 1   Volume I

 2   Pages 1-85

 3

 4   Brookline Zoning Board of Appeals Hearing

 5   420 Harvard Street Comprehensive Permit Application

 6   420 Harvard Associates, LLC

 7   June 27, 2016 at 7:00 p.m.

 8   Brookline Town Hall

 9   333 Washington Street, 6th Floor

10   Brookline, Massachusetts 02445

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15   Reporter: Kristen C. Krakofsky

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 1   APPEARANCES

 2 Board Members:

 3 Jesse Geller, Chairman

 4 Lark Palermo

 5 Kate Poverman

 6 Johanna Schneider

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 8 Town Staff:

 9 Alison Steinfeld, Planning Director

10 Maria Morelli, Senior Planner

11

12 40B Consultant:

13 Judi Barrett, Director of Municipal Services

14 RKG Associates, Inc.

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16 Applicant:

17 Victor Sheen, 420 Harvard Associates, LLC

18 Dartagnan Brown, Principal, EMBARC Studio, LLC

19 Geoff Engler, Vice President, SEB

20 Bradley McKenzie, McKenzie Engineering Group, Inc.

21 Scott Thornton, Vanasse & Associates, Inc.

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  1   PROCEEDINGS:

  2   7:03 p.m.

  3   MR. GELLER: Good evening, everyone. We

  4 are opening a hearing in the case of 420 Harvard

  5 Street. This is an application for a comprehensive

  6 permit. My name is Jesse Geller. To my immediate left

  7 is Johanna Schneider, to Ms. Schneider's left is Lark

  8 Palermo, and to my right is Kate Poverman.

  9   The process of these hearings will be broken

 10 into a number of hearings over the course of 180 days.

 11 We will hear from our consultant shortly who will

 12 confirm 180 days is the statutory limitation in time

 13 starting with tonight.

 14   This hearing will be dedicated to opening the

 15 matter. We will hear from the planning director. We

 16 will also hear from our consultant just to go over the

 17 rough outline of dos and don'ts on 40B projects, which

 18 are quite different than 40A projects. We will then

 19 hear the applicant's presentation, and I see that

 20 they've got it ready to go. And we will also hear

 21 about the status of the application. And we will

 22 schedule a site visit so that we can actually go to the

 23 site, walk around it, and then we will continue this

 24 hearing to another date at which time we will continue.

 1   In terms of dates beyond, typically the

 2 process is as follows: We have tonight's hearing, we

 3 will have a site visit, at the next hearing we will

 4 start to take testimony.

 5   Typically we would take testimony from town

 6 boards and departments, and testimony may be offered in

 7 two formats. One is: Anyone is invited to offer their

 8 comments in written fashion. You can even send us

 9 pictures if you like that too. But written fashion

10 sent to the planning director, and it will then be

11 distributed to the board. And I can't stress enough,

12 it is particularly helpful if we do receive those kinds

13 of comments in advance in written fashion. It allows

14 us to really take a look at it and consider what you're

15 offering. There will also be an opportunity for

16 testimony at these hearings.

17   These hearings are being tape recorded for a

18 record. We also have a transcription record that is

19 going -- that is being taken. And the entire record of

20 these hearings will be available online. What's the

21 site?

22   MS. MORELLI: Online at brooklinema.gov.

23   MR. GELLER: There you go. So there will be

24 the applicant's presentation, plan, as well as the

 1 transcription.

 2   The public will be given an opportunity to

 3 offer their testimony, so you will have an opportunity

 4 to speak. I don't know whether it will be at the next

 5 hearing or the hearing following that. We kind of have

 6 to play it by ear where we are in terms of process, but

 7 there will be that opportunity.

 8   We will also have a hearing in which we will

 9 have peer reviewers in, and typically they would review

10 things like parking and traffic, they would review

11 urban design, and then I think the board will discuss

12 whether there are other issues that are relevant to the

13 board.

14   The next scheduled hearing in this matter will

15 be July 25th, same time, 7:00 p.m., roughly.

16   Alison, you ready? I'd like to call on --

17   MS. STEINFELD: Perhaps Judi first with an

18 overview of 40B?

19   MR. GELLER: Sure. So I'd like to call on

20 Judi Barret to give us a broad overview of the 40B

21 process.

22   MS. BARRETT: Mr. Chairman, we have a

23 technology issue that's going to delay this a bit, so

24 why don't we -- you may want to just go ahead and

1 proceed and I can do this in a few minutes.

2   MR. GELLER: Okay, sure. See, I was right the

3 first time.

4   MS. STEINFELD: Thank you, Mr. Chairman.

5 Alison Steinfeld, planning director.

6   As our consultant -- our 40B consultant will

7 explain to you, this is a very difficult process, but a

8 process that is governed by very strict deadlines. The

9 good news is that the Planning Department is here to

10 help you to the best that we can.

11   At a minimum, we will provide staff support to

12 you in order to help coordinate the process, arrange

13 for technical analyses by municipal staff and peer

14 reviewers, ensure that this is a transparent process,

15 provide for timely public input, respond to your

16 questions and requests for additional information, and

17 we will serve as a conduit for information between you

18 and the public.

19   And the Planning Department, as you indicated,

20 Mr. Chairman, will be placing all of this information

21 online and we encourage everyone who is interested in

22 this project to continually follow us online. I'd

23 certainly encourage you to keep in touch with the

24 Planning Department. Again, we're here to help and to

 1 provide information and to relay it to the Zoning Board

 2 of Appeals.

 3   As the chairman also indicated, tonight is for

 4 administrative details. There will be plenty of

 5 opportunity for public input, and public testimony will

 6 begin next -- the next public hearing. We do have to

 7 keep on schedule, so testimony will definitely be heard

 8 next week -- next hearing.

 9   So this hearing is scheduled to close on

10 December 27th. We'll discuss with the applicant to

11 confirm that, but that is 180 days from tonight with

12 some latitude given the weekends and the holidays.

13   So in order to keep to that schedule, we ask

14 that you, the board, undertake certain -- make certain

15 decisions tonight. One is to agree that both urban

16 design and a traffic peer review are warranted and to

17 request the applicant to agree to that and to fund

18 those peer reviews.

19   We will do stormwater in-house. I've already

20 confirmed with the civil engineer, town engineer, that

21 they are quite capable for performing those

22 responsibilities for this project.

23   Again, I'd also suggest that you schedule a

24 site visit as soon as possible. It's within your

 1 purview to request the applicant to stake out the

 2 property, to identify any trees that may be razed or

 3 taken down. And again, to continue the hearing to

 4 July 25th.

 5   I will tell you that this public hearing opens

 6 tonight. It will not close for probably 180 days. We

 7 do not continually notice this hearing, so at the end

 8 of each public hearing, the chair will continue it. So

 9 while the abutters will not get notice, again, either

10 attend every public hearing or follow us online to know

11 when the next hearing is scheduled.

12   So thank you. Hopefully we're able to access

13 the PowerPoint now.

14   MR. GELLER: Thank you. In the interim, let's

15 have a brief discussion about some of the issues that

16 Ms. Steinfeld has raised regarding peer review.

17 So it has been offered that urban design and traffic

18 are particularly relevant in this case. Comments?

19 Thoughts?

20   MS. SCHNEIDER: I agree with that.

21   MS. POVERMAN: Yes, I agree and I have a

22 procedural question. I made some notes while going

23 through the proposal about particular issues I was

24 interested in having answered. So how do we make sure

1 that the peer reviewer addresses those in his or her

2 peer review?

3   MS. BARRETT: I would strongly recommend if

4 you individually have some questions, that it should go

5 to the peer review. They should all be compiled, and

6 they should be given to the peer reviewer and say, the

7 board is going to be interested in having these items

8 addressed and the peer review consultant will want to

9 accommodate those questions. So it just

10 administratively needs to be communicated.

11   MS. POVERMAN: So as a practical matter, would

12 I forward them to Ms. Steinfeld and then she would then

13 circulate them or whatever's appropriate to get my

14 comments --

15   MS. BARRETT: Yes.

16   MS. POVERMAN: Okay. Fantastic.

17   MR. GELLER: Thank you.

18   MS. POVERMAN: And just to confirm my

19 understanding, the urban design review includes an

20 architectural review; is that correct?

21   MR. GELLER: Alison?

22   MS. STEINFELD: Yes.

23   MS. POVERMAN: Oh, sorry. Last thing. And

24 since the parking method is really new and fascinating,

 1 would it also be possible to get an interpretation

 2 of -- I mean, I found some documents about the

 3 economics of this system, but I don't know if we'd be

 4 able to get any other guidance about the economics of

 5 it, if it would come from a peer review.

 6   MS. BARRETT: Economics in what sense?

 7   MS. POVERMAN: Well, the -- for example --

 8 well, I don't want to get into it too much. I think

 9 the system can be great, but there also seemed to be

10 some great savings over on surface and then relative

11 savings whether it's on ground, above ground, below

12 ground. And I think, as those may be areas that a

13 design review committee wants to explore, is that ever

14 anything that we would look at, or that --

15   MS. BARRETT: The economic -- the financial

16 impacts of those different options? Is that what

17 you're asking?

18   MS. POVERMAN: Yeah, yeah.

19   MS. BARRETT: If it gets to the point that the

20 board needs a financial review, that's probably when it

21 would come up, but certainly a good architect review is

22 going to kind of know those numbers, and they can give

23 you a reality check.

24   MR. GELLER: That conversation is premature.

 1   MS. POVERMAN: In terms of peer reviews, just

 2 want to make sure --

 3   MS. BARRETT: I would say compile all your

 4 questions and give them to Alison because the

 5 consultants will want to know when they come to see you

 6 what the questions are.

 7   MS. POVERMAN: Great.

 8   MR. GELLER: Thank you. So just to, I think,

 9 sort of bring the conversation full circle, I think

10 those are the two relevant topics in which we would

11 seek peer review.

12   So I want to turn to the applicant now. Who's

13 here on behalf of --

14   MS. BARRETT: Do you want to do this, or do

15 you want --

16   MR. GELLER: I just want to finish this piece.

17   Will the applicant pay for engagement of peer

18 review, these two topics?

19   MR. ENGLER: Yes.

20   MR. GELLER: Yes. Okay, thank you.

21   And while I have the applicant, site visit

22 dates?

23   MR. SHEEN: We're available any time.

24   MR. GELLER: Any time. That's too easy.

 1   (Discussion amongst the board.)

 2   MR. GELLER: 8:30 --

 3   MR. SHEEN: The 13th or the 6th?

 4   MR. GELLER: 6th.

 5   MR. SHEEN: On the 6th. So this -- next

 6 Wednesday on the 6th at 8:30.

 7   MR. GELLER: Yeah. And we would ask that you

 8 stake where the improvements will be. Do you

 9 understand?

10   MR. SHEEN: Sure.

11   MR. GELLER: I want to mention that the site

12 visit -- the public is welcome to join us on the site

13 visit and is encouraged to join us on the site visit.

14 But I do want to note one thing. It is not an

15 opportunity for us to take testimony. It's an

16 opportunity for the members of the ZBA to see the site,

17 walk the site. We may -- and I'm sure we will -- have

18 lots of questions for the applicant and the technical

19 advisors for the applicant, but that's the limitation

20 of the site visit. But as I say, you are more than

21 welcome to attend the site visit. Thank you.

22   Judi?

23   MS. BARRETT: Thank you. For those who don't

24 know, my name is Judi Barrett. I'm with RKG

 1 Associates. I do a lot of work with boards of appeal

 2 in Massachusetts that are dealing with comprehensive

 3 permit applications, although I have to say I think you

 4 have them in record number here, so I feel your pain.

 5   But I want to kind of lay out for folks just

 6 kind of what the procedural requirements are of this

 7 process so everybody understands and really, you know,

 8 can have a bit of sympathy for your board about some of

 9 the constraints under which they will be operating,

10 mainly in terms of time and all also jurisdiction.

11   So I'll just start out by telling you, if you

12 have questions -- more questions about Chapter 40B than

13 I can get into this evening or even as this process

14 goes on, there are several online resources you can

15 always consult: Citizens Housing and Planning

16 Association, CHAPA; the Mass. Department of Housing and

17 Community Development, DHCD, which is actually the

18 administrative agency for Chapter 40B; MassHousing,

19 which is the most well known and largest of the

20 subsidizing agencies that has authority to issue

21 project eligibility letters, which I'll talk a little

22 bit more about later; and MassHousing Partnership which

23 funds the program that provides consultants like me to

24 help boards of appeal like yours. All of these

1 agencies have information online if you're interested

2 in pursuing more just factoid information about

3 Chapter 40B.

4   And as your board knows because they have --

5 the Planning Department knows and has applied and

6 successfully received, MassHousing Partnership provides

7 grants to help boards of appeal with this process.

8 That's where the funding is coming from for me to be

9 here, and so part of my job is to kind of help the

10 board go through this initial process and just kind of

11 looking at the application that's come in and thinking

12 about, you know, is the application complete and

13 understanding what the submission requirements and

14 procedures will be.

15   MHP provides technical assistance, as I said.

16 I don't need to repeat that slide.

17   So Chapter 40B goes back to 1969. It was

18 actually signed into law in November of that year. And

19 the law has a fundamental presumption that in a

20 community where less than 10 percent of the housing

21 stock is affordable to people who are low or moderate

22 income, there's a presumption of need that tends to

23 drive this entire process. So one of the findings that

24 the Board of Appeals ultimately has to make is are we

 1 at or below 10 percent of our housing stock being low

 2 or moderate income. But that's really the sort of

 3 focus of the statute.

 4   There are two other thresholds that operate in

 5 Chapter 40B as well. One is if your community has less

 6 than 1.5 percent of their total land area that is

 7 available for residential or commercial or industrial

 8 use occupied by low or moderate income housing, then

 9 you also have not met the statutory threshold.

10   Then there's this sort of temporary one, which

11 is if you have a number of projects or a very large

12 project starting all at once in a given year, then you

13 would have sort of the temporary ability to perhaps

14 deny other comprehensive permits while that amount of

15 land, that .3 percent or .301 percent of your land area

16 is under construction or initiates construction.

17   But the one that people talk about the most is

18 this 10 percent, which is, I think, you know, what's

19 being focused on here. I just want you to know there

20 are actually three thresholds in the law.

21   There are also -- so those are ways that, you

22 know, if you're under that, the presumption is that

23 there's an unmet need for affordable housing and the

24 board has to kind of balance other issues against that

1 need.

2   There are some other requirements that the

3 state has created, and by "the state," I mean DHCD.

4 These are not in the statute. They are regulatory

5 creatures going back about 20 years now. I can't

6 believe I've been in this field long enough to remember

7 this. But going back about 20 years, DHCD started to

8 roll out some ways for communities to get some

9 temporary, perhaps, relief from having to do a lot of

10 comprehensive permit activity. And so if you meet one

11 of these requirements, then you get what's called "safe

12 harbor," which is really the equivalent of being at

13 10 percent, at least for a little while.

14   One is: Does your community have a housing

15 production plan? And, actually, Brookline is working

16 on one right now. I happen to be on the consulting

17 team doing that. If your community has a housing

18 production plan, if it's been approved by DHCD, if the

19 Board of Appeals issues permits for a certain number of

20 units within a given year, then they would have the

21 ability to temporarily deny comprehensive permits for a

22 year, possibly even two years. The two-year threshold

23 is difficult to get to.

24   But another is if you -- even without a

 1 housing plan, if you've just approved a whole lot of

 2 units -- and in your town it would be somewhere in the

 3 order of, I think, 550. You have the number, I'm sure,

 4 exactly --

 5   MS. STEINFELD: 524.

 6   MS. BARRETT: What is it?

 7   MS. STEINFELD: 524.

 8   MS. BARRETT: 524. If the Board of Appeals,

 9 just in a given calendar year, approved 524 new units

10 for the subsidized housing inventory and you still were

11 under 10 percent and someone else came in for a

12 comprehensive permit, the board could say, well, we

13 don't have to approve you right now because we've just

14 created 524 new units.

15   Another buffer from -- a big impact from

16 Chapter 40B is this threshold called "review of large

17 projects," which is -- there's a limit on how large a

18 project can be coming into a community with approval

19 from the subsidizing agency. And that's also very

20 large. It's based on the size of your year-round

21 housing base. And because Brookline is large by

22 comparison to many communities in Massachusetts, it's a

23 high number to hit. But review of large-scale projects

24 is something that the subsidizing agencies look at if

1 your project is more than 300 units. Or, actually, I

2 think here the ultimate cap is 524, isn't it?

3   MS. STEINFELD: Yes.

4   MS. BARRETT: So a project that's 525 units

5 would probably have difficulty getting through the

6 project eligibility process.

7   And then finally, there's this other thing

8 called "related application," which is an applicant

9 comes to a town board with a proposal, the proposal

10 gets turned down, and the applicant says, I'm going to

11 go to the Board of Appeals and get a comprehensive

12 permit. That called a related application.

13   In a case like that, the Board of Appeals

14 would be able to deny a project like that if it

15 happened within a year. So if someone gets denied by

16 some other board and runs in to the Board of Appeals

17 six months later, the Board of Appeals could say,

18 there's a related application problem here. Everybody

19 needs to go cool off and come back and see us later.

20 So that's a one-year reprieve.

21   All of these are really around temporary

22 stays, is what this is, temporary stays or temporary

23 opportunities for a Board of Appeals to kind of slow

24 down the amount of comprehensive permit activity that's

1 happening in a given community.

2   There are certain things an applicant must do

3 in order to even be here at this point. There are

4 three kind of fundamental thresholds that have to be

5 met.

6   One is: What type of applicant do we have?

7 An applicant that is a public agency, such as a housing

8 authority; a nonprofit organization; or a limited

9 dividend organization, which is essentially a

10 for-profit developer that agrees to limit its total

11 profit from Chapter 40B developments. Applicants must

12 be one of those three entities.

13   Evidence of site control: Does the applicant

14 own the property? Does the applicant have it under a

15 purchase and sale agreement?

16   And then the third is: Does the applicant

17 have what's called a project eligibility letter or PEL?

18 If I start using a lot of acronyms, please wave at me

19 and stop me. I sometimes get carried away. But if the

20 applicant has a PEL from the subsidizing agency, if an

21 applicant meets all three of those requirements, then

22 the applicant is entitled to submit a comprehensive

23 permit application.

24   Now, in addition to meeting those threshold

 1 requirements, there are certain things the applicant is

 2 supposed to submit to the board, and some of these get

 3 a little bit confusing.

 4   One is that there needs to be a preliminary

 5 plan. And so a preliminary plan is not the

 6 construction drawings that one sees sometimes for, say,

 7 a site plan approval application with the Planning

 8 Board. Preliminary plans are really -- it's a

 9 preliminary plan. It's enough to demonstrate that the

10 project, as proposed, is feasible but not to the level

11 of detail that one -- that an applicant is going to

12 provide later to the Building Department when they're

13 ready to construct.

14   They have to demonstrate to the Board of

15 Appeals, well, what are the existing conditions on the

16 site and where is the property located? I mean, just

17 basic things like a locus map. You know, and the plans

18 have to kind of show what are the existing conditions

19 on the site.

20   There have to be preliminary scaled

21 architectural drawings showing kind of what the

22 buildings are, tabulation of the proposed buildings by

23 type, size, and coverage. If the project involves a

24 subdivision, there has to be a preliminary subdivision

 1 plan, a preliminary utilities plan, and a list of

 2 requested waivers.

 3   And the waivers are simply this:

 4 Chapter 40B -- again, the interest of the statute is

 5 the production of low or moderate income housing. So

 6 the statute assumes that if your local regulations are

 7 not a barrier to housing development, then you don't

 8 need Chapter 40B. And if there are barriers in your

 9 local regulations, then the applicant has an obligation

10 to say to the Board of Appeals, these are the things in

11 your local rules that stand in the way of my being able

12 to build this development, and I need you to waive

13 these requirements.

14   And at a later point in this process, you will

15 see a discussion by the board of the waivers requested

16 by the applicant. The board has to then make a

17 determination, do we need to grant all of these? Is

18 this even a complete list? It's not uncommon for

19 applicants to actually not know the local regulations

20 all that well and perhaps miss some waivers that they

21 should request.

22   These dates up here all have a meaning: 7,

23 14, 30, 15, 15, 30, 180, 40, 20. 30 is in red for a

24 reason. 30 is this -- I'm going to go over these a

 1 little bit more carefully on the next slide. But the

 2 critical thing that the board must do -- must do is

 3 open the public hearing within 30 days of receiving the

 4 comprehensive permit application. Even if the

 5 application is incomplete, you open the public hearing

 6 in 30 days.

 7   And the reason for that is that you do not

 8 want to have a development of any type, comprehensive

 9 permit or otherwise, approved on what's called a

10 "constructive approval basis," which is they didn't do

11 their job on time, so the applicant get a yes by

12 default. And you just never want that to happen. So

13 30 days -- you must open the hearing within 30 days.

14 And, you know, to the extent the application is

15 incomplete or whatever, you deal with it at that point.

16 But you must open the hearing within 30 days.

17   We have put this in red in this training

18 presentation because we've had a couple of communities

19 in the last few years that simply didn't understand the

20 difference between a comprehensive permit, which

21 requires that you open the hearing in 30 days, and a

22 special permit, which gives the board 65 days to open

23 the hearing. So trying to help everybody understand,

24 we want to protect the town's interest, and the only

 1 way to do that is to make sure you open the hearing on

 2 time.

 3   Within seven days of receiving an application,

 4 we distribute it to the town staff and boards and

 5 commissions, anybody that typically comments on

 6 development applications, the development review team.

 7 Just get the application out to get it moving in the

 8 review process. And we move quickly because there is

 9 this ultimate limit on the time frame for considering a

10 comprehensive permit, and that time frame is this

11 180-day rule that the chair referred to earlier. You

12 advertise the public hearing within 14 days, and then

13 you open the hearing within 30 days of receiving that

14 application.

15   If the board thinks that it has justification

16 to turn down an application because the town meets one

17 of those safe harbor things that I mentioned earlier,

18 you have an approved housing production plan and the

19 board has -- or whatever board, Planning Board, Board

20 of Appeals, anybody collectively, has issued enough

21 approvals that the town has created 524 new low- or

22 moderate-income units in the last 12 months and the

23 Board of Appeals says, well, I think we can turn this

24 one down, if you think that that's the case, then you

1 have to notify the applicant within 15 days of tonight,

2 opening the hearing.

3   And the applicant, of course, can appeal, and

4 the appeal goes to the Department of Housing and

5 Community Development. They have 30 days to decide

6 whether the board's determination is valid. And so

7 then their decision on that sort of stands. It becomes

8 appealable later, but not at this point.

9   And, of course, while all that's going on, the

10 180 days is on hold, meaning it kind of freezes. So

11 once it all picks up again, then the 180-day count

12 continues.

13   But if the board thinks it has a valid basis

14 to turn down the application for one of those criteria

15 I mentioned earlier, maybe you think you're really at

16 10 percent, you have 15 days to tell the applicant.

17   So once you have proceeded now, it's 180 days

18 from the opening of the hearing, you have to close it.

19 And that may seem like a long time, but it actually is

20 a rather compressed time frame to get the kinds of

21 reviews done that need to be done for these projects.

22   So the board is directed by regulation to

23 close the hearing at 180 days. Of course, you know,

24 the reality is if you get to 180 days or 170 days and

 1 the process is almost done, you know, a reasonable

 2 applicant will say, well, I'll give you a couple of

 3 weeks extension. But you don't go into this process

 4 relying on that. It's just not the way you do it.

 5   Once a board closes the hearing, they have 40

 6 days to render the decision and file it with the town

 7 clerk. And after that happens, then there's a 20-day

 8 appeal period for a comprehensive permit like there is

 9 any other sort of zoning approval. So that string of

10 dates that I put up over here, this is kind of what

11 they mean.

12   Boards of Appeal need to understand the site.

13 And so as the chair just did a few minutes ago, one of

14 the things you do early in the process is schedule a

15 site visit so the board can kind of see the site,

16 understand the neighborhood, and kind of picture how

17 this project is going to sit on the land in relation to

18 what's around it. And really to understand who are the

19 abutters. Not who personally, but where are the

20 abutting properties that are most likely to be affected

21 by the development, so you can account for that if

22 you're thinking about how you're going to work with the

23 applicant to get a better project for the neighborhood

24 and the town.

1   The board is entitled to hire peer review

2 consultants. What that means is that the applicant, in

3 submitting their application for the board, may have

4 engineering plans, they have architectural plans, they

5 have a traffic study. And so the board is entitled to

6 hire consultants who are qualified to review what the

7 applicant has provided. That's what we call "peer

8 review consultants." The applicant is responsible for

9 paying for those reviews.

10   Those reviews are supposed to help the board

11 evaluate the application. So you're not doing new

12 studies of interest to you and you're not hiring your

13 own consultants to redesign this person's project.

14 You're hiring people to help you review the

15 application. And I think that is just something that's

16 going to be very important for people to understand all

17 the way through this. They've filed an application.

18 The board's job is to review that application, so the

19 peer review consultants help to conduct that review.

20   And, of course, everything that's done

21 throughout, whether it's the peer review records, the

22 applicant's response, everything becomes part of the

23 record for the project.

24   We like to advise boards, because of that

1 180-day rule and how fast this process can tend to

2 move, to try to focus on sort of what I would call

3 "real project issues" as early in the process as

4 possible. It's a good idea to get the peer review

5 consultants lined up because you need them right away,

6 but perhaps not to spend a whole lot of time on peer

7 review until you've probably at least gotten kind of

8 what your core issues are on the table and the

9 applicant knows what they are.

10   You can always ask the applicant for

11 additional information. Don't hesitate to ask for

12 graphics to help to clarify height, massing, setbacks,

13 or overall relationships to neighbors. The board

14 certainly is entitled to understand how this project is

15 going to sit on the land and sit next to people when

16 it's built. And it's really an issue both for people

17 who are going to live in the neighborhood, but also the

18 folks who are going to live in the development to

19 really understand that this is going to be a quality

20 project.

21   It is possible to negotiate with the

22 developers. I'm here to tell you it can be done. Many

23 boards do use a process called "work sessions" to work

24 with developers parallel to the public hearing process.

 1 When we do that, the discussions are generally

 2 advisory. Of course the board always retains control

 3 over this process. You know, any of us could

 4 participate in meetings with the developer, you know,

 5 in another type of forum, but we don't make the

 6 decisions. The board does.

 7   And, of course, if there's a work session that

 8 involves a quorum of the board, then it must comply

 9 with the open meeting law. I always advise my boards

10 of appeal to check with your town counsel on work

11 sessions because I do this work in many, many towns and

12 I have learned the hard way that every town counsel has

13 a slightly different opinion about the applicability of

14 the open meeting law to work sessions.

15   And I'm a planner, I'm not an attorney, so I'm

16 not going to offer a legal opinion. I'm simply going

17 to tell you that work sessions do happen, and they are

18 usually very productive, but they're not always handled

19 the same way from town to town. And they could be

20 helpful, especially when you realize how tight that

21 180-day timeline is. If you need some extra time to

22 sort of talk through technical issues -- not policy

23 issues, just technical issues -- that sometimes those

24 work sessions could be very helpful.

1   Ultimately, the board's job is to sort of

2 balance regional housing need with local concerns. And

3 it's important for people to understand what the local

4 concerns are that are within the board's purview.

5 Sometimes people have concerns about these applications

6 that may be perfectly valid concerns but they're beyond

7 the scope of a Chapter 40B process, so they're beyond

8 the scope of the board's authority.

9   What the board can look at are valid public

10 health or public safety impacts, environmental impacts,

11 design, open space, planning.

12   And what that means is if you have a community

13 that has a recent master plan and the master plan has a

14 really robust section on housing and it's actively

15 being implemented and the developer comes along with a

16 proposed project that is really antithetical to the

17 framework of that master plan, the board might be able

18 to deny an application based on that. But unless you

19 really meet a pretty high standard for planning

20 generally, neither the Housing Appeals Committee nor

21 the courts have been all that eager to use planning as

22 a basis to turn down a Chapter 40B development.

23   But these sort of fiscal, operational, visual

24 impacts of the project are the things that the board

1 really has to focus on. Other things -- other local

2 concerns is really a -- it's a catch-all.

3   The issue is: Is this going to create a

4 public health issue? Is it going to create a public

5 safety issue? Is there a design impact of this that is

6 not -- that the applicant cannot mitigate with changes

7 to the project? Is there sufficient open space either

8 on the site or within the immediate neighborhood to

9 meet the needs of the new population? Those are the

10 issues that the board can focus on, and that really

11 drives the decisions that you need to make around who

12 are the peer review consultants that you need.

13   The board can and must really have

14 deliberations about what to do with these projects and

15 to be sort of logical and orderly about it. Review the

16 waivers the applicant has requested.

17   In my experience, the best way to handle this

18 is to at least discuss draft conditions -- if the board

19 is going to approve the project -- to discuss draft

20 conditions of approval before you close the public

21 hearing so that the board and the applicant and the

22 public and everybody kind of knows what those

23 conditions will be so there's an opportunity to have a

24 conversation about them. Because once you close the

1 hearing, the board can't take more testimony. So the

2 more you do while the public hearing process is still

3 in play, the better off everybody is. But ultimately

4 the board is the one that has to deliberate and decide

5 what to do.

6   The board has three choices: Approve the

7 application as submitted -- I've never seen that

8 done -- they can approve the application with

9 conditions, or they can deny. Those are the three

10 options that are provided in the statute.

11   Denial is a hard one to sustain if your

12 community is less than 10 percent of your year-round

13 housing stock being affordable because if you deny and

14 you're under 10 percent, the sole issue in front of the

15 Housing Appeals Committee, which is the administrative

16 agency that hears appeals filed by developers -- the

17 sole issue that really is in play is did you have

18 enough -- enough big valid concerns locally to -- that

19 would outweigh the regional need for affordable

20 housing?

21   It's a very difficult standard to meet. And

22 for that reason, boards generally try, if they can, to

23 find a way to approve it with conditions, even if those

24 conditions are not -- even if the developer doesn't

 1 like them.

 2   If the developer appeals an approval with

 3 conditions, then the matter before the Housing Appeals

 4 Committee is: Do those conditions make the project

 5 uneconomic? So you don't lose control of the whole

 6 project. It's just that the conditions are the matter

 7 that's in play. When you deny, then the whole

 8 10 percent question is in play and it's just much

 9 harder to sustain. So I'm just telling you what my

10 experience is.

11   The conditions really -- you know, you don't

12 want them to make the project uneconomic. You hope

13 that they don't. And they need to be consistent with

14 local needs, so they have to address the matters that I

15 mentioned earlier. And, you know, you can't just sort

16 of reduce the number of units because you don't like

17 the density. There has to be an impact-based reason

18 for changing the shape and the size and the scale of

19 the project.

20   If the applicant isn't happy with the board's

21 decision, the applicant can go to the Housing Appeals

22 Committee. If the other parties are not happy with the

23 board's decision, then the appeal goes to superior

24 court or land court.

1   And this question about, you know, what is the

2   scope of authority? You know, it's -- I just -- there

3   was a case involving the Town of Amesbury a few years

4   ago. And I don't want to belabor this too much. We

5   can get into it more as this project goes on if we need

6   to.

7   But the issue in that case was, well, what

8   does the Board of Appeals get to control versus the

9   subsidizing agency. And there are matters that really

10 belong to the subsidizing agency that the board really

11 just -- years ago the boards would try to condition and

12 you just don't anymore. Things like where are the

13 affordable units going to be located or who's going to

14 be the monitoring agency for the project or who's going

15 to handle the lottery? Those items are all handled by

16 the subsidizing agency.

17   And so, you know, the board can impose

18 conditions like we would like some of the units --

19 perhaps 70 percent of the units to be available on a

20 preferential basis to Brookline residents. But even

21 that is subject to approval by subsidizing agency. It

22 doesn't happen automatically.

23   Once this process is over, however it turns

24 out, if the applicant is actually going to go forward,

 1 it doesn't end here. They still have to go back to the

 2 subsidizing agency -- in this case, I think it's

 3 MassHousing Partnership -- for what's called "final

 4 approval." There are final engineering and

 5 architectural plans that still have to be developed

 6 prior to getting the building permit.

 7   And if the applicant, in the course of

 8 preparing those more detailed plans, discovers that

 9 they should have asked the board for something they

10 didn't think of the first time around, they have to

11 come back to the board and say, oops, we goofed. We

12 need to request a modification of our permit.

13   If it's a small matter, the Board of Appeals

14 can determine, oh, it's an insubstantial change and

15 they can grant it administratively. If it's a

16 substantive change, the board can say, time out. You

17 know, we should have -- this is a bigger issue than a

18 di minimis matter and so we're going to have to open

19 the public hearing again and we'll all be back here

20 eventually.

21   There are also other requirements that the

22 applicant has to deal with. There's a regulatory

23 agreement between the applicant and the subsidizing

24 agency, there's a monitoring agreement that sort of

1 governs how the deed restriction is going to be

2 monitored over time.

3   Understand that the issue here, of course, is

4 that when you create affordable housing, you'd kind of

5 like it to last as affordable for a while. So the

6 regulatory agreement kind of determines how the

7 affordability is going to be preserved over time as

8 units turn over, either on a homeownership or on a

9 rental basis. How are we going to know that public

10 benefit of those affordable units continue to go to

11 low- or moderate-income people? So all of that is laid

12 out in this agreement which is recorded with the

13 Registry of Deeds.

14   There is a lottery process to ensure fair

15 housing. There is an affirmative marketing plan.

16 That's another thing that boards of appeal in the

17 distant past used to sort of try to regulate. The

18 Amesbury case said, no, no, no. That's really the

19 subsidizing agency's call.

20   The applicant has to figure out exactly how

21 the units are going to be priced and how they're going

22 to be made available to eligible people.

23   If they don't do anything, if they just sort

24 of don't activate this permit, they get the permit and

 1 they go on a vacation and they stay away for three

 2 years, that permit will eventually lapse. Of course,

 3 the applicant can always come back prior to three years

 4 and request an extension, but there is a three-year

 5 sort of window within which to activate a comprehensive

 6 permit.

 7   The permit can be transferred. The

 8 subsidizing agency actually has the approval authority

 9 for transfers, but the applicant does have to notify

10 the board who the transfer would be to.

11   And while the project is under construction

12 there, of course, are inspections required. If those

13 inspections exceed the capacity of your town

14 departments, then it's really up to the applicant to

15 provide, again, funding -- during this process, to

16 provide funding to the town departments to make sure

17 there's adequate inspectional capacity.

18   And so that is pretty much the overview. I

19 know most of the board members, I think, have heard

20 this at this point, but, you know, if you have any

21 questions, I can certainly answer them.

22   MR. GELLER: Questions?

23   (No audible response.)

24   MR. GELLER: No. Thank you, Judi.

1   MS. BARRETT: No problem.

2   MR. GELLER: Who's here to speak on behalf of

3 the applicant? I'd ask if you do speak, start by

4 giving us your name and your business address, please.

5   MR. ENGLER: Thank you, Mr. Chairman. For the

6 record, my name is Geoff Engler from the firm of SEB.

7 Our address is 165 Chestnut Hill Avenue in Brighton,

8 Massachusetts. I'm here tonight representing

9 420 Harvard Associates, and I'll keep my comments

10 brief.

11   The Zoning Board, unlike many towns in the

12 Commonwealth, has a fair amount of experience with

13 Chapter 40B applications, and you're in good hands with

14 Judi. Maria and Alison are pros and are assets to this

15 process. I don't say that trying to ingratiate myself

16 to the board or the town, because it's true and I think

17 it's important for the neighbors to know that.

18   And that because the town has gone and is

19 going through other Chapter 40B applications, I think

20 that's to the benefit of the process. You have peer

21 review consultants lined up, which I think is far ahead

22 of where most boards are on the first night, so we look

23 forward to engaging in that process. I think projects

24 and developments are improved through the peer review

1 process, through that exchange of information and ideas

2 and looking at things from a different perspective, so

3 we look forward to that process.

4   And the timeline tonight was hammered home

5 very clearly, but it's important to recognize, mostly

6 for members of the audience, that we're not here

7 expecting to get a building permit next month. I mean,

8 this is an iterative process that goes through changes.

9 180 days goes quickly, but by the same token, six

10 months is a decent amount of time.

11   And while this might seem like -- to many here

12 tonight like this project is gigantic, it's humongous,

13 it's so detailed, in the scope of a 40B application and

14 development, this isn't a particularly complicated

15 project.

16   I know there's a lot of things that people are

17 interested in talking about, but I'll speak personally

18 for a second. A lot of the projects we're involved

19 with have significant environmental issues, wetlands

20 issues, all sorts of other kind of characteristics that

21 take hearings to go through. Just the nature of North

22 Brookline, it's a different animal.

23   There's certainly a lot to talk about relative

24 to this development, but I feel very confident that

 1 with all the professionals involved and the experience

 2 of the people that are sitting here this evening, that

 3 we absolutely should be able to get through all the

 4 details within 180 days to the satisfaction of both the

 5 board and the neighborhood.

 6   Now, that doesn't mean we're going to agree on

 7 everything, of course, but certainly it benefits

 8 everybody to find as much agreement and common ground

 9 as we could on as many issues as we can. And I can say

10 that now not just as a 40B consultant, but also as a

11 40B developer as well.

12   So with that said, I think tonight is

13 important. I know probably everybody in the room, or

14 close to it, is familiar with the application, but

15 we're hoping tonight to touch upon really the

16 highlights, the parts of the application that most

17 people are going to be most interested in with an

18 understanding that at future hearings we're going to

19 get into more of the -- how big is the detention basin

20 and how big is the turning radii and where does the

21 traffic go?

22   So I don't want -- and everything is not going

23 to be addressed or solved this evening, but hopefully

24 people can come away at the end of this evening with at

 1 least a good understanding of the application. And

 2 then we'll certainly defer to the town and

 3 collaboratively in terms of, you know, what types of

 4 questions, what needs more information, and we will

 5 endeavor to provide as much.

 6   So with that said, I'll turn it over to my

 7 client, Victor Sheen, who will talk about his

 8 experience as the applicant. And Dartagnan will talk

 9 about what most people are interested in, which is the

10 design, the site plan, and the building itself. And we

11 look forward to engaging in this progress over the next

12 180 days with the board.

13   And I feel like, albeit maybe not the same

14 affection, but when I walk through the door, at least

15 Mr. Chairman will be like, "Norm," because he sees me

16 so much recently. But I look forward to it. The

17 board, in all honesty, is in good hands because there

18 is a lot -- there's a good skill set. So I'll turn it

19 over to Victor.

20   MR. GELLER: Thank you.

21   MR. SHEEN: Good evening. My name is Victor

22 Sheen. I represent the applicant, 420 Harvard

23 Associates, LLC. I thank the board for the opportunity

24 for us to make a presentation tonight. I want to jump

1 to --

2   As the lead developer on this job, we've put

3 together a very seasoned development team, including

4 SEB. With Bob and Geoff being on the team, we feel

5 like we're in good hands in terms of this 40B process.

6   We've been working with the architect on this

7 job for a number of years now, so we understand the

8 design, location, and the value good design brings to a

9 project. And we recognize that both as a developer and

10 also as property owners as well.

11   In terms of the civil engineering, we have

12 McKenzie Engineering, who's also -- Brad is here

13 tonight to answer some questions. We also have our

14 traffic engineer here to answer any questions. Our

15 landscape architect, Paul Simon, has done a lot of

16 projects in Boston and the surrounding communities.

17 He, unfortunately, is not here tonight, but we would

18 make him available as we go through the next iteration

19 of the presentation process.

20   On the legal representation, we engaged Eckert

21 Seamans, which is a Boston law firm, to represent us on

22 any contractual issues.

23   In terms of this -- the project evolution, we

24 started the process, actually, towards the summer of

 1 last year. The project was -- the property itself was

 2 put on the market. We won the public bid and

 3 subsequently acquired the project around November of

 4 last year.

 5   Prior to the acquisition of the project, we

 6 had set up a meeting with the planning staff just to

 7 engage in some preliminary dialogue in terms of the

 8 program and the suitability of both commercial and

 9 residential on Harvard Street. And we really wanted to

10 put forward an open dialogue rather than developing a

11 project in a vacuum without any input from the planning

12 staff.

13   There was a subsequent meeting that was held

14 in early November. Specifically, we brought up the

15 possibility of doing it as a 40B project, and at the

16 meeting the planning staff brought in, you know, the

17 town's 40B staff as well as other community

18 development staff to understand what we're trying to

19 propose. At the meeting -- we really didn't have a

20 concrete plan at that time, so everything was

21 conceptual in nature.

22   We had, then, a follow-up meeting with the

23 planning staff before the end of the year. Again, we

24 presented a few schemes in terms of facades and

 1 elevations and trying to understand where the town

 2 staff is -- you know, preferences are in terms of if

 3 it's more modern or contemporary or somewhere in

 4 between.

 5   And with that, we initiated the subsidizing

 6 agency process that Judi laid out earlier. In the

 7 beginning of the year, we elected to go with MHP,

 8 MassHousing Partnership, as our subsidizing agency for

 9 the PEL, and we started that process and reached out to

10 the neighbors prior to our application to MHP.

11   And subsequently, once the town was notified,

12 the initial presentations to selectmen took place in

13 early March with a site visit with MHP staff and some

14 of the members of the planning staff as well as the

15 neighbors on the 17th.

16   We subsequently got the PEL approval, and here

17 we are before the board today.

18   So I think, you know, I'm going to turn it

19 over to my architect, Dartagnan Brown. But I want to

20 reiterate that as an applicant we look forward to an

21 open dialogue with the town. We understand this is a

22 very technical process, and we're willing to listen but

23 in a very -- what we hope to be in a very organized

24 fashion to be productive on both sides. And hopefully

 1 we'll come out of this process 180 days from now with

 2 our heads held high and be proud of what we have

 3 accomplished together. So with that, Dartagnan.

 4   MR. GELLER: Thank you.

 5   MR. BROWN: Good evening. Dartagnan Brown,

 6 architect at EMBARC studio.

 7   Mr. Chairman, members of the board, thank you

 8 for your time tonight. I will walk you through kind of

 9 our concept design for the site.

10   So as you all well know, this is our site in

11 question at the intersection of Harvard and Fuller

12 Street. I think you guys are pretty familiar with

13 Centre Street and all of the stuff that is going around

14 in this neighborhood. So we are proposing, in our

15 project, to take down the existing mixed use that's got

16 RE/MAX agents on the first floor and then residential

17 units above. So our site is outlined here in red.

18   Just a quick overview of where we're located

19 in the greater context. The site is, we think, very

20 nicely situated between several modes of

21 transportation -- this will tie a little bit later into

22 our parking -- a nice proximity to several parks around

23 the area, the Green Line down here, and, again, just

24 the 66 bus route that goes down Harvard Street.

1   Zooming into our site, currently, as

2   mentioned, between the site and the parking lot, it

3   does cover a significant area of the site, so from a

4   landscaping design, we are looking to kind of help

5   beautify that and make it more desirable.

6   We are looking to -- which I'll get to in the

7   elevations -- maintain the ingress onto the site that's

8   off of Fuller Street. And by way of context, this is

9   standing on the corner of Harvard Street and Fuller,

10 this is the parking lot I mentioned on the rear of the

11 current site. This was an old funeral home that was

12 converted, again, into the RE/MAX real estate agent

13 space and residential units above. It's approximately,

14 I think, about 43 or so feet in height. And currently

15 the front of the building really just kind of creates a

16 modal along Harvard Street.

17   Local context: This is further up on Centre

18 Street; here, this is further down on Fuller Street;

19 this at the intersection; and then this is looking at

20 kind of what the context is.

21   Just zooming in on our building as we stand

22 today, again, the building really runs from edge to

23 edge. And this is a taller band of, again, the old

24 funeral home, and in terms of the massing and height,

1 how it ties next door to the butchery.

2   This is coming down along Fuller Street just

3 to note where the entry is to the existing parking lot.

4 That plays into our design, which I'll get into in a

5 moment.

6   So kind of a conceptual image here. What

7 we've done is try to work -- overall, it's a six-story

8 building. The goal is to take the ground floor and

9 bring a more active retail -- have that tie into the

10 ground floor of the butchery and its vocabulary, kind

11 of the layering of the building, as you will. We're

12 having, you know, a very nice predominate base. On the

13 side of Fuller Street is the entry to the residential

14 building, and further down is the entry to the parking,

15 which I'll show you in the plans.

16   The idea with the overall architecture is --

17 you know, as Victor mentioned earlier, we looked at

18 several kind of aesthetics and we've decided that I

19 think more of a -- we like to say a traditional

20 handsome building. Not a very modern building, but one

21 that maybe plays off of the proportion of windows to

22 maybe a large format stone panel. Something that's a

23 little bit more classic Brookline is kind of our

24 overall objective with this.

 1   So by way of orientation just for the project,

 2 again, Harvard Street and Fuller. The goal is to take

 3 the whole front along Harvard Street and turn that into

 4 a retail spot between this, around 1950 and then we

 5 have a secondary spot around 700 square feet for about

 6 2600 square feet of retail on the ground floor.

 7   Coming up the side of Fuller, the idea is to

 8 create a residential lobby so pedestrians can walk in,

 9 go up to the elevator, up the unit. And then, as I

10 mentioned earlier, the existing curb cuts.

11   What our thought is, for several reasons, is

12 to kind of reuse the location of the existing curb cut

13 to keep it furthest away from the intersection of

14 Harvard Street and Fuller. And by using that, we pull

15 into the site and we're -- what we've designed right

16 now on the left side of the site is six surface spots.

17 This gives us both a combination of visitor and

18 handicapped accessible spots.

19   And then on the right side, we're working with

20 a company that's called Klaus Parking Systems. They do

21 a lot of these automated systems that I'd be happy to

22 get a little bit more into -- I can give you a

23 demonstration at the next hearing.

24   But the idea is that it's a fully automated

 1 system. It's not a semiautomated system, so you don't

 2 need to take out any car to put another car in. It

 3 does have what's called a "transfer space," so when you

 4 come off of here, you can queue up, get into the system

 5 with the use of a fob or, like, a transponder. You get

 6 into your car, you get out, the gate shuts, and it

 7 moves around and does its thing. So nobody is in the

 8 machine while it's being operated. It all happens

 9 within the building. It looks like a garage door -- a

10 series of garage doors that you enter, car goes in.

11   So working in combination with kind of the

12 height of the retail store and a basement dig-out,

13 which would be roughly in this location, we get --

14 within ten spaces, we get about 23 spots in that

15 system, so we're provided a total of 29 parking spaces.

16   Just to be very clear and clarify, this heavy

17 dashed line here is what we'll mark out on the site for

18 the site visit. That is the building above. I'll show

19 you kind of an iterate process at this early stage that

20 we've gone through to kind of push that back in both

21 directions, but just to be clear that the building does

22 go back here. The idea is that this is all open air.

23 And I'll show you in a moment, but this area that is

24 currently all surface parking we're looking at to be a

1 very nice landscaped kind of courtyard.

2   I'll walk you through the building. We do

3 have a combination of units. I'll just give you a

4 breakdown. So, again, total is 36 residential units.

5 We are proposing 9 of them to be affordable as part of

6 the 40B process. 2 of them are studios. So there's a

7 combination of about 13 one-bedroom units; 7

8 one-plus-bedroom units, so it's a bedroom plus a den;

9 there's 10 two-bedroom units; and 4 three-bedroom

10 units.

11   The range of units -- the studios are on --

12 there are only two of them. They're 520 square feet.

13 But the rest of the units range from 700 square feet to

14 about 1,150 square feet. So quite a nice mix. You can

15 see a lot of them -- even the one-bedroom units here

16 that we're calling the one-plus, they're over 1,000

17 square feet. So the idea is coming in with nicely

18 sized units for the neighborhood.

19   Moving up through the building -- so what you

20 can start to see here on the side working -- again, as

21 we mentioned, we had, with 44 Fuller, an understanding

22 of what the main concerns are here with their building,

23 and a lot of it is maintaining the sunlight. So what

24 we've done is stepped every level up, stepped the

1 building back five feet, and I'll show you that in a

2 moment.

3   But here, just working through the building,

4 again, a mixture of units. And then you can see here

5 between the fourth and the top floor plan how the

6 building was stepped back as each level goes up.

7   Key things to note here, and I'll show you in

8 the 3D diagram, is that in addition to kind of working

9 with 44 Fuller here and setting this back to maintain

10 kind of the natural sunlight into this side of the

11 property here, on the rear with Coolidge Street we

12 are -- we have also pulled this building back, so the

13 back of our building aligns with the back of the

14 butchery site.

15   As mentioned, the landscape architect isn't

16 here tonight, but this is kind of our preliminary

17 thoughts on what to do with the space that we're

18 creating. It will be about 720 square feet. The idea

19 is to provide a turf area and kind of a stone walkway,

20 nice perennial plantings, a trellised area with some

21 bench seating. The goal really is -- because we

22 understand that this is quite a sensitive corner to all

23 abutting properties, but we would like to put something

24 there that is much more appealing than we have today.

1   So, again, just to kind of recap, along

2 Harvard Street, this is the extension of the retail

3 that exists next door, the butchery, and kind of ties

4 up further the residential entry here. Each of the

5 units, we are providing a little inset balcony so

6 there's an open space for the units.

7   And to -- as I mentioned, kind of the breakout

8 of the units, just big picture, again, a mix of units

9 there. So they are quite healthy in size. And then

10 just very quickly is the distribution of the

11 affordables are evenly spread throughout the project.

12   So part of this project evolution, as we

13 mentioned earlier, working with both MHP and the

14 neighborhood at this early stage was really

15 understanding the sensitivity around 44 Fuller here on

16 the front side. So our very first proposal, we were

17 literally close to 70 feet, 69.10, and our building all

18 the way up was five feet off the property line.

19   What we've done is lowered the building six

20 feet in height. We're now at 63.10. And each level

21 that goes up, we've pulled back five feet so that the

22 top floor is, in essence, basically 20 feet back from

23 what we had earlier.

24   On the rear, you can see here, Scheme A was

 1 the very first scheme. Again, the sensitivity around

 2 44 Fuller and in back of these homes here, what we've

 3 done, kind of through a step process, is -- our first

 4 iteration was stepping back to a 5, 10, 15, 20, and

 5 then also on the side closest to the butchery, stepping

 6 that back. Then, from that, we actually pulled the

 7 bottom in and went straight up.

 8   And what we're proposing -- or our current

 9 proposal right now is to maintain the stepping back

10 here but take this whole volume of building and slide

11 it back to the back of the butchery. And part of that,

12 which I'll show you in a moment, ties to some initial

13 shadow studies we've done to understand where the

14 difference is between the current building and our

15 building and what those sensitive areas are and trying

16 to work to bring really the most light back into this

17 area.

18   With that, I'll be back in a minute, but I'll

19 turn you over to Brad to kind of walk through the

20 engineering.

21   MR. MCKENZIE: Thanks, Dartagnan.

22   For the record, Bradley McKenzie, McKenzie

23 Engineering Group, registered professional, civil

24 engineer. Office is in Norwell.

1   Not a great deal of civil engineering has been

2 performed to date. As Judi had mentioned, the

3 requirement to file with the board at this juncture

4 is -- for civil engineering plans are preliminary

5 plans, which don't provide, obviously, a

6 construction-level detail of information.

7   So the plan that we prepared is a site

8 feasibility plan. And the utility connections that

9 we're proposing at this point are all on Fuller Street

10 here: water, sewer, other underground utilities. We

11 understand that a great deal of review and coordination

12 with the Brookline DPW and Engineering Department still

13 has to take place to determine the final location and

14 nature of those connections. Additional coordination

15 has to be done with the architecture team, the

16 mechanical engineer to determine the size of those

17 utilities as well.

18   The site, in its present condition, is

19 comprised of two lots of: the building on the front

20 lot, Lot 1, and on Lot 2 is the parking lot that

21 provides service -- accommodates parking for the

22 buildings on Lot 1. And there's -- all of the

23 stormwater runoff for this part of the site is captured

24 by a catch basin over here by Fuller Street with a

 1 direct connection to the storm drainage system on

 2 Fuller Street.

 3   What we're proposing at this stage is a

 4 subsurface infiltration system within the park area,

 5 the open space area, and the southwestern portion of

 6 the property. Its intention is to encourage the

 7 infiltration of soil -- of stormwater into the

 8 underlying soil, the overflow connection, back out to

 9 Fuller Street.

10   We will have to -- in preparing final design

11 plans for the stormwater system, we'll have to conduct

12 a few test pits to determine the permeability of the

13 soil, the water table, to make sure that the system

14 functions as intended, and I'm sure that will occur in

15 the coming months. But, again the construction level

16 of civil engineering plans you won't see until the

17 filing of the building application.

18   Dartagnan?

19   MR. BROWN: In the next slide we have -- it's

20 in a preliminary stage, but our traffic consultant,

21 Scott, will relay it for you.

22   MR. THORNTON: Good evening, members of the

23 board, Mr. Chairman. My name is Scott Thornton. I'm

24 with Vanasse & Associates. I'm a registered

 1 professional engineer.

 2   And I just want to go over the status of the

 3 traffic assessment that we've done to date. As Judi

 4 mentioned and Brad echoed, we're at a preliminary stage

 5 with the traffic. We've really looked at the

 6 identification of the existing uses on-site and

 7 compared that to the proposed uses. We've also looked

 8 at safety in terms of visibility for the driveway. As

 9 been mentioned, the driveway is being retained in its

10 existing site.

11   The existing occupied building has three

12 apartment units and about 6,200 square feet of

13 commercial space. The proposed use is 36 apartment

14 units and one office of about 2,700 square feet.

15   And the main issue related to traffic is the

16 demand increase. So this slide shows what would be

17 expected from the site both in its current land use and

18 the proposed land use. So there's -- so going from the

19 current to the proposed, there's an increase in the

20 residential use and a decrease in the office use.

21   The time period that you see up there: the

22 weekday daily, the weekday morning peak hour, and the

23 weekday evening peak hour are the typical uses that are

24 going to -- or typical time periods that are going to

 1 be reviewed in any traffic assessments. Those are the

 2 time periods of peak generation of the land uses as

 3 well as the heaviest activity on the adjacent side

 4 streets.

 5   And looking at the morning peak hour and the

 6 evening peak hours, you can see that there's an

 7 increase of about five trips for the morning peak hour

 8 and about six trips during the evening peak hour, and

 9 that's equivalent to a vehicle every 12 to -- every 10

10 to 12 minutes during those peak hours.

11   It's not something that's likely to be noticed

12 when you get further out from the intersection -- from

13 the site. In fact, it may not -- if you were to do a

14 capacity analysis of the intersection of Harvard Street

15 and Fuller Street, you may not even notice any effect

16 from that traffic.

17   We did look at the operations of the Harvard

18 Street and Fuller Street intersection. All the

19 equipment seems to be operating properly. There's

20 pedestrian push buttons and signal heads, there's --

21 it's a signalized intersection, so it operates on about

22 120-second cycle. So it seems to be -- seems to be a

23 fair amount of capacity there, and certainly enough to

24 accommodate the increases that we're talking about

1 here.

2   As has been mentioned previously, there's the

3 66 bus that stops at the Harvard Street and Coolidge

4 Avenue section a block or two to the north of the site,

5 there's also the 57 bus that operates further to the

6 south, and the Green Line, the B and the C trains go by

7 within a half mile from the site.

8   So I think, you know, we're certainly willing

9 to work with your peer consultant on the review of this

10 traffic assessment, and if they have any additional

11 comments or requests for further review, we'd be happy

12 to work with them.

13   MR. BROWN: So lastly, just getting to the

14 shadow study that we ran. The building outlined here

15 is the existing building, as mentioned, currently most

16 of the impact. So we ran it for the different solstice

17 and equinox, summer, fall, spring, and winter at

18 9:00 a.m., 12:00 noon, 3:00 p.m., and 6:00 p.m.

19   Most of the impact is -- as one can imagine,

20 is in the wintertime throughout the different solstices

21 just with the angle of the sun. And down here, I think

22 if you looked at the winter solstice on the bottom

23 line, a lot of the current impact is off to the

24 Coolidge Street side, a pretty minimal impact along

 1 Harvard Street and onto the Fuller side.

 2   The next slide just shows our building

 3 currently as designed. Again, all of this is modeled

 4 to relative heights that we took in the neighborhood.

 5 In the summer solstice, very minimal impact, again with

 6 the south side being here. You can see, I think, for

 7 us, the most impact in the evening time in the winter

 8 solstice was across the street to Coolidge here and

 9 across Harvard Street there. There is some impact

10 here -- or notable impact here on the building next to

11 the back of the butchery. And working on part of that

12 stepping, which I talked about earlier, we've really

13 tried to minimize the impact onto 44 Fuller.

14   And I think, with that, we conclude our

15 presentation. Thank you.

16   MR. GELLER: Okay. Thank you.

17   Questions?

18   MS. SCHNEIDER: I have sort of a hodgepodge of

19 questions, and I guess we should decide -- you know,

20 maybe they're just matters of clarification from the

21 project team that they can answer right now to the

22 extent that I missed details within the presentation or

23 there are inconsistencies.

24   Some of these, I think, are requests for

 1 additional information at subsequent hearings, but I

 2 figured I'd throw it all out now so that if the

 3 applicant wants to work on getting these materials, to

 4 the extent that they don't already exist, it might help

 5 speed things along.

 6   So I think the first thing I wanted to ask --

 7 I was looking at the materials that were provided in

 8 the application. It looked like there was a

 9 one-bedroom unit with only 500 square feet on the

10 fourth floor. Was I reading that correctly? That's

11 very small for a one-bedroom unit. And, again, we may

12 just have outdated materials.

13   MR. BROWN: There is a one-bedroom, 500 square

14 feet. Again, the reason, I think, we're able to get a

15 nice one-bedroom there is because of the extensive

16 window exposure.

17   MS. SCHNEIDER: But that's smaller than any of

18 the studio apartments that are currently proposed; is

19 that right?

20   MR. BROWN: That is correct, because of the

21 exposure that we have.

22   MS. SCHNEIDER: Okay.

23   MR. BROWN: But we can certainly lay out the

24 unit and see how that works.

 1   MS. SCHNEIDER: Okay. The next question I

 2 had -- obviously, based on the proximity on Harvard and

 3 Fuller, it looks like this is clearly the largest and

 4 most massive building that we can see on what you're

 5 showing. I'm wondering if you can provide us with any

 6 sort of either an aerial or other plans that show

 7 relative sizes and heights of other buildings in the

 8 immediate vicinity. And I don't mean things that are a

 9 half mile away, ten blocks away. I mean things that

10 are close by so that we have a frame of reference about

11 what we're talking about in terms of height and

12 massing.

13   MR. BROWN: Yeah. So I think to answer that

14 in -- more earnestly, I think we need to go and just do

15 a more in-depth survey.

16   MS. SCHNEIDER: Okay.

17   MR. BROWN: But we can certainly do that.

18   MS. POVERMAN: That would be on a three-

19 dimensional basis or -- I mean, it would not be in that

20 form.

21   MR. BROWN: No. I think we'd do an actual

22 diagram that measured out the heights, gave you the

23 heights of stories. I think we could even look at

24 cutting a couple street sections just to draw out --

 1   MS. SCHNEIDER: That's exactly what I had in

 2 mind. Thank you.

 3   The next question I have has to do with the

 4 retail use. It's still retail use on the ground floor,

 5 correct, or is it proposed office?

 6   MR. GELLER: For both spaces, or is it office

 7 and retail?

 8   MR. BROWN: So what we are proposing is

 9 actually two spaces. In the front in blue is about

10 1,950 square feet of retail, undecided. And then the

11 rear we talked about -- about 700 square feet. One

12 potentially -- we talked with our clients that may

13 actually come there on-site, their office for their

14 practice. So we kept it on the rear. And then the

15 idea is for the front retail tenant to have full

16 exposure along Harvard Street.

17   MS. SCHNEIDER: So I have two questions

18 relating to that. One of them is, I mean, I think, as

19 anybody who goes through Coolidge Corner on a regular

20 basis knows, there are a lot of empty store fronts in

21 Coolidge Corner right now. In part, my understanding

22 is that, you know, rents are very high.

23   I'm wondering if you have done any sort of

24 feasibility studies to determine that retail is, in

 1 fact, a feasible use for the ground-floor space here.

 2 You know, do you have a letter of intent for a

 3 perspective tenant? What are you envisioning as a

 4 productive use so that we're not permitting an

 5 enormous, you know, street-front retail space here that

 6 actually can't be tenanted.

 7   MR. SHEEN: I can speak briefly about that.

 8 We actually have a letter of intent for the next -- for

 9 a 20-year long-term lease.

10   MS. SCHNEIDER: And can you tell us who the

11 tenant is or what type of tenant it is?

12   MR. SHEEN: It will be a combination of, you

13 know, cafes with maybe some -- there was some

14 discussion of RE/MAX returning to the site and also

15 potentially getting maybe a flower shop.

16   MS. SCHNEIDER: So is it a single user, or is

17 it multiple spaces?

18   MR. SHEEN: It will be broken up into multiple

19 spaces as the plan progresses.

20   MS. SCHNEIDER: Okay. So related to that, I

21 may have missed this, and I apologize. When the

22 traffic consultant was talking about the traffic

23 counts, I thought that they were based exclusively -- I

24 thought what he said was they were based on office use

1 and residential use. I did not hear any mention of

2 retail uses being one of the land use codes that was

3 considered. Maybe you can clarify if that was the

4 case.

5   MR. SHEEN: Well, the letter of intent we

6 have -- we've received to date, it is, for the large

7 part, would be the RE/MAX office returning to the site,

8 yes.

9   MS. SCHNEIDER: Okay. Have any studies been

10 done on the traffic standpoint -- and maybe your

11 traffic consultant can answer this -- considering that

12 there may be some retail uses as well. You mentioned a

13 flower shop, a cafe. I just wasn't sure if that was

14 factored into the traffic counts that have been done to

15 date.

16   MR. THORNTON: Retail use has not been

17 factored in.

18   MS. SCHNEIDER: Okay. Another question I had

19 has to do with the open spaces, that little turf lawn

20 that you're creating. Is that envisioned to be

21 publicly accessible open space, or is that going to be

22 exclusively for the private use of building residents?

23   MR. SHEEN: Private use.

24   MS. SCHNEIDER: And then finally -- at least

 1 for now until something else pops into my mind -- going

 2 back to the design, it appeared to me that towards the

 3 rear of this -- maybe it's the side or the rear. I'm

 4 not sure what you're using. But further down Fuller

 5 where there are the six surface parking spaces, that

 6 seems to be sort of an open parking area with some --

 7 you know, a deck that the building then goes up from.

 8 Is that right?

 9   MR. BROWN: Correct.

10   MS. SCHNEIDER: What was the -- was that the

11 product of working with neighbors or others to come up

12 with that concept? I personally, just architecturally,

13 all due respect, not a fan of that kind of open decking

14 look, and I just wondered if that was incorporated into

15 the project as a request of the neighbors or something

16 like that.

17   MR. BROWN: So in regards to this area here,

18 what we -- I think currently we have it as an open-air

19 parking deck. And part of it is to address the need

20 for accessible spots for a handicap plan. This -- you

21 know, through the process it doesn't need to be fully

22 open by any means. I think it's just our starting

23 point with the footprint to --

24   MR. SHEEN: Let me speak a little to that.

 1 Actually, in our initial submission to MHP as part of

 2 the PEL application, the spaces abutting 44 Fuller were

 3 actually mechanical parking spaces as well. So during

 4 the site visit with MHP and some of our neighbors, it

 5 was suggested to us that we reduce the mechanical use

 6 of those spaces to essentially return it back to the

 7 current configuration, which is really surface parking

 8 abutting that property. Currently there's actually an

 9 eight-foot fence that is on the neighbor's property

10 separating our project to 44 Fuller.

11   MS. SCHNEIDER: What is your -- I'm sorry. I

12 didn't mean to interrupt. What is your thought in

13 terms of screening or buffering of those surface spaces

14 in the adjacent property line?

15   MR. SHEEN: There is no -- the project, as

16 proposed today, is no different than the current

17 existing condition at that --

18   MR. BROWN: In terms of the open parking to

19 the fence, I think, to answer, maybe, your question,

20 the architectural aesthetic of that is something we can

21 certainly look at between either enclosing it, putting

22 a screening of sorts. That's something we'd

23 differently love to have feedback on.

24   MS. SCHNEIDER: Yeah. I think that's

 1 something that we should flag for a discussion down the

 2 road. I don't know if that's a landscape architect

 3 issue or a you issue. But I am particularly concerned

 4 that there are surface parking spaces that are very

 5 close to the property line, and I think you're missing

 6 an opportunity to provide some value screening and

 7 buffering along that property line.

 8   MR. BROWN: Certainly happy to look at that.

 9   MR. GELLER: Anybody else?

10   MS. POVERMAN: I have a little bit of a

11 hodgepodge as well.

12   So the outdoor space that you're talking

13 about, are those intended mainly for residents or for

14 visitors or for whom?

15   MR. BROWN: The landscape area on the --

16   MS. POVERMAN: The parking spaces you were

17 just talking about with Ms. Schneider.

18   MR. BROWN: So I think this would be intended

19 for the residents of the building and visitors that --

20   MS. POVERMAN: The parking spaces.

21   MR. BROWN: Oh, parking. I thought you said

22 "landscape."

23   MS. POVERMAN: Okay. Sorry.

24   MR. BROWN: So the idea is that the -- again,

 1 it's not all concreted out, but the idea is that the

 2 residential would use the stacker system because of the

 3 frequency of need of that, and that these would be used

 4 for visitors, accessible van, maybe drop off. So these

 5 are more influx. I don't think, at this stage, we

 6 thought of deeding these to the residential units. I

 7 think this is more for quick in-and-out visits relative

 8 to the parking system.

 9   MS. POVERMAN: Okay. But I think we got a

10 letter saying that currently six of those spaces are

11 used by the RE/MAX people.

12   MR. BROWN: Oh, currently.

13   MS. POVERMAN: Well, no. So the six are

14 currently used, RE/MAX goes back in, then it's not

15 going to really allow any space for --

16   MR. BROWN: Victor just mentioned that RE/MAX

17 will probably get back into the parking system on the

18 right side.

19   MS. POVERMAN: Okay. So I've been doing some

20 studying of this parking system, which seems to be the

21 new wave of putting parking into small spaces, which is

22 great. But as I educate myself, I guess there are

23 various types. What type of system is this?

24   MR. BROWN: So this is called the -- so it's

 1 Klaus Parking and it's TrendVario. I think it's the

 2 4300 series, so it's a fully automated series. I will

 3 certainly bring a video clip next time of how it works,

 4 but it's basically a fully mechanized system that has

 5 all the bells and whistles. In terms of usability,

 6 you're not moving one car to take another car out.

 7 It's almost, essentially, three layers of 10 spots, but

 8 because of the transfer cases and the overruns, we

 9 could get 23 spaces out of it.

10   So there's -- so I think if you look at --

11 here in the gray shaded area, these are never really

12 parked. What happens is -- and they may end up a

13 little bit further in, working with the consultant in

14 terms of loading. But the idea is you pull in, you get

15 out of the car, and the gate shuts. And the -- it's

16 almost like a little matrix, that the car will move

17 forward, up, down. So when the next person comes to

18 call their car, it shuffles everything around and it

19 takes it up, brings it up.

20   MS. POVERMAN: So is there one bay so one

21 person gets their car at a time and another person --

22   MR. BROWN: No. It's actually five bays. So

23 there's five -- basically five doors that are here. So

24 I think you're -- we're still trying to iron out all

 1 the details, but there is flexibility on where you come

 2 in and out of the bay.

 3   MS. POVERMAN: Okay. So it's sort of

 4 something down the line that --

 5   MR. BROWN: Yeah. And we have engaged with

 6 the parking consultant to kind of -- the parking system

 7 consultant to work through all those details.

 8   MS. POVERMAN: Is it Klaus with a K or a C?

 9   MR. BROWN: K-L-A-U-S.

10   MS. POVERMAN: What sort of rents are you

11 anticipating for the apartments? What sort of range?

12   MR. SHEEN: The affordable rents will be

13 established at approximately 80 percent of the area

14 median income.

15   MS. POVERMAN: How about the market rates?

16   MR. SHEEN: That is determined when we rent it

17 out.

18   MS. POVERMAN: But you must have some idea

19 now, because otherwise you couldn't determine whether

20 or not the project is feasible.

21   MR. SHEEN: Well, I -- you know, we're still

22 flushing it out at this point.

23   MS. BARRETT: Maybe you can just provide what

24 your working assumptions are as of today.

 1   MR. SHEEN: Sure. I mean, the working

 2 assumption is -- for one-bedrooms, maybe, roughly, I

 3 would say, on average maybe between $2.50 to $3.00 a

 4 square foot.

 5   MS. POVERMAN: Do the math.

 6   MR. SHEEN: 2,900.

 7   MS. BARRETT: I mean, people just want to know

 8 what someone is going to pay out of pocket for their

 9 market rate. So I know you care about square foot, but

10 I think --

11   MR. SHEEN: Sure. So, for example -- let me

12 go back to the unit mix, if we will.

13   MS. POVERMAN: I mean, because the ranges --

14 we've been doing a few 40Bs, and the ranges of rents

15 are quite oppressive from area to area so --

16   MR. SHEEN: It really is -- it is a range.

17 So, for example, for the studios at $3.00 -- we'll do a

18 round number -- $3.00 a square foot at 500 square feet,

19 it'll be $1,500.

20   MS. POVERMAN: And so it would be a different

21 square footage for a three bedroom?

22   MR. SHEEN: Potentially. But approximately,

23 on average, $3.00 a square foot.

24   MS. POVERMAN: Have you submitted pro formas

 1 to anyone?

 2   MR. SHEEN: We submitted preliminary

 3 pro formas to MHP as part of the review process.

 4   MS. POVERMAN: Could we have those as well?

 5   MR. ENGLER: It was already submitted to the

 6 town.

 7   MS. STEINFELD: It's part of the application.

 8   MS. MORELLI: It's in the application.

 9   MS. POVERMAN: Okay. Yeah, I didn't see it.

10   What is the current setback of the RE/MAX

11 building that's on each edge of Fuller and Harvard

12 Street, just for comparative purposes, what sort of

13 waivers you're looking for.

14   MR. BROWN: So our -- you can see right here,

15 this is the RE/MAX building that comes out here and

16 then our building is squaring up with the edge of the

17 site. So right now it does skew to the edge of Harvard

18 Street, but it does come out to this corner here, and

19 then there's a set of steps that goes up to the stoop

20 here. Our building is coming to the edge of the steps,

21 so it's about, I think, four feet further from the edge

22 of this -- on this side of Fuller.

23   MS. POVERMAN: So except for the steps --

24   MR. BROWN: Yeah. You can see kind of faintly

 1 here there are the steps coming up, that's the proposed

 2 edge of our building there.

 3   MS. POVERMAN: Okay. So it's basically the

 4 same except for the line where the steps are?

 5   MR. BROWN: Right. So here it's at an angle.

 6 It looks like it sticks out a little bit further on

 7 this corner. So ours is parallel to the edge of

 8 Harvard Street, and then here, take the edge of the

 9 steps, so there's four feet further than this plane

10 here backed out but straight up.

11   MS. POVERMAN: Okay. Will we be getting sort

12 of a superimposition picture? Sometimes we get that.

13   MR. BROWN: Sure.

14   MS. POVERMAN: And also the shadow study.

15 Does the -- I can't remember what it is. The Planning

16 Department usually likes to see -- Maria, maybe you can

17 tell me in terms of --

18   MS. MORELLI: Yes. So one of the things we've

19 requested as additional material that's not part of

20 what's required of the complete application is an

21 animation that shows the shadow studies over a 24-hour

22 period.

23   MS. POVERMAN: And any pictures that could be

24 bigger? Because my eyes are just not good enough to

 1 really show what's going on in those little cells.

 2   MR. BROWN: Sure.

 3   MS. POVERMAN: Oh, so what materials are you

 4 thinking of using in the building?

 5   MR. BROWN: We know what we don't want, and

 6 that is, like, you know, double hung vinyl siding or

 7 clapboard siding. We're staying away from that.

 8   The idea is a combination of casement style

 9 and awning style windows. Most likely, we would like

10 to do kind of a large format stone veneer panel on the

11 upper portions of the building, which is, if you look

12 at the rendering, kind of the midtoned colors here.

13 And then, you know, we -- I think we could do either a

14 darker version of that at the base or it could go into

15 more of a brick. But that's all, in our minds, open

16 for discussion.

17   But we are looking at a high-end finish.

18 We're trying to do a -- you know, more standard, I

19 guess. But the idea is definitely large format panels,

20 brick, casement windows, just as the general direction.

21   MS. POVERMAN: Just a couple more.

22   MR. BROWN: Sure.

23   MS. POVERMAN: I think some of the issues I

24 have with the traffic analysis -- I think that your

 1 study shows there's actually going to be more traffic

 2 than is initially projected in this presentation, but I

 3 think that's better brought up in a peer review

 4 situation, so I don't think it makes sense to have you

 5 answer my questions on things I don't understand here.

 6   I think it is larger, as Ms. Schneider said,

 7 in terms of the other buildings around.

 8   MR. GELLER: I'm not sure that's what

 9 Ms. Schneider said. I think she asked to see --

10   MR. BROWN: She asked to see an understanding

11 of the context --

12   MS. POVERMAN: Yes. That would be very

13 helpful in terms of understanding it in terms of the

14 other buildings around. Let me put it that way.

15 Because -- you know, in context with the commercial on

16 Harvard as well as the residential on Fuller. That

17 would be great.

18   MR. BROWN: We'll provide that.

19   MR. SHEEN: Yeah. We certainly didn't think a

20 20-story building would be appropriate.

21   MS. POVERMAN: Thank you. That's all I have.

22   MR. GELLER: The building alignment along

23 Harvard Street, does it run -- is it the same distance

24 from the street as the butchery building?

 1   MR. BROWN: Yes.

 2   MR. GELLER: So you -- so just as you've done

 3 in the back, you've done that similar concept in the

 4 front?

 5   MR. BROWN: Correct. And we can provide

 6 better documentation.

 7   MR. GELLER: That would be helpful.

 8   The mechanicals on the building, when I look

 9 at this picture, I obviously don't see any mechanicals.

10 Are there mechanical housings that are higher than

11 this?

12   MR. BROWN: The idea is the mechanical housing

13 is -- would go along the roof and in a screened

14 enclosure most likely in the center of the building in

15 terms of visibility and noise.

16   MR. GELLER: Above this height?

17   MR. BROWN: Correct. Screened in so that

18 the --

19   MS. SCHNEIDER: So you're not -- so in this

20 picture, we're not seeing the penthouse, which would be

21 on top of that upper-most point there.

22   MR. BROWN: So that is the penthouse floor.

23   MS. SCHNEIDER: I mean the mechanical

24 penthouse.

 1   MR. BROWN: But it's actually just a -- it's a

 2 matrix -- a grid matrix that the units are placed on,

 3 and then they're -- we have done both ways where you

 4 either put in kind of a screening fence around it, and

 5 that's more for the acoustical reasons. But the idea

 6 is that they're all inset -- inbound from a site

 7 perspective.

 8   We can certainly look at -- our goal is to --

 9 we understand concerns around noise and humming of

10 machines, and as efficient as these machines as

11 getting, the further we can put them away, we find the

12 better.

13   MR. GELLER: It's also the visual.

14   MR. BROWN: Right.

15   MR. GELLER: So we'd like to know what it

16 looks like.

17   MR. BROWN: Sure. And we will provide that.

18   MS. POVERMAN. What's the story with trash

19 collection and storage to the extent -- before it gets

20 picked up.

21   MR. BROWN: So the idea for trash, we -- so,

22 again, it's very much a work in process. But the idea

23 is at the back where we have the orange area, we do

24 right now actually probably have an excessive

 1 circulation through here, so the idea is maybe between

 2 here and somewhere in this back that we create a trash

 3 room. We'd also like to look at bike storage.

 4   We're trying to figure out the extent of the

 5 parking system and what that means to the basement

 6 level, because there is a basement under the existing

 7 building right now. So the idea with the elevator

 8 being there, we could go down to a basement level if we

 9 want to get into increased bike storage and such. But

10 there is actually -- you know, we may not even need the

11 full 700 for a little office here, but there is room to

12 curve out for, like, a trash room so that it could be

13 rolled out and picked up.

14   MS. SCHNEIDER: And so you would envision town

15 trash trucks coming to pick up curbside?

16   MR. SHEEN: No. It would be privately managed

17 and picked up.

18   MR. GELLER: From the driveway?

19   MR. SHEEN: From the driveway but within the

20 building.

21   MR. GELLER: And you mentioned a number of

22 potential retail tenants, some of whom may include

23 food. And with food, whether it's a restaurant or a

24 cafe, the issue is daily pickup and storage for trash.

 1 And it's got to be sealed storage.

 2   MR. BROWN: Correct.

 3   MR. GELLER: So obviously in the context of

 4 your determining whether you're going to have a trash

 5 room or where the storage is going to be within the

 6 leased space, they've got to have an access to where

 7 your trucks are going. Have you started to think

 8 though those issues?

 9   MR. BROWN: I think we understand what those

10 issues are. Again, with not knowing who the exact user

11 will be for all of it, we can certainly plan -- we do a

12 lot of urban projects as an architectural firm. We do

13 understand the nuances. We do a lot of restaurant

14 design, so that is something we can definitely factor

15 in depending -- as things evolve.

16   MR. GELLER: One question that I think Kate

17 may have asked -- and it may have been answered, but I

18 didn't catch it -- was in your determination of parking

19 spaces, have you calculated any parking spaces for the

20 commercial space?

21   MR. BROWN: So the commercial space -- right

22 now we have 2,000 square feet, and we're saying about

23 6 -- potentially six spots for those commercials. So

24 out of the twenty-nine, six could go there, again,

 1 depending on what the final use is for that.

 2   MS. POVERMAN: I think one of the issues that

 3 was raised in my mind is that if the current RE/MAX

 4 people -- who I believe were using six, but that's

 5 based on something I saw in an email, as best I recall.

 6 If they take up spaces in the mechanical room, that

 7 leaves, you know, what, eighteen spaces or so for

 8 the --

 9   MR. GELLER: Let's hold off on the discussion

10 about --

11   MS. POVERMAN: Right. But it's just something

12 to take into consideration, because it's a percentage

13 of how many parking spaces are available for living

14 units, so to that extent, it's relevant.

15   MR. GELLER: Right, yes. And that's a fair

16 point. And, in fact, what I would suggest to you is

17 that you really need to go back and -- within the

18 submittal you have a chart for waivers, and I would

19 suggest that your request on waivers is incorrect just

20 in terms of -- because you're just referring to

21 residential units.

22   MR. BROWN: We'll look at it.

23   MR. GELLER: Other questions?

24   MS. PALERMO: Yes, I actually have a couple of

 1 questions now.

 2   You said that the redesign height of this new

 3 building is, I believe, 63 feet, 10 inches?

 4   MR. BROWN: Correct.

 5   MS. PALERMO: Is that to the top of the

 6 mechanical systems or just to the roof?

 7   MR. BROWN: Top of the roof structure.

 8   MS. PALERMO: Top of the roof structure, so

 9 you're not including the mechanical?

10   MR. BROWN: Correct. The building code

11 definition is to the roof structure.

12   MS. PALERMO: To the roof assuming we don't --

13 well, the building code has you building something much

14 shorter.

15   MR. BROWN: Right. But the definition of the

16 height of the building is -- regardless of the zoning

17 is to the roof structure.

18   MS. PALERMO: And you -- I assume your -- all

19 residential units start on the second floor?

20   MR. BROWN: Correct.

21   MS. PALERMO: So are you planning to construct

22 any to be accessible within the units?

23   MR. BROWN: They have to. So by having the

24 elevator, that gets you --

1   MS. PALERMO: Up there.

2   MR. BROWN: -- up there. And then within

3 that, there's a mix between what is called "Group 1"

4 and "Group 2." So 5 percent have to be Group 2, which

5 is fully accessible, so full wheelchair turning in

6 bathrooms, kitchens are modified to a lower height.

7   And then the other 95 percent is what's called

8 "adaptable." So if somebody came in and had to modify,

9 there is the ability to the modify it.

10   But that -- so by having the elevator, that

11 gets you the access for a wheelchair up into the

12 building. Grading off of the site, that's all factored

13 in to get a wheelchair into the lobby, follow the paths

14 of travel to the elevator, up, and then into the

15 unit -- will have to be -- will be designed to that.

16   MS. PALERMO: And are you anticipating

17 including within certain units -- within the right for

18 certain units the right to use a parking space, or are

19 you charging separately for the parking spaces?

20   MR. SHEEN: I think at this point we were --

21 the parking will be additional to the rent at this

22 point.

23   MS. PALERMO: And the --

24   MR. BROWN: First come, first served.

1   MS. POVERMAN: That's what the plan says.

2   MS. PALERMO: Okay. That's all I have.

3   MR. GELLER: Thank you.

4   Anything else?

5   (No audible response.)

6   Okay. No other questions; correct?

7   (No audible response.)

8   No. Okay. So that's a nice break point. I'd

9 like to mention Enid Starr -- who most of you probably

10 don't remember -- would be very proud because it's

11 under 9:00.

12   MS. STEINFELD: We're not done yet, though.

13   MS. MORELLI: I'd want to just talk about

14 application completeness.

15   MR. GELLER: Yes. I'd like to call on Maria

16 Morelli to speak to the application.

17   MS. MORELLI: Good evening and thank you.

18   So the regulations -- the state regulations

19 stipulate the elements that comprise a complete

20 application. And I've reviewed the application against

21 the state regs as well as the local regs, and they

22 pretty much mirror each other. Our local regs have

23 additional requirements such as showing compliance for

24 stormwater management.

1   You have a letter dated June 23rd that I sent

2 you that lists all of the outstanding information, and

3 I've asked for that before the second hearing of

4 July 11th, and I understand the applicant has agreed to

5 that.

6   I also wanted to point out that as a result of

7 testimony that departments, boards, and commissions

8 might provide, there might be additional materials that

9 are not considered requirements for the application but

10 additional materials that would help us understand what

11 is being proposed. And that would come out of

12 subsequent testimony, so that could be to come.

13   MR. GELLER: Thank you. You don't want to

14 talk more slowly, do you?

15   Okay. So, Alison, can you remind me. The

16 next -- the next hearing is scheduled July 25, 2016, at

17 7:00 p.m. But in terms of -- it will be here; correct?

18   MS. STEINFELD: Yes.

19   MR. GELLER: It will be in the same room. And

20 at that time, are we going to hear from town boards and

21 departments?

22   MS. STEINFELD: And the public. It will be a

23 night focused on testimony.

24   MR. GELLER: So July 25th, 7:00 p.m., we will

1 hear town boards and departments. We expect to have a

2 fair number of submittals from town boards and

3 departments in written fashion. We will have an

4 opportunity to hear from the public at that time.

5   In the interim, on July the 6th at 8:30 a.m.

6 there will be a site visit at the property. Again, we

7 would ask that it be marked.

8   Okay. I want to thank everyone, and we are

9 continued until the 25th.

10   (Proceedings adjourned at 8:49 p.m.)

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1   I, Kristen C. Krakofsky, court reporter and

2 notary public in and for the Commonwealth of

3 Massachusetts, certify:

4   That the foregoing proceedings were taken

5 before me at the time and place herein set forth and

6 that the foregoing is a true and correct transcript

7 of my shorthand notes so taken.

8   I further certify that I am not a relative

9 or employee of any of the parties, nor am I

10 financially interested in the action.

11   I declare under penalty of perjury that the

12 foregoing is true and correct.

13   Dated this 8th day of July, 2016.

14

15

16 _____

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