3 transit-oriented nature of Beacon Street and how that

 4 is progressing. I think ultimately it's inevitable

 5 because construction costs are so incredibly high

 6 that to kind of really master and to develop it well,

 7 you know, going up is really sort of the only

 8 reasonable thing in this day and age to consider. So

 9 we have buildings that are 100 feet, 140, 160. The

10 160 ones are a little bit further away, but you get a

11 sense that, you know, it's in the area.

12   So our building kind of takes that notion

13 of bays and creates -- I'll say a few things. One is

14 there is a retail podium, which is sort of this entry

15 piece here that's lower than sort of this two --

16 taller two-story piece. But, you know, if you look

17 at the buildings in context and elevation, it's sort

18 of right in line with this building there and this

19 building here and the entrance to the residential

20 component as well as retail.

21   So this lower piece here is really trying

22 to respond to the immediate pedestrian sidewalk level

23 of Beacon Street and say, like, hey, this is really

24 going to be an energetic, lit front, just like so

1 many other storefronts in the area. It also serves

2 to be a really great arrival component for the

3 building.

4   As we know, this is a flattened elevation

5 which you -- this next piece here, which you see in

6 this sort of terra cotta or orange tone, is an

7 eight-story piece that's set back. So that's set

8 back from the main street level retail facade, just,

9 again, to kind of create that setback. And then the

10 larger volume is actually set back even more than

11 that. So the sense is that we're stepping down

12 towards Beacon a little bit more to kind of have a

13 little bit of a relationship to the -- again, the

14 main thoroughfare, the main connector to the city,

15 which is Beacon -- I mean to Boston, and go east.

16   So, you know, that's a -- it's an important

17 component because we believe that kind of creates

18 some really nice architectural moves, not just create

19 one solid extruded mass, which I think wouldn't be

20 appropriate here. But I think with that different

21 methodology and scale and different ways of stepping

22 the building, I think it would be pretty helpful.

23 And we'll examine this and study it further as we go.

24   You know, looking in the opposite

 1 direction, I think it's the same relationship of the

 2 building, just, again, stepping back and kind of

 3 create some bays and some stepping for the windows

 4 and the fenestration so that here's a dynamic

 5 relationship to the facade.

 6   This is the south side. So this is -- the

 7 interesting thing about, you know, the building here

 8 is that the Sewall side of it is the south side, and

 9 so that's where, you know, obviously the sun's at its

10 highest, so all the shadows are actually going

11 towards Beacon. And since Beacon is obviously

12 east/west, that -- you know, we're already -- you're

13 only casting some shadows onto the roof. And we'll

14 examine this as we go further. You'll see those

15 studies going forward.

16   And this is just, you know, a conceptual

17 rendering of the idea of having a dynamic retail

18 front that would be, you know, energetic and see some

19 activity and energy and, again, responding to the

20 height of its neighbors in the area.

21   And then stepping back will be the first

22 residential piece, eight stories, and then the ten

23 story piece right behind it. So you can even see the

24 building sort of back in here, you know, not too

 1 dissimilar in height, pretty close by, that kind of

 2 gives a sense of the scale of the area.

 3   You know, this is -- it arguably has

 4 components which residents, you know, that will be at

 5 this building obviously would provide a lot more lift

 6 to the businesses in the area. You know, it would be

 7 helpful. In all cases, I think we always want to do

 8 that.

 9   So we can start looking at it in plan.

10 This will just kind of go through all the plan

11 relationships. We do have parking on one level

12 below, approximately 99 spots. That would be on

13 stackers at one level as you come in through the lift

14 system, something, again, that you guys have seen in

15 the project and we've been able to demonstrate its

16 success when we were talking about it then. So that

17 would be the parking level.

18   The main level, as you arrive on the Beacon

19 Street side, we have a retail opportunity. That

20 would be right there. You know, the residents would

21 enter on the Beacon Street side through almost like a

22 gallery-like space. And as they walk through, you

23 would enter the residential lobby. You have,

24 obviously, the main mechanicals and support systems.

1   And then you can see here that the building

2 actually -- the building here is actually set back on

3 the ground level, on the Sewall side, just to provide

4 for some service-level parking, mainly for the retail

5 sort of stage, etc., for the actual parking and for

6 the valet, and create a little bit of relief so that

7 facade at the ground level is really not coming right

8 up to the sidewalk. It's actually pulled back.

9   The loading is actually on our site, which

10 is right back here. We anticipate that would be the

11 easiest way to kind of, you know, manage the building

12 from the loading perspective, and that would be at

13 that ground level, the entrance here on Sewall.

14   So here's the lot line, and we'd be back

15 in. We're set back some, and then you can see here

16 this whole cord would be nicely landscaped to try to

17 create some screening so we're not looking at all

18 this parking surface. We'll try to get some

19 landscape opportunity as well from that perspective.

20   MR. GELLER: What's the setback?

21   MR. PANDYA: I think we're 10-feet-plus,

22 which is, you know, from the lot line.

23   So then the second story, we have, you

24 know, the second-story retail opportunity on the

 1 Beacon Street side, and then we have some amenity

 2 components for the residents, whether it's fitness,

 3 a -- you know, we have a lot of -- in this day and

 4 age, we're seeing a lot of -- you know, in our shared

 5 economy, if you will, a lot of shared spaces that

 6 work really well. And I think there's an opportunity

 7 to have some reading rooms, library, kitchen area if

 8 we're going to create events, that kind of thing.

 9 Maybe there's a conference room for folks who want to

10 cowork while they're there as well. We anticipate

11 that amenity to be on the second story.

12   And then for the first piece of the

13 eight-story, we do ten units per floor, and that

14 would be in that lower eight-story piece and then as

15 you move up the building. So this is just a typical

16 layout, one-bed and two-bed.

17   And then as you get up to the ten-story

18 piece, it's only seven units for the last two stories

19 there. So that's how it kind of lays out.

20   This is a section to kind of cut through

21 the building, if you will, to kind of understand

22 where the building is stacked. Again, the first two

23 stories being the retail and amenity space, parking

24 below, and then the remainder on top for a total of

1 seventy-four units in the building.

2   This is the longitudinal section going

3 across from Beacon to Sewall. We get an

4 understanding of how the building steps back a little

5 bit from Beacon on. So right around 120-some-odd

6 feet tall, and, again, eight stories and ten stories,

7 not unlike other buildings in the area.

8   And, you know, trying to get the 100

9 spots -- we're very, you know, transit oriented, very

10 close to the Green Line into Boston and whatever.

11 Obviously, we're an Uber society as well, so I'm sure

12 there will be a fair amount of reliance on ride-share

13 and autonomous vehicles not far away. We're talking

14 to a lot of developers right now that are really

15 focused on the autonomous stuff, which is, you know,

16 a reality, and it's going to -- it's headed our way.

17   So I think this gives us a summary of where

18 we are today. Again, very concept and a lot of

19 things to iron out and figure out. We look forward

20 to working on that process with everyone and trying

21 to figure out the project. And with that, I'll hand

22 it over to Giles to talk traffic.

23   MS. POVERMAN: What is expected in the

24 retail property? It's hard to tell if six spaces are

1 going to be enough unless we know what that is.

2   MR. PANDYA: I don't think we have an

3 actual retailer on board yet. I think the sense is

4 that -- I mean, I defer to the ownership to talk

5 about the retail.

6   MS. BALAKRISHNA: Neena's Lighting would

7 likely be --

8   MR. PANDYA: Right. So the existing

9 Neena's that's there may remain in the new retail

10 space.

11   MR. GELLER: What is the size of the

12 existing retail space?

13   MR. DHANDA: The street level is about

14 5,000, but really the trend at this point is smaller

15 than that.

16   MR. GELLER: Is there a second floor to it

17 as well?

18   MR. DHANDA: Not for retail. And there's

19 some storage and other kind of stuff in the lower

20 level. But in the evolving modern concept of

21 retailing, some of those things would be quite

22 different.

23   MR. GELLER: Thank you.

24   MS. SCHNEIDER: I had a question about your

 1 height comparison slide which showed the heights of

 2 some of the taller buildings at some distance on

 3 Beacon Street. Could you provide us with the heights

 4 of the buildings that immediately abut the project

 5 site please.

 6   MR. PANDYA: Sure, we'll get that for you.

 7   MS. POVERMAN: I just want to understand

 8 the setbacks that you're talking about. The 10-foot

 9 setback, can you show exactly what you're talking

10 about with that from the lot line?

11   MR. PANDYA: So this is the upper floor,

12 so --

13   MR. GELLER: You mean the secondary front

14 yard on Sewall?

15   MS. POVERMAN: Right. So the parking and

16 how much of a setback there is between the parking

17 garage and the lot line on all sides.

18   MR. PANDYA: So the building face on the

19 ground level is this far back. This top floor is

20 what is 10 feet back from the actual lot line. So

21 the net gross mass of the building on the Sewall side

22 is 10 feet back from the lot line.

23   On the ground level, because of all the

24 parking and everything that's there, I don't have the

 1 exact dimension in front of me, but I can get that

 2 for you. The building itself with the at least --

 3 let's see. It's probably 10 feet. With two parking

 4 spaces, it's probably another 30. It might be almost

 5 40 feet by the time you get back to the facade of the

 6 entrance of the building, so you have that much

 7 parking surface or surface area that's set back from

 8 the lot line on the ground level. And as the

 9 building goes up, the lot line is 10 feet back.

10   MR. GELLER: What is that hatched line that

11 runs roughly parallel to Sewall?

12   MR. PANDYA: That's the building above.

13 That's set back --

14   MR. GELLER: That is the line of the

15 building above the ground floor?

16   MR. PANDYA: Correct. The building

17 cantilevers over this area just to kind of create a

18 covered parking, if you will.

19   MS. POVERMAN: You said there's 40 feet

20 from the entrance of the --

21   MR. PANDYA: Approximately, from the lot

22 line to the door, we'll call it.

23   MS. POVERMAN: To the garage, how much

24 space is there?

1   MR. PANDYA: There's probably more because

2 it's triangular. I can get you all the dimensions in

3 the next submission, or sooner.

4   MS. POVERMAN: Thank you.

5   MR. GELLER: Thank you.

6   MR. HAM: Good evening. For the record,

7 Giles Ham, managing principal at Vanasse &

8 Associates. And I apologize. The traffic graphics

9 won't be as exciting as the architectural, but I'll

10 do my best.

11   We've done a very comprehensive traffic

12 study for this really residential, transit-oriented

13 development. We've done study in consultation with

14 town staff, and it's completed with regard to

15 industry standards.

16   I'll try to be very brief. So we look at

17 eight study area intersections within the area.

18   MS. POVERMAN: Take your time. Don't be

19 brief.

20   MR. HAM: Okay.

21   Three intersections along Beacon Street:

22 Sewall Avenue here, the site is located right here,

23 St. Paul Street, and Harvard Street. So it's a very

24 extensive study area for this project, and we

1 selected this in consultation with town staff.

2   We look at weekday morning period, weekday

3 evening period, Saturday midday period, so we look at

4 three study conditions in terms of the peak hour of

5 traffic.

6   In the area -- so the site is located here.

7 We do have a Trader Joe's here. The site's located

8 here, post office, temple, and there's a childcare

9 center. So there's a lot going on here. It's a very

10 busy area.

11   But our focus here is really to identify

12 how do we minimize our impact here, and how do we

13 provide safe conditions for this project? That's

14 kind of our charge. I think, as you heard earlier,

15 we're not here to cure the post office or Trader

16 Joe's. That's just not our charge. But it is part

17 of the existing conditions that we have up there.

18   This is really just a graphic from the

19 traffic report in terms of -- this is Beacon Street,

20 Sewall Avenue here. So graphically, these dashed

21 lines are all sidewalks, so you have an extensive

22 sidewalk network within this area. These blue cross

23 lines are all sidewalks and crossings at signalized

24 locations, so you have a very strong pedestrian

 1 network here. These are called bike sharrows or bike

 2 lanes, so there's also a bicycle network within the

 3 area for bicycle traffic. There's transit stops out

 4 here. So it's a very multimobil area, transit-

 5 oriented development. And a development area like

 6 this, that just helps to minimize the impact because

 7 a lot of people are just not going to drive.

 8   MS. POVERMAN: What do you base that on?

 9   MR. HAM: Pardon me?

10   MS. POVERMAN: What do you base that

11 statement on?

12   MR. HAM: So it'll be documented and

13 studied, but we actually have U.S. Census Journey to

14 Work data that we look at, and that documents,

15 through the Census data, the amount of people that

16 travel to work, whether they'll bike or walk or take

17 transit. That will be provided in the technical

18 appendix of our study and be reviewed by your peer

19 consultant.

20   MS. POVERMAN: Do you take into account

21 that this is an age-restricted building and whether

22 or not they have greater or lesser demand for cars as

23 a result?

24   MR. HAM: So the age-restricted

1 typically -- yes, we do. We've been considering this

2 analysis. But typically with age restricted, you'll

3 have less traffic -- less peak-hour traffic, less

4 traffic per unit because of the age-restricted type

5 of use.

6   MS. POVERMAN: What about the ratio of

7 people who are living there and the actual usage of

8 cars? I.E. is 99 enough? Is it too little?

9   MR. HAM: In terms of parking -- so we'll

10 get into a whole parking analysis. And we certainly

11 feel -- and it'll be part of your peer review

12 consulting, but we feel that that's adequate parking

13 for this project, and that's something that we will

14 look at as we go through this process.

15   You're really not going to be able to see

16 these numbers, but these are the actual traffic

17 counts. This is the weekday evening peak hour. I'm

18 not going to test anybody on these numbers, but

19 basically Beacon Street is obviously the heaviest

20 traveled roadway. This is the afternoon, one hour,

21 5:00 t 6:00. There's about 1,800 cars an hour that

22 travel Beacon Street, a very busy roadway.

23   In contrast, Sewall Avenue in this area

24 here where it's one-way is about 275 cars an hour in

1 the one-hour period that was counted.

2   The site itself has about 35 peak-hour

3 trips today. As you may or may not be aware, the

4 Trader Joe's does use the parking lot, and that's

5 primarily Trader Joe's traffic in and out of the

6 parking lot today.

7   We really do a very comprehensive look at

8 accident data in the area, and the state has a

9 database for accident data. So we've looked at a

10 five-year period from 2010 to 2014.

11   MS. POVERMAN: Why didn't you include

12 Brookline's accident data?

13   MR. HAM: We can certainly do that. If

14 it's the desire of this board, we can request that.

15   MS. POVERMAN: And why only through 2014?

16   MR. HAM: So the state's a little bit

17 behind in their compilation of the data, so this is

18 the latest five years. If another year shows up, we

19 could certainty add to that.

20   MS. POVERMAN: If you could get Brookline

21 data for the same period but also through 2018, to

22 the extent it exists, that would be great. From the

23 police department, yes.

24   MR. HAM: So I can understand, you want

1 2010 to 2018 data from the Town of Brookline? That's

2 pretty extensive. What I would suggest is we could

3 do the latest three years. From this point back,

4 three full years. But it's up to the board. We can

5 request -- it's just a lot of information for them to

6 pull together.

7   MR. GELLER: I think -- well, we certainly

8 are going to want the local police data. The

9 question is what the time window is, and I'll defer

10 to our peer reviewer on that one.

11   MS. POVERMAN: Makes sense.

12   MR. HAM: So with regard to the accidents,

13 the accidents in these locations are below the state

14 averages in terms of their compiled accident rates

15 throughout the state. There is no high-hazard

16 location identified in this area in terms of

17 pedestrian or bicycle or traffic accidents in this

18 area.

19   In terms of traffic generation, we just use

20 standard traffic generation information to estimate

21 the amount of traffic, and it's broken up in terms of

22 residential trips and retail trips. We've assumed a

23 65 to 75 percent reduction from the transit usage.

24 Again, that's based upon Journey to Work data that

 1 we'll be providing for your consultant to review.

 2   And so the total amount of traffic is --

 3 morning peak hour is 16 vehicle trips, 32 vehicle

 4 trips during the afternoon peak hour, and 25 trips

 5 midday period. Keep in mind this is a transit-

 6 oriented area. These numbers will be reviewed by

 7 your consultant. We're confident in them.

 8   It's interesting that the amount of traffic

 9 in the afternoon Saturday midday period is less than

10 what's utilized there today with the Trader Joe's

11 parking lot, so there will be less traffic on Sewall

12 Avenue during some peak hours as a result of the

13 changes here.

14   Just quickly, this is how we distribute the

15 traffic along the corridor. Basically, not to get a

16 lot of details, about 65 percent traffic is on Beacon

17 Street and the rest would be north and south of the

18 corridor. I think that makes sense to everybody.

19   MS. POVERMAN: I have some questions about

20 the baseline figures, weekday mornings, etc. So, for

21 example, it's Figure 3. Weekday mornings you said

22 was between what period exactly? 8:00 to 10:00?

23   MR. HAM: The morning peak hour is

24 generally between 8:00 and 9:00 a.m. in the morning.

 1   MS. POVERMAN: So if you look on the left-

 2 hand side and you go down to the intersection of

 3 Harvard Street and Sewall, it says there's one turn

 4 during that period, and I'm surprised by that.

 5   MS. SCHNEIDER: Kate, should we leave this

 6 discussion for when we have the full presentation and

 7 our peer reviewer to help advise as to these answers?

 8   MS. POVERMAN: That's a good point. But my

 9 concern is we want to make sure the underlying data

10 is correct.

11   MS. SCHNEIDER: But don't we need our

12 traffic consultant, our traffic peer reviewer to

13 advise us as to whether the methodology is --

14   MR. GELLER: We're unqualified.

15   MS. POVERMAN: That's fine. I have no

16 problem with that. So we'll get back to it in a

17 couple of weeks or months.

18   MR. HAM: And within the study -- so

19 there's a network that shows where the actual

20 specific site traffic exits from the site or enters

21 the site. And, again, this is just the morning

22 period, and you can see there the volumes out here

23 are -- you know, coming out Charles is five lefts and

24 four rights. This is not a lot of traffic as a

 1 result of this project, really due to the transit

 2 nature of the project.

 3   I think Mr. Engler referred to the levels

 4 of service. There is some congestion out here, some

 5 of the unsignalized intersections around Sewall and

 6 Harvard.

 7   MS. POVERMAN: Could you explain what those

 8 levels of service are?

 9   MR. HAM: Sure. There's a rating system.

10 It's kind of like a report card of intersections. A

11 is good, F is bad. An F could be maybe a 60-second

12 delay at an unsignalized location.

13   So this summarizes really what's out there

14 today and what will be there in the future with or

15 without the project. I think the point here is that

16 this project will not change any levels of service at

17 all. It will remain what they are today. And,

18 again, this is all information that will be reviewed

19 by your peer consultant.

20   In terms of safety, we need to make sure

21 that there's adequate sight lines from our driveway

22 looking towards the right, so we've measured those

23 sight distances. There are certain federal and state

24 standards we have to meet. We have about 150 feet of

 1 sight distances from the driveway, and that's

 2 adequate for this project in that location. Again,

 3 we have one-way flow here, and we have traffic

 4 turning and making turns, so the travel speeds there

 5 are very, very low. So from an industry-standard

 6 perspective, it's a safe intersection turning into

 7 and out of this driveway.

 8   On Beacon Street, we're proposing --

 9 there's metered parking out there. There's a

10 two-hour limit out there today, I think. So we're

11 proposing modifying some of the parking out there to

12 allow 15-minute short-term parking for drop-offs in

13 front of the building. It's something that we would

14 work with the transportation staff. We've done this

15 at other locations within the community to modify the

16 parking to service the project.

17   And then finally, just make a set of

18 recommendations in terms of the project. So the site

19 driveway will be under stop control. We'll make sure

20 that any landscaping is set back and not to restrict

21 sight lines on Sewall Avenue.

22   We have the drop-off area on Beacon Street

23 for taxis or just drop-offs or pickups.

24   Standard in the community, we have a

 1 transportation demand management program really to

 2 emphasize non-auto travel. So we'll post transit

 3 schedules, we'll have bicycle racks on-site, electric

 4 car charging station probably will be in the garage.

 5 For employees -- we encourage tenants to have

 6 discounts for MBTA for their employees to encourage

 7 use of the transit service.

 8   And then finally, as a follow-up to the

 9 project, we have a monitoring program where we

10 monitor traffic after development opens up and

11 provide that information to the town to compare

12 traffic before and after it's opened up.

13   So that's kind of a summary. But overall,

14 I think it's important the project does have -- it

15 does an impact. It's a relatively small impact on

16 the area. And when you compare it to what the use is

17 out there today, it's very comparable or even less in

18 some cases in terms of what's out there today.

19   MS. SCHNEIDER: Can I ask one question? I

20 mean, it sounds to me like what you're describing is

21 an elimination of spaces that people now use to park

22 at Trader Joe's. Is your traffic study going to

23 address where those cars that currently park there

24 are going to go within the neighborhood, what

1 available parking resources, what impact that's going

2 to have on the availability of parking in the

3 immediate vicinity?

4   MR. HAM: So when we had initial meetings

5 with town staff, we talked about that issue. So

6 traffic that parks in our lot today will no longer

7 park there. We didn't take that traffic out of the

8 network. We kind of left it in the network. It's

9 going to be up to Trader Joe's as to where they're

10 going to locate their future parking.

11   MS. SCHNEIDER: Well, I guess my question

12 is a little bit different from that. If that parking

13 is not relocated in another private lot, I guess my

14 question is whether or not either you have or you

15 will be studying the impact on neighborhood parking

16 when those cars -- assuming they're not placed in

17 another lot, and I can't think of a lot where they

18 would go -- where those displaced cars that currently

19 park behind for Trader Joe's are going to park and

20 what the impact on the supply of parking -- at

21 meters, for example. You already mentioned that

22 you're going to be seeking to eliminate a couple of

23 the meters. It seems to me that there is going to be

24 an impact on the available number of parking spaces

 1 in and around Beacon Street. I'm wondering if that

 2 is something that you have or are planning to study.

 3   MR. HAM: That's something that we've not

 4 studied to date, but we could study on-street demand

 5 and surveys.

 6   MR. GELLER: Let's back up for a minute.

 7   How many spaces are on the existing lot

 8 right now?

 9   MR. HAM: 32.

10   MR. GELLER: And 20 of them are leased by

11 Trader Joe's?

12   MS. BALAKRISHNA: Yes.

13   MR. GELLER: So 12 of them are, I assume,

14 for use by Neena's?

15   MS. BALAKRISHNA: Yes.

16   MR. GELLER: Okay.

17   MS. POVERMAN: I have one more detail.

18   Is it anticipated that any employees would

19 use the surface -- ground parking spaces, or would it

20 just be kept to retail customers?

21   MR. HAM: The employees would not be using

22 the parking.

23   MS. POVERMAN: Thank you.

24   MR. GELLER: Other questions?

1   (No audible response.)

2   MR. GELLER: Not at the moment.

3   Again, I just want to be clear. Our sort

4 of limited scope of discussion on this particular

5 topic, traffic -- which is extremely important,

6 obviously, because the things we do look at are

7 health and safety -- it's not lack of interest. It's

8 simply that we are actually going to have an entire

9 hearing that's going to be dedicated to this topic.

10   And at that point, we will have a peer

11 reviewer who will take a look at the proponent's

12 traffic report and will be able to speak, hopefully

13 in English, to us, from engineering speak, and tell

14 us things like the foundational information is either

15 accurate or inaccurate or whether there's some other

16 standard that ought to be applied; whether, for

17 instance, the intersections that they've chosen to

18 look at are adequate, inadequate. And the peer

19 reviewer will assist us to sort of formulate an idea

20 of whether we agree with this, we don't agree with

21 this, whether it's adequate, whether it represents,

22 in our mind, a safety issue. So I just wanted to

23 make sure everybody understood that. We're certainly

24 not, as they say, punting on the issue.

1   Okay. Other presentation materials for

2 this evening?

3   No. Okay.

4   Very quiet tonight, Bob.

5   Maria.

6   MS. MORELLI: Just two administrative

7 matters: I should have mentioned that I will want to

8 schedule a site visit, which we will post online.

9 Just keep in mind that there is no testimony

10 delivered at the site visit, so this is really for

11 you.

12   MR. GELLER: It's an opportunity for the

13 board to ask questions of the applicant and the

14 applicant's experts. It is not an opportunity -- the

15 public is invited to the site and is welcome there.

16 It is not an opportunity for the board to take

17 testimony, engage in conversations. It is purely for

18 us to take a look at it.

19   The other thing that we typically ask for,

20 and I think somebody suggested, it is particularly

21 helpful if we are not simply out there looking at an

22 open site. If the applicant would delineate the area

23 of the proposed building, that is particularly

24 helpful.

1   Speaking for myself -- Kate, I know this

2 has been an issue for you. You suggested, in the

3 past, balloons to sort of identify height,

4 step-backs. Personally, I don't find that

5 particularly helpful.

6   MS. POVERMAN: I don't think it was me.

7   MR. GELLER: Okay. Then I apologize. I

8 thought it had been you.

9   Let me just raise -- before I jump back to

10 you, let me just raise a couple other things.

11   One, if anyone -- and we actually prefer

12 this. Anyone who wants to submit information in

13 written format, that is encouraged. It actually

14 gives the board an opportunity to see things, review

15 things in advance of the hearing. So anyone who

16 wants to take pen to paper or computer key to

17 computer, please, all we ask is if we have a hearing,

18 we only accept submittals if we receive them by --

19   MS. MORELLI: I deliver them immediately.

20   MR. GELLER: You don't look at it anyway.

21   MS. MORELLI: I do.

22   MR. GELLER: I have the rule of thumb of if

23 you deliver it to me after about 4:00 p.m., I will

24 not see it for that hearing. That's just my basic

 1 rule of thumb. That's one. And comments -- those

 2 written materials should be submitted to the planning

 3 department to Maria's attention.

 4   MS. SCHNEIDER: Can I just add, we did

 5 receive a number of written comments in advance of

 6 this hearing, and I do want to thank everyone who has

 7 already submitted comments. Members of the community

 8 and the neighborhood who have submitted comments in

 9 advance of this hearing, thank you. We do read

10 everything that comes in, and we will continue to

11 read everything that is submitted throughout this

12 process.

13   MR. GELLER: You killed my last comment.

14   MS. SCHNEIDER: Sorry.

15   MR. GELLER: Beat me to it.

16   We received a number of submittals. We

17 review everything. Believe it or not, we take notes

18 on it. And every now and again you'll be surprised

19 because you will trigger a bell in our collective

20 head and we'll ask a question and I suspect you'll

21 sit there and say, hey, that was my question. So we

22 do read them and we appreciate them.

23   Other --

24   MS. MORELLI: Just really the site visit

 1 and the next hearing.

 2   MR. GELLER: Okay. Everybody take out your

 3 calendars.

 4   MS. MORELLI: I'm going to suggest -- how

 5 much time do you need to set up? At least two weeks

 6 to set up the delineated footprint for the site?

 7   MS. BALAKRISHNA: That's fine. That's

 8 plenty.

 9   MS. MORELLI: So maybe after Memorial Day,

10 early June.

11   (Discussion amongst the board.)

12   MS. MORELLI: So just to confirm, the site

13 visit is May 30th at 8:30 in the morning. The

14 footprint of the building will be delineated. And

15 the next hearing is June 13th at 7:00 p.m.

16   MR. HAM: Can I just ask something about

17 the -- this is about the site visit, the delineation.

18 My guess is that there's probably a pretty

19 well-developed existing condition survey drawing. If

20 you could have that brought, maybe a couple of

21 copies, that would be really handy to have on the

22 site visit and it'll be a good reference document.

23   MS. MORELLI: Yes. We'll bring both

24 existing and proposed site plans.

 1   MS. BARRETT: Any future dates beyond this,

 2 or --

 3   MS. MORELLI: So for the hearings in July,

 4 I just need to confirm with the peer reviewers. But

 5 if you would like to put some -- give me some

 6 parameters --

 7   MR. GELLER: The last two weeks are bad in

 8 June.

 9   (Discussion amongst the board.)

10   MS. MORELLI: So the site visit for the ZBA

11 is May 30th at 8:30 a.m. The next hearing is

12 Wednesday, June 13th, at 7:00 p.m., and I will

13 confirm the room location. And then in July we have

14 two hearings: Wednesday, July 11th, and Wednesday,

15 July 18th, 7:00 p.m.

16   MR. GELLER. So for anybody who was

17 listening, we are continuing this until June 13th at

18 7:00 p.m. I think they said we can actually use this

19 room. Yes? Yes.

20   And there will be, in the interim, a site

21 visit on May 30th at 8:30 a.m. at 1299 Beacon Street.

22 I want to thank everyone for this somewhat short

23 meeting. Thank you.

24   (Hearing adjourned at 8:40 p.m.)

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 21st day of May, 2018.

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22 Kristen Krakofsky, Notary Public

23 My commission expires October 25, 2024.

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