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HEARING OF BOARD OF APPEALS
1299 BEACON STREET
Monday, July 15, 2019 at 7:05 p.m.
Brookline Town Hall
333 Washington Street
Sixth Floor
Brookline, Massachusetts 02445

Reporter: Jennifer A. Doherty, CSR

1 APPEARANCES:

2 Jesse Geller, Chairman

3 Johanna Schneider, Board Member

4 Kate Poverman, Board Member

5 Randolph Meiklejohn, Board Member

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7 Maria Morelli, Planner

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11 Haril Pandya, CBT Architects

12 Rachna Balakrishna

13 Geoff Engler, 40(b) Consultant

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15 Raj Dhanda, Applicant

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1 P R O C E E D I N G S

2 CHAIRMAN GELLER: Good evening
3 everyone. We're continuing our comprehensive permit
4 hearing involving the property at 1299 Beacon
5 Street. Our last hearing was on the 10th of this
6 month.

7 Tonight's hearing will continue off
8 of the Board's charge at the last hearing which, to
9 summarize, was essentially we asked the applicant to
10 provide what we deemed to be adequate parking.
11 Maria can give you the specifics. I believe it's .7
12 ratio for residential and that .7 includes markup
13 for the one percent that we've already spoken of.

14 MS. MORELLI: Actually it's
15 separate.

16 CHAIRMAN GELLER: I'm sorry. And it
17 excludes the two -- I believe it's only two
18 short-term spaces --

19 MS. MORELLI: Correct.

20 CHAIRMAN GELLER: -- in the entry
21 drive aisle. By way of reminder, this hearing is
22 now scheduled -- we have extensions through July 31,
23 this month, at the end of this month. And that
24 means that one of two things has to take place.

25 Either we have to, with the applicant's permission,

1 extend further, and there are some compelling
2 reasons in my mind to do that, but it can only be
3 done with the permission of the applicant, or the
4 Board will have to reach its decision in time for
5 that date, and then the Board will have -- how many
6 days?

7 MS. MORELLI: Forty days.

8 CHAIRMAN GELLER: Thank you. Forty
9 days to issue its decision. If we do close the
10 hearing, what winds up happening is we take no
11 testimony. There is no further testimony in the
12 matter and we take no testimony on the conditions
13 that we would include if we were to scrap the
14 comprehensive permit.

15 Other information, Maria?

16 MS. MORELLI: I just want to make it
17 clear that testimony means that the applicant cannot
18 enter testimony. Sometimes it's not clear to the
19 development teams, but that's essentially what that
20 means.

21 CHAIRMAN GELLER: The Board will
22 unilaterally determine conditions.

23 MS. MORELLI: Right. Correct. Did
24 you want us to provide a brief staff report?

25 CHAIRMAN GELLER: Yes.

1 MS. MORELLI: It's been only five
2 days since our last hearing, but we did want to talk
3 to the fire department regarding the construction
4 management plan, and namely proposed treatments to
5 the public way by the way of the Jersey barrier that
6 would establish two lanes. One lane will be for
7 construction vehicles' access to the site and the
8 other would be a thirteen-and-a-half-foot-wide lane
9 for public access. At our July first staff meeting
10 with the project team the project manager and most
11 departments, the fire department wasn't able to
12 attend so we had a big caveat that these plans, the
13 auto turnouts analysis, everything had to be
14 reviewed by both transportation and the fire
15 department.

16 So on July 12 we convened the
17 building commissioner; Alison Steinfeld, the
18 director of planning; Todd Kirrane, transportation
19 administrator; Chief John Sullivan of the fire
20 department; and David Randolph of the fire
21 department -- and the chief will enter his own
22 testimony, but essentially what came out of that is
23 that the Jersey barrier, the two-lane approach was
24 not acceptable to the fire department because it
25 would not give their equipment enough access to deal

1 with an emergency, say a multi-family across the
2 street, and Chief Sullivan will explain why that is,
3 so you might have a vehicle that's
4 eight-and-a-half-feet wide, but once you put the
5 outlayers out, you need a much more than a thirteen
6 foot and a half --

7 CHAIRMAN GELLER: I think we had
8 brief testimony about that last time.

9 MS. MORELLI: Okay. We've also heard
10 from abutters who still have questions about how
11 access during construction would work. And there
12 were also some questions about, Do we, the Town, do
13 we close streets during construction, because that
14 would certainly be the alternative to address.

15 Pearl Street for Brookline Place has
16 been closed for a number of years during that
17 construction. That is not a 40B project. That's
18 Children's Hospital offices sit on the corner of
19 Route 9 and Brookline Avenue. Fuller Street at the
20 corner of Harvard and Fuller where 420 Harvard,
21 that's a 40B, that has been closed, so we do have
22 precedence on 40Bs on closing streets for a period
23 of time.

24 I did send you just from a very
25 initial discussions I've had with Todd Kirrane,

1 certainly not an approved plan, but what the
2 transportation division would conceive if we had to
3 close the street on Soule Avenue, where we would
4 have police detail and thought we would have one at
5 Soule and Longwood and another police officer at
6 Charles and Soule.

7 As you know, Soule is one way going
8 toward Boston if you will. There is drop-off for
9 Temple Sinai. There is access to driveways for the
10 multi-family and there is also access to the very
11 active driveway at the post office.

12 So there is a way with police detail
13 to allow traffic to go so-called the wrong way up
14 Soule so that abutters can have access to their
15 driveways.

16 There is also consideration about
17 where drop-off might be able to be put. Instead of
18 on Soule or Temple Sinai it could be on the front of
19 the temple on Charles Street. Currently there is a
20 span of space that has no parking at any time. That
21 is a permanent situation at the request of the
22 temple. The town would be willing to discuss with
23 the temple if that could be temporarily lifted to
24 parents to drop off, and therefore their children
25 would not have to cross the street on Charles. So

1 there are some options but it would require further
2 discussions with abutters, definitely with fire,
3 police, and transportation, which we don't have a
4 complete package to give you this evening.

5 MS. SCHNEIDER: Maria, for a point of
6 clarification, the two police details that you're
7 talking about, those would be paid for exclusively
8 by the applicant and not by the town, correct?

9 MS. MORELLI: Yes, we would ask the
10 applicant to pay for that police detail. So that is
11 what I have this evening. You also received revised
12 plans in response to the ZBA's charge and we will
13 have the applicant's team present those when you're
14 ready, and if you have questions about that, we have
15 time for that.

16 CHAIRMAN GELLER: Questions?

17 MR. MEIKLEJOHN: No.

18 MS. POVERMAN: No. Actually, one
19 thing. So this might more appropriately be gotten
20 into later, but let's say we have questions about
21 the feasibility of the amount of traffic, like with
22 the large post office vehicles, et cetera, being
23 shuttled to the other side of Soule Avenue. How
24 will we be able to get those answered? Or are we
25 going to have to just imagine what it would be like

1 to shut it and what's going to happen with the
2 rerouting?

3 MS. MORELLI: There are a number of
4 ways to deal with this. If you feel the ZBA wants
5 in their purview to understand what that route would
6 be, we can certainly take it up. We just won't be
7 able to take it up this evening. We would need an
8 extension. It might be helpful for the applicant's
9 team to understand some of the things the
10 transportation division is discussing, so that's
11 what you can -- the options that you have.

12 MS. POVERMAN: So how do we find out
13 more about what the transportation division --

14 MS. MORELLI: Staff would need a
15 little more time and would need to engage the
16 affected abutters to discuss what those routes would
17 look like, so I don't have an answer, a plan, for
18 this evening.

19 MS. POVERMAN: Thanks.

20 CHAIRMAN GELLER: Anything else?

21 Okay. Just again for the record, Poverman, Geller,
22 Schneider, Meiklejohn. Applicant, you have an
23 updated presentation?

24 MS. BALAKRISHNA: We do.

25 MR. PANDYA: Good evening. Haril

1 Pandya. I represent CBT. So primarily responding
2 to the charge from last week's ZBA presentation we
3 had -- we really focused on the Chair's sort of
4 summing comments regarding parking and making a
5 building be functional in that respective, and then
6 the other piece that I was trying to get the
7 acceptable range of parking ratios, visitor parking,
8 and subsequent sort of downsizing of some retail
9 space potentially to take some of the pressure off
10 of the building. So that's pretty much what this
11 is.

12 This is a short summary of it, but
13 what it essentially entailed is this was the plan
14 that we came in with and looking at some of the
15 square footage of retail, we were at 3,800 some odd
16 square feet of retail sort of indicated in blue, and
17 I think part of understanding how to get the
18 building to be not only a little less intense from
19 the square footage of retail but also helping the
20 parking supported properly.

21 We ended up reducing not only the
22 retail square footages but also reducing the counts
23 of the units. So we've reduced the overall
24 residential count or the unit count of the full
25 project as well as decreasing the square footage of

1 the retail.

2 This is what you had seen before, and
3 this is where we are today, reduced it by 700 some
4 odd square feet of retail in the front portion of
5 the building, and increased some amenity overall on
6 the ground floor.

7 CHAIRMAN GELLER: What is the exact
8 total you reduced retail one?

9 MR. PANDYA: We are down to 3,150.

10 CHAIRMAN GELLER: Do I have to do the
11 math?

12 MR. PANDYA: I'll do it for you. 709
13 square feet on the ground floor. Then similarly on
14 the upper level we had a square footage of 2,800
15 previously on the retail square footage and now we
16 are at 1,800 square feet. So a thousand square
17 feet.

18 So we added some more storage
19 components for the residential units which would be
20 helpful for the building overall, again from a
21 functionality perspective and private storage.

22 So if you can see here, we took -- we
23 reduced the number of units, merging some of the
24 one-bedrooms to a two-bedroom. I'm going to fast
25 forward to the chart because it's the easiest thing

1 to read.

2 The left is the -- it was the
3 previous. You can see here we were previously at
4 42. We're at 55 units and we were trying to get the
5 spaces to work, which we learned from the last
6 meeting we were pushing the envelope, so actually we
7 were at 65 units and we are now at 55 units.

8 So if you apply the .7 factor and the
9 ten percent visiting plus the retail requirement as
10 a result of the reduced square footage of retail,
11 you need exactly 57 spaces, which is essentially
12 what we have in the garage for the project.

13 Based on peer review and what the
14 ratios they were looking for, what we've discussed
15 last, the .7 and the ten percent, and the zoning
16 requirements for square footage for ground floor
17 retail and second floor retail, where now the
18 required spaces is 57 and that's what both garage
19 levels now have.

20 CHAIRMAN GELLER: Questions?

21 MR. MEIKLEJOHN: You've spoken
22 initially about the square footage of the retail.
23 Can you walk us through what happened to the square
24 footage of the residential program from the 10th to
25 the 15th?

1 MR. PANDYA: The square footage
2 hasn't changed. It's the mix that's changed, from
3 the quantity of one bedrooms to the quantity of two
4 bedrooms.

5 CHAIRMAN GELLER: The ratios are
6 based on unit counts.

7 MR. PANDYA: So we had more one
8 bedrooms before --

9 MR. MEIKLEJOHN: Right. I didn't
10 know if you said that before. Does that mean that
11 the height, the space on the upper floor, none of
12 that has changed? The shell is the same. Thank
13 you.

14 MR. PANDYA: So there is a loss in
15 units essentially.

16 MR. MEIKLEJOHN: What about bedrooms?

17 MR. PANDYA: There's still one and
18 two bedrooms.

19 MR. ENGLER: Total bedrooms.

20 MR. PANDYA: I don't know if that
21 number is on that chart.

22 MR. ENGLER: Ten.

23 MR. MEIKLEJOHN: Ten for the lost --

24 MR. PANDYA: Yes.

25 MR. MEIKLEJOHN: Yes.

1 MS. POVERMAN: Can you tell us more
2 about the club room?

3 MR. PANDYA: The club room is usually
4 intended for residential use. Usually it's an event
5 space that can be used. It can be a community room
6 for the tenants. It is a flex space. At one point
7 we had it and we are bringing back. That would be
8 for the residents.

9 MR. ENGLER: Not open to the
10 public.

11 MS. POVERMAN: And the second floor,
12 the new building storage area, can you tell us what
13 the plans are for that?

14 MR. PANDYA: That's for storage that
15 the residents would use, things that may or may not
16 fit within their current units that they can use or
17 that storage space for Christmas trees.

18 MS. MORELLI: Can you go to that
19 floor? Thank you. So how would you ensure that the
20 retail space isn't using the building storage area?
21 We wouldn't be counting obviously the retail spaces
22 that's been reduced?

23 MS. BALAKRISHNA: It would be
24 secured.

25 MR. PANDYA: The lease would be based

1 on the square footage.

2 MS. POVERMAN: It's confusing. The
3 new revised, it's on the revised second floor plans.
4 The second floor plans, there's a trash room 90
5 square feet and the building storage area of 700
6 square feet and I assume that's the extent to which
7 the retail area was reduced on that floor as well.

8 MR. PANDYA: The trash room belongs
9 to the retail because we are providing a trash room
10 for both retail as a temporary storage, based on the
11 trash program we have before.

12 MS. POVERMAN: That was just
13 relocated. Okay. And the conference area is going
14 back. Is that for management?

15 MR. PANDYA: There's a management
16 office there. Where there's orange is really for
17 their use, for building operations, et cetera. The
18 co-working is you can work from home or downstairs
19 or across the hall is more meant for the tenants,
20 the residents.

21 MS. POVERMAN: Okay. That's it for
22 right now, from me.

23 CHAIRMAN GELLER: So access to the
24 management is through the co-working?

25 MR. PANDYA: Yes. The co-working is

1 a function space, sort of like a lounge or whatnot.

2 CHAIRMAN GELLER: Any other
3 questions? No? Okay. Thank you.

4 MR. PANDYA: Thank you.

5 CHAIRMAN GELLER: Anything else from
6 the applicant? No? Thank you. I want to call on
7 Chief John Sullivan now to offer testimony on the
8 construction management plan as specific to fire
9 emergency vehicles and other response that may be
10 needed.

11 MS. MORELLI: I thought it might be
12 helpful to look at aerial of that roadway.

13 CHIEF SULLIVAN: Good evening. Chief
14 John Sullivan from the Brookline Fire Department.
15 We met with the planning folks and the
16 transportation folks, as Maria pointed out last
17 Friday, and the Fire Prevention Bureau has been
18 overseeing the plans reviewed for this project since
19 the very beginning. I was asked to come tonight to
20 speak to this construction issue with regard to the
21 Jersey barriers in the center of Soule Road.

22 We have determined that the space
23 that would be provided with those barriers for fire
24 access to the abutters is inadequate for us to be
25 able to stage our apparatus and to function in that

1 area and that we would recommend and say that we're
2 opposed to having permanent barriers within the
3 street for the time during the construction period.

4 As was pointed out earlier, there is
5 precedent for construction within the town whereby
6 the road is temporarily closed during the time of
7 construction during the day but would remain open to
8 emergency vehicle access. We have for 30 Longwood
9 and for the temple, our fire department connections
10 are abutting and facing Soule Avenue, so we would
11 need access to those to feed the sprinkler systems
12 and the standpipe systems to those two properties at
13 all times.

14 It is a standard practice for police
15 details to ensure that we would be able to maintain
16 access at least within the confines of an area
17 that's been closed in the road as this would likely
18 end up for that time frame during the day when they
19 are actually having construction. We don't
20 anticipate that the road is closed all day and all
21 night but during the time of construction, active
22 construction, and that those vehicles and whatever
23 apparatus that they have that they're using on-site
24 would then not obstruct the roadway for emergency
25 vehicles after hours.

1 CHAIRMAN GELLER: And the period in
2 which it would be closed would be temporary?

3 CHIEF SULLIVAN: Correct.

4 CHAIRMAN GELLER: At scheduled times?

5 CHIEF SULLIVAN: I was able to have a
6 phone conversation with the folks from the design
7 team today and expressed my concerns, and they were
8 amenable to not having the Jersey barriers in the
9 road for the construction. That was the consensus
10 that if the fire department deemed that the access
11 needed to be full so that we can set up our largest
12 apparatus which is our trucks, at least a
13 fifteen-foot wingspan when you put the operators
14 out, that they capitulate and not have the Jersey
15 barriers in the road for any time during the
16 construction phase.

17 CHAIRMAN GELLER: Thank you. Any
18 questions? Kate?

19 MS. POVERMAN: No.

20 CHAIRMAN GELLER: Thank you.

21 CHIEF SULLIVAN: You're welcome.

22 MS. MORELLI: Will you need Chief
23 Sullivan further during the hearing?

24 CHAIRMAN GELLER: I don't think so.

25 MS. MORELLI: Thank you.

1 CHAIRMAN GELLER: Thank you. Does
2 the applicant want to add anything? No? I want to
3 open up the floor once again to public testimony. I
4 would ask people again, same ground rules. Listen
5 to what people have said that come before you. If
6 you agree with them, just point to them and tell us
7 you agree. Keep your testimony to the topics raised
8 at this particular hearing. Start by giving us your
9 name.

10 MS. SIDNEY: Good evening. My name
11 is Roberta Sidney. I own the property at 1309
12 Beacon Street and also the property at 1319 Beacon
13 both known as the Bank of America and Trader Joe's
14 building. I want to mention one major thing. I'm
15 thrilled to see that the applicant has begun to
16 address the size of the building as it relates to
17 the parking that supports it, but I fear that they
18 have not really done the math correctly. So this is
19 what I see.

20 What I see are eight tandem spaces in
21 the parking garage. Those tandem spaces cannot
22 logically, and I think they even said so, be used by
23 anyone but retail employees or building employees.
24 So you have to take that off the top. If you
25 have -- and I'll give you the math that I just did,

1 39 parking spaces for residential based on the new
2 lower 55 unit count, eight spots for employees.
3 That gives you 47, just adding those two numbers
4 together. That means there are ten left, 57 minus
5 the 47, ten left, six that are for visitors which
6 means there are only four spaces, not twelve, four,
7 for customers, retail customers of this building.
8 So the retail use is still too large to support
9 this -- well, the parking is not sufficient to
10 support retail this large. I guess that's a better
11 way of saying it. That's the point I would like to
12 make.

13 The second is I still am quite
14 concerned about the ramp grade and the safety
15 emanating from that ramp grade especially for older
16 people but more specifically now for these visitors
17 and customers. As an abutter that has two parking
18 lots, my parking lots are precious and I'm very
19 concerned that the unsafe condition in this garage,
20 people will be deterred, dissuaded from using the
21 garage because they won't be able to see, they won't
22 be able to drive down, they won't be able to turn
23 and therefore they will do what is logical, which is
24 not park there and find elsewhere to park.

25 So I would ask that the ZBA directs

1 the applicant to redesign the garage such that the
2 grade is not so steep and the turning radius is not
3 so dangerous so that people can adequately find
4 their way into parking spaces and out of parking
5 spaces safely.

6 I will mention one other point which
7 is super minor, I don't want to distract anybody,
8 but I find it very difficult to figure out how this
9 building's trash is going to be workable with all
10 these different trash areas. I don't see how trucks
11 are going to be picking up this trash and whether
12 someone is going to be bringing up barrels or
13 Dumpsters up this ramp when cars are coming down.
14 It's just a question. Thank you.

15 CHAIRMAN GELLER: Thank you. Anybody
16 else?

17 MS. BERLOFF: My name is Myra
18 Berloff. I live at 30 Longwood Avenue. I was happy
19 to hear that the Jersey barriers are no longer part
20 of the conversation. However, what I'm wondering is
21 are we assured that we won't have a fire during the
22 day because with those construction vehicles on
23 Soule Avenue, if the street is closed, that's what
24 you guys will determine to be, but are you going
25 promise us that we won't have a fire during the day

1 so that those construction vehicles aren't in the
2 way of the fire department being able to deploy a
3 ladder into our building anytime within two years?
4 We've been lucky so far, but that's when your luck
5 runs out. So I'm very concerned.

6 This is the first I'm hearing about
7 the possibility of the road being closed, and if the
8 road is closed, it seems logical there will be
9 construction vehicles of one kind or another in that
10 road, which will block the fire trucks from getting
11 to our building or getting to the temple.

12 I gave some pictures today of what
13 Soule Avenue looks like. It was at 12:01 this
14 afternoon. There was a truck and a car, truck
15 parked on the sidewalk of our building and a car
16 parked in front when we looked in one direction, and
17 when we looked in the other, the street was blocked
18 by other cars.

19 This whole process seems illogical to
20 me. And I do have a question. I hear that the
21 number of units has been reduced. What I don't
22 understand -- in order to accommodate the number of
23 parking spaces you're requiring. The size of the
24 building hasn't changed at all. And I'm wondering
25 if the parking spaces are relevant to the number of

1 units or the number of bedrooms because it seems to
2 me that we haven't made any ground here and that
3 we're taking still this building that's just way too
4 big for this space and eliminating extra living
5 rooms and kitchens and putting in extra bedrooms and
6 I don't know how that relates to the number of
7 parking spaces. If you could just address that at
8 some point. Thank you.

9 CHAIRMAN GELLER: Thank you.

10 MS. BERLOFF: But I'm very concerned
11 about the safety on Soule Avenue. Thank you.

12 CHAIRMAN GELLER: I know I promised
13 you we were done Chief, but I have a feeling you're
14 the right one to answer this.

15 CHIEF SULLIVAN: Again, John
16 Sullivan, fire chief. Obviously no one can predict
17 when a fire is going to happen day or night, but I
18 will say that with the cooperation of the police
19 department and the construction management folks we
20 have not had any issues with getting apparatus in.
21 The mandate to the construction folks and to the
22 police officers is that roadway will remain open to
23 the extent we can get emergency vehicles down past
24 the construction vehicles. So the police officers
25 do an outstanding job of maintaining that access for

1 us.

2 The time isn't going to be ideal for
3 everyone, but we try to make it work to the best of
4 our ability and that's why we believe that we have
5 the cooperation of the folks on the construction
6 side as well as on the management, the roadway by
7 the police officers to be able to access that area
8 and in the event that we would need to get them.

9 CHAIRMAN GELLER: Priority is given
10 to fire for emergency vehicles?

11 CHIEF SULLIVAN: Priority is given to
12 emergency vehicles always. There have been times
13 construction vehicles have had to have been moved
14 out of the way, but it's a very short process in
15 maintaining the access ways. It's generally not a
16 problem at all.

17 CHAIRMAN GELLER: Thank you.

18 MS. POVERMAN: This may not be a
19 question for fire chief, but what happens with the
20 pedestrian ways when the street is closed? Are
21 those still left open?

22 MS. MORELLI: Maybe I can answer.
23 Certainly in front of the site we wouldn't want
24 pedestrians crossing at the mouth of the site on
25 Soule because with police detail places where

1 pedestrians cross, at least on Soule Avenue, and I
2 believe the police detail, having a police presence
3 there makes it easy if police had to let someone
4 cross, you would have a police officer there.

5 MS. POVERMAN: Would the street be
6 closed altogether except for abutters?

7 MS. MORELLI: I don't think so. It's
8 just at the mouth of the site on the sidewalk of the
9 site.

10 MS. POVERMAN: Thanks.

11 CHAIRMAN GELLER: Anything else?

12 MS. POVERMAN: No.

13 CHAIRMAN GELLER: Anything else? No?
14 Okay.

15 MS. SCHNEIDER: I do have a
16 related --

17 AUDIENCE MEMBER: I would like to --

18 CHAIRMAN GELLER: Do you have a
19 question pertaining to a specific prior --

20 MS. SCHNEIDER: I have a question for
21 the applicant team based on one of the public
22 comments that we received.

23 CHAIRMAN GELLER: All right. Okay.
24 So why don't we hear from you, sir.

25 MR. EDWARDS: I'll be quick.

1 CHAIRMAN GELLER: Quick, slow,
2 whatever. Get your question or comment in.

3 MR. EDWARDS: Owen Edwards. I live
4 at 30 Longwood. I support all the other residents
5 of our building that have been very diligent in sort
6 of following this whole process.

7 I want to make one point which I
8 don't think anyone has realized, and I don't know if
9 this will bring light to any decisions as far as the
10 retail goes, but there has been -- there was a
11 building that was built there a while back which is
12 now -- I guess the critical care unit there -- I
13 guess there used to be a gas station originally.

14 MS. POVERMAN: Urgent care?

15 MR. EDWARDS: Yes, exactly. That
16 whole sort of strip from that building up to, I
17 guess to the Trader Joe's, when you think of it in a
18 retail standpoint or a business standpoint for
19 profit, Coolidge Corner can be finicky for where
20 your stores are and what gets more foot traffic, and
21 I'd just written down all the businesses that
22 actually have come and gone just in that short strip
23 since it's been around.

24 Originally there was a Staples which
25 I don't know -- I'm not sure if that was two-year --

1 that may have lasted two years or not. There was a
2 Fit Core, or I might have these reversed. There was
3 a deli that became a Fit Core, and then now a day
4 care that -- I think never really got up and
5 running. Now it's vacant again.

6 There was a jean store that was
7 actually that little portion of the building that
8 was added onto the Trader Joe's building. And first
9 it was a jean store and then 16 Handles. Both of
10 those businesses never lasted, a very short-term,
11 but that they were there. And it just seems to be
12 that there is a -- the only thing that sort of lasts
13 on that side of the street have been more
14 service-oriented businesses, a bank, a dentist, and
15 now the medical facility.

16 So to me it just sort of -- from a
17 standpoint of retail, especially because -- I know
18 your father had his business there too. I don't
19 know if he has had a successful business in that
20 area also as far as numbers and what would be
21 considered profit, but it doesn't seem to be the
22 right place for businesses like restaurants or
23 things that have been there in the past that just
24 have not worked. There hasn't actually not been a
25 restaurant, just the deli.

1 So word of caution because only from
2 the historically sort of what happened there with
3 the retail, I see now reduced retail space in this
4 building but I just don't know if -- I mean, retail
5 people are pretty savvy and they know what works and
6 doesn't work and this portion on this side of Beacon
7 Street has not worked unless you're a bank, doctor,
8 dentist, or more service-oriented.

9 I wanted to make that point if that
10 helps in deciding in any way how the retail sort
11 of --

12 CHAIRMAN GELLER: We don't gauge
13 whether their retail is successful or unsuccessful
14 as part of our decision.

15 MR. EDWARDS: You have a huge space
16 that ends up being sort of community open space
17 because you can't really ever fill it with anything
18 and that turnover also affects, you know, the
19 neighborhood.

20 My only other comment that I want to
21 make is we're talking about sort of all of the
22 construction management and going and coming, and I
23 don't know how we sort of always have to forget, the
24 main thing that moves in and out of that are all the
25 mail trucks constantly every day at 4:45 in the

1 morning to however late they are, and that's a
2 constant. And I just want to mention that because
3 that's always happened, so thank you.

4 CHAIRMAN GELLER: Thank you very
5 much. Ma'am?

6 MS. DOYLE: I'm Nancy Doyle from 11
7 Longwood Avenue. What I learned tonight has me very
8 concerned about the reduction in parking spots, and
9 I don't see any correlation between fewer units and
10 how that affects the parking because it's seems to
11 me that the chances of someone renting a one bedroom
12 may or may not have a car, but the chances of
13 someone renting a two-bedroom are far greater that
14 they would have a car and want a place to park it,
15 so by reducing the parking spots and the other
16 people addressed the retail and whatever, I think
17 it's a real problem and Brookline already has a
18 problem with parking. Thank you very much.

19 CHAIRMAN GELLER: Thank you. Maria,
20 just to remind everyone how we calculate parking.

21 MS. MORELLI: Per zoning in a parking
22 transit overload district, which this site is in, we
23 calculate zoning as studio apartments get a ratio of
24 one parking space per studio unit. For one bedroom
25 it will be 1.4 parking spaces for that size unit and

1 for a two-bedroom units and up it's two parking
2 spaces per unit.

3 Our parking peer reviewer, Walker
4 Consultants, recommended a range just for
5 residential of .7 to .9, and that is obviously lower
6 than our zoning, and they provided background data
7 as to what they based that parking demand on.

8 CHAIRMAN GELLER: Thank you.

9 MS. POVERMAN: That was per unit,
10 Maria? That didn't take into account whether it's
11 one or two bedrooms?

12 MS. MORELLI: Correct, but they did
13 provide a range of .7 to .9.

14 MS. POVERMAN: Thanks.

15 MR. SHIVDASANI: Ramesh Shivdasani.
16 I live at 51 Soule Avenue. I want to thank you for
17 your careful attention to the construction
18 management plan, but the Board officers have been
19 working on this and the fire chief. I think the
20 removing of the Jersey barriers is a good sign, but
21 it does concern me that the obvious ramification of
22 that is now construction has been confined to the
23 area to be north of the Jersey barrier. You
24 essentially have the entire street available that
25 has been closed off.

1 This is very narrow street. It's a
2 one-way street and as I illustrated previously in
3 multiple photographs I mentioned in these hearings,
4 it's very common for vehicles to circumvent the
5 narrowness and drive on the sidewalk. This is very
6 important and I'm glad you raised the question,
7 Ms. Poverman, because I presume the sidewalk would
8 stay open because I have to get home. And my
9 elderly father visits me occasionally, he can only
10 walk, but just in general you can't have a sidewalk
11 closed for two years for abutters.

12 So I think it's important to have
13 some protection so the sidewalk does not become an
14 extension of the road. And I respect that the
15 police detail would try to enforce that, but I
16 imagine especially the large construction vehicles
17 and with the postal vans that have a hard time
18 turning as it is that my driveway and sidewalk will
19 become essentially an extension of vehicular
20 traffic. Thank you very much.

21 CHAIRMAN GELLER: Thank you. Anybody
22 else? Sir?

23 MR. ROSENCRANTZ: Robert Rosencrantz,
24 11 Longwood Avenue. I was wondering if the town is
25 changing the emergency vehicle route off of Longwood

1 Avenue because I guarantee you during construction,
2 Longwood Avenue is going to be a mess and probably
3 after this building is completed it's still going to
4 be ridiculously crowded for emergency vehicles when
5 time is really of the essence bringing people down
6 to the hospitals. Thank you.

7 CHAIRMAN GELLER: Thank you.

8 MR. SPELLMAN: Good evening. Kyle
9 Spellman for 1309 and 1319 Beacon. I want to point
10 out for the reduction of one bedrooms from 23 to 13
11 kind of a follow-up to Maria's point where she
12 mentioned the parking spaces required per unit.
13 They went from 23 to 13 one-bedroom and have
14 increased the two-bedrooms proportionally, and if
15 there is two parking spaces per two-bedroom, I would
16 think that the requirement should be more towards
17 the .9 versus the lower end of .7 that we are
18 talking about. Thank you.

19 CHAIRMAN GELLER: Thank you. Anybody
20 else? No? Sir?

21 MR. SHIVDASANI: If I may just add,
22 Ramesh Shivdasani. I think you know the spelling of
23 my name by now. I just wanted to pick up a point
24 that Maria made earlier about engaging abutters in
25 the construction plan will be extremely

1 constructive, but I think it will be helpful and we
2 reached out many times to the development team and
3 made it clear that we are very happy to be
4 cooperative and engaging. Thank you.

5 CHAIRMAN GELLER: Thank you. Anybody
6 else? Sir?

7 MR. MAZZA: John Mazza from 11
8 Longwood as well. I want to voice the support, my
9 support this evening for what's been mentioned and
10 just building off of the last points. Just bear in
11 mind if Soule is going to be closed, there is going
12 to be a knock-on effect for the rest of the
13 neighborhood. Bear in mind that's one less
14 thoroughfare which is probably the most congested
15 neighborhood in Brookline. People are still going
16 to be going to Trader Joe's. Emergency vehicles
17 still need to go up and down Longwood, so please
18 just bear that in mind as we consider all the public
19 safety. There is going to be a knock-on effect for
20 the rest of the neighborhood, traffic and emergency
21 vehicles passing and so forth. Thank you.

22 CHAIRMAN GELLER: Thank you. Anybody
23 else?

24 MS. LEVINE: Good evening. I'm
25 Jackie Levine. I live at 30 Longwood. And first I

1 want to thank everyone because I know you've been
2 working so diligently and patiently. I know it
3 takes a lot of time. I have an observation and
4 forgive me if it's not completely on point of
5 tonight's discussion, because I haven't had the
6 opportunity to speak before.

7 I want to say looking at this aerial
8 photograph brings home what I think we're all
9 sensing very much, all of us who are abutters, and
10 that is the massive scale of this property compared
11 to everything else around it and what a strain -- it
12 just seems logical -- tells you it's going to put on
13 Soule Avenue and those who live there.

14 Soule Avenue as you all know, you've
15 all been there, is so narrow. It's so small. And
16 the one-way part is so tiny that it just -- it's
17 intuitive and logical to look at this when we're
18 talking about a nine-story building that comes all
19 the way up to the street. You see it overwhelms
20 everything else, not just in the scale of square
21 footage but in the height and I think construction
22 of that type is going to be just -- the problems
23 that we cannot foresee right now are going to be
24 numerous and constant for two years and beyond. So
25 thank you very much.

1 CHAIRMAN GELLER: Thank you. Anybody
2 else? No? Okay.

3 MS. SCHNEIDER: Can I give my
4 question to the applicant?

5 CHAIRMAN GELLER: Absolutely.

6 MS. SCHNEIDER: One of the comments
7 that we heard from the public was an interesting
8 question about the use of the tandem spaces in the
9 garage and I would be interested in hearing from the
10 applicant about what the plan is to manage those
11 spaces.

12 MS. BALAKRISHNA: Rashna Balakrishna.
13 So with regard to the four pairs of the tandem
14 spaces, our plan is that the spaces would be
15 assigned as discussed. I wanted to make sure that
16 we had met the residential ratio that was proposed
17 by Walker and met the retail parking required by
18 town zoning.

19 So the idea is that the spaces in the
20 back would be used by retail employees who come in
21 the morning and leave in the evening, and they would
22 be managed in a way that people who park in front of
23 them would be retail customers, basically. So
24 people who are retail employees would arrive earlier
25 and leave later than the customers, and the people

1 parking in the front row of the tandem spaces would
2 be people that come to the retail establishments.

3 MS. SCHNEIDER: How is that going to
4 be enforced or monitored?

5 MS. BALAKRISHNA: There will be
6 somebody managing the garage that will -- I mean the
7 garage will be managed so that people who are using
8 it are there for two reasons, either because they
9 live there or because they work at or are coming to
10 the retail space. And we will plan the parking
11 operations accordingly to make sure that the access
12 is limited to those categories.

13 CHAIRMAN GELLER: During business
14 hours there will be somebody within the garage?

15 MS. BALAKRISHNA: Yes.

16 CHAIRMAN GELLER: A parking person?

17 MS. BALAKRISHNA: Yes.

18 MS. POVERMAN: There will be a
19 full-time parking attendant during business in the
20 garage?

21 MS. BALAKRISHNA: There will be
22 someone who works in the building that would be
23 managing the garage, and the spaces will be
24 assigned, yes. There will be someone who will be
25 making sure that the garage is operating smoothly.

1 MS. POVERMAN: Where will they be
2 located? How are they going to determine whether or
3 not people know what they're doing, like a visitor
4 knows where to park or not to park in the tandem
5 spot? I imagine they would be in the office.

6 MS. BALAKRISHNA: Someone who is
7 coming to visit a resident in the building, the
8 resident would need to notify the building ahead of
9 time if the visitor is coming.

10 MS. POVERMAN: I just don't see it.
11 How does the visitor get in? So if I call and say
12 the visiting nurse is coming between 10:00 and
13 11:00, so does the visiting nurse then call the
14 office? Do they wait at the garage door? What
15 happens?

16 MS. BALAKRISHNA: That's something as
17 we plan the parking operations, we will have a way
18 to do that. There are ways to do that in many
19 buildings in the area and in Boston, so we'll have
20 our parking operations company that will determine
21 how that will occur.

22 CHAIRMAN GELLER: So residential is
23 also managed?

24 MS. BALAKRISHNA: The residential
25 will be assigned.

1 MS. MORELLI: I just want to add. I
2 don't think our zoning prohibits tandem parking
3 unless the owner of the facility is leasing spaces
4 to off-site. In that case you wouldn't be able to
5 juggle the keys or have tandem parking, but here it
6 would be a management issue especially if the store
7 were open from 9:00 to 9:00 and someone has a shift
8 9:00 to 3:00 and the customers showing up at 3:00.
9 That would have to be managed.

10 CHAIRMAN GELLER: Right.

11 MS. POVERMAN: In terms of having
12 four spaces that are anticipated for retail parking
13 employees, that still satisfies the requirement of
14 necessity of spaces being available for retail under
15 zoning?

16 MS. MORELLI: There is nothing I can
17 see in the zoning that says we need a separate ratio
18 for employees versus customers. It just says this
19 is what is recommended. This is the ratio for
20 retail.

21 CHAIRMAN GELLER: Anything else? No?
22 Okay. Kate, no? Randolph, no? Thank you.

23 MR. ENGLER: Mr. Chair, can I ask a
24 question?

25 CHAIRMAN GELLER: Sure. Tell us who

1 you are.

2 MR. ENGLER: For the record, Geoff
3 Engler from SEB representing the applicant. I don't
4 think it matters per se but there is a lot of
5 misinformation and inaccuracies. I think the Board
6 recognized what those were or are. If you want, we
7 can go through what is --

8 CHAIRMAN GELLER: If you want to be
9 sure that you've related the information, by all
10 means.

11 MR. PANDYA: Haril Pandya. I guess
12 it's just more sort of -- more than anything else.
13 The blue line represents the site, not the building.
14 First of all, the building is set back from the road
15 over 20 feet, so these are all documents that have
16 been presented and logged and the Board has record
17 of all that sort of thing.

18 I think you can ask any construction
19 company -- these sites are fenced off. They're not
20 open job sites. The contractors have liabilities
21 around having open job sites. It's in the
22 contractor's best interest to make sure the site is
23 safe. Some of the tone, I think we can address from
24 that perspective.

25 The contractor will also be required

1 to meet with police and fire to make sure that the
2 construction plan is safe and it meets their
3 standards. I think there is methodology in doing
4 that.

5 The ramp and the slope of the ramp is
6 right smack dab in the middle of what the code
7 required of the slopes between six and sixteen
8 percent. We're at twelve percent, so I think
9 there's a lot of those types of questions that I
10 think if you look at the drawings, things have been
11 presented in the past, the things the peer reviewers
12 have commented on, the things that haven't already
13 been approved, crash plan, et cetera, I think those
14 are all things hopefully been addressed.

15 There has been a reduction of not
16 only ten units, but ten bedrooms overall and whether
17 there's a propensity of two- bedrooms need more
18 cars, that's not anything that we can necessarily
19 control, but parking spaces will be remunerated.
20 They will be numbered and lettered and if there is a
21 visitor nurse needs to come in, he or she is coming
22 in on a regular basis, I'm sure there will be a
23 temporary fob or temporary access can be made.

24 Those things are easy to monitor. It
25 happens all over town and the state. Those are the

1 types of things we will be able to address pretty
2 simply to make sure the building is effective,
3 efficient and working for not only itself but for
4 the neighborhood.

5 CHAIRMAN GELLER: I like your lapel
6 clip. Thank you. Okay. The Board discussion. I'm
7 sorry.

8 MS. BALAKRISHNA: I would like to
9 make one additional brief comment. So Chief
10 Sullivan mentioned we had a phone conversation
11 today. He was very helpful and we appreciate his
12 comments. We had met on July 1st with the planning
13 department, with the police, and the health
14 department.

15 We certainly from the beginning
16 agreed and know that the police detail is an
17 important feature that Chief Sullivan said to me on
18 the phone today that he spoke to some people at the
19 post office about how their trucks would be managed.
20 He had also spoken to, I believe it's Linda Katz at
21 the temple about how their traffic would be managed,
22 and I know that he certainly thought about and we
23 will be working with, as has been mentioned, with
24 the police and fire and implement whatever plans
25 they have. I'm sure they wouldn't allow

1 construction trucks to take over the street because
2 they have to -- and they'll be there full-time while
3 the construction is going on. So I just wanted to
4 mention that. Thank you.

5 CHAIRMAN GELLER: Thank you.
6 Anything else? No? Okay. Board discussion.

7 MS. POVERMAN: I will jump right in
8 and get to the most difficult question which is that
9 if we are now at 55 units, why don't we have a
10 smaller building and why don't we get rid of -- this
11 is a possibility and were told no, it's not
12 feasible, et cetera, et cetera, et cetera. We can't
13 go down from 65, but still -- yes, I know this is
14 the very last minute, but if we had a building that
15 did not go as far, we would not have construction
16 problems and the very real safety issues that have
17 arisen as result of the very complicated
18 construction maneuvers that are going to need to
19 occur because of the size of this building.

20 So there is no financial
21 justification now that I think can be brought
22 forward saying this building has to be as big as it
23 is and in the shape that it is. The height doesn't
24 bother me as much as the -- I don't think it's time
25 for you to get up, mister.

1 MR. ENGLER: I'm not.

2 MS. POVERMAN: As the width if it's
3 something that can be dealt with and solve these
4 problems. I'm throwing that out there now, to my
5 Board.

6 MR. MEIKLEJOHN: Could you back up a
7 couple of sentences and talk about what's the
8 connection -- I think you were trying to make a
9 connection to safety and I wasn't sure whether it
10 was construction period safety, but I think you were
11 relating it to building square footage?

12 MS. POVERMAN: Right now, as the
13 building is set up now, it takes up a large majority
14 of the plot, the plot size, and because of the
15 extent to which it takes up the lot size, it's
16 necessary for the construction vehicles to be on the
17 street, and that creates safety issues requiring now
18 that the street be blocked off to traffic for two
19 years, which is -- at least during construction
20 hours, which is an incredible inconvenience to say
21 the least.

22 We do have the reassurance that the
23 police will make sure that the cranes, et cetera,
24 stay out of the way so the fire vehicles can come
25 down, but usual reason -- had this been a year ago,

1 six months ago or whatever and we've been gotten
2 down to 55 units, this building would not now be the
3 size it is projected to be.

4 So several hearings ago we were told
5 no, we can't make any reduction in the number of
6 units, it's not financially feasible, right? We
7 were talking about the size of the building. So we
8 are like, okay, we don't have the financials. We
9 can't judge that. Now we know that the developer
10 thinks the building can be smaller and be
11 financially feasible, have fewer units.

12 MR. MEIKLEJOHN: The building being
13 smaller and having fewer units are not the same
14 thing.

15 MS. POVERMAN: Right, so what we need
16 to know and we don't have are the projected rents,
17 right? What are the rents we get?

18 MR. MEIKLEJOHN: Where does it get
19 you? I mean --

20 MS. POVERMAN: So financial
21 feasibility depends on the amount you have coming
22 in, right?

23 CHAIRMAN GELLER: Why are you talking
24 about --

25 MS. SCHNEIDER: Are you talking about

1 a pro forma review on this project?

2 MS. POVERMAN: What I'm saying is if
3 we have 55 units instead of 74, why do we still have
4 a building this size?

5 MS. SCHNEIDER: Look, I don't
6 necessarily -- can I jump in?

7 CHAIRMAN GELLER: Please.

8 MS. SCHNEIDER: Look, I mean, on the
9 one hand I appreciate the developer taking our
10 charge from the last meeting quite seriously and
11 quite literally and doing what it needed to do to
12 achieve the parking ratio that we asked for. I will
13 just observe that I think this is probably the most
14 cynical use of a 40B that I've seen in my time
15 sitting on this Board and involved in 40B projects
16 during my day job.

17 Essentially what the developer has
18 done is reduced the number of units but more or less
19 kept a giant retail component, and when you reduce
20 the number of units in a 40B project, the result is
21 that you were also reducing the number of affordable
22 units, and I don't think that that is really what
23 40B was intended to do. It was intended to be a
24 mechanism for a developer to overbuild retail and to
25 make concessions so that they can get a big retail

1 space and cut back on the number of affordable
2 units. I find that highly distasteful. I'm sorry,
3 may I finish? You'll have your opportunity.

4 MR. ENGLER: I didn't say anything.

5 MS. SCHNEIDER: You made a little
6 sound and I would appreciate it if you let the Board
7 finish. Thank you.

8 I would also say that when I look at
9 the program now, it seems like what has happened is
10 that this building is sort of larded up with amenity
11 spaces that are not really needed in this location.
12 There are co-working spaces that are available in
13 this neighborhood. There are gyms. There are unit
14 studios. There are community spaces. There are
15 coffee shops.

16 Part of the reason that I imagine the
17 residents would want to live in this building is
18 because of the proximity of all of these
19 neighborhood amenities rather than having them
20 within this building. And I think that those are
21 things that are probably adding to the total
22 development cost of this project, and I think that
23 over the last year plus this development team has
24 heard loud and clear the discomfort of the town, of
25 the abutters, of this Board with the size and the

1 massing of this building and it feels highly
2 disrespectful, given the opportunity to make a
3 smaller building that people would embrace and feel
4 comfortable with, instead you have decided to just
5 kind of fill the space. So let's put in a dog wash.
6 Let's put in a spa. Put in a coffee bar, none of
7 which is necessary, all which is expensive to build
8 out, none of which have anything to do with
9 affordable housing.

10 With of all that said, my feelings
11 about this project I think are very well-documented.
12 I am not sure there is anything else that we can do
13 to compel this developer to make changes. They made
14 whatever decisions they have made to members of the
15 community who did make comments about the failure of
16 retail on this block in Coolidge Corner. Yeah, it
17 does seem like it might be a bad business decision
18 to build an abundance of retail space in a part of
19 Coolidge Corner where retail does poorly.

20 It may also be, and again it's
21 probably a bad business decision to be building
22 higher-end units with insufficient parking because
23 that limits the pool of potential tenants. But
24 these are business decisions that this applicant has
25 made and they will live with the consequences if

1 their projections are incorrect.

2 CHAIRMAN GELLER: Randolph?

3 MS. POVERMAN: You said very well a
4 lot of the things I was thinking and partly
5 articulated poorly, but I think it's also an issue
6 of -- I think that the Board needs to consider is
7 whether or not the retail space is actually
8 ancillary to the residential space as is required
9 when there's a mix use 40B project, in my
10 understanding. So the definition as I understand it
11 given by Judi Barrett, which is ancillary space --
12 Maria may want to jump in here based on
13 conversations she had -- there can be ancillary
14 commercial institution or other non-residential uses
15 will be a project under 760CMR56.02. This requires
16 that the ancillary uses complement the primary
17 residential uses and help foster a workable, vibrant
18 and liveable, attractive neighborhood.

19 So do they have to show for us to
20 approve the project that the retail space is in fact
21 complementary to the primary residential use and
22 have they shown that, this huge, huge space?

23 MS. SCHNEIDER: I think it's a
24 difficult question for us to be able to answer in
25 part because it is early enough in this project that

1 we do not know what the programming for that space
2 will be. And I don't think that is a fair request
3 to make of the applicant to designate those spaces
4 at this early stage of the project.

5 So again, we can assume the applicant
6 is very clearly in this for profit, and we can
7 assume that whatever it is that they decide to use
8 those spaces for they would be successful business
9 enterprises and I think that probably -- again, hard
10 to do in a vacuum without complete information, but
11 I think I would presume that the retail space would
12 meet the threshold criteria.

13 MS. POVERMAN: We don't know if
14 there's been any analysis in all of what complements
15 primary residential uses in terms of the 40B
16 context?

17 MR. ENGLER: Can I comment on that?
18 That's incorrect. The ancillary only matters when
19 retail is allowed by zoning in this case, so the
20 ancillary characteristics doesn't matter. You're
21 taking a part of the regulations that does not
22 relate. There's other language in the regulations
23 that speak to if retail is allowed by underlining
24 zoning, which it is in this case. What you're
25 referring to is not pertinent.

1 CHAIRMAN GELLER: Randolph?

2 MR. MEIKLEJOHN: You all remember
3 this is the first case I sat all the way through for
4 a 40B and I'm going to keep it kind of
5 straightforward. But I did want to connect what
6 Johanna and Kate were saying earlier.

7 I completely get it, Kate, your
8 reaction to, Gee, with the parking ratios they seem
9 to meet, you certainly could have had fewer units --
10 sorry, less square footage. Now that we see what
11 the units can be, can we compel the applicant to do
12 that? No. And I get how the economics design part
13 of the project work to make that a choice that the
14 applicant can make.

15 I do think -- I appreciate the
16 response to the charge about parking. I think
17 that's a valuable correction to the design of the
18 project, I'll say.

19 I actually also think that these
20 series of conversations with the fire department,
21 public safety officials leading to a construction
22 period where, instead of having a designed barrier
23 in the street, that we now have the safety situation
24 during the construction period under the oversight
25 of the police department. I think that's highly

1 positive. I have a lot of confidence in them. I
2 appreciate the chief citing the other projects in
3 the town. Some of them near my neighborhood. I
4 know how these work. I'm relatively confident that
5 this will not be licensed for the construction
6 manager to use as parking lot storage materials and
7 things like that. So those are my comments so
8 far.

9 CHAIRMAN GELLER: My feelings were
10 very similar to Ms. Schneider's. In fact as we were
11 running through the hearing and looking at this
12 finely colored printout with stripes that we have, I
13 was somewhat bemused, not amused but bemused by the
14 types of spaces that are included in here.

15 I'm not a developer, but if I were a
16 developer, I would build a building that frankly had
17 some of these spaces that you designated at the cost
18 that exists for a construction. Dog spa, yoga
19 studio, plus a fitness -- I mean, so Johanna, your
20 phrase was larded up, exactly what crossed my mind.
21 And it exists. I mean, they have built this out as
22 much as they could and the other side of the coin
23 under 40B for good or for bad is the ZBA's charged
24 to look at local concern and local concern largely
25 is keyed on health and safety issues.

1 We have had significant peer review.
2 We then have to make a determination and our
3 determination is, Do we grant a comprehensive
4 permit? Do we grant a comprehensive permit or do we
5 deny a comprehensive permit? Do we grant a
6 comprehensive permit subject to conditions? And in
7 my mind after having -- how long? How many hearings
8 and how long has this gone on?

9 Having multiple phases of peer review
10 and sort of discounting all of the dynamics of what
11 went on, of getting bigger and smaller and whatever
12 went on there, it seems to me that there is, in my
13 mind, no basis to simply deny the comprehensive
14 permit. And frankly I think the building is
15 enormous, but I don't see the basis to say no.

16 Do I think this is a project that
17 needs to be conditioned heavily? Absolutely. I
18 hear what you're saying, Kate, but you sort of threw
19 out the phrase "safety concerns." And based on peer
20 review I would like to know what safety concerns --
21 legitimate safety concerns you actually have.

22 What they're proposing to do is the
23 alternative for construction. It's not like this is
24 some new thing that they are proposing that we have
25 not seen or utilized on a fairly regular basis and

1 everybody has acknowledged that fact. So we don't
2 have the ability to tell them no because we don't do
3 it. Yes, Soule Avenue is a narrow street but so are
4 some of the other streets where this type of
5 construction methodology has been utilized.

6 MS. SCHNEIDER: I would add only that
7 I do think yes, it's absolutely the case that we
8 allow all sorts of buildings -- we have police
9 details. We make provisions. I mean, I think the
10 applicant's consultant acknowledged at the last
11 hearing this is somewhat an unusual site. It's very
12 complicated. And in part because there are site
13 constraints and it's a busy street, but I think that
14 does not call for a denial of the project so much as
15 very careful conditions. I would also say that I
16 think typically it is the practice of this Board to
17 defer construction related conditions to the town.
18 I think given the extreme circumstances, the risks
19 of safety, compromising safety of particular
20 vulnerable populations, I think that it is within
21 the scope of this board to be ensuring that there
22 are construction period conditions that are folded
23 into our comprehensive permit decision.

24 Kate, again, you know how I feel
25 about this project. Everyone in this room knows

1 exactly how I feel about this project, but I think
2 that conditioning, the construction period is
3 probably a more appropriate response to a lot of the
4 safety concerns that are still lingering than an
5 outright denial.

6 MS. POVERMAN: I wish I can strongly
7 disagree. A lot of what you're hearing from me is
8 as frustration with this project, with this
9 developer, with the outright greed, the greediness
10 of taking this piece of land and developing.

11 Frankly, I think there may well be
12 safety issues that come up due to the increase in
13 traffic caused by by this project. We're not going
14 to know now because we are not fortune tellers. I
15 think there are likely to be safety issues during
16 construction because of the increased traffic on the
17 other part of Soule, because of the machinations
18 that the post office will have to go through to get
19 its trucks in and out of the area, because of all
20 those children at risk, because of the -- just the
21 pile of mess that's going to occur when traffic has
22 to be rerouted to those kids to Hebrew school or to
23 temple with the street blocked off.

24 I believe certainly like the
25 E-scooters I think is a disaster going to happen.

1 We can't tell. We can't promise it's going to
2 happen and we can't use the deep concern that it is
3 going to happen as a basis for outright denial, but
4 I do want to say that I have those concerns. And if
5 it were six months ago and if we were now faced with
6 protestations that the building couldn't be made
7 smaller for financial reasons, I would want to take
8 it to the proforma, yes, but I can't now.

9 CHAIRMAN GELLER: I don't understand
10 why you say that.

11 MS. POVERMAN: Why I say what?

12 CHAIRMAN GELLER: Why you say that
13 timing is relevant to whether or not you can take it
14 to proforma?

15 MS. POVERMAN: Because I don't think
16 I have the support of my other Board members.

17 CHAIRMAN GELLER: That doesn't...

18 MS. POVERMAN: In part, I mean what
19 I'm hearing is that -- what I've heard from you guys
20 is that you think -- at least from Randolph that you
21 still -- never mind. I'm confusing myself here.
22 We're pretty far down the road, right? And what I'm
23 hearing from my fellow members is yes, this is very
24 frustrating but we really can't do anything to make
25 them make it smaller.

1 CHAIRMAN GELLER: I don't think
2 that's a fair summary of what either Johanna or what
3 I -- what we're saying. I think what we're saying
4 is that in light of the task that is assigned to us,
5 which is to administer 40B and the regulations, that
6 in the balancing test that exists we've come to know
7 and maybe not love -- that we do not see based on
8 peer review and testimony that the project as
9 currently constituted as it's been changed, the
10 project has changed, correct, has changed that we do
11 not see, in weighing the balance, that there is a
12 basis on which to deny the comprehensive permit.
13 That is what -- I think that's what you're saying
14 and that's what I'm saying.

15 MS. SCHNEIDER: Yes.

16 MS. POVERMAN: I think that's where
17 we are now? Right now as the project is built,
18 there's not a basis to see an outright denial for
19 the comprehensive permit.

20 CHAIRMAN GELLER: In your opinion --

21 MS. POVERMAN: Or in our opinion.

22 CHAIRMAN GELLER: I'm trying to get
23 your opinion. Ideally you can say anything you
24 want.

25 MS. POVERMAN: No. Exactly what I

1 said. I think as it is now, there is not a basis
2 that I can think of for an outright denial for the
3 comprehensive permit.

4 CHAIRMAN GELLER: Okay. Okay. Do
5 you want to talk?

6 MR. MEIKLEJOHN: I'll say something.
7 I want to come back to your -- you started this part
8 of the conversation talking about things that you
9 like about other designs that might have existed
10 because you can kind of imagine while you have this
11 many parking spaces and you have smaller units, this
12 is not a zoning-only problem.

13 It happens to every regulatory body
14 in this town and there is just a basic thing
15 about -- they do the design. We apply. It's not
16 within our tool kit to redesign it back at them,
17 because I think that's what you're talking about,
18 wanting a different combination of things. The
19 applicant has to make the design. I learned this on
20 the conservation commission, by the way.

21 MS. SCHNEIDER: That was so useful
22 for you.

23 MR. MEIKLEJOHN: It was.

24 CHAIRMAN GELLER: Randolph, do you
25 want to comment substantively or are you going to

1 hide behind the fig leaf that you're the alternate
2 member?

3 MR. MEIKLEJOHN: I was going to bring
4 that up unless you've forgotten, but I don't have
5 comments to add to what I said before.

6 CHAIRMAN GELLER: Okay. Fair enough.
7 That's your privilege. Okay. So having said all of
8 that, I think then we need to take the step of
9 mechanics to sort of, believe it or not, bring this
10 to a close. And we have a number of things that
11 need to still be accomplished and not very much
12 time, fifteen days, fifteen or sixteen days.

13 I did see circulated earlier today a
14 revised waivers list. To be honest, I didn't look
15 at it. There is a comprehensive permit decision,
16 the lion's portion of which is drafting the
17 conditions. And the Board's review of those
18 conditions, review of waivers, how many hearings?

19 MS. MORELLI: Typically we have
20 sometimes two to three hearings on waivers plus
21 conditions. So waivers would be a portion of, say,
22 going forward hearing one. We would start looking
23 at the draft and decision. We start with procedure,
24 history, and findings. That will be one hearing.
25 And maybe if we're having like 80 to 100 conditions

1 on projects, which is typical for a 40B, that could
2 take two more hearings. That does allow the
3 applicant some back and forth, edits for them to
4 consider and then sent to you for your consideration
5 in addition to your own edits, and of course the
6 public -- we do like to have public hearings where
7 the public can comment on conditions.

8 I would recommend extending the
9 hearing so that we can have two to three more
10 hearings. I'm just a little concerned about the
11 summer schedule.

12 CHAIRMAN GELLER: Well, let's start
13 first with the applicant because they're going to
14 drive whatever it is we're going to do here.

15 MS. MORELLI: Could I ask one more
16 question about expectations? Is there anything you
17 want staff to provide in the way of construction
18 management planning or would you like to see drafts
19 and conditions for your consideration as well?
20 Construction management planning? Anything related?

21 CHAIRMAN GELLER: Typically we have a
22 fairly comprehensive series of conditions that
23 pertain to construction and construction plan and it
24 is with the assistance of the building department.
25 I would think that given the complexities, because

1 of the structure and street here, that it may also
2 be appropriate, for instance, to ask the fire chief
3 to weigh in on certain specifics of it.

4 I would think you may want to ask the
5 police department, who are going have to have to
6 manage parts of the safety aspect. And I think we
7 had testimony from someone who made a very good
8 comment about sort of, okay, you have a police
9 officer here, you have a police officer here, and
10 then a control device for the sidewalk, so I think
11 those things really need to be carefully thought
12 through.

13 I see Mr. Engler's head is bowed. So
14 the applicant, Mr. Engler, having heard that, we
15 have a deadline of July 31st. If we need three more
16 hearings in order to get through waivers and
17 conditions and taking into account Maria's concerns
18 about summer scheduling -- Maria, what are we
19 looking for for a reasonable extension date?

20 MS. MORELLI: Ms. Schneider is going
21 to be away for a good part of August. I would like
22 to extend this to -- if we can have two hearings in
23 September and then one more hearing in October?

24 CHAIRMAN GELLER: You don't think we
25 can get them all in in September? When is town

1 meeting?

2 MS. POVERMAN: Not until November.

3 MS. MORELLI: Do you foresee being
4 able to meet in August before Ms. Schneider --

5 CHAIRMAN GELLER: I just asked. I
6 think it is not a possibility and now that I'm
7 thinking about it --

8 MS. POVERMAN: When does Johanna
9 leave?

10 MS. SCHNEIDER: The 21st of August to
11 September 3.

12 MS. MORELLI: So August is out. So
13 we need to look at September.

14 CHAIRMAN GELLER: September for other
15 reasons starts to get a little complicated.

16 MS. SCHNEIDER: Did we ever look at
17 July 31st as a hearing date?

18 MS. POVERMAN: I'm free.

19 MS. STEINFELD: Alison Steinfeld,
20 planning director. Since Maria isn't saying it, I
21 would like to say it. Maria also needs some time to
22 prepare the draft. So the issue is not only your
23 time but Maria's. Thank you.

24 CHAIRMAN GELLER: Right, but maybe
25 the 31st is a window into which to talk about

1 waivers since that document has been --

2 MR. MEIKLEJOHN: I probably can't do
3 it. Sitting here tonight, I can't say that I can do
4 it. What happens relative to the voting and me --
5 do we need to preserve all four participants?

6 MS. SCHNEIDER: We should.

7 CHAIRMAN GELLER: It's a precaution.
8 When are you back?

9 MS. SCHNEIDER: September 3rd.

10 MR. ENGLER: Mr. Chairman, I'm under
11 the presumption that the next hearing would not be
12 sometime until September. It's safe to say we will
13 have a draft decision before that that we can
14 review?

15 MS. MORELLI: Absolutely.

16 MR. ENGLER: Can I also make a
17 comment relative to the decision. Listen, I
18 certainly understand that the construction and
19 construction management is one of the, if not the
20 most important consideration, and I think it will be
21 helpful to get additional input from varies
22 municipal boards, but the Town has the power of the
23 building permit, and I think it's -- I think to try
24 to get everything exact in this decision, whereas
25 you can just say in certain cases, subject to a

1 building permit, the transportation department,
2 fire, police, et cetera, will be satisfied, that
3 that is a much simpler approach than trying to get
4 all the Is dotted and Ts crossed as part of the con
5 permit decision which is not consistent with most of
6 the decisions that I've ever seen.

7 I'm just trying to make things a
8 little bit easier. All of your rights are
9 preserved. You guys still have the power. We can't
10 go forward with construction. We still don't have a
11 general contractor. Some of this stuff, you know,
12 needs to -- we don't have working drawings. I mean
13 there is going to be -- not global tweaks to what we
14 talked about, but some things that may have an
15 influence.

16 CHAIRMAN GELLER: In many ways that
17 is correct with the idea being that the pool of eyes
18 that this will be subject to are expanded in this
19 case just given the complexity.

20 MR. ENGLER: I appreciate that which
21 would be a greater pool of people that the
22 construction team and my client need to meet with in
23 order to get a building permit.

24 CHAIRMAN GELLER: Right, right, but
25 there will be other topics that the Board, based

1 upon testimony that we've heard, will want
2 specificity. They will want to think about and have
3 specificity and you will have an opportunity, unless
4 the hearing is closed, you'll have an opportunity to
5 say, What is your thinking of this? Is this
6 inappropriate? Or you may say, That's a great
7 thought. So I think it plays both ways, and it's
8 not intended to cut out the global language that we
9 typically put in.

10 MR. ENGLER: Listen, Maria, this is
11 not your first rodeo. You have had a lot of
12 decisions to pull from, so I certainly understand
13 that this project has a lot of unique
14 characteristics and considerations and things that
15 need to be incorporated, but we're not starting from
16 whole cloth here. But I understand August is
17 challenging for a lot of people. I don't think we
18 want to be unreasonable. I think our preference
19 though is to grant an extension through the next
20 hearing, whenever that is, to allow us to see the
21 decision, because while the Board is in agreement
22 that you're not going to deny the decision, the
23 decision is so wrought with conditions and
24 restrictions, there is no difference to us from a
25 denial or that kind of decision.

1 CHAIRMAN GELLER: We're not saying
2 you're going to have a decision by the 31st.

3 MS. MORELLI: No.

4 MR. ENGLER: By September.

5 CHAIRMAN GELLER: Okay.

6 MS. MORELLI: Could we get an
7 extension through the end of September?

8 MR. ENGLER: Why don't you identify
9 when you'd like the next hearing to be in September
10 and we'll grant an extension through that evening.

11 MS. MORELLI: Does the Board think
12 it's possible to have two hearings in September, if
13 we can, to schedule those dates?

14 MS. SCHNEIDER: Maybe.

15 MS. MORELLI: Okay. I'm sorry, I'm
16 going to ask Ms. Steinfeld, are there any holidays?

17 MS. STEINFELD: It cannot be on
18 September 30th.

19 CHAIRMAN GELLER: 29th or the 30th.
20 The 29th is a Sunday. I don't think that's a
21 problem.

22 MS. SCHNEIDER: We have 40B hearings
23 already scheduled for the 11th with this applicant
24 on 445.

25 MS. POVERMAN: It can't be the 25th.

1 What about the 9th and 16th or the 9th and the 23rd?

2 MS. MORELLI: I'm just thinking if
3 Ms. Schneider is back on the 3rd, it's not much time
4 to prepare for -- she will not have reviewed the
5 draft, so if we can start with the 16th, September
6 16th? It is a Monday.

7 MR. MEIKLEJOHN: I can do that.

8 CHAIRMAN GELLER: You don't want to
9 do anything the week of the 9th?

10 MS. MORELLI: We have a hearing on
11 the 11th. We would have do a Tuesday or a Thursday
12 and --

13 MS. STEINFELD: Thursday we probably
14 have a ZBA 40A.

15 MS. MORELLI: These four members
16 would not be able to sit on 40A.

17 MS. POVERMAN: 16th and the 23rd?

18 MR. MEIKLEJOHN: Could we not do the
19 23rd? My only September blackout date.

20 MS. POVERMAN: September 24th?

21 MR. MEIKLEJOHN: Yes, that's fine.

22 MS. MORELLI: September 24 is a
23 Tuesday, so we just need a different room because
24 Tuesday the select board meets in this room.

25 MR. MEIKLEJOHN: Was there another

1 date before the 24th?

2 MS. MORELLI: 16th, September 16th
3 and September 24th.

4 MR. MEIKLEJOHN: Okay.

5 CHAIRMAN GELLER: Now, when is the
6 applicant getting an extension through?

7 MS. BALAKRISHNA: Can we have a
8 meeting on the 24th?

9 MR. ENGLER: We're okay with the
10 decision to the 24th.

11 CHAIRMAN GELLER: I may have an issue
12 with that.

13 MS. MORELLI: One consideration is to
14 do a Thursday the 26th, and then with enough -- I
15 just don't know -- I don't have that 40A schedule.
16 I'm going to assume we haven't planned out --

17 MS. POVERMAN: I can't do the week
18 after the -- or the first week in October. The 26th
19 I can't do.

20 MS. SCHNEIDER: Did we say anything
21 about the 19th?

22 MS. POVERMAN: Can we knock the ZBA
23 off?

24 MS. MORELLI: I'll talk to my
25 colleagues in regulatory about not scheduling.

1 MR. ENGLER: What about the 9th?

2 MS. MORELLI: That would be two
3 hearings in one week. That's not a lot of time to
4 turn around and edit for this case. If we are
5 meeting on the 16th of September, you're not going
6 to meet on the 19th of September.

7 MR. ENGLER: No, the 9th.

8 MS. MORELLI: They don't want to do
9 the 9th.

10 MS. STEINFELD: It's too soon.

11 MS. POVERMAN: It's a week later.

12 MS. SCHNEIDER: We can schedule. I
13 can drop off. That's fine.

14 MS. MORELLI: Let's be realistic.
15 The 16th and how about October 2nd. It's a
16 Wednesday. I'm not sure if it's a holiday.

17 MS. POVERMAN: No, it is not.

18 MS. MORELLI: How about September
19 16th and October 2nd?

20 MR. MEIKLEJOHN: I can do that.

21 CHAIRMAN GELLER: Sounds okay.

22 MR. ENGLER: We'll give an extension
23 through the 16th and see how it goes.

24 MS. SCHNEIDER: We can always close
25 it. They don't have to participate after that.

1 That's fine.

2 CHAIRMAN GELLER: So we're going to
3 continue this until September 16 at which point
4 Maria will have, prior to the hearing, distributed
5 and it will be available on-line so people can
6 review it a draft decision which will include
7 proposed conditions. It will be very long. I'm
8 warning people. So we are continued until that date
9 at 7 p.m. Again, I want to thank everyone for their
10 patience and for their participation.

11 (Whereupon, the hearing was adjourned
12 at 8:40 p.m.)

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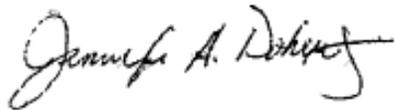
C E R T I F I C A T E

COMMONWEALTH OF MASSACHUSETTS

Worcester, ss.

I, Jennifer A. Doherty, Certified
Shorthand Reporter and Notary in and for the
Commonwealth of Massachusetts, do hereby certify
that the foregoing Pages 1 to 70 to be a true,
complete and accurate transcript of the testimony of
the aforementioned hearing held at the time and
place hereinbefore set forth, to the best of my
knowledge, skill and ability.

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY
HAND AND SEAL THIS 25TH DAY OF JULY, 2019.



Jennifer A. Doherty
Certified Shorthand Reporter
CSR No. 1398F95

My Commission Expires:
October 19, 2023

0	25th 65:25 70:16	7	acceptable 5:24
02445 1:16	26th 67:14,18	7 3:11,12 12:8,15	10:7
1	29th 65:19,20	30:5,13 32:17	access 5:7,9,25
1 70:7	2nd 68:15,19	69:9	6:11 7:9,10,14
1,800 11:16	3	70 70:7	15:23 16:24 17:8
1.4 29:25	3 61:11	700 11:3 15:5	17:11,16 18:10
100 58:25	3,150 11:9	709 11:12	23:25 24:7,15
10:00 37:12	3,800 10:15	74 45:3	36:11 40:23
10th 3:5 12:24	30 17:8 21:18 26:4	760cmr56.02.	accommodate
11 29:6 31:24 33:7	33:25	48:15	22:22
11353 70:17	30th 65:18,19	7:05 1:12	accomplished
11:00 37:13	31 3:22	8	58:11
11th 65:23 66:11	31st 60:15 61:17	80 58:25	account 30:10
12 5:16	61:25 65:2	8:40 69:12	60:17
1299 1:11 3:4	333 1:14	9	accurate 70:8
12:01 22:13	39 20:1	9 6:19 30:5,13	achieve 45:12
13 32:10,13	3:00 38:8,8	32:17	acknowledged
1309 19:11 32:9	3rd 62:9 66:3	90 15:4	53:1,10
1319 19:12 32:9	4	9:00 38:7,7,8	active 7:11 17:21
1398f95 70:20	40 2:13	9th 66:1,1,9 68:1,7	add 19:2 32:21
15 1:12	40a 66:14,16 67:15	68:9	38:1 53:6 58:5
15th 12:25	40b 6:17,21 45:14	a	added 11:18 27:8
16 27:9 69:3	45:15,20,23 48:9	ability 24:4 53:2	adding 20:3 46:21
16th 66:1,5,6,17	49:15 50:4 51:23	70:11	addition 59:5
67:2,2 68:5,15,19	56:5 59:1 65:22	able 5:11 7:17	additional 41:9
68:23	40bs 6:22	8:24 9:7 16:25	62:21
19 70:23	42 12:4	17:15 18:5 20:21	address 6:14
19th 67:21 68:6	420 6:20	20:22,22 22:2	19:16 23:7 39:23
1st 41:12	445 65:24	24:7 38:4 41:1	41:1
2	47 20:3,5	48:24 61:4 66:16	addressed 29:16
2,800 11:14	4:45 28:25	absolutely 35:5	40:14
20 39:15	5	52:17 53:7 62:15	adequate 3:10
2019 1:12 70:16	51 30:16	abundance 47:18	adequately 21:3
2023 70:23	55 12:4,7 20:2	abutter 20:17	adjourned 69:11
21st 61:10	42:9 44:2 45:3	abutters 6:10 7:14	administer 56:5
23 32:10,13	57 12:11,18 20:4	8:2 9:16 16:24	administrator
23rd 66:1,17,19	6	25:6 31:11 32:24	5:19
24 66:22	65 12:7 42:13	34:9 46:25	aerial 16:12 34:7
24th 66:20 67:1,3		abutting 17:10	affordable 45:21
67:8,10			46:1 47:9

<p>aforementioned 70:9</p> <p>afternoon 22:14</p> <p>ago 43:25 44:1,4 55:5</p> <p>agree 19:6,7</p> <p>agreed 41:16</p> <p>agreement 64:21</p> <p>ahead 37:8</p> <p>aisle 3:21</p> <p>alison 5:17 61:19</p> <p>allow 7:13 41:25 53:8 59:2 64:20</p> <p>allowed 49:19,23</p> <p>alternate 58:1</p> <p>alternative 6:14 52:23</p> <p>altogether 25:6</p> <p>amenable 18:8</p> <p>amenities 46:19</p> <p>amenity 11:5 46:10</p> <p>america 19:13</p> <p>amount 8:21 44:21</p> <p>amused 51:13</p> <p>analysis 5:13 49:14</p> <p>ancillary 48:8,11 48:13,16 49:18,20</p> <p>answer 9:17 23:14 24:22 48:24</p> <p>answered 8:24</p> <p>anticipate 17:20</p> <p>anticipated 38:12</p> <p>anybody 21:7,15 31:21 32:19 33:5 33:22 35:1</p> <p>anytime 22:3</p> <p>apartments 29:23</p>	<p>apparatus 16:25 17:23 18:12 23:20</p> <p>appeals 1:10</p> <p>appearances 2:1</p> <p>applicant 2:15 3:9 4:3,17 8:8,10 9:22 16:6 19:2,15 21:1 25:21 35:4,10 39:3 47:24 49:3,5 50:11,14 57:19 59:3,13 60:14 65:23 67:6</p> <p>applicant's 3:25 8:13 9:8 53:10</p> <p>apply 12:8 57:15</p> <p>appreciate 41:11 45:9 46:6 50:15 51:2 63:20</p> <p>approach 5:23 63:3</p> <p>appropriate 54:3 60:2</p> <p>appropriately 8:19</p> <p>approve 48:20</p> <p>approved 7:1 40:13</p> <p>architects 2:11</p> <p>area 14:12,20 15:5 15:7,13 17:1,16 24:7 27:20 30:23 37:19 54:19</p> <p>areas 21:10</p> <p>arisen 42:17</p> <p>arrive 35:24</p> <p>articulated 48:5</p> <p>asked 3:9 16:19 45:12 61:5</p> <p>aspect 60:6</p> <p>assigned 35:15 36:24 37:25 56:4</p>	<p>assistance 59:24</p> <p>assume 15:6 49:5 49:7 67:16</p> <p>assured 21:21</p> <p>attend 5:12</p> <p>attendant 36:19</p> <p>attention 30:17</p> <p>attractive 48:18</p> <p>audience 25:17</p> <p>august 60:21 61:4 61:10,12 64:16</p> <p>auto 5:13</p> <p>available 30:24 38:14 46:12 69:5</p> <p>avenue 6:19 7:3 8:23 17:10 21:18 21:23 22:13 23:11 25:1 29:7 30:16 31:24 32:1,2 34:13,14 53:3</p> <p style="text-align: center;">b</p> <p>b 2:13</p> <p>back 14:7 15:14 26:11 35:20 39:14 43:6 46:1 57:7,16 59:3 62:8 66:3</p> <p>background 30:6</p> <p>bad 47:17,21 51:23</p> <p>balakrishna 2:12 9:24 14:23 35:12 35:12 36:5,15,17 36:21 37:6,16,24 41:8 67:7</p> <p>balance 56:11</p> <p>balancing 56:6</p> <p>bank 19:13 27:14 28:7</p> <p>bar 47:6</p> <p>barrels 21:12</p>	<p>barrett 48:11</p> <p>barrier 5:5,23 30:23 50:22</p> <p>barriers 16:21,23 17:2 18:8,15 21:19 30:20</p> <p>based 12:13 13:6 14:25 15:10 20:1 25:21 30:7 48:12 52:19 56:7 63:25</p> <p>basic 57:14</p> <p>basically 35:23</p> <p>basis 40:22 52:13 52:15,25 55:3 56:12,18 57:1</p> <p>beacon 1:11 3:4 19:12,12 28:6 32:9</p> <p>bear 33:10,13,18</p> <p>bedroom 11:24 29:11,13,24 30:1 32:13,15</p> <p>bedrooms 11:24 13:3,4,8,16,18,19 23:1,5 30:11 32:10,14 40:16,17</p> <p>beginning 16:19 41:15</p> <p>begun 19:15</p> <p>believe 3:11,17 24:4 25:2 41:20 54:24 58:9</p> <p>belongs 15:8</p> <p>bemused 51:13,13</p> <p>berloff 21:17,18 23:10</p> <p>best 24:3 39:22 70:10</p> <p>better 20:10</p> <p>beyond 34:24</p>
--	--	---	---

<p>big 5:12 23:4 42:22 45:25 bigger 52:11 bit 63:8 block 22:10 47:16 blocked 22:17 43:18 54:23 blockout 66:19 blue 10:16 39:13 board 1:10 2:3,4,5 4:4,5,21 30:18 39:5,16 41:6 42:6 43:5 45:15 46:6 46:25 48:6 53:16 53:21 55:16 63:25 64:21 65:11 66:24 board's 3:8 58:17 boards 62:22 body 57:13 boston 7:8 37:19 bother 42:24 bowed 60:13 brief 4:24 6:8 41:9 bring 26:9 58:3,9 bringing 14:7 21:12 32:5 brings 34:8 brookline 1:13,16 6:15,19 16:14 29:17 33:15 brought 42:21 build 47:7,18 51:16 building 5:17 10:5 10:10,18 11:5,20 14:12,20 15:5,17 19:14,16,23 20:7 22:3,11,15,24 23:3 26:5,11,16 27:7,8 28:4 32:3 33:10 34:18 36:22 37:7</p>	<p>37:8 39:13,14 41:2 42:10,14,19 42:22 43:11,13 44:2,7,10,12 45:4 46:10,17,20 47:1,3 47:21 51:16 52:14 55:6 59:24 62:23 63:1,23 building's 21:9 buildings 37:19 53:8 built 26:11 51:21 56:17 bureau 16:17 business 26:18 27:18,19 36:13,19 47:17,21,24 49:8 businesses 26:21 27:10,14,22 busy 53:13</p>	<p>caused 54:13 caution 28:1 caveat 5:12 cbt 2:11 10:1 center 16:21 certain 60:3 62:25 certainly 6:14 7:1 9:6 24:23 41:15 41:22 50:9 54:24 62:18 64:12 certified 70:4,19 certify 70:6 cetera 8:22 15:17 40:13 42:12,12,12 43:23 63:2 chair 38:23 chair's 10:3 chairman 2:2 3:2 3:16,20 4:8,21,25 6:7 8:16 9:20 11:7 11:10 12:20 13:5 15:23 16:2,5 18:1 18:4,17,20,24 19:1 21:15 23:9,12 24:9,17 25:11,13 25:18,23 26:1 28:12 29:4,19 30:8 31:21 32:7 32:19 33:5,22 35:1,5 36:13,16 37:22 38:10,21,25 39:8 41:5 42:5 44:23 45:7 48:2 50:1 51:9 55:9,12 55:17 56:1,20,22 57:4,24 58:6 59:12,21 60:24 61:5,14,24 62:7,10 63:16,24 65:1,5,19 66:8 67:5,11 68:21 69:2</p>	<p>challenging 64:17 chances 29:11,12 changed 13:2,2,12 22:24 56:9,10,10 changes 47:13 changing 31:25 characteristics 49:20 64:14 charge 3:8 8:12 10:2 45:10 50:16 charged 51:23 charles 7:6,19,25 chart 11:25 13:21 chief 5:19,21 6:2 16:7,13,13 18:3,5 18:21,22 23:13,15 23:16 24:11,19 30:19 41:9,17 51:2 60:2 children 7:24 54:20 children's 6:18 choice 50:13 christmas 14:17 circulated 58:13 circumstances 53:18 circumvent 31:4 citing 51:2 clarification 8:6 clear 4:17,18 33:3 46:24 clearly 49:6 client 63:22 clip 41:6 close 4:9 6:13 7:3 58:10 68:24 closed 6:16,21 17:6,17,20 18:2 21:23 22:7,8 24:20 25:6 30:25</p>
	c		
	<p>c 3:1 70:1,1 calculate 29:20,23 call 16:6 37:11,13 53:14 called 7:13 capitulate 18:14 car 22:14,15 29:12 29:14 care 26:12,14 27:4 careful 30:17 53:15 carefully 60:11 cars 21:13 22:18 40:18 case 38:4 49:19,24 50:3 53:7 63:19 68:4 cases 62:25 categories 36:12</p>		

<p>31:11 33:11 64:4 closing 6:22 cloth 64:16 club 14:2,3 code 40:6 coffee 46:15 47:6 coin 51:22 colleagues 67:25 colored 51:12 combination 57:18 come 16:19 19:5 26:22 35:20 36:2 40:21 43:24 54:12 56:6 57:7 comes 34:18 comfortable 47:4 coming 21:13 28:22 36:9 37:7,9 37:12 40:21 44:21 comment 26:2 28:20 41:9 49:17 57:25 59:7 60:8 62:17 commented 40:12 comments 10:4 25:22 35:6 41:12 47:15 51:7 58:5 commercial 48:14 commission 57:20 70:22 commissioner 5:17 common 31:4 commonwealth 70:2,6 community 14:5 28:16 46:14 47:15 company 37:20 39:19</p>	<p>compared 34:10 compel 47:13 50:11 compelling 4:1 complement 48:16 complementary 48:21 complements 49:14 complete 8:4 49:10 70:8 completed 32:3 completely 34:4 50:7 complexities 59:25 complexity 63:19 complicated 42:17 53:12 61:15 component 45:19 components 11:19 comprehensive 3:3 4:14 52:3,4,5 52:6,13 53:23 56:12,19 57:3 58:15 59:22 compromising 53:19 con 63:4 conceive 7:2 concern 30:21 51:24,24 55:2 concerned 20:14 20:19 22:5 23:10 29:8 59:10 concerns 18:7 52:19,20,21 54:4 55:4 60:17 concessions 45:25 condition 20:19 conditioned 52:17</p>	<p>conditioning 54:2 conditions 4:12,22 52:6 53:15,17,22 58:17,18,21,25 59:7,19,22 60:17 64:23 69:7 conference 15:13 confidence 51:1 confident 51:4 confined 30:22 confines 17:16 confusing 15:2 55:21 congested 33:14 connect 50:5 connection 43:8,9 connections 17:9 consensus 18:9 consequences 47:25 conservation 57:20 consider 33:18 48:6 59:4 consideration 7:16 59:4,19 62:20 67:13 considerations 64:14 considered 27:21 consistent 63:5 constant 29:2 34:24 constantly 28:25 constituted 56:9 constraints 53:13 construction 5:3,7 6:11,13,17 16:8,20 17:3,5,7,19,21,22 18:9,16 21:22 22:1,9 23:19,21,24</p>	<p>24:5,13 28:22 30:17,22 31:16 32:1,25 34:21 39:18 40:2 42:1,3 42:15,18 43:10,16 43:19 50:21,24 51:5,18 52:23 53:5,17,22 54:2,16 59:17,20,23,23 62:18,19 63:10,22 constructive 33:1 consultant 2:13 53:10 consultants 30:4 context 49:16 continue 3:7 69:3 continued 69:8 continuing 3:3 contractor 39:25 63:11 contractor's 39:22 contractors 39:20 control 40:19 60:10 convened 5:16 conversation 18:6 21:20 41:10 57:8 conversations 48:13 50:20 coolidge 26:19 47:16,19 cooperation 23:18 24:5 cooperative 33:4 core 27:2,3 corner 6:18,20 26:19 47:16,19 correct 3:19 4:23 8:8 18:3 30:12 56:10 63:17</p>
---	---	---	--

correction 50:17 correctly 19:18 correlation 29:9 cost 46:22 51:17 count 10:24,24 20:2 counting 14:21 counts 10:22 13:6 couple 43:7 course 59:5 cranes 43:23 crash 40:13 creates 43:17 criteria 49:12 critical 26:12 cross 7:25 25:1,4 crossed 51:20 63:4 crossing 24:24 crowded 32:4 csr 1:21 70:20 current 14:16 currently 7:19 56:9 customers 20:7,7 20:17 35:23,25 38:8,18 cut 46:1 64:8 cynical 45:14	70:16 days 4:6,7,9 5:2 58:12,12 deadline 60:15 deal 5:25 9:4 dealt 43:3 decide 49:7 decided 47:4 deciding 28:10 decision 4:4,9 28:14 47:17,21 53:23 58:15,23 62:13,17,24 63:5 64:21,22,23,25 65:2 67:10 69:6 decisions 26:9 47:14,24 63:6 64:12 decreasing 10:25 deemed 3:10 18:10 deep 55:2 defer 53:17 definitely 8:2 definition 48:10 deli 27:3,25 demand 30:7 denial 53:14 54:5 55:3 56:18 57:2 64:25 dentist 27:14 28:8 deny 52:5,13 56:12 64:22 department 5:3,11 5:15,20,21,24 16:14 17:9 18:10 22:2 23:19 41:13 41:14 50:20,25 59:24 60:5 63:1 departments 5:11	depends 44:21 deploy 22:2 design 18:6 50:12 50:17 57:15,19 designate 49:3 designated 51:17 designed 50:22 designs 57:9 detail 7:4,12 8:10 24:25 25:2 31:15 41:16 details 8:6 17:15 53:9 determination 52:2,3 determine 4:22 21:24 37:2,20 determined 16:22 deterred 20:20 developer 44:9 45:9,17,24 47:13 51:15,16 54:9 developing 54:10 development 4:19 33:2 46:22,23 device 60:10 dhanda 2:15 difference 64:24 different 21:10 57:18 66:23 difficult 21:8 42:8 48:24 diligent 26:5 diligently 34:2 direction 22:16 director 5:18 61:20 directs 20:25 disagree 54:7 disaster 54:25	discomfort 46:24 discounting 52:10 discuss 7:22 9:16 discussed 12:14 35:15 discussing 9:10 discussion 34:5 41:6 42:6 discussions 6:25 8:2 disrespectful 47:2 dissuaded 20:20 distasteful 46:2 distract 21:7 distributed 69:4 district 29:22 division 7:2 9:10 9:13 doctor 28:7 document 62:1 documented 47:11 documents 39:15 dog 47:5 51:18 doherty 1:21 70:4 70:18 doing 37:3 40:3 45:11 door 37:14 dotted 63:4 downsizing 10:8 downstairs 15:18 doyle 29:6,6 draft 58:23 61:22 62:13 66:5 69:6 drafting 58:16 drafts 59:18 drawings 40:10 63:12 drive 3:21 20:22 31:5 59:14
d			
d 3:1 dab 40:6 dangerous 21:3 data 30:6 date 4:5 60:19 61:17 66:19 67:1 69:8 dates 65:13 david 5:20 day 17:7,18,20 21:22,25 23:17 27:3 28:25 45:16			

<p>driveway 7:11 31:18 driveways 7:9,15 drop 7:8,17,24 68:13 due 54:12 dumpsters 21:13 dynamics 52:10</p>	<p>ended 10:21 ends 28:16 enforce 31:15 enforced 36:4 engage 9:15 engaging 32:24 33:4 engler 2:13 13:19</p>	<p>19:10 32:8 33:9 33:24 35:21 65:10 event 14:4 24:8 everybody 53:1 exact 11:7 62:24 exactly 12:11 26:15 51:20 54:1 56:25</p>	<p>factor 12:8 failure 47:15 fair 49:2 56:2 58:6 fairly 52:25 59:22 family 6:1 7:10 far 22:4 26:9 27:20 29:13 42:15 51:8 55:22</p>
<p>e</p>	<p>13:22 14:9 38:23</p>	<p>excludes 3:17</p>	<p>fast 11:24</p>
<p>e 3:1,1 54:25 70:1 70:1 earlier 17:4 32:24 35:24 50:6 58:13 early 48:25 49:4 easier 63:8 easiest 11:25 easy 25:3 40:24 economics 50:12 edit 68:4 edits 59:3,5 edwards 25:25 26:3,3,15 28:15 effect 33:12,19 effective 41:2 efficient 41:3 eight 6:4 19:20 20:2 either 3:25 36:8 56:2 elderly 31:9 eliminating 23:4 emanating 20:15 embrace 47:3 emergency 6:1 16:9 17:8,24 23:23 24:10,12 31:25 32:4 33:16 33:20 employees 19:23 19:23 20:2 35:20 35:24 38:13,18</p>	<p>39:2,3 43:1 46:4 49:17 60:14 62:10 62:16 63:20 64:10 65:4,8 67:9 68:1,7 68:22 engler's 60:13 enormous 52:15 ensure 14:19 17:15 ensuring 53:21 entailed 10:13 enter 4:18 5:21 enterprises 49:9 entire 30:24 entry 3:20 envelope 12:6 equipment 5:25 especially 20:15 27:17 31:16 38:6 essence 32:5 essentially 3:9 4:19 5:22 10:13 12:11 13:15 30:24 31:19 45:17 establish 5:6 establishments 36:2 et 8:22 15:17 40:13 42:12,12,12 43:23 63:2 evening 3:2 8:4,11 9:7,18,25 16:13</p>	<p>exclusively 8:7 existed 57:9 exists 51:18,21 56:6 expanded 63:18 expectations 59:16 expensive 47:7 expires 70:22 explain 6:2 expressed 18:7 extend 4:1 60:22 extending 59:8 extension 9:8 31:14,19 60:19 64:19 65:7,10 67:6 68:22 extensions 3:22 extent 15:6 23:23 43:15 extra 23:4,5 extreme 53:18 extremely 32:25 eyes 63:17</p>	<p>father 27:18 31:9 fear 19:17 feasibility 8:21 44:21 feasible 42:12 44:6 44:11 feature 41:17 feed 17:11 feel 9:4 47:3 53:24 54:1 feeling 23:13 feelings 47:10 51:9 feels 47:1 feet 6:4 10:16 11:4 11:13,16,17 15:5,6 39:15 fellow 55:23 fenced 39:19 fewer 29:9 44:11 44:13 50:9 fifteen 18:13 58:12 58:12 fig 58:1 figure 21:8 fill 28:17 47:5 financial 42:20 44:20 55:7 financially 44:6,11 financials 44:8 find 9:12 20:24 21:3,8 46:2</p>
		<p>f</p>	
		<p>f 70:1 faced 55:5 facility 27:15 38:3 facing 17:10 fact 48:20 51:10 53:1</p>	

<p>findings 58:24 fine 66:21 68:13 69:1 finely 51:12 finicky 26:19 finish 46:3,7 fire 5:3,11,14,19 5:20,24 8:2 16:8 16:14,17,23 17:9 18:10 21:21,25 22:2,10 23:16,17 24:10,19 30:19 40:1 41:24 43:24 50:20 60:2 63:2 first 5:9 22:6 27:8 33:25 39:14 50:3 59:13 64:11 67:18 fit 14:16 27:2,3 fitness 51:19 five 5:1 flex 14:6 floor 1:15 11:6,13 12:16,17 13:11 14:11,19 15:3,4,7 19:3 fob 40:23 focused 10:3 folded 53:22 folks 16:15,16 18:6 23:19,21 24:5 follow 32:11 following 26:6 foot 5:8 6:6 18:13 26:20 footage 10:15,19 10:25 11:14,15 12:10,16,22,24 13:1 15:1 34:21 43:11 50:10</p>	<p>footages 10:22 foregoing 70:7 foresee 34:23 61:3 forget 28:23 forgive 34:4 forgotten 58:4 forma 45:1 forth 33:21 59:3 70:10 fortune 54:14 forty 4:7,8 forward 11:25 42:22 58:22 63:10 foster 48:17 four 20:6,6 35:13 38:12 62:5 66:15 frame 17:18 frankly 51:16 52:14 54:11 free 61:18 friday 16:17 front 7:18 11:4 22:16 24:23 35:22 36:1 frustrating 55:24 frustration 54:8 full 10:24 18:11 36:19 42:2 fuller 6:19,20 function 16:1,25 functional 10:5 functionality 11:21 further 4:1,11 8:1 18:23</p> <hr/> <p style="text-align: center;">g</p> <hr/> <p>g 3:1 garage 12:12,18 19:21 20:19,21 21:1 35:9 36:6,7 36:14,20,23,25</p>	<p>37:14 gas 26:13 gauge 28:12 gee 50:8 geller 2:2 3:2,16 3:20 4:8,21,25 6:7 8:16 9:20,21 11:7 11:10 12:20 13:5 15:23 16:2,5 18:1 18:4,17,20,24 19:1 21:15 23:9,12 24:9,17 25:11,13 25:18,23 26:1 28:12 29:4,19 30:8 31:21 32:7 32:19 33:5,22 35:1,5 36:13,16 37:22 38:10,21,25 39:8 41:5 42:5 44:23 45:7 48:2 50:1 51:9 55:9,12 55:17 56:1,20,22 57:4,24 58:6 59:12,21 60:24 61:5,14,24 62:7 63:16,24 65:1,5,19 66:8 67:5,11 68:21 69:2 general 31:10 63:11 generally 24:15 geoff 2:13 39:2 getting 22:10,11 23:20 52:11 67:6 giant 45:19 give 3:11 5:25 8:4 19:25 35:3 68:22 given 24:9,11 47:2 48:11 53:18 59:25 63:19</p>	<p>gives 20:3 giving 19:8 glad 31:6 global 63:13 64:8 go 7:13 14:18 33:17 39:7 42:13 42:15 54:18 63:10 goes 26:10 68:23 going 7:7 8:25 9:1 11:24 15:13 21:9 21:11,12,24 23:17 24:2 28:22 32:2,3 33:11,11,15,16,19 34:12,22,23 36:3 37:2 42:3,18 50:4 54:13,21,25 55:1,3 57:25 58:3,22 59:13,14 60:5,20 63:13 64:22 65:2 65:16 67:16 68:5 69:2 good 3:2 9:25 16:13 19:10 30:20 32:8 33:24 51:23 60:7,21 gotten 8:19 44:1 grade 20:14,15 21:2 grant 52:3,4,5 64:19 65:10 great 64:6 greater 29:13 63:21 greed 54:9 greediness 54:9 ground 11:6,13 12:16 19:4 23:2 guarantee 32:1 guess 20:10 26:12 26:13,17 39:11</p>
---	---	---	--

<p>guys 21:24 55:19 63:9 gyms 46:13</p>	<p>59:2,6,10 60:16,22 65:12,22 68:3</p>	<p>illogical 22:19 illustrated 31:2</p>	<p>interesting 35:7 intuitive 34:17</p>
<p>h</p>	<p>heavily 52:17 hebrew 54:22</p>	<p>imagine 8:25 31:16 37:5 46:16</p>	<p>involved 45:15 involving 3:4</p>
<p>half 5:8 6:4,6 hall 1:13 15:19 hand 45:9 70:16 handles 27:9 happen 9:1 23:17 54:25 55:2,3 happened 12:23 28:2 29:3 46:9 happening 4:10 happens 24:19 37:15 40:25 57:13 62:4 happy 21:18 33:3 hard 31:17 49:9 haril 2:11 9:25 39:11 harvard 6:20,20 haven 40:12 head 60:13 health 41:13 51:25 hear 21:19 22:20 25:24 52:18 heard 6:9 35:7 46:24 55:19 60:14 64:1 hearing 1:10 3:4,5 3:7,8,21 4:10 5:2 18:23 19:8 22:6 35:9 51:11 53:11 54:7 55:19,23 58:22,24 59:9 60:23 61:17 62:11 64:4,20 65:9 66:10 69:4,11 70:9 hearings 31:3 44:4 52:7 58:18,20</p>	<p>height 13:11 34:21 42:23 held 70:9 help 48:17 helpful 9:8 11:20 16:12 33:1 41:11 62:21 helping 10:19 helps 28:10 hereinbefore 70:10 hereunto 70:15 hide 58:1 higher 47:22 highly 46:2 47:1 50:25 historically 28:2 history 58:24 holiday 68:16 holidays 65:16 home 15:18 31:8 34:8 honest 58:14 hopefully 40:14 hospital 6:18 hospitals 32:6 hours 17:25 36:14 43:20 housing 47:9 huge 28:15 48:22 48:22</p>	<p>57:10 implement 41:24 important 31:6,12 41:17 62:20 inaccuracies 39:5 inadequate 16:24 inappropriate 64:6 include 4:13 69:6 included 51:14 includes 3:12 inconvenience 43:20 incorporated 64:15 incorrect 48:1 49:18 increase 54:12 increased 11:5 32:14 54:16 incredible 43:20 indicated 10:16 influence 63:15 information 4:15 39:9 49:10 initial 6:25 initially 12:22 input 62:21 instance 60:2 institution 48:14 insufficient 47:22 intended 14:4 45:23,23 64:8 intense 10:18 interest 39:22 interested 35:9</p>	<p>issue 4:9 16:20 38:6 48:5 61:22 67:11 issues 23:20 42:16 43:17 51:25 54:12 54:15</p> <p>j</p> <p>jackie 33:25 jean 27:6,9 jennifer 1:21 70:4 70:18 jersey 5:5,23 16:21 18:8,14 21:19 30:20,23 jesse 2:2 job 23:25 39:20,21 45:16 joe's 19:13 26:17 27:8 33:16 johanna 2:3 50:6 51:19 56:2 61:8 john 5:19 16:7,14 23:15 33:7 judge 44:9 judi 48:11 juggle 38:5 july 1:12 3:22 5:9 5:16 41:12 60:15 61:17 70:16 jump 42:7 45:6 48:12 justification 42:21</p>
	<p>i</p> <p>idea 35:19 63:17 ideal 24:2 ideally 56:23 identify 65:8</p>		<p>k</p> <p>kate 2:4 18:18 38:22 50:6,7 52:18 53:24</p>

<p>katz 41:20 keep 19:7 50:4 kept 45:19 keyed 51:25 keys 38:5 kids 54:22 kind 22:9 32:11 47:5 50:4 57:10 64:25 kirrane 5:18 6:25 kit 57:16 kitchens 23:5 knock 33:12,19 67:22 know 7:7 13:10,20 23:6,12 26:8,25 27:17,19 28:4,5,18 28:23 32:22 34:1 34:2,14 37:3 41:16,22 42:13 44:9,16 49:1,13 51:4 52:20 53:24 54:14 56:6 63:11 67:15 knowledge 70:11 known 19:13 knows 37:4 53:25 kyle 32:8</p>	<p>largely 51:24 largest 18:11 lasted 27:1,10 lasts 27:12 late 29:1 leading 50:21 leaf 58:1 learned 12:5 29:7 57:19 lease 14:25 leasing 38:3 leave 35:21,25 61:9 left 12:2 20:4,5 24:21 legitimate 52:21 lettered 40:20 level 11:14 levels 12:19 levine 33:24,25 liabilities 39:20 licensed 51:5 lifted 7:23 light 26:9 56:4 limited 36:12 limits 47:23 linda 41:20 line 39:13 69:5 lingering 54:4 lion's 58:16 list 58:14 listen 19:4 62:17 64:10 literally 45:11 little 9:15 10:18 27:7 46:5 59:10 61:15 63:8 live 21:18 26:3 30:16 33:25 34:13 36:9 46:17 47:25</p>	<p>liveable 48:18 living 23:4 local 51:24,24 located 37:2 location 46:11 logged 39:16 logical 20:23 22:8 34:12,17 logically 19:22 long 52:7,8 69:7 longer 21:19 longwood 7:5 17:8 21:18 26:4 29:7 31:24,25 32:2 33:8,17,25 look 9:17 16:12 34:17 40:10 45:5 45:8 46:8 51:24 58:14 61:13,16 looked 22:16,17 looking 10:14 12:14 34:7 51:11 58:22 60:19 looks 22:13 loss 13:14 lost 13:23 lot 34:3 39:4 40:9 43:15 48:4 51:1,6 54:3,7 64:11,13,17 68:3 lots 20:18,18 loud 46:24 lounge 16:1 love 56:7 lower 20:2 30:5 32:17 luck 22:4 lucky 22:4</p>	<p style="text-align: center;">m</p> <p>ma'am 29:5 machinations 54:17 mail 28:25 main 28:24 maintain 17:15 maintaining 23:25 24:15 major 19:14 majority 43:13 making 10:4 36:25 manage 35:10 60:6 managed 35:22 36:7 37:23 38:9 41:19,21 management 5:4 15:14,15,24 16:8 23:19 24:6 28:22 30:18 38:6 59:18 59:20 62:19 manager 5:10 51:6 managing 36:6,23 mandate 23:21 maneuvers 42:18 maria 2:7 3:11 4:15 8:5 16:16 29:19 30:10 32:24 48:12 60:18 61:20 61:21 64:10 69:4 maria's 32:11 60:17 61:23 markup 3:12 massachusetts 1:16 70:2,6 massing 47:1 massive 34:10 materials 51:6</p>
<p>l</p>			
<p>ladder 22:3 land 54:10 lane 5:6,8,23 lanes 5:6 language 49:22 64:8 lapel 41:5 larded 46:10 51:20 large 8:22 20:8,10 31:16 43:13</p>			

<p>math 11:11 19:18 19:25 matter 4:12 49:20 matters 39:4 49:18 mazza 33:7,7 mean 13:10 28:4 36:6 44:19 45:8 51:19,21 53:9 55:18 63:12 means 3:24 4:17 4:20 20:4,6 39:10 meant 15:19 mechanics 58:9 mechanism 45:24 medical 27:15 meet 40:1 49:12 50:9 61:4 63:22 68:6 meeting 5:9 12:6 45:10 61:1 67:8 68:5 meets 40:2 66:24 meiklejohn 2:5 8:17 9:22 12:21 13:9,16,23,25 43:6 44:12,18 50:2 57:6,23 58:3 62:2 66:7,18,21,25 67:4 68:20 member 2:3,4,5 25:17 58:2 members 47:14 55:16,23 66:15 mention 19:14 21:6 29:2 42:4 mentioned 31:3 32:12 33:9 41:10 41:23 merging 11:23</p>	<p>mess 32:2 54:21 met 16:15 35:16 35:17 41:12 methodology 40:3 53:5 middle 40:6 mind 4:2 33:11,13 33:18 51:20 52:7 52:13 55:21 minor 21:7 minus 20:4 minute 42:14 misinformation 39:5 mister 42:25 mix 13:2 48:9 monday 1:12 66:6 monitor 40:24 monitored 36:4 month 3:6,23,23 months 44:1 55:5 morelli 2:7 3:14 3:19 4:7,16,23 5:1 6:9 8:9 9:3,14 14:18 16:11 18:22 18:25 24:22 25:7 29:21 30:12 38:1 38:16 58:19 59:15 60:20 61:3,12 62:15 65:3,6,11,15 66:2,10,15,22 67:2 67:13,24 68:2,8,14 68:18 morning 29:1 35:21 mouth 24:24 25:8 moved 24:13 moves 28:24 multi 6:1 7:10 multiple 31:3 52:9</p>	<p>municipal 62:22 myra 21:17</p> <hr/> <p style="text-align: center;">n</p> <hr/> <p>n 3:1 name 19:9,10 21:17 32:23 nancy 29:6 narrow 31:1 34:15 53:3 narrowness 31:5 near 51:3 necessarily 40:18 45:6 necessary 43:16 47:7 necessity 38:14 need 6:5 9:7,14,15 12:11 17:11 18:22 24:8 33:17 37:8 38:17 40:17 42:18 44:15 58:8,11 60:11,15 61:13 62:5 63:22 64:15 66:23 needed 16:10 18:11 45:11 46:11 needs 40:21 48:6 52:17 61:21 63:12 neighborhood 28:19 33:13,15,20 41:4 46:13,19 48:18 51:3 never 27:4,10 55:21 new 14:12 15:3 20:1 52:24 night 17:21 23:17 nine 34:18 non 48:14 north 30:23</p>	<p>notary 70:5 notify 37:8 november 61:2 number 6:16 9:3 11:23 13:21 22:21 22:22,25 23:1,6 44:5 45:18,20,21 46:1 58:10 numbered 40:20 numbers 20:3 27:20 numerous 34:24 nurse 37:12,13 40:21</p> <hr/> <p style="text-align: center;">o</p> <hr/> <p>o 3:1 observation 34:3 observe 45:13 obstruct 17:24 obvious 30:21 obviously 14:21 23:16 30:5 occasionally 31:9 occur 37:21 42:19 54:21 october 60:23 67:18 68:15,19 70:23 odd 10:15 11:4 offer 16:7 office 7:11 8:22 15:16 37:5,14 41:19 54:18 officer 7:5 25:4 60:9,9 officers 23:22,24 24:7 30:18 offices 6:18 officials 50:21 okay 6:9 9:21 15:13,21 16:3</p>
--	---	--	---

<p>25:14,23 35:2 38:22 41:6 42:6 44:8 57:4,4 58:6,7 60:8 65:5,15 67:4 67:9 68:21 older 20:15 once 6:4 19:3 open 14:9 17:7 19:3 23:22 24:21 28:16 31:8 38:7 39:20,21 operating 36:25 operations 15:17 36:11 37:17,20 operators 18:13 opinion 56:20,21 56:23 opportunity 34:6 46:3 47:2 64:3,4 opposed 17:2 options 8:1 9:11 orange 15:16 order 22:22 60:16 63:23 oriented 27:14 28:8 originally 26:13 26:24 outlayers 6:5 outright 54:5,9 55:3 56:18 57:2 outstanding 23:25 overall 10:23 11:5 11:20 40:16 overbuild 45:24 overload 29:22 overseeing 16:18 oversight 50:24 overwhelms 34:19 owen 26:3</p>	<p>owner 38:3</p> <hr/> <p style="text-align: center;">p</p> <hr/> <p>p 3:1 p.m. 1:12 69:9,12 package 8:4 pages 70:7 paid 8:7 pairs 35:13 pandya 2:11 9:25 10:1 11:9,12 13:1 13:7,14,17,20,24 14:3,14,25 15:8,15 15:25 16:4 39:11 39:11 parents 7:24 park 20:24,24 29:14 35:22 37:4 37:4 parked 22:15,16 parking 3:10 7:20 10:4,7,7,20 19:17 19:21 20:1,9,17,18 21:4,4 22:23,25 23:7 29:8,10,15,18 29:20,21,24,25 30:1,3,7 32:12,15 35:17 36:1,10,16 36:19 37:17,20 38:2,5,12 40:19 45:12 47:22 50:8 50:16 51:6 57:11 part 10:17 21:19 28:14 34:16 46:16 47:18 48:25 49:21 50:12 53:12 54:17 55:18 57:7 60:21 63:4 participants 62:5 participate 68:25 participation 69:10</p>	<p>particular 19:8 53:19 partly 48:4 parts 60:6 passing 33:21 patience 69:10 patiently 34:2 pay 8:10 pearl 6:15 pedestrian 24:20 pedestrians 24:24 25:1 peer 12:13 30:3 40:11 52:1,9,19 56:8 people 19:4,5 20:16,20 21:3 28:5 29:16 32:5 33:15 35:22,24,25 36:2,7 37:3 41:18 47:3 63:21 64:17 69:5,8 percent 3:13 12:9 12:15 40:8,8 period 6:22 17:3 18:1 43:10 50:22 50:24 53:22 54:2 permanent 7:21 17:2 permission 3:25 4:3 permit 3:3 4:14 52:4,4,5,6,14 53:23 56:12,19 57:3 58:15 62:23 63:1,5,23 person 36:16 perspective 11:21 39:24 pertain 59:23</p>	<p>pertaining 25:19 pertinent 49:25 phase 18:16 phases 52:9 phone 18:6 41:10 41:18 photograph 34:8 photographs 31:3 phrase 51:20 52:19 pick 32:23 picking 21:11 pictures 22:12 piece 10:6 54:10 pile 54:21 place 3:24 6:15 27:22 29:14 70:10 places 24:25 plan 5:4 7:1 9:17 10:13 16:8 30:18 32:25 35:10,14 36:10 37:17 40:2 40:13 59:23 planned 67:16 planner 2:7 planning 5:18 16:15 41:12 59:18 59:20 61:20 plans 5:12 8:12 14:13 15:3,4 16:18 41:24 plays 64:7 please 33:17 45:7 plot 43:14,14 plus 12:9 46:23 51:19 58:20 point 8:5 14:6 19:6 20:11 21:6 23:8 26:7 28:9 32:9,11 32:23 34:4 69:3</p>
--	---	---	---

<p>pointed 16:16 17:4 points 33:10 police 7:4,5,12 8:3 8:6,10 17:14 23:18,22,24 24:7 24:25 25:2,2,3,4 31:15 40:1 41:13 41:16,24 43:23 50:25 53:8 60:5,8 60:9 63:2 pool 47:23 63:17 63:21 poorly 47:19 48:5 populations 53:20 portion 11:4 27:7 28:6 58:16,21 positive 51:1 possibility 22:7 42:11 61:6 possible 65:12 post 7:11 8:22 41:19 54:18 postal 31:17 potential 47:23 potentially 10:9 poverman 2:4 8:18 9:12,19,21 14:1,11 15:2,12,21 18:19 24:18 25:5 25:10,12 26:14 30:9,14 31:7 36:18 37:1,10 38:11 42:7 43:2 43:12 44:15,20 45:2 48:3 49:13 54:6 55:11,15,18 56:16,21,25 61:2,8 61:18 65:25 66:17 66:20 67:17,22 68:11,17</p>	<p>power 62:22 63:9 practice 17:14 53:16 precaution 62:7 precedence 6:22 precedent 17:5 precious 20:18 predict 23:16 preference 64:18 prepare 61:22 66:4 presence 25:2 present 8:13 presentation 9:23 10:2 presented 39:16 40:11 preserve 62:5 preserved 63:9 pressure 10:9 presume 31:7 49:11 presumption 62:11 pretty 10:10 28:5 41:1 55:22 prevention 16:17 previous 12:3 previously 11:15 12:3 31:2 primarily 10:1 primary 48:16,21 49:15 printout 51:12 prior 25:19 69:4 priority 24:9,11 private 11:21 privilege 58:7 pro 45:1 probably 32:2 33:14 45:13 46:21</p>	<p>47:21 49:9 54:3 62:2 66:13 problem 24:16 29:17,18 57:12 65:21 problems 34:22 42:16 43:4 procedure 58:23 process 22:19 24:14 26:6 profit 26:19 27:21 49:6 proforma 55:8,14 program 12:24 15:11 46:9 programming 49:1 prohibits 38:2 project 5:10,10 6:17 10:25 12:12 16:18 45:1,20 46:22 47:11 48:9 48:15,20,25 49:4 50:13,18 52:16 53:14,25 54:1,8,13 56:8,10,17 64:13 projected 44:3,16 projections 48:1 projects 45:15 51:2 59:1 promise 21:25 55:1 promised 23:12 propensity 40:17 properly 10:20 properties 17:12 property 3:4 19:11,12 34:10 proportionally 32:14</p>	<p>proposed 5:4 35:16 69:7 proposing 52:22 52:24 protection 31:13 protestations 55:6 provide 3:10 4:24 30:13 59:17 provided 16:23 30:6 providing 15:9 provisions 53:9 proximity 46:18 public 5:5,9 14:10 19:3 25:21 33:18 35:7 50:21 59:6,6 59:7 pull 64:12 purview 9:5 pushing 12:6 put 6:4 7:17 18:13 34:12 47:5,6,6 64:9 putting 23:5</p> <p style="text-align: center;">q</p> <p>quantity 13:3,3 question 21:14 22:20 24:19 25:19 25:20 26:2 31:6 35:4,8 38:24 42:8 48:24 59:16 questions 6:10,12 8:14,16,20 12:20 16:3 18:18 40:9 quick 25:25 26:1 quite 20:13 45:10 45:11</p> <p style="text-align: center;">r</p> <p>r 3:1 70:1</p>
--	---	--	---

<p>rachna 2:12 radius 21:2 raised 19:7 31:6 raj 2:15 ramesh 30:15 32:22 ramification 30:21 ramp 20:14,15 21:13 40:5,5 randolph 2:5 5:20 38:22 48:2 50:1 55:20 57:24 range 10:7 30:4,13 rashna 35:12 ratio 3:12 29:23 35:16 38:17,19 45:12 ratios 10:7 12:14 13:5 50:8 reach 4:4 reached 33:2 reaction 50:8 read 12:1 ready 8:14 real 29:17 42:16 realistic 68:14 realized 26:8 really 10:3 15:16 19:18 27:4 28:17 32:5 45:22 46:11 55:24 60:11 reason 43:25 46:16 reasonable 60:19 reasons 4:2 36:8 55:7 61:15 reassurance 43:22 received 8:11 25:22 recognized 39:6</p>	<p>recommend 17:1 59:8 recommended 30:4 38:19 record 9:21 39:2 39:16 redesign 21:1 57:16 reduce 45:19 reduced 10:23 11:3,8,23 12:10 14:22 15:7 22:21 28:3 45:18 reducing 10:21,22 29:15 45:21 reduction 29:8 32:10 40:15 44:5 referring 49:25 regard 16:20 35:13 regarding 5:3 10:4 regular 40:22 52:25 regulations 49:21 49:22 56:5 regulatory 57:13 67:25 relate 49:22 related 25:16 39:9 53:17 59:20 relates 19:16 23:6 relating 43:11 relative 62:4,17 relatively 51:4 relevant 22:25 55:13 relocated 15:13 remain 17:7 23:22 remember 50:2 remind 29:20</p>	<p>reminder 3:21 removing 30:20 remunerated 40:19 renting 29:11,13 rents 44:16,17 report 4:24 reporter 1:21 70:5 70:19 represent 10:1 representing 39:3 represents 39:13 request 7:21 49:2 require 8:1 required 12:18 32:12 35:17 39:25 40:7 48:8 requirement 12:9 32:16 38:13 requirements 12:16 requires 48:15 requiring 22:23 43:17 rerouted 54:22 rerouting 9:2 resident 37:7,8 residential 3:12 10:24 11:19 12:24 14:4 20:1 30:5 35:16 37:22,24 48:8,14,17,21 49:15 residents 14:8,15 15:20 26:4 46:17 respect 31:14 respective 10:5 responding 10:1 response 8:12 16:9 50:16 54:3</p>	<p>rest 33:12,20 restaurant 27:25 restaurants 27:22 restrictions 64:24 result 12:10 42:17 45:20 retail 10:8,15,16 10:19,22 11:1,4,8 11:15 12:9,10,17 12:17,22 14:20,21 15:7,9,10 19:23 20:7,8,10 26:10,18 27:17 28:3,3,4,10 28:13 29:16 35:17 35:20,23,24 36:2 36:10 38:12,14,20 45:19,24,25 47:16 47:18,19 48:7,20 49:11,19,23 reversed 27:2 review 12:13 45:1 52:1,9,20 56:8 58:17,18 62:14 69:6 reviewed 5:14 16:18 66:4 reviewer 30:3 reviewers 40:11 revised 8:11 15:3 15:3 58:14 rid 42:10 ridiculously 32:4 right 4:23 13:9 15:22 23:14 25:23 27:22 34:23 38:10 40:6 42:7 43:12 44:6,15,17,22 55:22 56:17 61:24 63:24,24 rights 63:8</p>
--	--	--	--

<p>risk 54:20 risks 53:18 road 16:21 17:6,17 17:20 18:9,15 22:7,8,10 31:14 39:14 55:22 roadway 16:12 17:24 23:22 24:6 robert 31:23 roberta 19:11 rodeo 64:11 room 14:2,3,5 15:4,8,9 53:25 66:23,24 rooms 23:5 rosencrantz 31:23 31:23 route 6:19 9:5 31:25 routes 9:16 row 36:1 rules 19:4 running 27:5 51:11 runs 22:5</p>	<p>saying 20:11 42:22 45:2 50:6 52:18 56:3,3,13,14 61:20 65:1 says 38:17,18 scale 34:10,20 schedule 59:11 65:13 67:15 68:12 scheduled 3:22 18:4 65:23 scheduling 60:18 67:25 schneider 2:3 8:5 9:22 25:15,20 35:3,6 36:3 44:25 45:5,8 46:5 48:23 53:6 56:15 57:21 60:20 61:4,10,16 62:6,9 65:14,22 66:3 67:20 68:12 68:24 schneider's 51:10 school 54:22 scooters 54:25 scope 53:21 scrap 4:13 se 39:4 seal 70:16 seb 39:3 second 12:17 14:11 15:3,4 20:13 secured 14:24 see 11:22 12:3 19:15,19,20 20:21 21:10 28:3 29:9 34:19 37:10 38:17 50:10 52:15 56:7 56:11,18 58:13 59:18 60:13 64:20 68:23</p>	<p>seen 11:2 45:14 52:25 63:6 select 66:24 send 6:24 sensing 34:9 sent 59:4 sentences 43:7 separate 3:15 38:17 september 60:23 60:25 61:11,13,14 62:9,12 65:4,7,9 65:12,18 66:5,19 66:20,22 67:2,3 68:5,6,18 69:3 series 50:20 59:22 seriously 45:10 service 27:14 28:8 set 18:11 39:14 43:13 70:10,15 shape 42:23 shell 13:12 shift 38:7 shivdasani 30:15 30:15 32:21,22 shops 46:15 short 3:18 10:12 24:14 26:22 27:10 shorthand 70:5,19 show 48:19 showing 38:8 shown 48:22 shut 9:1 shuttled 8:23 side 8:23 24:6 27:13 28:6 51:22 sidewalk 22:15 25:8 31:5,7,10,13 31:18 60:10 sidney 19:10,11</p>	<p>sign 30:20 signature 70:17 significant 52:1 similar 51:10 similarly 11:13 simpler 63:3 simply 41:2 52:13 sinai 7:9,18 sir 25:24 31:22 32:20 33:6 sit 6:18 66:16 site 5:7 17:23 24:23,24 25:8,9 29:22 38:4 39:13 39:22 53:11,12 sites 39:19,20,21 sitting 45:15 62:3 situation 7:21 50:23 six 20:5 40:7 44:1 55:5 sixteen 40:7 58:12 sixth 1:15 size 19:16 22:23 29:25 42:19 43:14 43:15 44:3,7 45:4 46:25 skill 70:11 slope 40:5 slopes 40:7 slow 26:1 smack 40:6 small 34:15 smaller 42:10 44:10,13 47:3 52:11 55:7,25 57:11 smoothly 36:25 solve 43:3 somebody 36:6,14</p>
<p style="text-align: center;">s</p>			
<p>s 3:1 safe 39:23 40:2 62:12 safely 21:5 safety 20:14 23:11 33:19 42:16 43:9 43:10,17 50:21,23 51:25 52:19,20,21 53:19,19 54:4,12 54:15 60:6 sat 50:3 satisfied 63:2 satisfies 38:13 savvy 28:5</p>			

<p>somewhat 51:13 53:11 soon 68:10 sorry 3:16 41:7 46:2 50:10 65:15 sort 10:3,8,16 16:1 26:5,16 27:12,16 28:2,10,16,21,23 39:12,17 46:10 52:10,18 58:9 60:8 sorts 53:8 soule 7:3,5,6,7,14 7:18 8:23 16:21 17:10 21:23 22:13 23:11 24:25 25:1 30:16 33:11 34:13 34:14 53:3 54:17 sound 46:6 sounds 68:21 spa 47:6 51:18 space 7:20 10:9 13:11 14:5,6,17,20 16:1,22 23:4 28:3 28:15,16 29:24 36:10 46:1 47:5 47:18 48:7,8,11,20 48:22 49:1,11 spaces 3:18 12:5 12:11,18 14:21 19:20,21 20:1,6 21:4,5 22:23,25 23:7 29:25 30:2 32:12,15 35:8,11 35:14,14,19 36:1 36:23 38:3,12,14 40:19 46:11,12,14 49:3,8 51:14,17 57:11 span 7:20</p>	<p>speak 16:20 34:6 49:23 specific 16:8 25:19 specifically 20:16 specificity 64:2,3 specifics 3:11 60:3 spelling 32:22 spellman 32:8,9 spoke 41:18 spoken 3:13 12:21 41:20 spot 37:5 spots 20:2 29:8,15 sprinkler 17:11 square 10:15,16 10:19,22,25 11:4 11:13,14,15,16,16 12:10,16,22,23 13:1 15:1,5,6 34:20 43:11 50:10 ss 70:3 staff 4:24 5:9 9:14 59:17 stage 16:25 49:4 standard 17:14 standards 40:3 standpipe 17:12 standpoint 26:18 26:18 27:17 staples 26:24 start 19:8 58:22,23 59:12 66:5 started 57:7 starting 64:15 starts 61:15 state 40:25 station 26:13 stay 31:8 43:24 steep 21:2 steinfeld 5:17 61:19,19 65:16,17</p>	<p>66:13 68:10 step 58:8 storage 11:18,21 14:12,14,17,20 15:5,10 51:6 store 27:6,9 38:6 stores 26:20 story 34:18 straightforward 50:5 strain 34:11 street 1:11,14 3:5 6:2,15,19 7:3,19 7:25 17:3 19:12 21:23 22:17 24:20 25:5 27:13 28:7 30:24 31:1,2 34:19 42:1 43:17 43:18 50:23 53:3 53:13 54:23 60:1 streets 6:13,22 53:4 strip 26:16,22 stripes 51:12 strongly 54:6 structure 60:1 studio 29:23,24 51:19 studios 46:14 stuff 63:11 subject 52:6 62:25 63:18 subsequent 10:8 substantively 57:25 successful 27:19 28:13 49:8 sufficient 20:9 sullivan 5:19 6:2 16:7,13,14 18:3,5 18:21,23 23:15,16</p>	<p>24:11 41:10,17 summarize 3:9 summary 10:12 56:2 summing 10:4 summer 59:11 60:18 sunday 65:20 super 21:7 support 20:8,10 26:4 33:8,9 55:16 supported 10:20 supports 19:17 sure 26:25 35:15 36:11,25 38:25 39:9,22 40:1,22 41:2,25 43:9,23 47:12 68:16 systems 17:11,12</p> <hr/> <p style="text-align: center;">t</p> <hr/> <p>t 70:1,1 take 3:24 4:10,12 9:6,7 10:9 19:24 30:10 42:1 55:7 55:13 58:8 59:2 takes 34:3 43:13 43:15 talk 5:2 43:7 57:5 61:25 67:24 talked 63:14 talking 8:7 28:21 32:18 34:18 44:7 44:23,25 57:8,17 tandem 19:20,21 35:8,13 36:1 37:4 38:2,5 task 56:4 team 5:10 8:13 9:9 18:7 25:21 33:2 46:23 63:22</p>
--	---	--	--

<p>teams 4:19</p> <p>tell 14:1,12 19:6 38:25 53:2 55:1</p> <p>tellers 54:14</p> <p>tells 34:12</p> <p>temple 7:9,18,19 7:22,23 17:9 22:11 41:21 54:23</p> <p>temporarily 7:23 17:6</p> <p>temporary 15:10 18:2 40:23,23</p> <p>ten 12:9,15 13:22 13:23 20:4,5 40:16,16</p> <p>tenants 14:6 15:19 47:23</p> <p>term 3:18 27:10</p> <p>terms 38:11 49:15</p> <p>test 56:6</p> <p>testimony 4:11,11 4:12,17,18 5:22 6:8 16:7 19:3,7 56:8 60:7 64:1 70:8</p> <p>thank 4:8 13:12 14:19 16:3,4,6 18:17,20,25 19:1 21:14,15 23:8,9,11 24:17 29:3,4,18,19 30:8,16 31:20,21 32:6,7,18,19 33:4 33:5,21,22 34:1,25 35:1 38:22 41:6 42:4,5 46:7 61:23 69:9</p> <p>thanks 9:19 25:10 30:14</p> <p>thing 8:19 11:25 19:14 27:12 28:24 39:17 44:14 52:24</p>	<p>57:14</p> <p>things 3:24 9:9 14:15 27:23 40:10 40:11,12,14,24 41:1 46:21 48:4 51:7 57:8,18 58:10 60:11 63:7 63:14 64:14</p> <p>think 6:7 10:17 18:24 19:22 25:7 26:8,17 27:4 29:16 30:19 31:12 32:16,22 33:1 34:8,21 38:2 39:4 39:5,18,23 40:3,8 40:10,13 42:21,24 43:8,10 45:13,22 46:20,22 47:11 48:5,6,23 49:2,9 49:11 50:15,16,19 50:25 52:14,16 53:7,9,13,16,18,20 54:1,11,15,25 55:15,20 56:1,3,13 56:16 57:1,2,17 58:8 59:25 60:4,6 60:10,24 61:6 62:20,23,23 64:2,7 64:17,18 65:11,20</p> <p>thinking 48:4 61:7 64:5 66:2</p> <p>thinks 44:10</p> <p>thirteen 5:8 6:5</p> <p>thoroughfare 33:14</p> <p>thought 7:4 16:11 41:22 60:11 64:7</p> <p>thousand 11:16</p> <p>three 58:20 59:9 60:15</p>	<p>threshold 49:12</p> <p>threw 52:18</p> <p>thrilled 19:15</p> <p>throwing 43:4</p> <p>thursday 66:11,13 67:14</p> <p>time 4:4 6:8,23 7:20 8:15 9:15 17:3,6,18,21 18:15 24:2 31:17 32:5 34:3 36:19 37:9 42:2,24 45:14 58:12 61:21,23 66:3 68:3 70:9</p> <p>times 17:13 18:4 24:12 33:2</p> <p>timing 55:13</p> <p>tiny 34:16</p> <p>today 11:3 18:7 22:12 41:11,18 58:13</p> <p>todd 5:18 6:25</p> <p>told 42:11 44:4</p> <p>tone 39:23</p> <p>tonight 16:19 29:7 62:3</p> <p>tonight's 3:7 34:5</p> <p>tool 57:16</p> <p>top 19:24</p> <p>topics 19:7 63:25</p> <p>total 11:8 13:19 46:21</p> <p>town 1:13 6:12 7:22 8:8 17:5 31:24 35:18 40:25 46:24 51:3 53:17 57:14 60:25 62:22</p> <p>trader 19:13 26:17 27:8 33:16</p> <p>traffic 7:13 8:21 26:20 31:20 33:20</p>	<p>41:21 43:18 54:13 54:16,21</p> <p>transcript 70:8</p> <p>transit 29:22</p> <p>transportation 5:14,18 7:2 8:3 9:10,13 16:16 63:1</p> <p>trash 15:4,8,9,11 21:9,10,11</p> <p>treatments 5:4</p> <p>trees 14:17</p> <p>truck 22:14,14</p> <p>trucks 18:12 21:10 22:10 28:25 41:19 42:1 54:19</p> <p>true 70:7</p> <p>try 24:3 31:15 62:23</p> <p>trying 10:6 12:4 43:8 56:22 63:3,7</p> <p>ts 63:4</p> <p>tuesday 66:11,23 66:24</p> <p>turn 20:22 68:4</p> <p>turning 21:2 31:18</p> <p>turnouts 5:13</p> <p>turnover 28:18</p> <p>tweaks 63:13</p> <p>twelve 20:6 40:8</p> <p>two 3:17,17,24 5:6 5:23 8:6 11:24 13:3,18 17:12 20:3,17 22:3 26:25 27:1 29:13 30:1,1,11 31:11 32:14,15,15 34:24 36:8 40:17 43:18 58:20 59:2,9 60:22 65:12 68:2</p>
---	---	--	--

<p>type 34:22 53:4 types 40:9 41:1 51:14 typical 59:1 typically 53:16 58:19 59:21 64:9</p>	<p>useful 57:21 uses 48:14,16,17 49:15 usual 43:25 usually 14:3,4 utilized 52:25 53:5</p>	<p>walk 12:23 31:10 walker 30:3 35:17 want 4:16,24 5:2 16:6 19:2,2,14 21:7 24:23 26:7 28:20 29:2,14 30:16 32:9 33:8 34:1,7 38:1 39:6,8 46:17 48:12 50:5 55:4,7 56:24 57:5 57:7,25 59:17 60:4 64:1,2,18 66:8 68:8 69:9 wanted 28:9 32:23 35:15 42:3 wanting 57:18 wants 9:4 warning 69:8 wash 47:5 washington 1:14 way 3:21 5:5,5 7:7 7:12,13 20:11 21:4 22:2 23:3 24:14 28:10 31:2 34:16,19 35:22 37:17 43:24 50:3 57:20 59:17 ways 9:4 24:15,20 37:18 63:16 64:7 we'e 3:13 we've 6:9 10:23 12:14 22:4 44:1 56:6 64:1 wednesday 68:16 week 66:9 67:17 67:18 68:3,11 week's 10:2 weigh 60:3 weighing 56:11 welcome 18:21</p>	<p>went 32:13 52:11 52:12 whatnot 16:1 whereof 70:15 wide 5:8 6:4 width 43:2 willing 7:22 window 61:25 winds 4:10 wingspan 18:13 wish 54:6 witness 70:15 wondering 21:20 22:24 31:24 worcester 70:3 word 28:1 work 6:11 12:5 15:18 24:3 28:6 36:9 50:13 51:4 workable 21:9 48:17 worked 27:24 28:7 working 15:18,24 15:25 30:19 34:2 41:3,23 46:12 63:12 works 28:5 36:22 written 26:21 wrong 7:13 wrought 64:23</p>
u	v		
<p>underlining 49:23 understand 9:5,9 22:22 48:10 55:9 62:18 64:12,16 understanding 10:17 48:10 unilaterally 4:22 unique 64:13 unit 10:24 13:6 20:2 26:12 29:24 29:25 30:2,9 32:12 46:13 units 10:23 11:19 11:23 12:4,7,7 13:15 14:16 22:21 23:1 29:9 30:1 40:16 42:9 44:2,6 44:11,13 45:3,18 45:20,22 46:2 47:22 50:9,11 57:11 unreasonable 64:18 unsafe 20:19 unsuccessful 28:13 unusual 53:11 updated 9:23 upper 11:14 13:11 urgent 26:14 use 14:4,15,16 15:17 20:8 35:8 45:14 48:9,21 49:7 51:6 55:2</p>	<p>vacant 27:5 vacuum 49:10 valuable 50:17 vans 31:17 varies 62:21 vehicle 6:3 17:8 31:25 vehicles 5:7 8:22 16:9 17:22,25 21:22 22:1,9 23:23,24 24:10,12 24:13 31:4,16 32:4 33:16,21 43:16,24 vehicular 31:19 versus 32:17 38:18 vibrant 48:17 visit 37:7 visiting 12:9 37:12 37:13 visitor 10:7 37:3,9 37:11 40:21 visitors 20:5,16 visits 31:9 voice 33:8 voting 62:4 vulnerable 53:20</p>		
	w		
	<p>wait 37:14 waivers 58:14,18 58:20,21 60:16 62:1</p>		
		y	
		<p>yeah 47:16 year 26:25 43:25 46:23 years 6:16 22:3 27:1 31:11 34:24 43:19 yoga 51:18</p>	

z
zba 9:4 10:2 20:25 66:14 67:22
zba's 8:12 51:23
zoning 12:15 29:21,23 30:6 35:18 38:2,15,17 49:19,24 57:12