PLANNING BOARD

FOR THE

CITY OF CAMBRIDGE

GENERAL HEARING

TUESDAY, JUNE 13, 2023

6:30 p.m.

Remote Meeting

Cambridge, Massachusetts

Catherine Preston Connolly, Vice Chair

Louis J. Bacci, Jr.

Steven A. Cohen

H Theodore Cohen

Hugh Russell

Tom Sieniewicz

Ashley Tan

Community Development Staff

Iram Farooq, Assistant City Manager

Daniel Messplay

Swaathi Joseph

Khalil Mogassabi

Evan Spetrini

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I N D E X

CASE	PAGE
General Business	
Update from the Community Development Department	5
Public Hearing	
PB-398 -- 55 Washburn Avenue	8
Cannabis Uses Special Permit Amendments Zoning Petition	40
Board of Zoning Appeal Cases	
BZA-220600 -- 10 Canal Park	83
BZA-225273 -- 10 Canal Park	83
BZA-221274 -- 51 Brattle Street	83
BZA-223702 -- 120 Vassar Street	83

P R O C E E D I N G S

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(6:35 p.m.)

Sitting Members: Catherine Preston Connolly, Louis J. Bacci, Jr., Steven A. Cohen, H Theodore Cohen, Hugh Russell, Tom Sieniewicz, and Ashley Tan

CATHERINE PRESTON CONNOLLY: All right. Good evening, and welcome to the June 13, 2023 meeting of the Cambridge Planning Board. My name is Catherine Preston Connolly, and I am the Vice Chair acting as Chair this evening.

Pursuant to Chapter 2 of the Acts of 2023 adopted by the Massachusetts General Court and Approved by the Governor, the City is authorized to use remote participation at meetings of the Cambridge Planning Board.

All Board members, applicants, and members of the public will state their name before speaking. All votes will be taken by roll call.

Members of the public will be kept on mute until it is time for public comment, and I will give instructions for public comment at that time. You can also find

instructions on the City's webpage for remote Planning Board meetings.

This meeting is being video and audio recorded and is being streamed live on the City of Cambridge online meeting portal and on cable television Channel 22, within Cambridge. There will also be a transcript of the proceedings.

I will start by asking Staff to take Board member attendance and verify that all members are audible. Louis Bacci, are you present, and is the meeting audible to you?

LOUIS J. BACCI, JR.: Present, and audible.

DANIEL MESSPLAY: H Theodore Cohen, are you present, and is the meeting audible to you?

H THEODORE COHEN: Present, visible, audible.

DANIEL MESSPLAY: Steven Cohen, are you present, and is the meeting audible to you?

STEVEN A. COHEN: Present, visible, audible.

DANIEL MESSPLAY: Tom Sieniewicz, are you present, and is the meeting audible to you?

TOM SIENIEWICZ: Present, visible, and audible.

DANIEL MESSPLAY: Hugh Russell, are you present, and is the meeting audible to you?

HUGH RUSSELL: Present, visible, and audible.

DANIEL MESSPLAY: Thanks, Tom. Ashley Tan, are you present, and is the meeting audible to you?

ASHLEY TAN: Present, visible, and audible.

DANIEL MESSPLAY: Catherine Preston Connolly, are you present, and is the meeting audible to you?

CATHERINE PRESTON CONNOLLY: Present, visible, and audible.

DANIEL MESSPLAY: And Mary Flynn, are you present, and is the meeting visible and audible to you?

[Pause]

DANIEL MESSPLAY: Absent. So that is seven members present with one member absent, which constitutes a quorum.

CATHERINE PRESTON CONNOLLY: Thank you so much.

* * * * *

(6:37 p.m.)

Sitting Members: Catherine Preston Connolly, Louis J. Bacci, Jr., Steven A. Cohen, H Theodore Cohen, Hugh Russell, Tom Sieniewicz, and Ashley Tan

CATHERINE PRESTON CONNOLLY: All right then. Our

first item as usual is an Update from the Community Development Department. Please introduce Staff present at the meeting and begin.

DANIEL MESSPLAY: Thank you, Catherine. My name is Daniel Messplay. I'm the acting Director in the Zoning and Development Division. And with me here this evening, also from the Zoning and Development Division we have Swaathi Joseph, Evan Spetrini, and Adithi Moogoor.

We have a few more folks from the Community Development Department with us here this evening, so we are also joined by Iram Farooq, our Assistant City Manager for Community Development and Khalil Mogassabi, our Deputy Director, and Chief Planner at CDD.

And from the Economic Opportunity and Development Division, we have Christina DeLisio present. And I believe we will be joined in progress by Adam Shulman from Traffic, Parking and Transportation and Megan Bayer from the City Solicitor’s Office.

So tonight, we will have a public hearing on a rear-yard infill project at 55 Washburn Avenue, and we will also have a public hearing on a zoning amendment to remove the Special Permit requirement for cannabis retail stores.

That zoning amendment will also be heard at the Ordinance Committee on June 27.

Next week, we have two zoning petition hearings. One is on the new Alewife Quadrangle Zoning, and the other is the Ferguson et al. Zoning Petition, which is a Citizens Petition dealing with calculating formula setbacks a bit differently than they are calculated now.

And then to round out the month, we'll have our Annual Utility Report on June 27.

That takes us into July, and as a reminder, the first Tuesday of the month is the July 4th holiday, so we will not have a meeting that first week in July.

Real quickly in terms of Council Ordinance Committee updates, so last night the City Council referred amendments to the Affordable Housing Overlay as a zoning petition to the Planning Board and the Ordinance Committee. So that will be coming to a Planning Board meeting near you in the soon-to-be future.

The Council also adopted an amended version of the Craig Kelley, et al. Zoning Petition. This was the Citizens Petition that dealt with peer-to-peer car sharing and branching out privately owned, publicly accessible electric

vehicle charging systems, for which the Planning Board forwarded a report with no positive or negative recommendation.

And then lastly, a bit of an older update, but the Ordinance Committee held its hearing on the Franklin, et al. Citizens Zoning Petition. This was a Zoning Petition that the Planning Board forwarded a negative recommendation on. And that petition, there was a vote to keep it in Committee for now.

So that concludes the presentation. And I'll turn it back to the Chair.

CATHERINE PRESTON CONNOLLY: Okay. Thank you very much, Daniel.

* * * * *

(6:40 p.m.)

Sitting Members: Catherine Preston Connolly, Louis J. Bacci, Jr., Steven A. Cohen, H Theodore Cohen, Hugh Russell, Tom Sieniewicz, and Ashley Tan

So the next item on the agenda is a public hearing on case PB-398, a special permit application by Antje Danielson, to construct a second principal dwelling in the

rear yard of 55 Washburn Avenue.

We'll begin with an Update from CDD Staff, then a presentation from the applicant followed by public comment, after which the Board will discuss the application.

Before we begin, we need to note for the record that there are --

DANIEL MESSPLAY: Oh, Catherine, I apologize.

CATHERINE PRESTON CONNOLLY: Yeah, I was going to say, I think we actually ended up with seven, didn't we?

DANIEL MESSPLAY: We did end up with seven. We had a pleasant surprise from Steve. So you can --

CATHERINE PRESTON CONNOLLY: Okay. So we can skip that, and I can just turn it over to CDD Staff to summarize.

EVAN SPETRINI: Thank you, Chair. This is a new special permit application that involves the construction of a second dwelling in the rear yard in a Residence B District.

The zoning requires that a special permit be obtained through the Planning Board when any portion of the rear dwelling is farther than 75 feet from the street line.

Staff from Zoning, Urban Design and Public Works have provided written memos to the Board outlining the main

elements of the proposal, and members from Z and D and Urban Design are present to answer any questions the Board may have. And I will turn it back to you.

CATHERINE PRESTON CONNOLLY: All right. Thank you very much, Evan. So then I believe we'll hear from Sarah Rhatigan presenting on behalf of the applicant. You'll have 30 minutes to present, and we hope you can be as concise as possible.

SARAH RHATIGAN: Sarah Rhatigan, Trilogy Law. And for the record, 12 Marshall Street in Boston. And I'm here representing the petitioner, Antje Danielson, as well as her son and daughter-in-law, who are also on the call; Max Danielsson and Gigi Chow.

Thank you very much for hearing us tonight. We will definitely try to keep our presentation as succinct as possible. This Planning Board knows of course well the provision that we're applying under with a pretty straightforward set of standards, I think, for this sort of infill development.

And I hope the Board is as pleased as we are with the work that this owner has done to try to propose a really, really wonderful, modest project that will allow for

essentially intergenerational living situation for the Danielson family.

Just to start, I've known these folks for a long -- for quite a few years. I first met Antje Danielson when she was putting together a curb cut application that allowed for a small front yard parking space for a small car at the side of the main structure that she worked in.

And I fondly remember when we first talked, we were actually sitting on our second floor looking out in the back yard. And she said, "My real plan -- I'm going to tell you, it's a few years off, but I really want to find and way to provide a second home in the back" for her family.

And I was quite surprised when she called me many years later and said that this was actually going to happen, or hopefully happen.

So Antje, can I turn it over to you to just provide a brief -- I wanted you to introduce yourself to the Board. And then we'll get going through the slides and make this efficient.

ANTJE DANIELSON: Thank you, Sarah. And good evening to all the Board members and everyone who's participating. My name is Antje Danielson. I, as you know,

live on 55 Washburn Avenue on the second and third floor of the existing dwelling.

I have been a resident in Cambridge since 1990, 1991, and in 1999 my ex-husband and I bought this property at 55 Washburn Avenue. And I raised both of my children -- Max Danielsson and Willem Parman -- in this existing house.

And I currently work at MIT at the Energy Initiative, where we do everything that we can to mitigate the climate crisis. And so, I have a very specific view on what needs to be done in buildings and transportation and so forth to deal with this very big question.

I'm also here joined by my oldest son, Maxwell Danielsson, and my daughter-in-law Gigi Chow, who just had a baby just short of a year ago, and we're very excited about the possibility of them moving into this new house that we were planning.

And with this, I'm turning it over to Max and Gigi so they can introduce themselves as well.

MAXWELL DANIELSSON: Perfect. My name is Maxwell Danielson.

GIGI CHAU: I'm Gigi Chow, I'm Max's wife.

MAXWELL DANIELSSON: And a little introduction to

us: Like my mom said, we're Cambridge born and raised. We left the area to go to college, but then moved back to the area after graduating, and we both currently work at Dana-Farber Cancer Institute in Boston.

We currently reside at 55 Washburn as well in the first-floor unit, where we rent it with our 10-month-old that my mother alluded to.

Very briefly, I can summarize the goals of our project. Obviously building a home for our family is top of mind, but as part of that, we will be extremely close to my mother -- not only my mother, but Gigi's parents, who live over in Alewife, which is a five-, ten-minute walk away. So that's fantastic as well.

Other goals include limiting as much disturbance to our neighbors as possible, as well as limiting as much impact on the existing lot as possible. So to that goal, we have planned to go with a modular construction for the house, so that the house can be built in a factory offsite, and then brought to the site and placed in a process that only takes about a day, if that, with the goal of reducing as much onsite work and any noise that that might entail to our neighbors.

In terms of siting of the lot, we will receive the details later, but we've placed the home as far away from the existing large tree on the lot, as well as -- with the goal of not disturbing that tree, not doing anything to that tree, and then also positioning it so that we can preserve as much open green space in the oddly shaped lot in the rear. Not only green space on our lot, but the open space across our fences into our neighbors' yards as well.

And we're excited to get into the details, and it's lovely to meet al of you. Back to you, Sarah.

SARAH RHATIGAN: Thanks. Next slide, please? Thank you. So this is just obviously the Assessor map. We're in North Cambridge -- just siting you into the location -- Washburn Ave is a one-way Street that begins in Somerville and then crosses into Cambridge and ends at Mass Ave.

Next slide, please?

This is a Google Map view that just gives you an aerial view of -- which our lot is traced in red -- gives you a view of our--quote, unquote-- "lamb chopped lot" with the existing -- the existing Victorian home at the front, where Antje lives.

And in the back yard, you can see there's little structure to the left. That's a shed. And there's a little deck next to the shed. But it's a big, large open yard that's -- you know, the siting of the house is designed so as to:

1) Conform to zoning, so it does require an ample rear yard, because the lot is extra deep. So we've got some calculation of extra rear yard there. It's about 35' from the rear yard. It's in line with the existing home on the right side but conforming to Zoning. So seven-and-a-half feet from the lot line.

And then as Max mentioned, trying to preserve as much of the open space and the tree, so that's enjoyed by not only them but also by their neighbors.

And next slide, please?

We're providing some context pictures you can see in the middle we've numbered the houses that are the direct abutters. And you can just get a view of what the structures look like.

I did want to just point out if you look at the number 5 of photos, this is the house that's immediately to the right. So that house lot is arguably the most impacted

by a development back here.

The front house, which is visible -- you know, just to the right of the central picture, you can see is essentially inline with the existing Victorian home.

And then it has an ample rear yard.

And then the second structure, the number 5 with the little asterisk on it, there's a rear -- essentially a garage, garage shed, is that accurate, Max and Antje? Yep. But nobody -- no living back there and no windows or anything.

So the siting of the home closer to that number 5 owner should be as low impact as possible.

Next slide, please?

Just some more context photos. So the home is the yellow with gray multicolored home at the front. And just giving you some views from the street.

Next slide, please?

Here are some photos from the back of the existing home looking into the yard, just so you can see how deep and open that space is.

And next slide, please?

And here are some photos looking back from the

back yard looking at the existing home, and now from the back the home is all yellow. And you can see -- I just want to point out there's sort of a set of stairs that go from a second-floor deck down to the grade, that switchback.

Part of the design challenge for us was siting the home so that it was complying to all the setbacks, including the round and reactive setback, and providing enough distance between the buildings -- the new structure and the existing.

And what we found is that the stair -- the sort of double back stairs was sort of intruding into the space between the homes. And in fact, the homeowner Antje had originally gotten plans drawn by an architect to modify this, so that it would have a single -- well, not a single stair, but it would have a -- a direct line of stairs down to the grade. And we'll show you there are plans in the plan set.

But part of the work will require that they essentially remove the switchback in the stairs to create a more efficient and code-compliant access from that second-floor deck and to provide more space between those buildings.

Next slide, please?

These are some additional views. The one that I would point out to you: The bottom center picture is taken from -- you can see where the arrow is showing. But this is taken from this space right in front of the bike shed, and sort of looking at the area where the infill home will be placed.

Next slide, please?

Here is a rendering of what the new home would look like in white. And you can see it's two-and-a-half stories. And then at the top level there's like a little inset balcony, open balcony.

Next slide, please?

Here is a view from the front street. And you can see the white -- the image of the -- the rendering of the white structure right behind. Next image, please? And here's just closer. And this would be if you walked into the neighbors' lot and took a -- you know, a real closer look at what this might look like.

Next slide, please?

Here's even closer. Here you would for sure be trespassing on the neighbor's lot, but this is what it would

look like from there, from the middle of their driveway.

Next slide, please?

We just have some -- some simple plans from the modular home company.

Next slide?

These are elevations.

Next slide, please?

And a crosscut of what the home will look like on the inside. The total square footage --

Next slide, please?

-- the total square footage is just under 1700 square feet, and really designed to be exactly what Max and Gigi need, but not -- you know, really trying to minimize the footprint.

So it's a 32 x 22 rectangle, with only minimal porch -- not really big, you know, no decks, no big decks but -- you know, landings and stairs down to the grade because the real -- the real objective here is for them to maintain as much of a big open yard as they can.

Next slide, please?

This is just a sheet cut on the materials, as provided by the manufacturer.

Next slide?

This is the drawing showing the change to the stair egress on the main house that I mentioned earlier.

Next slide, please?

This is the existing landscape. And you can see the large canopy tree that we've referred to that we're preserving by siting the house where it is located. And then there's a lot of nice perimeter plantings that we can provide some more detail on, those all exist.

The existing driveway and side walkway are all permeable currently, and they will remain permeable surfaces with the new project.

Next slide, please?

The changes that are proposed: Obviously the dwelling itself adds permeable surface to the lot. But that really is the -- the sites for that and the siting of some AC units at the rear of the structure, that's the only permeable surface proposed.

There are new pavers. I'm sorry,

Next slide, please?

Here's where we highlight the new elements. So the new pavers will be permeable, and then the plantings

that are proposed are for screening and for privacy.

You can see some small trees on the border with the neighbor, and then a proposed fruit tree at the rear of the house that would provide, you know, a nice visible barrier and greenery for the neighbors at the rear.

Max, was there anything that you wanted to add to -- I think I had said I would turn this to you here?

MAXWELL DANIELSON: No, no. I think you touched on it all.

SARAH RHATIGAN: Is that okay?

MAXWELL DANIELSON: Yep.

SARAH RHATIGAN: Okay, great. Thanks.

Next slide, please?

Here's where Max, I could use your help, because you provided this --

MAXWELL DANIELSSON: Yeah.

SARAH RHATIGAN: -- information.

MAXWELL DANIELSSON: Absolutely. So here we had a conversation with DPW because of -- based on the Flood Tracker that's on the City website, there is a mild flood risk for the site, or at least the left-hand side of the site.

But with the DPW's input, we have added language to our narrative that describes that we are building above the 2070 10 percent precipitation level, but that we are below the one percent precipitation level, but that we have mitigation strategies in place to recover from a 1 percent precipitation event.

So things -- super briefly -- raising any storage or utilities in the basement several inches off the ground in case of flooding, and then any materials used such as flooring or siding would be either water-resistant or easily replaceable in case of water damage.

But that was all with heavy guidance from DPW.

SARAH RHATIGAN: Thank you.

Next slide? Thanks. We mentioned the shed. So this is where the bike storage will be located. The shed really could take quite a lot of bikes. What we tried to show was four bikes, because I think that’s sort of the technical requirement of what the City was looking for.

And you can see the shed's really nice and clean. I don't know, guys, are you going to keep it that clean? But seriously, this is -- will be ample room here for, you know, bikes for the whole family.

Next slide, please?

And it's a locked shed. I just provided the survey again, just for reference.

Next slide, please?

This is the proposed survey. So here I just wanted to point out one comment. We were reading the Staff memo from CDD, and they had mentioned something about hoping that the applicant would consider access to the rear yard, having--quote, unquote-- I think "a sense of place" was what was referred to, and suggested the possibility of looking into removing a side porch on the existing home to sort of widen the path that goes to the rear.

So if you look on this survey, you can see where there's a little red arrow. There's an existing side porch, exit porch here from the main home. And we are absolutely willing to look at that.

We do have to look at feasibility because, you know, it is an access route, and it may not be possible. But if it is, we're certainly willing to, you know, take a look at that and we can talk to CDD about any changes as we would, you know, always do so during the next stage of the process.

Next slide, please?

This I think is it. This is the -- just the front of the home and I'm just going to just summarize a few aspects of this that I want to make sure to point out in terms of meeting the special permit standard. In terms of the, you know, 5.53 specific special permit requirements, we're doing, I believe, quite a good job of meeting those requirements.

So the first element that we proved, that the development in the form of two or more structures on the lot will not significantly increase or may reduce the impact of new construction.

In terms of what we're doing here, the separate structures really break up the massing on the lot.

The only other option that could be conceived of for a project that would allow for an increase in square footage would be a long addition off the back of the home.

Because if you remember the shape of our lot, there's absolutely no room to go out on the side. There's really no way to go up. I mean, you could dormer the building, but it's a lovely Victorian home with a beautiful gable roof and the owner really doesn't have any interest in

doing that.

So again, the only options for a single structure would be to build straight back, a very long building. And the detriment is both to the neighbors in terms of, like, a massing of the structure. It would be out of context for the neighborhood, because there really are no such long, deep structures. I know they do exist in some parts of the city, but not in this neighborhood.

And then you also lose the ability to have two separate structures where each of them maintain four walls of windows, all the air and light and, you know, the enjoyment of having that.

So the other prong of this, just talking about what the identifiable benefits are to having the two structures: I mentioned one, the open space. Also, the siting of the project when there's really no other place to put a building in the back, unless we were to move it to the left side of the lot, which both compromises open space and also results in a loss of a large canopy tree, which we're trying to avoid.

By siting the project where it is, we're maintaining the largest open space possible. So the project

ends up we still have an 67 percent open space, which is really pretty remarkable in the city.

The construction of the second dwelling won't impact patterns of development because the -- in terms of front yard development, because of course the front of this lot is fully developed. We're -- we believe that the two structures, as I mentioned, will enhance the living environment for the people there.

We're retaining the existing structure. I'm going through the elements here, sorry. We're retaining the existing structure, as we pointed out. There's no additional parking. It's also -- it's not required, obviously, but it was not intended or -- you know, planned, and we don't expect any impacts to the neighborhood.

They're -- Max and Gigi currently have one car. They park on the street. They're moving to the back of the property, and then the new tenant in the small accessory apartment on the first floor is not expected to have a vehicle.

And in terms of, you know, General Special Permit criteria, we don't believe that there are any hazards or changes to the neighborhood or congestion or other type of

nuisance or other bad impacts that we're imposing on the neighbors.

And we are welcome to hear your questions and concerns. Thank you.

CATHERINE PRESTON CONNOLLY: Thank you. So as I noted, this is a public hearing. Any members of the public who wish to speak should now click the button that says, "Raise hand." If you're calling in by phone, you can raise your hand by pressing *9.

As of 5:00 p.m. yesterday, the Board had received no written communications on this case. Of course, written communications received after 5:00 p.m. yesterday will be entered into the record.

I'll now ask Staff to unmute speakers one at a time. You should begin by saying your name and address. Staff will confirm that we can hear you, and after that you'll have up to three minutes to speak before I ask you to wrap up.

DANIEL MESSPLAY: Thank you, Chair Connolly. It looks like we do have a couple hands up. So our first speaker is Matt Goldstein, followed by Monica Toft. So Matt, please begin by unmuting yourself and giving your name

and address.

MATT GOLDSTEIN: Hi. I'm Matt Goldstein. I live at 52 Clarendon Ave. We are the house number 3 in Sarah's slide of neighboring houses. So we will -- we will see this house every day.

I want to express our strong support for this project. Max and Gigi have been extremely considerate and thoughtful putting these plans together and we are quite happy to have Max and Gigi remain in Cambridge and as our neighbors and hope the Board will approve this project. Thank you.

DANIEL MESSPLAY: Thank you. The next speaker is Monica Toft, followed by Suzanne Shaw. Monica, please begin by unmuting yourself and giving your name and address.

MONICA TOFT: Good evening. My name is Monica Toft, and I live at 63 Washburn Avenue. I am next to house 5, so I'm two doors down. I support this project very strongly, not only with housing costs but land costs. This is an opportunity for Cambridge natives, a young family with one child -- we hope for more -- to have their own home, an energy-efficient home, and a planned modern home.

As Cambridge natives, they were born and raised

here. And the impact of intergenerational living, which I would hope that the City of Cambridge would support, there's plenty of land here for this property for this home to be built, and I strongly support it. And I do hope that Max and Gigi have the opportunity to build a home.

Thank you.

DANIEL MESSPLAY: Thank you. The next speaker is Suzanne Shaw. Suzanne, please begin by unmuting yourself and giving your name and address.

SUZANNE SHAW: Hi. I'm Suzanne Shaw. I live at 46 Clarendon Avenue. I'm Number 2 on the map that Sarah provided. And I just want to speak in support of this project.

I have known Antje for 25-ish years and Max the same amount of time. And they are -- done everything in their power to make this a low-impact development on the neighborhood, and I think this is really good and true to sort of the values that we have in Cambridge about building small and affordable housing.

So I support this.

DANIEL MESSPLAY: Thank you. Chair Connolly, that concludes the speakers on the list, so I will turn it back

to you.

CATHERINE PRESTON CONNOLLY: All right. Thank you so much. We will now move from public comment to Board discussion. Of course, additional written comments can be submitted for the record.

Do Board members have any questions for the project team or Staff? Yep, we have some questions. All right. Hugh let's take questions.

HUGH RUSSELL: It's more a question of curiosity. It sounds like the modules there are going to be 11' wide and 32' long, one story tall. How do you get them back into the back yard?

MAXWELL DANIELSSON: I can speak to that. So there's two options. And we've had the modular company, Westchester Modular, that we're going with -- has a lot of experience with very tight lots. And so, they've reassured us that it is not a concern to them.

But the two strategies that they've suggested is to each module, as you suggested, is 11' wide and about 10' tall and there's going to be four boxes total. And those get trucked in, and either we're going to scoot them between the space of the existing house in house 5, so that's on the

right of the lot, and then place the crane, which actually sits the boxes on the foundation.

The crane will either sit in our neighbor's yard or sit on the street. So those are the two options, depending on how tight it's going to be. And then we'll move the boxes from the truck bringing them in onto the foundation from there. And it will be four boxes, then they're all zippered up, and you're done in less than 24-hour.

HUGH RUSSELL: Thank you.

CATHERINE PRESTON CONNOLLY: Okay. Ted?

H THEODORE COHEN: My questions are probably for Staff.

CATHERINE PRESTON CONNOLLY: Okay.

H THEODORE COHEN: One of the plans that we saw, on the next-door house the front of the house says, "City land." And I was just curious what that was.

And the other thing that was true is about in the Staff Report there's a reference that a BZA variance would be required. And I didn't see any reference at any other time to that, and wonder, you know, whether that was still the case? That was my questions.

CATHERINE PRESTON CONNOLLY: Okay. Great. Daniel or Evan, can you speak to those questions?

EVAN SPETRINI: I don't know the answer to the first question regarding the City land. The BZA variance was -- that was a variance that the applicant has already received. And I believe that was for the existing parking space, if I remember correctly. But that is something that they already have received.

H THEODORE COHEN: Okay. Good.

SARAH RHATIGAN: And Daniel, Madam Chairwoman --

MS. DANIELSON: If you would like me to speak to the --

SARAH RHATIGAN: That could --

MS. DANIELSON: -- land?

SARAH RHATIGAN: Madam Chair, I was actually going to say, Madam Chairwoman, I'd be happy to answer the question on the City land piece.

GIGI CHAU: Sure.

SARAH RHATIGAN: So this is a -- this was a little bit of a mystery for us as well when we were first doing the surveying work. If you don't mind, if you want to -- if you could bring us to the slide that shows the existing survey?

Yeah, I apologize. It's probably like most of the way through the slide deck.

EVAN STELLMAN: Yep.

SARAH RHATIGAN: Okay. This one's perfect. Thank you. So from what we have been able to tell, what happened is -- so the area that this is actually owned by the City. And you could not tell it by looking. You see that our lot has a rounded corner on the front, right? You see there's round -- you know, there's a --

CATHERINE PRESTON CONNOLLY: Yep.

SARAH RHATIGAN: -- rounded --

H THEODORE COHEN: Yeah.

SARAH RHATIGAN: -- area there? Yeah. The whole area to the right of that, immediately to the right of that, and then back to there's a straight line in front of our neighbor's house, that is actually City land.

Now, it's improved and used by the owner next door, but apparently what happened is there was a misalignment of the streets between Somerville and where it crosses over into Cambridge.

And there used to -- actually, Antje, I'm sure you're going to tell the story better than I am. Do you

want to tell the historical story? The street used to continue straight to this point and then take a turn. Antje, I remember you told me something about this.

ANTJE DANIELSON: And apparently, I don't know this, but the neighbors -- actually the old gentleman who used to live in the neighbors' house was the father of the current, current person who lives there. And he told me the story. He was born in our house. And then his father built the house next door.

And apparently what happened was that because of the misalignment, the cars coming down from Somerville -- it's quite a steep road -- the cars coming down from Somerville -- would plow into our house. And so, they changed the alignment of the sidewalk to make it straight, and planted a really large tree, which is in front of my neighbor's house, to prevent any cars from being able to hit our house.

So that's, that's the history to this. It's a little bit of a funny history.

But this rounded corner actually gave us a little bit of a headache, because we needed to calculate where from the front end of our lot the back setback would be. And we

took a very conservative approach to that.

SARAH RHATIGAN: Yes, we did.

CATHERINE PRESTON CONNOLLY: Okay. Thank you for that. Great. Any other questions for Board members? If not, we can move straight to Board discussion and comments on where we are -- where Board members would like to go with this application this evening.

Tom?

TOM SIENIEWICZ: In reviewing the materials tonight, I was struck at how this application seems to fulfill the ambitions of the City in so many ways. And then tonight, I learned some details about who's going to live there, and it's intergenerational living, which is also very future-oriented and a really wonderful addition to the community.

So this is the kind of special permit application that I believe this section of the Ordinance was designed to encourage and double check. I think the siting of the house is sensitive.

I was concerned about the use of module housing, wondering whether we should have a more custom-built design. But now I understand the reason for that, which also has to

do with good citizenship here and trying to lesson the impact of construction noise and disruption in the community. So I'm very much in favor of this. I don't see -- I don't have any particular objections at all to any of the details. That's where I am.

CATHERINE PRESTON CONNOLLY: Perfect. Thank you, Tom. Ted?

H THEODORE COHEN: Well, I second everything that Tom said, and I think that, you know, this really fits perfectly under the Ordinance, promotes housing in the city. It's great that it's intergenerational, but not knowing that I didn't care about it, because I think otherwise it really is exactly what the Ordinance was meant to promote.

It's a very large lot. It will still remain a large lot, even with the second unit. It's really in keeping with a lot of the other lots in this neighborhood, which has many, many very large back yards. And I can support it wholeheartedly.

CATHERINE PRESTON CONNOLLY: All right. Thank you, Ted.

Lou?

LOUIS J. BACCI, JR.: Yeah. I kind of fall along

with my colleagues. Great idea. Great reason for doing it. I'd like to keep some Cambridge people in Cambridge. Well, first I thought maybe there wasn't enough room between the buildings, but I can see what you're trying to do. So not the much of a problem. And I think your going easy on the neighborhood will help you out.

I think it's a great project, and we need more of it.

CATHERINE PRESTON CONNOLLY: Perfect. Thank you, Lou. Any other comments? I would just add in addition to what my colleagues have already said, I think it's -- your outreach to your neighbors, as evidenced by the number of people you had show up this evening in support of the project is really spectacular. It's hard to get anyone to show up to support any project ever.

And it's really a testament to the relationships you have built with your neighbors and the seriousness with which you took the potential impact on them that they came this evening and were able to reassure the Board about all the things that we usually have to think about.

So I want to commend you for that and really thank the people who did take the time to come. It does -- it is

meaningful when people do that.

All right. If there are no other comments, I trust we are prepared to take action on this item, and let's see, we need to -- despite the fact that Ms. Rhatigan has gone through all of the findings for us, I will just briefly note that -- note findings here that we need to make for -- I've lost this. Hold on just a second, please.

Here it is. Okay. Apologies for the delay there. And -- oh, there are my criteria. All right. So again, the findings we would need to make is that:

The development of two structures on the lot would not significantly impact -- increase the impact of the new construction, as compared to if the same amount of development were contained in one building or the development of two structures would provide identifiable benefits beyond that provided by construction in a single structure, considering the extent to which preservation of a large contiguous open space in the rear lot is achieved.

Incentives to locate buildings and parking in the front half of the lot for the prevailing development pattern in the neighborhood, providing an enhanced living environment for residents on the lot.

Incentives to retain existing structures, particularly structures that are preferably preserved.

Opportunities to reduce visual impact of parking from the public street and adjacent lots, and opportunities to reduce height and bulk of new construction deeper into the lot or closer to structures on abutting lots.

And then of course the permit would also need to conform to the general Special Permit Criteria.

If the Board members are comfortable making those findings, is there a motion to grant the requested permits based on those findings and with the conditions as laid out in the memo from Community Development and the DPW.

TOM SIENIEWICZ: So moved.

STEVEN A. COHEN: Second.

CATHERINE PRESTON CONNOLLY: And can I have a roll call vote?

LOUIS J. BACCI, JR.: Roll call on that motion: Lou Bacci?

LOUIS J. BACCI, JR.: Yes.

DANIEL MESSPLAY: H Theodore Cohen?

H THEODORE COHEN: Yes.

DANIEL MESSPLAY: Steve Cohen?

STEVEN A. COHEN: Yes.

DANIEL MESSPLAY: Tom Sieniewicz?

TOM SIENIEWICZ: Yes.

DANIEL MESSPLAY: Hugh Russell?

HUGH RUSSELL: Yes.

DANIEL MESSPLAY: Ashley Tan?

ASHLEY TAN: Yes.

DANIEL MESSPLAY: And Catherine Preston Connolly?

CATHERINE PRESTON CONNOLLY: Yes.

[All vote YES]

DANIEL MESSPLAY: That's all members voting in favor.

CATHERINE PRESTON CONNOLLY: All right. Thank you very much. Appreciate your time.

COLLECTIVE: Thank you.

LOUIS J. BACCI, JR.: Good luck.

CATHERINE PRESTON CONNOLLY: Great. All right.

* * * * *

(7:21 p.m.)

Sitting Members: Catherine Preston Connolly, Louis J. Bacci, Jr., Steven A. Cohen, H Theodore Cohen, Hugh Russell, Tom Sieniewicz, and

CATHERINE PRESTON CONNOLLY: Then we will move on to the next item on the agenda, which is a public hearing on a zoning petition by the City Council to amend Articles 4 and 11 on the Cambridge Zoning Ordinance to remove the special permit requirement for cannabis retail stores, cannabis courier establishments and cannabis delivery operator establishments.

And as usual, we'll have CDD Staff summarize why this is before us. Then they will present the petition, we'll take public comment, and then discuss the petition.

So Daniel, can I hand it over to you?

DANIEL MESSPLAY: You may, Chair Connolly, and just bear one moment with me while I share my screen here. Just going to jump right into it. Okay. Is that -- has that come up for everybody?

COLLECTIVE: No.

DANIEL MESSPLAY: It has not. Okay. Try it one more time. How's that?

CATHERINE PRESTON CONNOLLY: There it is.

DANIEL MESSPLAY: Fantastic. Okay. Thank you, Chair Connolly. Just a quick sort of housekeeping notes;

This is a new zoning petition by the City Council.

Earlier this year, the City Council adopted a policy order directing Staff to review the need for a special permitting process for cannabis dispensaries.

And Staff's recommendation back to the City Council was that the special permit requirement for cannabis retail uses be removed with the exception of cannabis product manufacturer uses.

Before we get into the specific zoning changes, we can take just a quick trip down memory lane together. We are approaching 10-year anniversary of a regulatory framework within the city related to cannabis uses, believe it or not.

Beginning with the first medical marijuana dispensary ordinance in 2013, and then establishing citywide regulations for medical marijuana and cannabis establishments and up to the present day, when we have the first handful of retail cannabis establishment that have cleared permitting and are now officially open for business.

If there's been sort of one constant over the years, I think we can all agree that it's been that the regulatory framework continues to evolve and change, both as

new products and activities become legalized by the state, from medical only uses to recreational uses to home delivery.

I'm sure we could all draw a line off the right side of this little graphic here, and you might make predictions for other changes that will eventually come our way, such as on-site consumption. But that will be a conversation for another day.

The Planning Board is extremely familiar with the current zoning requirements for cannabis retail stores, but sometimes it is helpful to see how the permissiveness of cannabis retail is distributed across the city. So here's a map.

The purple areas on this map show where cannabis retail stores are currently permitted by special permit, which includes all business districts and most industrial districts.

As a reminder, cannabis production facilities, which are not featured on this map, and we have yet to see an application for are not -- and they are not part of this specific amendment -- are only permitted in Industry B-1 and B-2 Districts.

We can overlay point data on this map to illustrate where cannabis retail stores have been approved by the Planning Board and which ones are open for business. The Planning Board has approved 18 cannabis retail stores and another three are currently somewhere in the City/State approval process.

In many ways, looking at this map, cannabis retail stores have been distributed somewhat evenly across the city. There's a couple in the Alewife area, we've got some along our major corridors like Mass Ave, a few in Harvard Square and Central Square, and some in East Cambridge.

The four stores that are currently open, one is near Mount Auburn Cemetery, off there to the left. One is on Cambridge Street and two are in Central Square.

In analyzing approved cannabis retail stores, we looked at several issued special permit decisions to see what types of conditions are typical across all cannabis retail stores.

Unlike other types of retail, with cannabis there are different requirements that apply, depending on what type of applicant you are. If you're an Economic Empowerment applicant or Social Equity applicant.

Therefore, the approval of the cannabis retail store is limited to the entity or the applicant seeking approval.

If there are ownership changes after that approval, especially if it means that the majority ownership interests will disrupt that the Economic Empowerment or Social Equity Applicant designation, then an amendment would need to be sought to the approval.

Some of the approval conditions are typical of all types of special permits that we see; for instance that the construction be in conformance with the plans that were approved at the Planning Board, that additional follow-up design items go through continuing Design Review by Staff.

Much of the cannabis requirements relate to service functions at the building. So their requirements related to transportation and logistics planning, which are vetted and approved by the Traffic, Parking and Transportation Staff, as well as the Cambridge Police Department, before a business opens.

Before we discuss the changes proposed by the petition, we'll just do a quick refresher of the current zoning requirements and approval process for cannabis retail stores.

One thing to keep in mind is that the special permit is only one prong of a multiprong approval process. It's also the first step that is required in the approval process before the other approvals can proceed in earnest.

So an applicant receives a special permit. They then enter a host community agreement with the City. They obtain their state licenses, and then they proceed to building permit and construction.

I'm not the expert here. We do have Christina DeLisio from Economic Opportunity and Development who can speak I think much more eloquently to these other steps that are involved and how they all interrelate.

But I wanted to just highlight for the Board that removal of the special permit doesn't mean removal of all requirements or Regulations related to cannabis retail uses.

We hear consistently from applicants that the special permit can add time and cost to what is often perceived to be a very time-intensive regulatory process.

From a policy perspective, the City needs to consider the between a process that puts the appropriate safeguards and checkpoints in place with what can also be an efficient and predictable and fair process for applicants.

The Cannabis Retail Use Regulations were established, obviously before any recreational business was actually opened in the city.

But now that several have gone through the process, it might be helpful to look back at what the spirit and intent of the special permit was at the time and ask if the framework we've established is the right one, or if there are opportunities for improvements.

And were some of the concerns about impacts that were present when the zoning was put in place and the special permit was put in place that ultimately fed into the requirements that applicants need to meet. Did those concerns come to fruition, or are they worth taking another look or thinking about other ways that certain concerns can be addressed in the process.

The zoning requirements that pertain specifically to cannabis retail stores include buffer requirements from other cannabis retail stores and buffers from schools and use recreation facilities.

The buffer from other retail stores doesn't apply to -- I'll say SEA and EEA as short form for Social Equity and Economic Empowerment applicants. And the buffer from

schools and Use Regulation Facilities can be reduced by Planning Board special permit.

There are requirements for the submittal of a transportation, logistics, and operations plan, which is reviewed by TP&T prior to a special permit. I believe we have Adam Shulman from TP&T here tonight who can speak a little more to how that process unfolds.

When the Planning Board approves a special permit, here are the findings that they need to make: So they need to find that the cannabis retail store is designed in such a way that it ensures safe access and egress, that building service functions are appropriately screened and secured, that efforts have been made to activate the storefront and enliven the public realm, and that programs are provided to assist qualifying medical marijuana patients.

So now we'll go through the actual changes in the proposed amendment. The first and most major change is that Table of Permitted Uses in Article 4.

So where cannabis retail store and cannabis delivery operator establishments were previously only permitted by Planning Board special permit, we've changed that to a yes, which indicates that they would be permitted

as-of-right, subject to the additional requirements in our Cannabis section of the Zoning Ordinance, which is Section 11.800.

In terms of changes to Article 11.800, so we've amended references to where, you know, these types of uses were only permitted by special permit, we've indicated that these uses are permitted as-of-right.

There was some language that existed before that prevented conversion of one type of cannabis use to another without a special permit. So where appropriate, we reference that that could be changed if it's permitted as-of-right to another use that's permitted as-of-right.

A lot of the existing requirements in this section remain, but the language has been amended such that the requirements become administratively reviewed as part of a building permit or a C of O application.

So for instance I mentioned, you know, the fact that the approval is limited to the entity. I mentioned the buffer requirements. These are items that Staff would review as part of a building permit application.

There is special permit language that remains in the Ordinance, because it would still be applicable to

cannabis production facilities, which are -- again -- only permitted in Industry B districts.

So to sort of circle back to the central thesis, I think what we would say is that this zoning amendment is less about changing Standards than it is about changing process. Many of the Standards will live on as administrative requirements, rather than being part of a Planning Board special permit if this amendment is enacted.

The overall goal for us, I think, is to in large part treat cannabis retail stores like other types of retail in the city.

The last sort of piece I'll note is that there is a special permit criterion related to the design of storefronts, which I talked about a couple slides back, and ensuring that applicants do everything possible with the State's regulations to enliven the public realm and make the storefront seem active and inviting.

And I think what I would say about that is, you know, our observations from going through many of these permits is that applicants generally want the same thing, as they are business owners. They want attractive storefronts that invite people in from the street.

We've seen a lot of techniques used to try to activate storefronts. Sometimes that involves changing the floor plan layouts to hide products from view from the street so they can maintain transparent storefront windows. Other times it might involve the incorporation of art of decorative lighting or other techniques to make focused welcoming.

We have a reasonable level of confidence that business owners will continue to pursue that goal. And again, if the goal is to treat retail cannabis like other types of retail, if you think about other types of retail that goes in just through a building permit, we don't have those same sort of design safeguards in place.

So that's sort of my -- I guess my concluding thought. With that, Chair Connolly, I think we're ready to maybe pass it back to you for the next part of this. So thank you very much.

CATHERINE PRESTON CONNOLLY: All right, thank you. So as previously noted, this is a public hearing. So we will now go to public comment. And any members of the public who wish to speak should now click the button that says, "Raise hand." And again, if you're calling in by

phone, you can raise your hand by pressing *9.

And as of 5:00 p.m. yesterday, the Board had received no written communications on this case. And written communications received after 5:00 p.m. yesterday will be entered into the record.

I'll now ask Staff will unmute speakers one at a time. You begin by saying your name and address, and Staff will confirm that we can hear you. After that, you'll have up to three minutes to speak before I ask you to wrap up.

DANIEL MESSPLAY: Look like our first speaker is Kim Napoli, followed by Amanda Grice. Kim, please begin by unmuting yourself and giving your name and address.

KIM NAPOLI: Sure. I believe I'm unmuted. Can you all hear me?

DANIEL MESSPLAY: Yes. Please go ahead.

KIM NAPOLI: Excellent. Thank you so much for your time. My name is Kim Napoli. My address is 9 Spruce Lane, Sudbury, Massachusetts.

In 2006, I opened up The Hempist, a hemp clothing store at 36 JFK Street in Harvard Square. I sold hemp clothing and hemp products at my store on the second floor in The Garage in 14 years. And the most complicated thing I

had to do there was park my car or figure out how to park my car while I was in the store.

Though we closed our doors at The Hempist in The Garage for the last time in 2020, I can confirm that the current process for licensing cannabis establishments in Cambridge and really at every level is just overcomplicated at every stage, from financing to local and state licenses, permits, operating in a market place that is anything but stable.

For applicants, operators, and regulators, we all have our hands full attempting to figure out how to put into practice all the rules we've created for ourselves. It creates a lot of confusion between the City Departments, between the State regulators, between applicants even, and it takes an excessive amount of time, which was previously noted.

And honestly, it nearly grinds the process of licensing to a halt, which ultimately contributes to to a failing regulated marketplace, because, quite frankly, it's just too complicated to get in and get open.

As well-intended as the Regulations may be with respect to Zoning, the overcomplicated licensing process is

in itself a barrier to entry, and it's a pretty significant one. Once the applicant has completed the local licensing process, they then have to go to the State, which at present is taking about a year or so, even with the benefits of being an Economic Empowerment or Social Equity.

So I would suggest that removing the requirement of special permit as proposed is a great way for the City to streamline the licensing process and to further normalize cannabis.

Thank you.

DANIEL MESSPLAY: Thank you. The next speaker is Amanda Grice. Please begin by unmuting yourself and giving your name and address.

AMANDA GRICE: Thank you. I'm Amanda Grice. I live at 36 Gold Star Road. I've been a Cambridge resident for my whole life. I am concerned about removing the special permit process as is in place. I think it was put in place for a reason, in part to protect some of our more vulnerable members of the community, like our children and those in school areas.

Overcomplication of a process and concerns about a process being complicated is not enough of a reason to

significantly modify the process in this way. Cannabis, as much as we want to treat it as such, is not like many other types of retail.

And so, especially when you're considering having locations and dispensaries in areas close to schools, I think that is concerning. And the special permit process should definitely stay in place. There's no lack of dispensaries in and around the city, to access is not a problem.

So I'd like to voice my strong opposition to modifying the process. Thank you.

DANIEL MESSPLAY: Thank you. Chair Connolly, that concludes the hands raised. So I will turn it back to you.

CATHERINE PRESTON CONNOLLY: All right. So then we can join more Board discussion and questions. And to the extent the Board has questions for Staff, whether it's CDD, Law Department or Transportation Staff, why don't we start with those, put any answers we need on the table earlier, rather than later, and then we can circle back to what kind of action we want to take tonight.

Ted, we'll start with you.

H THEODORE COHEN: Okay. I have a couple of

questions about the form of the Ordinance. So I'm making the assumption that the intent with Section 11.800 is to eliminate it and adopt a new Section 11.800.

With regard to the Section 4.3, as was noted on the screen, in a number of places the footnotes 5 and 8 became footnote 58, which is totally irrelevant. I see it was caught in some places, but not everywhere.

And going towards Section 11.802, Section 1.c and d are intended to be deleted. I'm curious whether Section C should be -- really should be deleted, and rather leaving it in and relating solely to special permits for cannabis production facilities, because they will continue to need a special permit.

The same question relates to Section 11.802.2, which again deletes the special permit requirement, but I'm wondering whether it shouldn't remain in in reference to the cannabis production facilities.

In Section 11.804, which is about parking and transportation, the Section A was deleted relating to off-street parking. And again, I was wondering whether that should remain in for the construction -- I'm sorry, for the cannabis production facility.

There is also a typo in Section 804 with regard to the lettering of the subsections.

Those were really my questions for Staff.

CATHERINE PRESTON CONNOLLY: Okay.

H THEODORE COHEN: I will say, while I usually praise Staff all the time, it would have been nice to have gotten a redlined version of Section 11.800 so that we could see what the changes were made.

Anyway, those are my comments.

CATHERINE PRESTON CONNOLLY: Okay. Thank you, Ted. What we can do is collect any questions the Board has for Staff here, and then Staff can respond or let us know that they will work on a response separately, and then again, we'll come back and talk about what action the Board wants to take tonight.

Hugh?

HUGH RUSSELL: I guess I would note that this is one action that is sort of in a transition from total responsibility to the Board to have any responsibility for approving projects in Administrative Review.

I've done projects in other cities where there is no such thing as a Planning Board. It's all Staff Reviews.

I would note that one of the difficulties with Staff Reviews is that there are no time limits, and that the special permit process does have a time limit built into it that can be waved by mutual agreement [phonetic].

But -- and it's quite frustrating back in Maryland them taking months and months and months for seemingly simple actions just waiting for the Staff to get around to it.

I'm curious to know what happens to the existing businesses that have special permits, which most are not actually operating yet. But for example how -- what would happen if one of those businesses wanted to change from medical to recreational or joint?

And then if their some significant design modifications that were being made, how would that play out? I wouldn't think we want to be giving amendments to those special permits. It seems to me the regulations should become the Staff review.

And I would note the 300-foot requirement is a little vague in the Ordinance, as to whether it is a -- from where the two ends are measured in along what routes. And to the extent that it stayed in for the Staff to do, I think

it needs to be clarified.

I would think it might be from the, you know, the front door of the educational facility or children's facility to the front door of the cannabis facility, in going along the public way might be a way to define which 300 feet you're talking about.

So I guess as I might have implied, I'm quite happy that this is going forward, and it seems appropriate to me.

CATHERINE PRESTON CONNOLLY: Okay. Thanks, Hugh. Lou, questions?

LOUIS J. BACCI, JR.: Yeah. I just had a quick one on change of use or how this would affect it, if at all.

CATHERINE PRESTON CONNOLLY: Okay. Another good one. I think that is the big question for this Board and kind of I would say regardless of what action we take tonight, I would recommend that this Board ask for guidance from the Law Department on how existing special permits might be treated in the future; how any new ordinance would apply to those permits or changes of use associated with them. And we can -- that can be either part of a recommendation or separate from -- I think that's -- yeah.

Megan, I -- not to put you on the spot, I'm guessing you don't have an answer for us on that tonight, but if you have any kind of leaning as to where -- what we might expect, that would be helpful.

MEGAN BAYER: Absolutely. So I do have some answers I can provide. There might be some, you know, more nuanced questions where we'd have to go back and look into it and give you a further opinion.

But the basic overview of what would happen with existing special permits is that if there's a retail cannabis business that's received a special permit, they -- and then the special permit requirement is removed from the Zoning Ordinance through this amendment, the existing business can either operate pursuant to that special permit that was previously granted by the Board, or if they comply with all of the conditions of the Ordinance, they can operate as an as-of-right use.

They would -- if it's a use that’s already received a building permit and a Certificate of Occupancy, it wouldn't have to do anything. The Certificate of Occupancy doesn't reflect that it's issued pursuant to a building special permit.

So they would be able to just continue operating pursuant to their special permit, or if they wanted to make some sort of change that would be in compliance with the Ordinance, they could do that as-of-right, as long as they're complying with the Ordinance.

If they wanted to make some sort of change that wouldn't be as-of-right under the amended Ordinance, they couldn't come back to the Board to amend their special permit, because the Board no longer would have jurisdiction or the ability to issue a special permit.

So their options, then, would be either a variance from the BZA or to whatever change they wanted to make to do something that would be allowed under the Zoning Ordinance.

I think that covers the questions that came up, but I can try to answer any other specific questions if any of the Board members have any.

CATHERINE PRESTON CONNOLLY: I think that was a really good overview, and helpful for us to all understand and to this Board members covers most scenarios and anything that would, obviously, be specific to a site we'd want to handle in a site-specific kind of way, so we can save that.

Lou, did you have a follow-up on that?

LOUIS J. BACCI, JR.: Yeah. A quick one I wasn't clear on.

CATHERINE PRESTON CONNOLLY: Yeah.

LOUIS J. BACCI, JR.: So special permits are particular to a specific group or corporation or whatever. When this changes hands, how would that be affected? Would that be affected at all?

Because right now they only have a permit as -- if the permit goes away, I guess they go to the Building Department. I don't understand where that goes, but I'm curious how that works out.

MEGAN BAYER: Correct. So the special permits, like you said, are granted to the particular applicant. And right now, while the special permit requirement is in the Ordinance, if that applicant wants to change or -- you know, change their form of ownership because that was -- that's something that's conditioned in all of the special permits, they would have to come back to the Board, and they could apply to amend their special permit to change the ownership.

If after, you know, if the Zoning Ordinance is amended, after it's amended, if cannabis company A wants to sell their business to cannabis company B, cannabis company

B will have to meet all the requirements of the Zoning Ordinance to operate a cannabis business at that location.

If they don't meet the requirements of the Ordinance, they would have to get a variance. They couldn't come back to amend the special permit after the special permit requirement is removed from the ordinance.

So existing special permits would essentially become a preexisting, nonconforming special permit, and thereafter any business would have to comply with the requirements of the Zoning Ordinance or seek a variance.

CATHERINE PRESTON CONNOLLY: Great. Daniel, did you want to weigh in on this question?

DANIEL MESSPLAY: I actually -- my -- if Christina would potentially indulge us a little bit on some of those other prongs at the approval process.

I think Megan really hit the nail on the head, but this always gets a little squirrely when you've got, for instance, a Social Equity applicant or Economic Empowerment applicant that didn't have to meet, for instance the buffer with the 1,800 foot from another cannabis retail store, and then they sell the majority interest to a non-EEA/SEA applicant.

And there's other steps, I think, involved, beyond just the zoning.

So Christina, I don't know if you would be able to opine a bit on sort of what happens either related to the business permitting ordinance or with the host community agreements on entity and ownership changes.

CHRISTINA DILISIO: Yeah, I can speak to a little bit of that. So in the Cannabis Business Permitting Ordinance, right now there is a priority permitting period, which means that there are four different kinds of applicants who are allowed to even be reviewed for a permit at all. And Daniel mentioned a couple of those different categories.

So one is called Economic Empowerment, one is called Social Equity. We have another category that is specific for a Cambridge Resident. And we also have a category for a Woman or Minority-Owned Business.

One of the sorts of tricky aspects is that in the Cannabis Business Ordinance, it is specifically mentioned that if you are able to Social Equity applicant, you have to also be a Cambridge resident. And Social Equity applicants are only listed as such for the zoning code. So we do

screen applicants early in the first stage. At this point it's almost kind of like a prestep, because it's specifically related to the priority period in the cannabis Business Permitting Ordinance.

And then after the special permit process, and after that prestep when an applicant gets to the stage where they're actually submitting what's called a, "Statement of Interest for a Host Community Agreement", the applicant is asked to provide a lengthy amount of information that speaks to their ownership, any licenses that they hold across the state, info about what kind of funds they have available to be able to do this business. It goes into quite a lot of detail.

So there are a few different stages where we collect this different kind of ownership information. I hope that helps speak to the question a little bit.

CATHERINE PRESTON CONNOLLY: It does. Thank you for that, Christina. I think the upshot -- and Christina or Daniel, correct me if I'm summarizing incorrectly here, but the upshot of this is that even without the requirement in the special permit that those kinds of things are addressed in -- you know, that applicants -- so let me stop for a

minute.

Even without the special permit existing, so an applicant who had come in under one of the criteria that allows them to waive certain special permit criteria, if the ownership were to change, that would be reviewed and discussed through the business licensing process, and presumably, if any changes were required as a result of that, it would be reflected in their host community agreement and those associated documents.

Is that correct?

DANIEL MESSPLAY: I think that's correct. And just to be clear, so when we talk about, for instance, the buffer --

CATHERINE PRESTON CONNOLLY: Yep.

DANIEL MESSPLAY: -- from another cannabis retail store, that's -- it's -- that's going to live on in the zoning. So it's still a zoning --

CATHERINE PRESTON CONNOLLY: right.

DANIEL MESSPLAY: -- requirement that would need to be met. And it just means that it would be administratively reviewed, rather than something that the Planning Board would weigh in on.

CATHERINE PRESTON CONNOLLY: It -- precisely.

DANIEL MESSPLAY: Yep.

CATHERINE PRESTON CONNOLLY: Yes. Okay. I just wanted to kind of put a bow on the -- even though we're not going to be involved in checking those changes of ownership and what they mean, there is another Cambridge agency that ends up doing that. Great.

DANIEL MESSPLAY: Right.

CATHERINE PRESTON CONNOLLY: Ted?

H THEODORE COHEN: Well, not meaning to untie your bow, I just wanted to ask wasn't there litigation a couple of years ago about the rights of a preexisting licensee?

I thought it was relating to distances, because then we granted a license to an Economic Empowerment, and there was a question about the distance between the two and what rights the preexisting licensee had.

MEGAN BAYER: So I can take that question. So there was litigation. It wasn't exactly the issue as you framed it, having to do with the distance. But the litigation involved a medical cannabis company Revolutionary Clinics.

H THEODORE COHEN: Right.

MEGAN BAYER: And after the City Council enacted the Cannabis Business Permit Ordinance, which includes this preference period for certain types of applicants, the medical company Revolutionary Clinics challenged that ordinance because the state law that legalized cannabis sales gave a protection to medical establishments that were established before a certain date, that those establishments could not be prevented from turning into an Adult Use Sale establishment.

Basically, thinking if you've -- you know, gone through the process and invested resources into opening up a location in a certain location, you should be protected to continue in that location and switch to Adult Sales.

And the City's argument was that the permitting preference in the Cannabis Business Permitting Ordinance doesn't prevent the medical company from eventually switching to Adult Sales at that location, it just delays it while it's giving preference to certain applicants that the Legislature has said should be prioritized because they were harmed -- disproportionally harmed by the prior criminalization of cannabis.

And that case didn't end up coming to a final

judgment, so we don't know exactly how a court would rule on that issue, because the Plaintiff Revolutionary Clinics eventually dismissed the case and stopped pursuing their challenge.

So there -- and they still are in operation right now as a medical provider that at the end of the preference period, that corporation would be entitled to switch to Adult Sales if they so choose to.

H THEODORE COHEN: Thank you.

CATHERINE PRESTON CONNOLLY: All right. Are there any other questions for Staff?

Daniel?

DANIEL MESSPLAY: I just wanted maybe quickly to address some of Ted's earlier questions. I think we sort of --

CATHERINE PRESTON CONNOLLY: Yes.

DANIEL MESSPLAY: -- we got off on another tangent. And --

CATHERINE PRESTON CONNOLLY: Oh, sorry.

DANIEL MESSPLAY: No, it's okay. And I believe Hugh maybe had a couple questions or thoughts as well.

CATHERINE PRESTON CONNOLLY: Yeah, good.

DANIEL MESSPLAY: -- as well. So Ted, I apologize for not getting you a redline. A redline definitely would have been useful here. But our intent, as you noted, was to amend Article 4 so the Table of Use Regulations, and then amend Article 11.800, so not do away with altogether, but there are certain provisions that we would remove or change certain clauses with references to the special permit.

We'll take a look at some of the specific sections you cited. I will say under 11.804a, the reference to off-street parking, we struck that in light of the City's recent amendment to eliminate off-street parking citywide. So we didn't think that that would be applicable to cannabis production facilities any longer.

And as far as the footnote, so I believe the footnote is supposed to say "58." So I apologize if the formatting made that unclear. The existing Footnote 58 in the Table of Permitted Uses basically then redirects those uses to Section 11.800 for the additional requirements that pertain to cannabis uses. So that was the intent to leave the Footnote 58 in place and just change the PB that's present in the cell to "Yes."

H THEODORE COHEN: Well, I don't think that's

quite correct. And I would suggest, you know, when you have more time, you look at that. Because Footnotes 5 and 8 make sense. Footnote 58 I think relates to location of towers. And I think you corrected it in the redline in many places.

I'd just -- take a look at that again. And I suspected that the parking was eliminated in relationship to the City Council's action on parking. And I just wanted to check on that.

DANIEL MESSPLAY: Certainly. Thanks, Ted. Yeah. We'll definitely take a look there.

And then Hugh, I think you mention just about the buffers and how they're measured.

I'm not sure if Swaathi's able to weigh in on this specific question, or Megan, but I do think, you know, these are items that we have been reviewing, as part of special permit applications that do come before the Planning Board.

So it is something that Staff has been sort of reviewing consistently across special permit applications. So we do have a standard that we follow.

And as far as time limits related to Building Permit Review, so just to sort of peel back the curtain as to how we project that this would work if the zoning

amendment was put in place, so when an applicant files for a building permit with Inspectional Services -- depending on the details of that building permit application -- there are some departments that are automatically referred on that building permit for review and comment and approval before it can move forward.

It happens now if there's a building permit application that's related to a special permit, for instance, then the Community Development is automatically triggered for review and approval on that building permit application. So in a lot of ways, the Community Development Department is already kind of in that Building Permit Review and signoff process.

So I don't expect at this time that removing the special permit would adjust some of our internal workflows and timing around workflows for review and signoff.

I do understand that, you know, part of the administrative requirements get reviewed, you know, sort of prior to a special permit premiering before the Planning Board, but I imagine that, you know, we would still be able to review those requirements administratively in a somewhat timely manner.

And, Megan, I see your hand up, so I'm not sure if you wanted to weigh in on any of that.

MEGAN BAYER: I was just going to add that the State Regulations, the State's Cannabis Control Regulations have a provision that address how to measure the buffer. Because you may recall that the State also has a buffer requirement that I think is 500 feet. And then the City went further with 300 feet.

But my understanding is that when Inspectional Services is asked to look at how to measure the buffer, that they have referred to the State Regulations for some guidance and how they should interpret measuring the City buffer. And I think we would want to continue to be consistent, so that the way the City measures it is consistent with how the State Regulations would measure it.

CATHERINE PRESTON CONNOLLY: Great. Ted?

H THEODORE COHEN: Yeah. I wanted to say to Daniel, you were correct. I misspoke without looking at my notes again that indeed it should be Footnote 58 and not Footnotes 5 and 8. I apologize; I'm sorry.

DANIEL MESSPLAY: No, thank you. We always appreciate your careful eye on zoning, Ted. So you made me

jump a little bit, but --

H THEODORE COHEN: Yeah, sorry about that. I think when I saw you jump, I figured I better look at it again.

CATHERINE PRESTON CONNOLLY: Well, it is always worth double checking, and so, thank you for that, Ted.

And thank you, Megan, for speaking to how those buffer zones would continue to be implemented at the City level.

All right. I'm seeing no more questions for Staff. So we can discuss how we want to act tonight. I will take the prerogative of the Acting Chair here to say I am wholeheartedly in favor of this.

We recommended to the City Council when they first -- when this first came before us that this was best handled administratively and should not be subject to a special permit.

I think this Board has done fantastic work at hearing all of the many applications for special permits, both medical and Adult Use through many years, and has given the City the kind of time to get used to the idea and, you know, each neighborhood to come and explain why they were

different that was needed in order to get used to this being a Retail Use.

But I really do think that it is not a productive us of this Board or the public's time to have us continue to review the special permits when there is such an extensive permitting process in place between the host community agreement's, state regulation, licensing and building Permit Review.

So that's where I am on this. I do think that, you know, official guidance from the Law Department explaining special permits that are in existence today.

And I think in particular let's say somebody has a special permit that says they have to pay into the Traffic Mitigation Fund, with the fund issuance of the CEO, you know, and they haven't -- they haven't yet opened up. My guess is in most cases, that requirement is also going to be in the host community agreement.

But the requirement from the special permit would no longer apply it, as long as they could act -- as long as they met all of the requirements of the zoning and move forward as-of-right. That's my informed guess, based on some of the guidance we've heard tonight, but I think an

actual opinion on that from the Law Department would be helpful to the City Council as they move forward as well.

So I'd like to recommend we approve this, recommend it to the City Council for their adoption and request an opinion from the Law Department on the implementation, and how it would impact current permitees.

So that's my spiel.

Ashley, you can go next.

ASHLEY TAN: Thank you. I'm going to offer actually a slightly different view.

CATHERINE PRESTON CONNOLLY: Okay.

ASHLEY TAN: Before I joined this Board, I probably worked on many -- several dozen, you know, cannabis special permits throughout the Commonwealth.

And I will say, although we shouldn't be looking at this, you know, in comparison with other municipalities, I do think the Cambridge process, whether it's through special permitting, getting the HCA is fairly streamlined, is fairly reasonable, and I think my concern lies mainly in two ways. If we don't have a special permit process, although I think that can be, you know, supplemented with whether it's better guidance from Staff or something in the

administrative process to make sure that one storefront design is really given, you know, more thought, from my experience.

I don't think if it wasn't for the Planning Board process or Zoning Board process and some other [indiscernible] If it wasn’t for this process, I think a lot of applicants may not get that much thought into storefront design enhancing the public realm and will frankly pick a cheaper option that can, you know, conform with the state regs.

And that and traffic, although I know traffic is -- has been less of an issue once more stores open up. I will say currently I don't have that many retailers opened up, so I think that's still something to be determined.

And even though I know there's a robust HCA process to make sure that applicants are, you know, operationally and other ways well-functioning, that doesn't go to the Land Use, you know, side of things of whether or not the design generally in traffic is in compliance.

It may be -- and frankly CCC regs. The State Regs currently still envision Planning Board and Zoning Boards of, you know, weighing in.

And so, that's my concern. I generally like the idea of making things easier and more -- even more easy and even more streamlined. And so, I think if it still alleviates some concern, I think -- yeah, having some sort of, like, guidance in the administrative process to make sure applicants do care about the storefront design and traffic I think would be helpful.

CATHERINE PRESTON CONNOLLY: Okay. Thanks, Ashley. Tom?

TOM SIENIEWICZ: Thank you. Ashley beat me to it. I agree with her. I mean, I've sat on most of the permits, and first of all, the public comment often is a debate and an emotion around a fight that really happened at a state level and a referendum at the outset of this.

And, you know, I think appreciate people's feelings about that, but that fight has happened and been settled. So we spent a lot of our time listening to that rehashing of that debate, which has been settled by the Commonwealth.

So that's one; I won't miss that. I think the traffic issues -- I live near Central Square, and that's two of the four dispensaries are open in my neighborhood.

And I often look to see if there's a lineup or a traffic impact, and I rarely even see one person, let alone a lineup at any of the dispensaries in Central Square. I'm sure they're doing business, but traffic -- at least empirically -- is a nonissue around the dispensaries that I've been observing since they opened in Central Square.

And lastly, I couldn't agree more with Ashley around the impact that state regs have around encouragement to hide the product and hide any reference to marijuana by making the façades opaque. And I think that that's really hard on our city.

And I think that we have -- as a Planning Board I'm proud of the encouragement and the Design Review and the suggestions that have come from all the Board members on how to make those storefronts better.

Encouraged by Daniel's introduction, where he said "Well, of course the businesspeople want to make the storefronts appealing," and I hope that's true. And I do trust the Design Review of the Staff to encourage that. I think they have reviewed the transcripts and know what the feeling of the Board is.

So I agree with you, Madam Chair. Long-winded

response to say, yeah, I'm ready for this to move to administrative processes rather than special permit.

CATHERINE PRESTON CONNOLLY: Thank you, Tom. Other comments from Board members? Thoughts on what we might do this evening?

Hugh?

HUGH RUSSELL: So is it too early to put a motion on the floor that we send a favorable recommendation with the comments that have been discussed?

CATHERINE PRESTON CONNOLLY: So I want to make sure that anyone who wants to give a more detailed view has had a chance to.

Lou, you raised your hand. Do you want to add anything to this?

LOUIS J. BACCI, JR.: I'll second.

CATHERINE PRESTON CONNOLLY: Oh. Okay. So I would just like to say I appreciate Ashley's point of view on this, and Tom accurately, I think, reflects that this Board does care about the design aspect of it.

I don't want my vehement, you know, cheering on of this ordinance to be seen as an abdication of, you know, design entirely. We do care about it.

I guess, I expressed such enthusiasm because I have confidence that our Design Review Staff will continue to encourage, push, use the host community agreement process, use the licensing process and use the Building Permit Review process to provide that guidance.

And I, you know, if the City Council would like there to be some kind of Design Guidelines formally drawn up to say how the City of Cambridge would like you to interpret the state's requirements around, you know, not having the product visible despite -- you know, despite the fact that we have ordinances requiring all kinds of transparency in retail spaces, I think that can only help the business with predictability.

So I think, Hugh, would you like to move that we forward this petition with a favorable recommendation, along with a request that the Law Department provide guidance on existing permits and CDD continue to provide Design Guidance to applicants throughout the City process?

HUGH RUSSELL: Yes. I might make that motion.

CATHERINE PRESTON CONNOLLY: Thank you, Hugh. Do I have a second?

STEVEN A. COHEN: Steve second.

CATHERINE PRESTON CONNOLLY: All right. Can I get a roll call vote.

DANIEL MESSPLAY: Roll call on that motion: Lou Bacci?

LOUIS J. BACCI, JR.: Yes.

DANIEL MESSPLAY: H Theodore Cohen?

H THEODORE COHEN: Carefully yes.

DANIEL MESSPLAY: Steve Cohen?

STEVEN A. COHEN: Yes.

DANIEL MESSPLAY: Tom Sieniewicz?

TOM SIENIEWICZ: Yes.

DANIEL MESSPLAY: Hugh Russell?

HUGH RUSSELL: Yes.

DANIEL MESSPLAY: Ashley Tan?

ASHLEY TAN: Yes.

DANIEL MESSPLAY: Catherine Preston Connolly?

CATHERINE PRESTON CONNOLLY: Yes.

[All vote YES]

DANIEL MESSPLAY: That's all members voting in favor.

CATHERINE PRESTON CONNOLLY: All right. Thank you very much. Thank you to Staff for your work on this matter,

and to all the Board members who have, you know, done the work of seeing so many presentations through the process that has given the City comfort that it can proceed administratively.

With that, I am going to hand the virtual gavel here over to my colleague Hugh and sign off for the next General Business discussion.

* * * * *

(7:21 p.m.)

Sitting Members: Louis J. Bacci, Jr., Steven A. Cohen, H Theodore Cohen, Hugh Russell, Tom Sieniewicz, and Ashley Tan

HUGH RUSSELL: Okay. I'm Hugh Russell. I'll be acting as Chair for this discussion on the Board of Zoning Appeal cases to be heard on June 22.

As a matter of General Business, our action is to decide whether or not make a recommendation to the BZA on this case. The Board has historically discussed BZA cases associated with telecommunication uses [indiscernible] Planning Board special permits were located in a Historic Overlay District.

So going to the query on the January 2 Agenda, 10

Canal Park, BZA Case 220600 and Case 225273, the case by T-Mobile and AT&T, and Case 51 Brattle Street, BZA Case 231274, and 120 Vassar Street -- BZA Case 223702, both of those are by T-Mobile.

I understand representatives of the applicants in each case are present. We've also received thoughtful written comment from Suzannah Bigolin, who did the planning on these cases.

Do Board members have questions for the representatives or for the CDD Staff? I see no hands are up. Is the Board interested in hearing from Suzannah Bigolin, or do we simply want to have a motion to forward Suzannah's recommendations to the BZA as our recommendation?

H THEODORE COHEN: So moved.

LOUIS J. BACCI, JR.: Yes, forward.

HUGH RUSSELL: Okay. Ted has moved and Lou has seconded. Could we have a roll call vote?

DANIEL MESSPLAY: Roll call on that motion to forward those comments: Lou Bacci?

LOUIS J. BACCI, JR.: Yes.

DANIEL MESSPLAY: H Theodore Cohen?

H THEODORE COHEN: Yes.

DANIEL MESSPLAY: Steve Cohen?

STEVEN A. COHEN: Yes.

DANIEL MESSPLAY: Tom Sieniewicz?

TOM SIENIEWICZ: Yes.

DANIEL MESSPLAY: Ashley Tan?

ASHLEY TAN: Yes.

DANIEL MESSPLAY: And Hugh Russell?

HUGH RUSSELL: Yes.

[All vote YES]

DANIEL MESSPLAY: That's all members voting in favor.

HUGH RUSSELL: I believe that concludes the business on our agenda. Are there additional comments from Staff?

DANIEL MESSPLAY: No additional comments from Staff at this time.

HUGH RUSSELL: Do Board members have anything to add before we adjourn?

[Pause]

Then the meeting is adjourned.

COLLECTIVE: Thank you, everyone. Goodnight.

[08:22 p.m. End of proceedings.]

E R R A T A S H E E T

Page	Line	'Change From'	'Change To'	Reason for change

I have read the foregoing transcript of the Planning Board, and except for any corrections or changes noted above, I hereby subscribe to the transcript as an accurate record of the proceedings.

_____ _____

Name Date

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Commonwealth of Massachusetts

Middlesex, ss.

I, Michele Dent, Notary Public in and for the Commonwealth of Massachusetts, do hereby certify that the above transcript is a true record, to the best of my ability, of the proceedings.

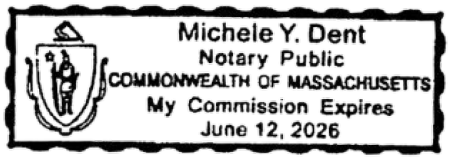
I further certify that I am neither related to nor employed by any of the parties in or counsel to this action, nor am I financially interested in the outcome of this action.

In witness whereof, I have hereunto set my hand this 25th day of July, 2023.

Notary Public

My commission expires:

June 12, 2026



A

abdication 80:21
ability 25:9 61:10 87:7
able 33:5 34:16 37:19 61:1 64:3,20 65:12 71:13 72:20
absent 5:12,13
absolutely 21:18 23:15 24:19 60:5
abutters 15:18
abutting 39:6
AC 20:17
access 17:20 23:8,18 48:11 55:8
accessible 7:22
accessory 26:17
accurate 16:8 86:17
accurately 80:18
achieved 38:18
act 74:11 75:19
acting 3:11 6:5 74:12 83:14
action 38:3 55:20 57:14,18 59:16 71:7 83:16 87:9,11
actions 58:7
activate 48:13 51:2
active 50:17
activities 43:1
Acts 3:13
actual 48:16 76:1
Adam 6:16 48:6
add 21:6 37:10 46:17 73:3 80:13 85:18
added 22:1
addition 24:17 35:14 37:10
additional 18:2 26:12 30:4 45:11 49:1 70:18 85:13,15
address 27:15 28:1,14 29:9 52:7,12,17 54:13 69:14 73:5
addressed 47:15 65:21
adds 20:15
Adithi 1:14 6:8
adjacent 39:4
adjourn 85:18
adjourned 85:20
adjust 72:15
administrative 50:7 57:20 72:18 77:1 78:5 80:2
administrativ... 49:15 66:21 72:21 74:16 83:4
adopt 56:3
adopted 3:13 7:19 42:2
adoption 76:4
Adult 68:8,13 68:17 69:8 74:20
aerial 14:19
affect 59:13
affordable 7:15 29:19
agency 67:6
agenda 8:20 41:3 83:22 85:13
ago 12:14 67:12
agree 42:21 78:11 79:7,22
agreement 46:6 58:4 65:8 66:9 75:17 81:3
agreement's 75:7
agreements 64:6
ahead 52:15
air 25:11
al 7:5,20 8:5 14:10
Alewife 7:4 13:12 44:9
alignment 34:14
alleviates 78:4
allow 10:22 24:16
allowed 11:5 61:13 64:11
allows 66:4
alluded 13:7
altogether 70:5
Amanda 52:11 54:12,14,14
ambitions 35:11
amend 41:4 61:8 62:19 63:5 70:4,5
amended 7:19 49:5,14 61:7 62:21,21
amendment 6:21 7:1 43:21 45:6 48:17 50:4,8 60:13 70:11 72:1
amendments 2:7 7:15 58:16
amount 29:15 38:13 53:15 65:9
ample 15:6 16:5 22:21
analyzing 44:15
anniversary 42:11
Annual 7:9
answer 10:2 32:3,16 60:2 61:15
answers 55:18 60:6
Antje 8:21 10:11 11:4,16,20,22 14:22 16:8 17:12 29:14 33:21 34:3,4
Anyway 57:9
apartment 26:18
Apologies 38:8
apologize 9:7 33:1 70:1,15 73:20
apparently 33:18 34:4,10
Appeal 2:8 83:15
appealing 79:18
applicable 49:22 70:12
applicant 9:3 10:6 23:8 32:5 44:21,22,22 45:2,6 46:5 54:2 62:13,15 63:18,19,22 64:20 65:6,8 66:3 72:1
applicants 3:17 46:16,22 47:12 47:22 50:15,20 53:10,14 64:11 64:21 65:1,22 68:3,18 77:7 77:16 78:6 81:18 84:5
application 8:21 9:4,15 11:5 35:7,10,16 43:20 49:16,20 72:3,8,11
applications 71:16,18 74:19
apply 44:20 47:20 59:20 62:19 75:19
applying 10:17
appreciate 40:14 73:22 78:15 80:17
approach 35:1
approaching 42:11
appropriate 46:20 49:10 59:8
appropriately 48:12
approval 44:6 45:1,2,4,7,8,21 46:2,3 49:18 63:15 72:5,10
approvals 46:4
approve 28:10 76:3
approved 3:14 44:2,4,15 45:11,16
approves 48:8
approving 57:20
architect 17:13
area 13:2,3 18:6 33:6,13,14 44:9
areas 43:14 54:20 55:5
arguably 15:22
argument 68:14
arrow 18:4 23:14
art 51:5
Article 48:18 49:4 70:4,5
Articles 41:4
as- 49:11
as-of-right 49:1 49:7,12 60:17 61:4,7 75:21
Ashley 1:10 3:7 5:2,4,21 8:19 40:6,7 41:1 76:8,9,12 78:9 78:10 79:7 82:14,15 83:12 85:5,6
Ashley's 80:17
asked 65:9 73:10
asking 4:8
aspect 80:19
aspects 24:4 64:18
Assessor 14:12
assist 48:15
Assistant 1:12 6:11
associated 59:20 66:9 83:19

assumption 56:2
asterisk 16:7
AT&T 84:2
attempting 53:11
attendance 4:9
attractive 50:21
Auburn 44:13
audible 4:9,10 4:11,13,14,16 4:17,19,20,22 5:1,3,4,6,8,10
audio 4:3
authorized 3:15
automatically 72:4,9
available 65:11
Ave 14:14,16 28:3 44:10
Avenue 2:6 6:20 9:1 12:1,5 28:16 29:11
avoid 25:20

B

B 9:16 50:2 62:22 63:1
B-1 43:21
B-2 43:22
baby 12:14
Bacci 1:8 3:5 4:10,11 5:19 8:17 36:22 39:17,18,19 40:16,21 59:12 62:1,4 80:15 82:4,5 83:10 84:15,19,20
back 8:11 10:3 11:10,12 13:2 14:10 15:1 16:1,9,18,22 17:1,2,11 24:17 25:3,17 26:16 29:22 30:11,12 33:15 34:22 36:17 42:5 47:5 50:3 50:14 51:16 55:13,19 57:14 58:5 60:7 61:8 62:18 63:5 71:21
bad 27:1
balcony 18:12 18:12
barrier 21:5 54:1
based 21:19 39:11 75:21
basement 22:8
basic 60:9
basically 68:10 70:17
Bayer 6:17 60:5 62:12 67:17 68:1 73:3
bear 41:14
beat 78:10
beautiful 24:21
Beginning 42:14
begins 14:14
behalf 10:6
believe 6:15 10:5 24:7 26:6 26:21 32:6 35:17 42:12 48:5 52:13 69:20 70:14 85:12
benefits 25:14 38:16 54:4
best 74:15 87:6
better 33:22 74:3 76:22 79:15
beyond 38:16 64:1
big 12:11 15:3 19:16,16,19 59:15
Bigolin 84:7,12
bike 18:5 22:15
bikes 22:16,17 22:22
bit 7:6 8:4 32:20 34:19,21 63:14 64:4,8 65:16 74:1
Board 1:1 2:8 3:10,16,17 4:1 4:8 7:16,17 8:1 8:7 9:4,19,22 10:2,16,20 11:18,21 27:10 28:10 30:3,6 35:4,5,6 37:19 39:9 43:9 44:3 44:4 45:11 46:13 48:2,8 48:21 50:8 52:2 55:15,16 57:11,14,19,22 59:15,17 60:15 61:8,9,16,19 62:18 66:22 71:16 72:20 74:18 75:4 76:12 77:4,5 77:21 79:12,14 79:21 80:4,19 83:1,14,18,20 84:9,11 85:17 86:16
Boards 77:21
border 21:2
born 13:1 28:22 34:8
Boston 10:10 13:4
bottom 18:3
bought 12:4
bow 67:4,11
boxes 30:20 31:2 31:6,7
branching 7:22
Brattle 2:11 84:2
break 24:14
brief 11:17
briefly 13:8 22:7 38:5
bring 32:22
bringing 31:6
brought 13:19
buffer 47:17,20 47:22 49:19 63:19 66:13 73:5,6,10,13 74:8
buffers 47:18 71:12
build 25:3 29:5
building 13:9 22:2 24:21 25:3,17 29:18 38:14 45:14 46:8 48:11 49:16,20 51:12 60:19,22 62:9 71:20 72:2,3,5 72:7,10,12 75:7 81:4
buildings 12:10 17:8,22 37:4 38:19
built 13:18 29:4 34:8 37:17 58:3
bulk 39:5
business 2:4 42:19 43:16 44:3 45:18 47:2 50:21 51:9 60:11,14 62:22 63:2,9 64:5,8,17,19 65:4,12 66:6 68:2,15 79:4 81:12 83:7,16 85:13
businesses 58:10 58:12
businesspeople 79:17
button 27:7 51:21
BZA 31:19 32:4 61:12 83:17,18 84:1,2,3,13
BZA-220600 2:9
BZA-221274 2:11
BZA-223702 2:12
BZA-225273 2:10

C

C 3:1 49:16 56:9
cable 4:5
calculate 34:21
calculated 7:7
calculating 7:6
calculation 15:8
call 3:19 10:12 39:16,17 82:2 82:3 84:17,18
called 11:13 64:14,15 65:7
calling 27:8 51:22
Cambridge 1:2 1:6 3:10,16 4:4 4:6 12:3 13:1 14:13,15 28:9 28:19,22 29:2 29:18 33:20 37:2,2 41:5 44:11,14 45:17 53:6 54:15 64:16,21 67:6 76:17 81:8
Canal 2:9,10 84:1
Cancer 13:4
cannabis 2:7 6:22 41:6,7,7 42:4,6,7,12,16 42:18 43:10,12 43:14,18 44:2 44:4,7,15,17 44:19 45:1,13 45:21 46:15 47:1,17,18 48:10,19,19 49:2,9 50:1,10 51:10 53:5 54:9 55:1 56:11,17,22 59:4 60:11 62:21,22,22 63:2,20 64:8 64:19 65:3 66:15 67:20 68:2,5,15,21 70:12,19 73:4 76:13
canopy 20:6 25:19

car 7:21 11:6 26:15 53:1,2
care 36:12 78:6 80:19,22
careful 73:22
Carefully 82:7
cars 34:11,12,16
case 2:3 8:21 22:9,11 27:11 31:22 52:3 68:22 69:3 83:18 84:1,1,1 84:2,2,3,6
cases 2:8 75:16 83:15,18 84:8
categories 64:13
category 64:15 64:17
Catherine 1:7 3:4,8,10 5:5,7 5:15,18,22 6:4 8:12,16 9:7,8 9:12 10:4 27:5 30:2 31:11,14 32:1 33:10 35:3 36:6,19 37:9 39:15 40:8,9,13,17 40:20 41:2,20 51:18 55:14 57:4,10 59:10 59:14 61:17 62:3 63:11 65:17 66:14,18 67:1,3,9 69:10 69:16,19,22 73:16 74:5 76:11 78:8 80:3,10,16 81:20 82:1,16 82:17,21
caught 56:7
CCC 77:20
CDD 6:13 9:2 9:13 23:7,20 41:9 55:16 81:17 84:10
cell 70:21
Cemetery 44:13
center 18:3
central 16:3 44:11,14 50:3 78:21 79:3,6
CEO 75:14
certain 47:14 66:4 68:3,7,12 68:18 70:6,7
certainly 23:19 71:9
Certificate 60:19,20 87:1
certify 87:5,8
Chair 1:7 3:11 3:11 8:11 9:14 27:19 29:21 32:15 41:13,22 51:15 55:12 74:12 79:22 83:14
Chairwoman 32:10,16
challenge 17:5 69:4
challenged 68:4
chance 80:12
change 20:2 42:22 48:17 58:12 59:13 61:3,6,12 62:15,16,19 66:5 70:6,20 86:2,2,2
changed 34:14 48:21 49:11
changes 20:14 23:20 26:22 42:9 43:6 45:3 45:19 48:16 49:4 57:8 59:20 62:6 64:6 66:7 67:5 86:16
changing 50:5,5 51:2
Channel 4:5
Chapter 3:13
charging 8:1
CHAU 12:21 32:18
cheaper 77:9
check 35:18 71:8
checking 67:5 74:6
checkpoints 46:21
cheering 80:20
Chief 6:13
child 28:20
children 12:5 54:19
children's 59:3
choose 69:8
chopped 14:20
Chow 10:13 12:13,21
Christina 6:15 46:9 63:13 64:3,7 65:18 65:18
circle 50:3 55:19
cited 70:9
cities 57:21
Citizens 7:5,20 8:6
citizenship 36:1
city 1:2,12 3:15 4:4 6:11,17 7:14 21:20 22:18 25:8 26:2 29:2 31:16 32:4,17 33:6,16 35:11 36:10 41:4 42:1,2,5,12 43:12 44:9 46:6,19 47:3 50:11 53:13 54:7 55:8 68:1 71:7 73:7,12 73:14 74:8,14 74:21 76:2,4 79:11 81:6,8 81:18 83:3
City's 4:1 68:14 70:10
City/State 44:5
citywide 42:15 70:11
Clarendon 28:3 29:11
clarified 59:1
clauses 70:7
clean 22:19,20
clear 62:2 66:12
cleared 42:19
click 27:7 51:21
climate 12:9
Clinics 67:21 68:4 69:2
close 13:10 55:5
closed 53:3
closer 16:11 18:17,18,21 39:6
clothing 52:19 52:21
code 64:22
code-compliant 17:20
Cohen 1:8,9 3:5 3:6 4:12,14,15 4:17 5:19,20 8:17,18 31:12 31:15 32:9 33:12 36:8 39:14,20,21,22 40:1,21,22 55:22 57:5 67:10,22 69:9 70:22 73:17 74:2 81:22 82:6,7,8,9 83:10,11 84:14 84:21,22 85:1 85:2
colleague 83:6
colleagues 37:1 37:11
collect 57:11 65:15
COLLECTIVE 40:15 41:17 85:21
college 13:2
come 37:22 41:16 43:6 47:13 57:14 61:8 62:18 63:5 66:3 71:16 74:22 79:14
comfort 83:3
comfortable 39:9
coming 7:17 34:11,12 68:22
commend 37:21
comment 3:21 3:22 9:3 23:6 30:3 41:11 51:20 72:5 78:12 84:7
comments 30:4 35:5 37:10 38:2 57:9 80:4 80:9 84:19 85:13,15
commission 87:17
Committee 7:2 7:14,16 8:5,8
Commonwealth 76:14 78:19 87:2,5
communicatio... 27:11,12 52:3 52:4
community 1:11 2:4 6:1,9,12 35:15 36:3 39:12 46:6 54:19 64:5 65:8 66:8 72:9 72:11 75:6,17 81:3
company 19:4 30:14 62:21,22 62:22 67:20 68:4,16
compared 38:13
comparison 76:16
completed 54:2
compliance 61:3 77:19
complicated 52:22 53:20 54:22
comply 60:15

63:9
complying 17:6 61:5
compromises 25:18
conceived 24:15
concern 30:17 76:19 78:1,4
concerned 35:20 54:16
concerning 55:6
concerns 27:4 47:9,13,14 54:21
concise 10:7
concludes 8:10 29:22 55:13 85:12
concluding 51:14
conditioned 62:17
conditions 39:11 44:17 45:8 60:16
confidence 51:8 81:2
confirm 27:16 52:8 53:4
conform 15:6 39:8 77:9
conformance 45:10
conforming 15:10
confusion 53:13
congestion 26:22
Connolly 1:7 3:4 3:8,11 5:5,7,15 5:18,22 8:12 8:16 9:8,12 10:4 27:5,19 29:21 30:2 31:11,14 32:1 33:10 35:3 36:6,19 37:9 39:15 40:8,9 40:13,17,20 41:2,13,20,22 51:15,18 55:12 55:14 57:4,10 59:10,14 61:17 62:3 63:11 65:17 66:14,18 67:1,3,9 69:10 69:16,19,22 73:16 74:5 76:11 78:8 80:3,10,16 81:20 82:1,16 82:17,21
conservative 35:1
consider 23:8 46:20
considerate 28:7
considering 38:17 55:4
consistent 73:14 73:15
consistently 46:16 71:18
constant 42:20
constitutes 5:13
construct 8:22
construction 9:15 13:17 24:12 26:3 36:2 38:13,16 39:5 45:10 46:8 56:21
consumption 43:7
contained 38:14
context 15:16 16:14 25:5
contiguous 38:18
continue 34:2 51:9 56:12 61:1 68:13 73:13 74:8 75:4 81:2,17
continues 42:22
continuing 45:12
contributes 53:18
Control 73:4
conversation 21:19 43:8
conversion 49:9
corner 33:8 34:20
corporation 62:5 69:7
correct 62:12 65:19 66:10,11 71:1 73:18
corrected 71:4
corrections 86:16
correctly 32:7
corridors 44:10
cost 46:17
costs 28:18,18
Council 7:13,14 7:19 41:4 42:1 42:2,6 68:1 74:14 76:2,4 81:6
Council's 71:7
counsel 87:9
couple 27:20 44:9 50:14 55:22 64:12 67:11 69:21
courier 41:7
course 10:16 26:5 27:11 30:4 39:7 79:17
court 3:14 69:1
covers 61:14,19
Craig 7:20
crane 31:1,3
create 17:19
created 53:12
creates 53:13
criminalization 68:21
crisis 12:9
criteria 26:21 38:9 39:8 66:3 66:4
criterion 50:13
crosscut 19:8
crosses 14:15 33:20
curb 11:5
curiosity 30:9
curious 31:17 56:9 58:9 62:11
current 34:7,7 43:10 45:20 53:5 76:6
currently 12:7 13:3,5 20:11 26:15 43:15 44:5,12 77:13 77:21
curtain 71:21
custom-built 35:21
cut 11:5 19:21

D

d 2:1 3:1 10:1 56:9
damage 22:11
Dana- 13:3
Daniel 1:12 4:12 4:15,18,21 5:2 5:5,9,12 6:4,5 8:13 9:7,10 27:19 28:12 29:7,21 32:1 32:10 39:20,22 40:2,4,6,8,11 41:12,13,18,21 52:10,15 54:11 55:12 63:11,13 64:12 65:19 66:11,15,19 67:2,8 69:12 69:13,17,20 70:1 71:9 73:18,21 82:3 82:6,8,10,12 82:14,16,19 84:18,21 85:1 85:3,5,7,10,15
Daniel's 79:16
Danielson 8:22 10:11 11:2,4 11:20,22 12:20 21:8,11 32:11 32:14 34:4
Danielsson 10:13 12:6,13 12:19,22 21:16 21:18 30:13
data 44:1
date 68:7 86:21
daughter-in-law 10:12 12:13
day 13:20 28:5 42:17 43:8 87:13
deal 12:11
dealing 7:6
dealt 7:21
debate 78:12,18
decide 83:17
decisions 44:16
deck 15:3 17:4 17:21 33:2
decks 19:16,16
decorative 51:6
deep 15:7 16:19 25:7
deeper 39:5
define 59:5
definitely 10:15 55:7 70:2 71:10
delay 38:8
delays 68:17
deleted 56:9,10 56:19
deletes 56:15
DeLisio 6:15 46:10
delivery 41:7 43:3 48:20
Dent 87:4
Department 2:4 6:2,10 45:18 55:17 59:18 62:10 72:12 75:10 76:1,5 81:16
departments 53:13 72:4
depending 31:5 44:20 72:2
Deputy 6:12
describes 22:2

design 9:21 10:2 17:5 35:21 45:12,12 50:13 51:13 58:14 77:2,8,19 78:6 79:13,19 80:19 80:22 81:2,7 81:17
designation 45:6
designed 15:4 19:12 35:17 48:10
despite 38:4 81:10,10
detail 20:9 65:13
detailed 80:11
details 14:2,9 35:12 36:5 72:3
determined 77:14
detriment 25:4
developed 26:6
development 1:11 2:4 6:2,6 6:7,10,12,14 10:19 16:1 24:10 26:4,5 29:16 38:11,14 38:15,20 39:12 46:10 72:9,11
different 44:20 64:10,12 65:14 65:15 75:1 76:10
differently 7:7
difficulties 58:1
DILISIO 64:7
direct 15:17 17:15
directing 42:3
Director 6:5,13
discuss 9:4 41:11 45:19 74:11
discussed 66:6 80:9 83:18
discussion 30:4 35:5 55:15 83:7,14
dismissed 69:3
dispensaries 42:4 55:5,8 78:22 79:3,5
dispensary 42:15
disproportion... 68:20
disrupt 45:5
disruption 36:2
distance 17:8 67:15,19
distances 67:13
distributed 43:12 44:8
District 9:17 83:21
districts 43:16 43:17,22 50:2
disturbance 13:14
disturbing 14:4
Division 6:6,7 6:15
documents 66:9
doing 14:4 24:7 24:13 25:1 32:20 37:1 67:7 79:4
door 33:18 34:9 59:3,4
doors 28:17 53:3
dormer 24:20
double 17:11 35:18 74:6
dozen 76:13
DPW 21:19 22:12 39:12
DPW's 22:1
draw 43:4
drawing 20:2
drawn 17:13 81:7
driveway 19:1 20:10
dwelling 8:22 9:16,20 12:2 20:15 26:3

E

E 2:1 3:1,1 86:1 86:1,1
earlier 20:3 42:2 55:18 69:14
early 65:1 80:7
earnest 46:4
easier 78:2
easily 22:10
East 44:11
easy 37:5 78:2
Economic 6:14 44:21 45:5 46:10 47:22 54:5 63:18 64:14 67:14
educational 59:3
EEA 47:21
efficient 11:19 17:20 46:22
efforts 48:13
egress 20:3 48:11
either 22:10 30:21 31:3 59:21 60:14 61:11 64:4
electric 7:22
element 24:9
elements 10:1 20:21 26:10
elevations 19:6
eliminate 56:3 70:11
eliminated 71:6
eloquently 46:11
emotion 78:13
empirically 79:5
employed 87:9
Empowerment 44:22 45:5 47:22 54:5 63:18 64:14 67:14
enacted 50:8 68:1
encourage 35:18 79:19 81:3
Encouraged 79:16
encouragement 79:8,13
ended 9:9
ends 14:15 26:1 58:21 67:7
Energy 12:7
energy-efficient 28:21
enhance 26:7
enhanced 38:21
enhancing 77:8
enjoyed 15:13
enjoyment 25:12
enliven 48:14 50:16
ensures 48:11
ensuring 50:15
entail 13:21
enter 46:6
entered 27:13 52:5
enthusiasm 81:1
entirely 80:22
entitled 69:7
entity 45:2 49:18 64:6
entry 54:1
environment 26:8 38:22
envision 77:21
Equity 44:22 45:6 47:21 54:5 63:18 64:15,20,21
especially 45:4 55:4
essentially 11:1 16:4,7 17:19 63:7
established 47:2 47:7 68:7
establishing 42:15
establishment 42:18 68:9
establishments 41:7,8 42:17 48:20 53:5 68:6,7
et 7:5,20 8:5
Evan 1:14 6:8 9:14 10:5 32:2 32:3 33:3
evening 3:9,12 6:6,10 11:21 28:15 35:7 37:13,19 80:5
evenly 44:8
event 22:6
eventually 43:6 68:16 69:3
everybody 41:16
evidenced 37:12
evolve 42:22
ex-husband 12:4
exactly 19:12 36:13 67:18 69:1
example 58:11
Excellent 52:16
exception 42:7
excessive 53:15
excited 12:14 14:9
exist 20:9 25:7
existed 49:8
existence 75:11
existing 12:2,6 13:16 14:3,21 14:21 15:9 16:4,18 17:1,9 20:5,10 23:11 23:14 26:9,11 30:22 32:6,22 39:1 49:13 58:9 59:18 60:10,13 63:7 66:2 70:16 81:17
exit 23:15
expect 26:14 60:4 72:14
expected 26:18
experience 30:16 77:3
expert 46:9

expires 87:17
explain 74:22
explaining 75:11
express 28:6
expressed 81:1
extensive 75:5
extent 38:17 55:16 58:22
extra 15:7,8
extremely 13:10 28:7 43:9
eye 73:22

F

façades 79:10
facilities 43:18 47:19 48:1 50:1 56:12,17 70:13
facility 56:22 59:3,4,4
fact 17:12 38:4 49:17 81:10
factory 13:18
failing 53:19
fair 46:22
fairly 76:18,19
fall 36:22
familiar 43:9
family 11:2,12 13:9 22:22 28:19
fantastic 13:13 41:21 74:18
far 14:2 70:14 71:20
Farber 13:4
Farooq 1:12 6:11
farther 9:20
father 34:6,8
favor 36:3 40:12 74:13 82:20 85:11
favorable 80:8 81:15
feasibility 23:17
featured 43:19
fed 47:11
feeling 79:21
feelings 78:16
feet 9:20 15:11 19:12 59:6 73:7,8
fences 14:8
Ferguson 7:5
fight 78:13,16
figure 53:1,11
figured 74:3
files 72:1
final 68:22
financially 87:10
financing 53:7
find 3:22 11:11 48:10
findings 38:5,6 38:10 39:10,11 48:9
first 6:1 7:11,12 11:4,8 24:9 26:18 27:20 32:4,20 37:3 42:14,18 46:3 48:17 52:10 65:1 74:14,15 78:12
first-floor 13:6
fits 36:9
five- 13:12
flood 21:19,20
flooding 22:9
floor 11:9 12:1 17:21 26:18 51:3 52:21 80:8
flooring 22:10
Flynn 5:9
focused 51:6
folks 6:9 11:3
follow 71:19
follow-up 45:11 61:22
followed 9:3 27:21 28:13 52:11
fondly 11:8
foot 63:20
footage 19:9,11 24:17
footnote 56:6 70:14,15,16,20 71:3 73:19
footnotes 56:5 71:2 73:20
footprint 19:14
foregoing 86:15
form 24:10 47:21 56:1 62:16
formally 81:7
formatting 70:16
formula 7:6
forth 12:11
forward 59:8 72:6 75:21 76:2 81:15 84:12,15,19
forwarded 8:2,7
found 17:10
foundation 31:2 31:7
four 22:17 25:10 30:20 31:7 44:12 64:10 78:22
framed 67:19
framework 42:12,22 47:7
Franklin 8:5
frankly 53:19 77:8,20
From' 86:2
front 11:6 14:21 16:2,15 18:5 18:14 24:2 26:5,5 31:16 33:8,15 34:15 34:22 38:20 59:3,4
fruit 21:3
fruition 47:13
frustrating 58:5
fulfill 35:11
full 53:11
fully 26:6
functions 45:14 48:12
fund 75:14,14
funds 65:11
funny 34:19
further 54:8 60:8 73:8 87:8
future 7:18 59:19
future-oriented 35:14

G

G 3:1
gable 24:22
garage 16:8,8 52:22 53:4
gavel 83:5
general 1:3 2:4 3:14 26:20 39:8 83:7,16
generally 50:20 77:19 78:1
gentleman 34:5
getting 70:2 76:18
Gigi 10:13 12:13 12:17,21,21 19:13 26:15 28:7,9 29:5 32:18
Gigi's 13:11
give 3:21 60:8 80:11
given 74:20 77:2 83:3
gives 14:18,19
giving 16:16 27:22 28:14 29:9 52:12 54:12 58:16 68:18
go 13:2,17 17:3 24:19,20 35:6 45:12 48:16 51:20 52:15 54:3 60:7 62:9 76:8 77:18
goal 13:16,20 14:4 50:9 51:9 51:10
goals 13:8,14
goes 23:12 51:12 62:9,10 65:12
going 9:8 11:10 11:14,18 22:20 24:3 26:9 30:10,15,20,21 31:5 32:15 33:22 35:12 37:5 41:15 50:19 56:8 59:5,8 66:16 67:5 73:3 75:16 76:9 83:5,22
Gold 54:15
Goldstein 27:21 28:2,2
good 3:8 11:20 24:7 28:15 29:17 32:9 36:1 40:16 59:14 61:18 69:22
Goodnight 85:21
Google 14:18
gotten 17:13 57:7
Governor 3:15
grade 17:4,16 19:17
graduating 13:3
grant 39:10
granted 60:15 62:13 67:14
graphic 43:5
gray 16:15
great 21:12 32:1 35:4 36:11 37:1,1,7 40:17 54:7 63:11 67:7 73:16
green 14:6,7
greenery 21:5
Grice 52:11 54:12,14,14
grinds 53:17
ground 22:8
group 62:5
guess 51:14

57:17 59:7 62:9 75:16,21 81:1
guessing 60:2
guidance 22:12 59:17 73:12 75:10,22 76:22 78:5 81:5,16 81:17
Guidelines 81:7
guys 22:20

H

H 1:9 3:5 4:12 4:14 5:19 8:17 31:12,15 32:9 33:12 36:8 39:20,21 40:21 55:22 57:5 67:10,22 69:9 70:22 73:17 74:2 82:6,7 83:10 84:14,21 84:22 86:1
half 38:20
halt 53:18
hand 27:8,9 41:12 51:22 52:1 73:1 80:13 83:5 87:12
handful 42:18
handle 61:21
handled 74:15
hands 27:20 53:11 55:13 62:6 84:10
happen 11:14,15 58:12 60:9
happened 33:5 33:18 34:10 78:13,16
happens 58:9 64:4 72:7
happy 28:9 32:16 59:8
hard 37:14 79:11
harmed 68:20 68:20
Harvard 44:10 52:20
having--quote 23:9
hazards 26:21
HCA 76:18 77:15
head 63:16
headache 34:21
hear 10:5 27:3 27:16 46:16 52:8,14
heard 7:1 75:22 83:15
hearing 1:3 2:5 6:19,21 8:5,20 10:14 27:6 41:3 51:19 74:19 84:11
hearings 7:3
heavy 22:12
height 39:5
held 8:5
help 21:14 37:6 81:12
helpful 43:11 47:5 60:4 61:18 76:2 78:7
helps 65:16
hemp 52:19,20 52:21
Hempist 52:19 53:3
hereunto 87:12
Hi 28:2 29:10
hide 51:3 79:9,9
highlight 20:21 46:13
Historic 83:20
historical 34:1
historically 83:18
history 34:18,19
hit 34:16 63:16
hold 38:7 65:10
holiday 7:11
home 11:12 13:9 14:2,21 15:9 16:4,11,14,15 16:19 17:1,2,6 18:6,9 19:4,8 23:11,15 24:3 24:17,21 28:20 28:21,21 29:3 29:5 43:2
homeowner 17:12
homes 17:12
honestly 53:17
hope 10:7,20 28:10,20 29:2 29:4 65:16 79:18
hopefully 11:15
hoping 23:7
host 46:6 64:5 65:8 66:8 75:6 75:17 81:3
hour 31:9
house 12:6,15 13:18,18 15:4 15:21,22 16:2 20:3,7 21:4 28:3,5,16 30:22,22 31:16 31:16 33:16 34:6,8,9,13,16 34:17 35:18
housekeeping 41:22
houses 15:17 28:4
housing 7:15 28:18 29:19 35:20 36:10
How's 41:19
Hugh 1:9 3:6 4:21 5:1,20 8:18 30:8,9 31:10 40:4,5 40:22 57:16,17 59:10 69:21 71:11 80:6,7 81:14,19,20 82:12,13 83:6 83:11,13,13 84:16 85:7,8 85:12,17

I

idea 37:1 74:21 78:2
identifiable 25:14 38:15
illustrate 44:2
image 18:15,16
imagine 72:20
immediately 15:21 33:14
impact 13:16 16:12 24:11 26:4 29:1 36:2 37:18 38:12,12 39:3 76:6 79:2 79:8
impacted 15:22
impacts 26:14 27:1 47:9
implementation 76:6
implemented 74:8
implied 59:7
imposing 27:1
improved 33:17
improvements 47:8
Incentives 38:19 39:1
inches 22:8
include 13:14 47:17
includes 43:16 68:2
including 17:6
incorporation 51:5
incorrectly 65:19
increase 24:11 24:16 38:12
indicated 49:6
indicates 48:22
indiscernible 77:6 83:19
indulge 63:14
industrial 43:16
Industry 43:21 50:2
infill 6:20 10:19 18:6
info 65:11
information 21:17 65:9,15
informed 75:21
Initiative 12:8
inline 16:4
input 22:1
inset 18:12
inside 19:9
Inspectional 72:2 73:9
instance 45:9 49:17 63:18,19 66:12 72:9
Institute 13:4
instructions 3:21 4:1
intended 26:13 56:9
intent 47:6 56:2 70:3,19
interest 24:22 63:21 65:8
interested 84:11 87:10
interests 45:5
intergeneratio... 11:1 29:1 35:13 36:11
internal 72:15
interpret 73:12 81:8
interrelate 46:12
introduce 6:2 11:17 12:18
introduction 12:22 79:16
intruding 17:11
invested 68:11
invite 50:22
inviting 50:17
involve 51:5
involved 46:12 64:1 67:5,20
involves 9:15 51:2
Iram 1:12 6:11

irrelevant 56:6
issuance 75:14
issue 61:10 67:18 69:2 77:12
issued 44:16 60:21
issues 78:21
item 6:1 8:20 38:3 41:3
items 45:12 49:19 71:15

J

J 1:8 3:4 4:11 5:18 8:16 36:22 39:17,19 40:16,20 59:12 62:1,4 80:15 82:5 83:10 84:15,20
January 83:22
JFK 52:20
job 24:7
join 55:15
joined 6:11,16 12:12 76:12
joint 58:13
Joseph 1:13 6:8
Jr 1:8 3:5 4:11 5:19 8:17 36:22 39:17,19 40:16,21 59:12 62:1,4 80:15 82:5 83:10 84:15,20
judgment 69:1
July 7:10,11,12
jump 41:15 74:1 74:3
June 1:4 3:9 7:2 7:9 83:15 87:18
jurisdiction 61:9

K

keep 8:8 10:15 22:20 37:2 46:1
keeping 36:16
Kelley 7:20
kept 3:20
Khalil 1:13 6:12
Kim 52:11,11,13 52:16,17
kind 35:16 36:22 55:19 59:16 60:3 61:21 65:2,11 65:15 67:4 72:12 74:21 81:7
kinds 64:10 65:21 81:11
know 11:22 15:4 16:2 18:18 19:13,16,17 21:4 22:20,22 23:18,19,21 24:6 25:7,11 26:13,20 31:21 32:3 33:9 34:4 36:9 49:5,17 50:19 57:12 58:9 59:2 60:6 62:15,20 64:3 65:22 68:10 69:1 71:1,14 72:17,18,20 74:22 75:10,15 76:13,16,21 77:2,9,11,15 77:16,18,22 78:15 79:20 80:20,21 81:6 81:9,10 83:1
knowing 36:11
known 11:3 29:14
knows 10:16

L

lack 55:7
laid 39:11
lamb 14:20
land 28:18 29:3 31:17 32:4,14 32:17 33:16 77:18
landings 19:17
landscape 20:5
lane 42:10 52:18
language 22:1 49:8,14,21
large 14:3 15:3 20:6 25:19 34:15 36:14,15 36:17 38:18 50:9
largest 25:22
lastly 8:4 79:7
law 10:9 55:17 59:18 68:5 75:10 76:1,5 81:16
layouts 51:3
leaning 60:3
learned 35:12
leave 70:19
leaving 56:10
left 13:2 15:2 25:18 44:13
left-hand 21:21
legalized 43:1 68:5
Legislature 68:19
lengthy 65:9
lesson 36:1
let's 30:8 38:3 75:12
lettering 57:2
level 18:11 22:3 22:4 51:8 53:6 74:9 78:14
license 67:14
licensee 67:12 67:16
licenses 46:7 53:7 65:10
licensing 53:5 53:18,22 54:2 54:8 66:6 75:7 81:4
lies 76:19
life 54:16
light 25:11 70:10
lighting 51:6
limit 58:3
limited 45:2 49:18
limiting 13:14 13:15
limits 58:2 71:20
line 9:20 15:9,11 17:15 33:15 43:4 86:2
lineup 79:1,3
list 29:22
listed 64:22
listening 78:17
litigation 67:11 67:18,20
little 12:22 15:1 15:2 16:7 18:11 23:14 32:19 34:19,20 43:5 48:7 58:20 63:14,17 64:7 65:16 74:1
live 4:4 12:1 13:11 28:2,16 29:10 34:6 35:12 50:6 54:15 66:16 78:21
lives 14:22 34:7
living 11:1 16:9 26:7 29:1 35:13 38:21
local 53:7 54:2
locate 38:19
located 20:7 22:15 83:20
location 14:14 63:2 68:12,12 68:13,17 71:3
locations 55:5
locked 23:2
logistics 45:15 48:4
long 11:3 24:17 25:3,6 30:11 61:4 75:19,19
Long-winded 79:22
longer 61:9 70:13 75:19
look 15:19,20 18:10,19,19 19:1,8 23:13 23:16,17,20 47:5,14 52:10 60:7 70:8 71:2 71:5,10 73:10 74:3 79:1
looked 44:16
looking 11:9 16:19,22 17:1 18:6 22:18 23:10 33:7 44:7 73:18 76:15
looks 27:20
lose 25:9
loss 25:19
lost 38:7
lot 13:16 14:1,3 14:6,7,19,20 15:7,11,22 18:18,22 20:8 20:15 22:16 24:10,14,18 25:18 26:6 30:15 31:1 33:7 34:22 36:14,15,16 38:11,18,20,22 39:6 49:13 51:1 53:13 65:12 72:11 77:6 78:17
lots 30:16 36:16 39:4,6
Lou 36:21 37:10 39:18 59:11 61:22 80:13 82:3 84:16,19
Louis 1:8 3:4 4:9,11 5:18 8:16 36:22 39:17,19 40:16 40:20 59:12 62:1,4 80:15 82:5 83:10 84:15,20
lovely 14:10

24:21
low 16:12
low-impact 29:16
luck 40:16

M

Madam 32:10 32:15,16 79:22
main 9:22 11:7 20:3 23:15
maintain 19:19 25:10 51:4
maintaining 25:22
major 44:10 48:17
majority 45:4 63:21
making 39:9 56:1 78:2 79:10
Manager 1:12 6:11
manner 72:22
manufacturer 19:22 42:8
map 14:12,18 29:11 43:13,14 43:19 44:1,7
marijuana 42:14,16 48:15 79:9
market 53:8
marketplace 53:19
Marshall 10:10
Mary 5:9
Maryland 58:5
Mass 14:15 44:10
Massachusetts 1:6 3:14 52:18 87:2,5
massing 24:14 25:5
materials 19:21 22:9 35:9
Matt 27:21,22 28:2,2
matter 82:22 83:16
Max 10:12 12:6 12:17 15:12 16:8 19:12 21:6,14 26:15 28:7,9 29:4,14
Max's 12:21
Maxwell 12:12 12:19,19,22 21:8,11,16,18 30:13
mean 24:20 46:14 67:6 78:11
meaning 67:10
meaningful 38:1
means 45:4 64:10 66:20
meant 36:13
measure 73:5,10 73:15
measured 58:21 71:12
measures 73:14
measuring 73:12
medical 42:14 42:16 43:2 48:15 58:13 67:20 68:4,6 68:16 69:6 74:20
meet 14:10 47:12 63:1,3 63:19
meeting 1:5 3:9 4:3,5,10,13,16 4:19,22 5:3,6 5:10 6:3 7:12 7:17 24:5,7 85:20
meetings 3:16 4:2
Megan 6:17 60:1,5 62:12 63:16 67:17 68:1 71:14 73:1,3 74:7
member 4:8 5:13
members 3:4,17 3:17,20 4:9 5:13,18 8:16 10:1 11:21 27:6 30:6 35:4 35:6 39:9 40:11,20 51:20 54:19 61:16,19 79:14 80:4 82:19 83:1,10 84:9 85:10,17
memo 23:7 39:12
memory 42:10
memos 9:22
mention 71:11
mentioned 15:12 20:3 22:14 23:7 25:15 26:7 49:17,18 64:12 64:19
Messplay 1:12 4:12,15,18,21 5:2,5,9,12 6:4 6:5 9:7,10 27:19 28:12 29:7,21 39:20 39:22 40:2,4,6 40:8,11 41:13 41:18,21 52:10 52:15 54:11 55:12 63:13 66:11,15,19 67:2,8 69:13 69:17,20 70:1 71:9 73:21 82:3,6,8,10,12 82:14,16,19 84:18,21 85:1 85:3,5,7,10,15
met 11:4 66:20 75:20
Michele 87:4
middle 15:17 19:1
Middlesex 87:3
mild 21:20
mind 13:10 32:21 46:1
minimal 19:15
minimize 19:13
Minority-Ow... 64:17
minute 66:1
minutes 10:7 27:17 52:9
misalignment 33:19 34:11
misspoke 73:18
MIT 12:7
mitigate 12:8
mitigation 22:5 75:14
Mobile 84:2
modern 28:21
modest 10:22
modifications 58:15
modify 17:13 55:1
modifying 55:11
modular 13:17 19:4 30:14,15
module 30:19 35:20
modules 30:10
Mogassabi 1:13 6:12
mom 13:1
moment 41:14
Monica 27:21 28:13,13,15,15
month 7:8,11
months 58:6,6,6
Moogoor 1:14 6:8
mother 13:7,11 13:11
motion 39:10,17 80:7 81:19 82:3 84:12,18
Mount 44:13
move 25:17 30:3 31:6 35:5 41:2 72:6 75:20 76:2 80:1 81:14
moved 13:2 39:13 84:14,16
moving 12:15 26:16
multicolored 16:15
multiprong 46:2
municipalities 76:16
mute 3:20
mutual 58:4
mystery 32:20

N

N 2:1 3:1
nail 63:16
name 3:10,18 6:4 11:22 12:19 27:15,22 28:14,15 29:9 52:7,12,17 54:13 86:21
Napoli 52:11,13 52:16,17
narrative 22:2
natives 28:19,22
near 7:17 44:13 78:21
nearly 53:17
need 9:5 19:13 37:7 38:4,6,10 39:7 42:3 45:7 47:12 48:9,9 55:18 56:12 66:19
needed 34:21 75:1
needs 12:10 46:19 59:1
negative 8:2,7
neighbor 21:3
neighbor's 18:22 31:3 33:16 34:16
neighborhood 25:6,8 26:14 26:22 29:17 36:16 37:6 38:21 74:22 78:22
neighboring

28:4
neighbors 13:15 13:22 15:14 21:5 25:4 27:2 28:10 34:5 37:12,17
neighbors' 14:8 18:18 34:6
neither 87:8
new 7:4 9:14 12:15 17:8 18:9 20:12,19 20:21,22 24:12 26:17 38:12 39:5 42:1 43:1 56:3 59:19
next-door 31:16
nice 20:8 21:4 22:19 57:6
night 7:14
noise 13:21 36:2
non-EEA/SEA 63:21
nonconforming 63:8
nonissue 79:5
normalize 54:8
North 14:13
Notary 87:4,16
note 9:5 38:6,6 50:12 57:17 58:1,19
noted 27:6 51:19 53:16 56:4 70:3 86:16
notes 41:22 73:19
nuanced 60:7
nuisance 27:1
number 15:21 16:6,11 28:3 29:11 37:12 56:5
numbered 15:17

O

O 3:1 49:16
objections 36:4
objective 19:18
observations 50:19
observing 79:6
obtain 46:7
obtained 9:19
obviously 13:9 14:12 20:14 26:13 47:2 61:20
Occupancy 60:19,21
oddly 14:6
of-right 49:12
off- 56:19 70:9
off-street 70:11
offer 76:9
Office 6:18
official 75:10
officially 42:19
offsite 13:18
oh 9:7 38:9 69:19 80:16
okay 8:12 9:12 21:10,12 31:11 31:14 32:1,9 33:4 35:3 38:8 41:15,18,21 55:22 57:4,10 59:10,14 67:3 69:20 76:11 78:8 80:16 83:13 84:16
old 34:5
older 8:4
oldest 12:12
on-site 43:7
once 54:2 77:12
one's 33:4
one-way 14:14
ones 44:3
online 4:4
onsite 13:21
opaque 79:10
open 14:6,7 15:3 15:13 16:20 18:12 19:19 25:15,18,22 26:1 38:18 42:19 44:3,12 53:20 77:12 78:22
opened 47:3 52:19 75:15 77:13 79:6
opening 68:11
opens 45:18
operate 60:14 60:17 63:2
operating 53:8 58:11 61:1
operation 69:5
operationally 77:17
operations 48:4
operator 41:8 48:20
operators 53:10
opine 64:4
opinion 60:8 76:1,5
opportunities 39:3,4 47:8
opportunity 6:14 28:19 29:5 46:10
opposition 55:10
option 24:15 77:9
options 25:2 30:14 31:4 61:11
order 42:3 75:1
ordinance 7:1 7:13,16 8:5 35:17 36:10,13 41:5 42:15 49:2,22 56:1 58:20 59:19 60:13,16 61:4 61:5,7,13 62:15,20 63:2 63:4,6,10 64:5 64:9,19 65:4 68:2,5,15 80:21
ordinances 81:11
originally 17:13
our--quote 14:20
outcome 87:10
outlining 9:22
outreach 37:12
outset 78:14
overall 50:9
overcomplicat... 53:6,22
Overcomplica... 54:21
overlay 7:15 44:1 83:21
overview 60:9 61:18
owned 7:22 33:6
owner 10:21 16:12 24:22 33:17
owners 50:21 51:9
ownership 45:3 45:4 62:16,19 64:6 65:10,15 66:5 67:5

P

P 3:1
p.m 1:4 3:3 5:17 8:15 27:10,12 40:19 52:2,4 83:9 85:22
Page 2:3 86:2
parents 13:11
park 2:9,10 26:16 53:1,1 84:1
parking 6:17 11:6 26:12 32:6 38:19 39:3 45:16 56:18,20 70:10 70:11 71:6,7
Parman 12:6
part 13:10 17:5 17:18 43:20 49:15,20 50:7 50:10 51:16 54:18 59:21 71:15 72:17
participating 11:22
participation 3:15
particular 36:4 62:5,13 75:12
particularly 39:2
parties 87:9
parts 25:7
pass 51:16
path 23:12
patients 48:15
pattern 38:20
patterns 26:4
Pause 5:11 85:19
pavers 20:19,22
pay 75:13
PB 70:20
PB-398 2:6 8:21
peel 71:21
peer-to-peer 7:21
people 26:8 37:2 37:13,22 38:1 50:22
people's 78:15
perceived 46:18
percent 22:3,4,5 26:1
perfect 12:19 33:4 36:6 37:9
perfectly 36:10
perimeter 20:8
period 64:9 65:3 68:3 69:7
permeable 20:11,11,15,18 20:22
permissiveness 43:11
permit 2:7 6:22 8:21 9:15,18 24:5,6 26:20 35:16 39:7,8 41:6 42:6 43:15 44:16 46:2,5,8,14,17 47:6,11 48:2,5 48:8,21 49:6 49:10,16,20,21

54:7,17 55:6 56:13,15 58:3 60:11,12,14,19 60:22 61:2,9 61:10 62:8,9 62:14,19 63:5 63:6,8 64:11 65:5,21 66:2,4 68:2 70:7 71:16,18,21 72:2,3,5,7,8,10 72:12,15,19 74:17 75:7,13 75:18 76:20 80:2 81:5
permitees 76:6
permits 39:10 45:9 50:20 53:8 56:11 58:10,17 59:18 59:20 60:10 62:4,12,17 63:7 74:19 75:5,11 76:14 78:11 81:17 83:20
permitted 43:15 43:21 48:18,21 48:22 49:6,7 49:11,12 50:2 70:17
permitting 42:4 42:19 64:5,8,9 65:4 68:14,15 75:6 76:18
person 34:7 79:2
perspective 46:19
pertain 47:16 70:19
petition 2:7 7:3 7:5,6,16,20,21 8:6,6,8 41:4,10 41:11 42:1 45:20 81:15
petitioner 10:11
phone 27:8 52:1
phonetic 58:4
photos 15:21 16:14,18,22
pick 77:8
picture 16:3 18:3
pictures 15:16
piece 32:17 50:12
place 22:5 23:9 25:16 31:1 46:21 47:10,11 51:13 53:8 54:17,18 55:7 70:20 72:1 75:6
placed 13:19 14:2 18:7
places 56:5,7 71:4
Plaintiff 69:2
plan 11:10 17:17 48:4 51:3
planned 13:17 26:13 28:21
Planner 6:13
planning 1:1 3:10,16 4:1 7:16,17 8:1,7 9:19 10:16 12:16 43:9 44:3,4 45:11 45:15 48:2,8 48:21 50:8 57:22 66:22 71:16 72:19 77:4,21 79:12 83:20 84:7 86:15
plans 17:13,16 19:3 28:8 31:15 45:10
planted 34:15
plantings 20:8 20:22
play 58:15
pleasant 9:11
please 6:2 14:11 14:17 15:15 16:13,17,21 18:1,8,13,16 18:20 19:2,7 19:10,20 20:4 20:13,20 21:13 23:1,4 24:1 27:22 28:13 29:8 38:7 52:11,15 54:12
pleased 10:20
plenty 29:3
plow 34:13
point 15:20 17:3 18:3 23:6 24:4 34:2 44:1 65:1 80:17
pointed 26:11
Police 45:17
policy 42:3 46:19
porch 19:16 23:11,14,15
portal 4:5
portion 9:19
positioning 14:5
positive 8:2
possibility 12:15 23:10
possible 10:8,16 13:15,16 16:12 23:18 25:22 50:15
potential 37:18
potentially 63:14
power 29:16
practice 53:12
praise 57:6
precipitation 22:3,4,6
precisely 67:1
predictability 81:13
predictable 46:22
predictions 43:6
preexisting 63:8 67:12,16
preferably 39:2
preference 68:3 68:15,18 69:6
premiering 72:19
prepared 38:3
prerogative 74:12
present 4:10,11 4:13,14,15,17 4:18,20,21 5:1 5:3,4,6,7,9,13 6:2,15 10:2,7 41:10 42:17 47:10 54:3 70:21 84:6
presentation 8:10 9:3 10:15
presentations 83:2
presenting 10:6
preservation 38:17
preserve 14:5 15:12
preserved 39:2
preserving 20:7
pressing 27:9 52:1
prestep 65:2,6
Preston 1:7 3:4 3:8,10 5:5,7,15 5:18,22 8:12 8:16 9:8,12 10:4 27:5 30:2 31:11,14 32:1 33:10 35:3 36:6,19 37:9 39:15 40:8,9 40:13,17,20 41:2,20 51:18 55:14 57:4,10 59:10,14 61:17 62:3 63:11 65:17 66:14,18 67:1,3,9 69:10 69:16,19,22 73:16 74:5 76:11 78:8 80:3,10,16 81:20 82:1,16 82:17,21
presumably 66:7
pretty 10:17 26:2 54:1
prevailing 38:20
prevent 34:16 68:16
prevented 49:9 68:8
previously 48:20 51:19 53:15 60:15
principal 8:22
prior 48:5 68:20 72:19
prioritized 68:19
priority 64:9 65:3
privacy 21:1
privately 7:22
probably 31:12 33:1 76:13
problem 37:5 55:9
proceed 46:4,7 83:3
proceedings 4:7 85:22 86:18 87:7
process 13:19 23:22 42:4 44:6 45:21 46:2,4,18,20 46:22 47:5,15 48:7 50:6 53:5 53:17,22 54:3 54:8,17,21,22 55:1,6,11 58:3 63:15 65:5 66:6 68:11 72:13 75:6 76:17,20 77:1 77:5,5,6,16 78:5 81:4,4,5 81:18 83:2
processes 80:2
product 42:8 79:9 81:10
production 43:18 50:1 56:12,17,22 70:13
productive 75:3

products 43:1 51:3 52:21
programs 48:14
progress 6:16
project 6:20 10:22 13:9 20:12 24:16 25:16,21,22 28:7,10,17 29:13 30:7 37:7,14,15 71:22
projects 57:20 57:21
promote 36:13
promotes 36:10
prong 25:13 46:2
prongs 63:15
property 12:4 26:17 29:3
proposal 10:1
propose 10:21
proposed 20:14 20:18 21:1,3 23:5 45:19 48:17 54:7
protect 54:18
protected 68:12
protection 68:6
proud 79:13
proved 24:9
provide 11:12 11:17 17:21 20:9 21:4 38:15 60:6 65:9 81:5,16 81:17
provided 9:22 19:22 21:15 23:2 29:12 38:16 48:14
provider 69:6
providing 15:16 17:7 38:21
provision 10:17 73:5
provisions 70:6
public 2:5 3:18 3:20,21,22 6:19,21 8:20 9:3,21 27:6,6 30:3 39:4 41:3 41:11 48:14 50:16 51:19,20 51:21 59:5 77:8 78:12 87:4,16
public's 75:4
publicly 7:22
purple 43:14
pursuant 3:13 60:14,21 61:2
pursue 51:9
pursuing 69:3
push 81:3
put 25:17 47:10 47:11 53:11 54:17 55:18 60:1 67:4 72:1 80:7
puts 46:20
putting 11:5 28:8

Q

Quadrangle 7:4
qualifying 48:15
query 83:22
question 12:11 30:9 32:4,17 56:14 59:15 63:12 65:16 67:15,17 71:14
questions 10:2 27:3 30:6,7,8 31:12,22 32:2 35:4 55:15,16 56:1 57:3,11 59:11 60:7 61:14,15 69:11 69:14,21 74:10 84:9
quick 41:22 42:10 45:20 59:12 62:1
quickly 7:13 69:13
quite 11:4,13 22:16 24:7 28:8 34:12 53:19 58:5 59:7 65:12 71:1
quorum 5:14

R

R 3:1 86:1,1
raise 27:8,8 51:22 52:1
raised 12:5 13:1 28:22 55:13 80:13
raising 22:7
rarely 79:2
reactive 17:7
read 86:15
reading 23:6
ready 51:15 80:1
real 7:13 11:10 18:18 19:18,18
really 10:22,22 11:11 19:12,13 19:16 20:16 22:16,19 24:14 24:20,22 25:6 25:16 26:2 29:17 34:15 35:14 36:9,12 36:15 37:14,16 37:21 53:6 56:10 57:3 61:18 63:16 75:3 77:2 78:13 79:10
realm 48:14 50:16 77:8
rear 9:1,16,20 14:7 15:7,8,9 16:5,7 20:17 21:3,5 23:8,12 38:18
rear-yard 6:20
reason 35:22 37:1 54:18,22 86:2
reasonable 51:8 76:19
reassure 37:19
reassured 30:16
recall 73:6
receive 14:1
received 27:10 27:12 32:6,8 52:3,4 60:11 60:19 84:6
receives 46:5
recommend 59:17 76:3,4
recommendat... 8:3,7 42:5 59:22 80:8 81:15 83:17 84:13
recommendat... 84:13
recommended 74:14
record 9:5 10:10 27:13 30:5 52:5 86:18 87:6
recorded 4:3
recover 22:5
recreation 47:19
recreational 43:2 47:2 58:13
rectangle 19:15
red 14:19 23:14
redirects 70:17
redline 70:2,2 71:4
redlined 57:7
reduce 24:11 39:3,5
reduced 48:1
reducing 13:20
reference 23:3 31:19,20 49:11 56:16 70:9 79:9
references 49:5 70:7
referendum 78:14
referred 7:14 20:6 23:10 72:4 73:11
reflect 60:21
reflected 66:8
reflects 80:18
refresher 45:20
regard 56:4 57:1
regarding 32:4
regardless 59:16
regs 77:10,20,20 79:8
regulated 53:19
regulation 48:1 75:7
regulations 42:16 46:15 47:1 50:16 53:21 58:17 70:4 73:4,4,11 73:15
regulators 53:10 53:14
regulatory 42:11,22 46:18
rehashing 78:18
relate 45:13
related 42:12 45:15 46:15 50:13 64:4 65:3 71:20 72:8 87:8
relates 56:14 71:3
relating 56:11 56:19 67:13
relationship 71:6
relationships 37:16
remain 20:11 28:9 36:14 49:14 56:16,21
remains 49:21
remarkable 26:2
remember 11:8 24:18 32:7 34:3
reminder 7:10 43:18
remote 1:5 3:15 4:1

removal 46:14 46:14
remove 6:21 17:19 41:5 70:6
removed 42:7 60:12 63:6
removing 23:11 54:6,16 72:14
rendering 18:9 18:15
rent 13:6
replaceable 22:11
report 7:9 8:2 31:19
representatives 84:5,10
representing 10:11
request 76:5 81:16
requested 39:10
require 15:6 17:18
required 26:12 31:20 46:3 66:7
requirement 6:22 22:18 41:6 42:6 54:6 56:15 58:19 60:12 62:14 63:6 65:20 66:19 73:7 75:16,18
requirements 24:6,8 43:10 44:20 45:13,14 45:21 46:15 47:12,16,17 48:3 49:1,13 49:15,19 50:7 63:1,3,10 70:18 72:18,21 75:20 81:9
requires 9:18
requiring 81:11
reside 13:5
Residence 9:16
resident 12:3 54:15 64:16,21
residents 38:22
resources 68:11
respect 53:22
respond 57:12
response 57:13 80:1
responsibility 57:19,19
result 66:7
results 25:19
retail 6:22 41:6 42:7,18 43:10 43:12,15 44:2 44:4,7,15,18 44:19 45:1,21 46:15 47:1,17 47:18,20 48:10 48:19 50:10,10 51:10,11,11 55:3 60:10 63:20 66:15 75:2 81:12
retailers 77:13
retain 39:1
retaining 26:9 26:10
review 42:3 45:12 49:20 57:20 58:18 71:21 72:5,10 72:12,16,21 75:5,8 79:13 79:19 81:2,5
reviewed 48:5 49:15 64:11 66:5,21 72:18 79:20
reviewing 35:9 71:15,18
Reviews 57:22 58:1
Revolutionary 67:20 68:4 69:2
Rhatigan 10:6,9 10:9 14:11 21:10,12,17 22:13 32:10,13 32:15,19 33:4 33:11,13 35:2 38:4
right 3:8 5:22 10:4 15:10,22 16:3 18:5,16 30:2,8 31:1 33:8,14,14 36:19 38:2,9 40:13,17 41:15 43:4 47:7 51:18 55:14 62:8,14 64:9 66:18 67:8,22 69:5,10 74:10 82:1,21
rights 67:12,16
risk 21:21
road 34:12 54:15
robust 77:15
roll 3:19 39:15 39:17 82:2,3 84:17,18
roof 24:22
room 22:21 24:19 37:3
round 7:8 17:7 33:9
rounded 33:8,11 34:20
route 23:18
routes 58:21
rule 69:1
rules 53:12
Russell 1:9 3:6 4:21 5:1,20 8:18 30:9 31:10 40:4,5 40:22 57:17 80:7 81:19 82:12,13 83:11 83:13,13 84:16 85:7,8,12,17

S

S 3:1 86:1
safe 48:11
safeguards 46:21 51:13
Sale 68:8
sales 68:6,13,17 69:8
Sarah 10:5,9,9 11:20 14:10,11 21:10,12,17 22:13 29:11 32:10,13,15,19 33:4,11,13 35:2
Sarah's 28:3
sat 78:11
save 61:21
saw 31:15 74:3
saying 27:15 52:7
says 27:7 31:16 51:22 75:13
scenarios 61:19
school 54:20
schools 47:18 48:1 55:5
scoot 30:21
screen 41:14 56:5 65:1
screened 48:12
screening 21:1
SEA 47:21
second 8:22 9:16 11:9,12 12:1 16:6 26:3 36:8 36:15 38:7 39:14 52:21 80:15 81:21,22
second- 17:20
second-floor 17:4
seconded 84:17
section 35:17 49:2,2,13 56:2 56:3,4,8,8,9,14 56:18,19 57:1 57:7 70:18
sections 70:8
secured 48:12
see 15:1,16 16:3 16:19 17:2 18:4,10,15 20:5 21:2 22:19 23:13 28:4 31:20 33:7,8 36:3 37:4 38:4 43:11,19 44:16 45:9 56:6 57:8 73:1 79:1,2 84:10
seeing 74:10 83:2
seek 63:10
seeking 45:2
seemingly 58:6
seen 51:1 80:21
sell 62:22 63:21
send 80:8
sense 23:9 71:3
sensitive 35:19
separate 24:13 25:10 59:22
separately 57:13
seriously 22:21
seriousness 37:17
service 45:14 48:12
Services 72:2 73:10
set 10:18 17:3 17:17 87:12
setback 17:7 34:22
setbacks 7:6 17:6
settled 78:17,18
seven 5:12 9:9 9:10
seven-and-a-h... 15:10
shape 24:18
shaped 14:6
share 41:14
sharing 7:21
Shaw 28:13 29:8 29:10,10
shed 15:2,3 16:8 18:5 22:14,15 23:2
shed's 22:19
sheet 19:21
short 12:14

47:21
show 17:16 22:17 37:13,15 43:14
showing 18:4 20:2
shows 32:22
Shulman 6:16 48:6
side 11:7 15:10 20:10 21:21 23:11,14 24:19 25:18 43:5 77:18
sidewalk 34:14
siding 22:10
Sieniewicz 1:10 3:6 4:18,20 5:20 8:18 35:9 39:13 40:2,3 40:22 78:10 82:10,11 83:12 85:3,4
sign 83:6
significant 54:1 58:14
significantly 24:11 38:12 55:1
signoff 72:13,16
simple 19:3 58:7
simply 84:12
single 17:14,14 25:2 38:16
sit 31:3,4
site 13:19 21:21 21:22 61:20
site-specific 61:21
sites 20:16
siting 14:1,13 15:4 16:11 17:5 20:7,16 25:16,21 35:18
sits 31:2
sitting 3:4 5:18 8:16 11:9 40:20 83:10
situation 11:1
skip 9:12
slide 14:11,17 15:15 16:13,17 16:21 18:1,8 18:13,20 19:2 19:5,7,10,20 20:1,4,13,20 21:13 22:14 23:1,4 24:1 28:4 32:22 33:2
slides 11:18 50:14
slightly 76:10
small 11:6,6 21:2 26:17 29:19
Social 44:22 45:6 47:21 54:5 63:18 64:15,20,21
sold 52:20
solely 56:11
Solicitor's 6:18
somebody 75:12
Somerville 14:15 33:19 34:11,13
somewhat 44:8 72:21
son 10:12 12:12
soon-to-be 7:18
sorry 20:19 26:10 56:21 69:19 73:20 74:2
sort 10:18 17:3 17:10,11 18:6 22:17 23:11 29:18 41:22 42:20 50:3,12 51:13,14 57:18 61:3,6 64:4 69:14 71:17,21 72:18 78:4
sorts 64:18
sought 45:7
sounds 30:10
space 11:6 14:6 14:7,7 15:13 16:20 17:11,21 18:5 25:15,18 25:22 26:1 30:22 32:7 38:18
spaces 81:12
speak 27:7,17 29:12 30:13 32:2,11 46:11 48:6 51:21 52:9 64:7 65:16
speaker 27:21 28:12 29:7 52:10 54:11
speakers 27:14 29:22 52:6
speaking 3:18 74:7
speaks 65:9
special 2:7 6:22 8:21 9:15,18 24:5,6 26:20 35:16 39:8 41:6 42:4,6 43:15 44:16 45:9 46:1,5,14 46:17 47:6,11 48:2,5,8,21 49:6,10,21 50:8,13 54:7 54:17 55:6 56:11,13,15 58:2,10,17 59:18 60:10,11 60:12,14,22 61:2,8,10 62:4 62:12,14,17,19 63:5,5,7,8 65:5 65:21 66:2,4 70:7 71:15,18 72:8,15,19 74:16,19 75:5 75:11,13,18 76:14,18,20 80:2 83:20
specific 12:9 24:6 42:9 43:21 61:15,20 62:5 64:16 70:8 71:14
specifically 47:16 64:19 65:3
spectacular 37:14
spent 78:17
Spetrini 1:14 6:8 9:14 32:3
spiel 76:7
spirit 47:5
spot 60:1
Spruce 52:17
square 19:9,11 19:12 24:16 44:11,11,14 52:20 78:21 79:3,6
squirrely 63:17
ss 87:3
stable 53:9
Staff 1:11 4:8 6:2 9:2,13,21 23:6 27:14,16 30:7 31:13,19 41:9 42:3 45:12,17 49:19 52:6,7 55:16 55:17 57:3,6 57:12,12,22 58:1,7,18,22 69:11 71:17 74:11 76:22 79:19 81:2 82:22 84:10 85:14,16
Staff's 42:5
stage 23:21 53:7 65:1,6
stages 65:14
stair 17:10,15 20:3
stairs 17:3,11,15 17:19 19:17
standard 24:5 71:19
standards 10:18 50:5,6
Star 54:15
start 4:8 11:3 55:17,21
state 3:18 43:1 46:7 53:7,14 54:3 65:11 68:5 73:4,6,11 73:15 75:7 77:9,20 78:13 79:8
state's 50:16 73:4 81:9
Statement 65:7
stay 55:7
stayed 58:22
steep 34:12
STELLMAN 33:3
step 46:3
steps 46:11 64:1
Steve 9:11 39:22 81:22 82:8 85:1
Steven 1:8 3:5 4:15,17 5:19 8:17 39:14 40:1,21 81:22 82:9 83:10 85:2
stop 65:22
stopped 69:3
storage 22:7,15
store 45:1 48:10 48:19 52:20,21 53:2 63:20 66:16
storefront 48:13 50:17 51:4 77:1,7 78:6
storefronts 50:14,21 51:2 79:15,18
stores 6:22 41:6 43:10,15 44:2 44:4,8,12,15 44:18 45:22 47:17,18,20 50:10 77:12
stories 18:11
story 30:11 33:22 34:1,8
straight 25:3 33:15 34:2,14

35:5
straightforward 10:18
strategies 22:5 30:18
streamed 4:4
streamline 54:8
streamlined 76:18 78:3
street 2:11,12 9:20 10:10 14:14 16:16 18:14 26:16 31:4 34:1 39:4 44:14 50:22 51:4 52:20 56:20 70:10 84:2,3
streets 33:19
strong 28:6 55:10
strongly 28:18 29:4
struck 35:10 70:10
structure 11:7 15:2 16:6 17:8 18:16 20:17 25:2,5 26:9,11 38:17
structures 15:19 24:10,14 25:7 25:10,15 26:7 38:11,15 39:1 39:2,6
subject 49:1 74:16
submittal 48:3
submitted 30:5
submitting 65:7
subscribe 86:17
subsections 57:2
succinct 10:15
Sudbury 52:18
suggest 54:6 71:1
suggested 23:10 30:18,19
suggestions 79:14
summarize 9:13 13:8 24:3 41:9
summarizing 65:19
super 22:7
supplemented 76:21
support 28:6,17 29:2,4,12,20 36:18 37:13,15
supposed 70:15
sure 18:21 24:4 32:18 33:21 43:4 52:13 71:13 73:1 77:1,16 78:6 79:4 80:11
surface 20:15,18
surfaces 20:11
surprise 9:11
surprised 11:13
survey 23:3,5,13 32:22
surveying 32:21
suspected 71:6
Suzannah 84:7 84:11
Suzannah's 84:13
Suzanne 28:13 29:8,8,10,10
Swaathi 1:13 6:8
Swaathi's 71:13
switch 68:13 69:7
switchback 17:4 17:19
switching 68:17
systems 8:1

T

T 86:1,1
T- 84:1
T-Mobile 84:4
table 48:18 55:18 70:4,17
take 4:8 22:16 23:19 30:8 34:2 37:22 38:3 41:11 42:10 55:20 57:15 59:16 67:17 70:8 71:5,10 74:12
taken 3:19 18:3 18:5
takes 7:10 13:20 53:15
talk 23:20 57:14 66:12
talked 11:8 50:14
talking 25:13 59:6
tall 30:11,20
Tan 1:10 3:7 5:2 5:4,21 8:19 40:6,7 41:1 76:9,12 82:14 82:15 83:12 85:5,6
tangent 69:18
team 30:7
technical 22:18
techniques 51:1 51:6
Ted 31:11 36:7 36:20 55:21 57:11 67:9 70:1 71:9 73:16,22 74:6 84:16
Ted's 69:14
telecommunic... 83:19
television 4:5
tell 11:10 33:5,7 33:22 34:1
ten-minute 13:12
tenant 26:17
terms 7:13 14:1 24:5,5,13 25:4 26:4,20 49:4
testament 37:16
thank 5:15 6:4 8:12 9:14 10:4 10:14 11:20 14:12 22:13 27:4,5,19 28:11,12 29:6 29:7,21 30:2 31:10 33:4 35:3 36:6,19 37:9,21 40:13 40:15 41:21 51:17,18 52:16 54:10,11,14 55:11,12 57:10 65:17 69:9 73:21 74:6,7 76:9 78:10 80:3 81:20 82:21,22 85:21
Thanks 5:2 14:11 21:12 22:14 59:10 71:9 78:8
that's 22:17 59:22 60:18
Theodore 1:9 3:5 4:12,14 5:19 8:17 31:12,15 32:9 33:12 36:8 39:20,21 40:21 55:22 57:5 67:10,22 69:9 70:22 73:17 74:2 82:6,7 83:11 84:14,21 84:22
thesis 50:3
thing 31:18 46:1 50:20 52:22 57:22
things 22:7 37:20 65:21 77:18 78:2
think 9:9 10:18 21:7,8 22:17 23:9 24:2 29:17 35:18 36:9,12 37:5,7 37:11,20 42:21 46:11 50:4,9 50:18 51:11,15 54:17 55:6 58:16,22 59:2 59:15,22 61:14 61:17 63:16 64:1 65:18 66:11 69:14 70:12,22 71:3 71:4,11,14 73:7,13 74:3 74:18 75:3,9 75:12,22 76:17 76:19,21 77:4 77:6,14 78:3,4 78:7,15,20 79:10,12,20 80:18 81:12,14
thinking 47:14 68:10
third 12:1
thought 37:3 51:15 67:13 77:2,7
thoughtful 28:8 84:6
thoughts 69:21 80:4
three 27:17 44:5 52:9
tight 30:16 31:5
time 3:21,22 27:15 29:15 31:21 37:22 40:14 41:19 46:17 47:6 52:7,17 53:4 53:15 57:6 58:2,3 71:2,20 72:14 74:21 75:4 78:17 85:16
time-intensive 46:18
timely 72:22
times 51:5
timing 72:16
To' 86:2
today 75:11
Toft 27:21 28:13 28:15,16
told 34:3,7
Tom 1:10 3:6 4:18,20 5:2,20

8:18 35:8,9 36:7,9 39:13 40:2,3,22 78:9 78:10 80:3,18 82:10,11 83:11 85:3,4
tonight 6:19 10:14 35:10,12 48:6 55:20 57:15 59:17 60:2 74:11 75:22
top 13:9 18:11
total 19:9,11 30:20 57:18
totally 56:6
touched 21:8
towers 71:3
TP&T 48:5,6
traced 14:19
Tracker 21:20
traffic 6:16 45:16 75:13 77:11,11,19 78:7,21 79:2,4
transcript 4:6 86:15,17 87:6
transcripts 79:20
transition 57:18
transparency 81:11
transparent 51:4
transportation 6:17 12:10 45:15,17 48:4 55:17 56:19
treat 50:10 51:10 55:2
treated 59:19
tree 14:3,4,5 15:13 20:6 21:3 25:19 34:15
trees 21:2
trespassing 18:22
tricky 64:18
tried 22:16
triggered 72:10
Trilogy 10:9
trip 42:10
truck 31:6
trucked 30:21
true 29:17 31:18 79:18 87:6
trust 38:3 79:19
try 10:15,21 41:18 51:1 61:15
trying 15:12 19:13 25:20 36:1 37:4
Tuesday 1:4 7:11
turn 8:10 9:13 10:3 11:16 21:7 29:22 34:2 55:13
turning 12:17 68:8
two 7:3 24:10 25:9,14 26:6 28:17 30:14,18 31:4 38:11,15 44:14 58:21 67:15 76:20 78:21
two-and-a-half 18:10
type 26:22 44:21 49:9
types 44:17,19 45:9 49:5 50:10 51:11,11 55:3 68:3
typical 44:17 45:8
typo 57:1

U

ultimately 47:11 53:18
unclear 70:16
understand 35:22 61:18 62:10 72:17 84:5
understanding 73:9
unfolds 48:7
unit 13:6 36:15
units 20:17
unmute 27:14 52:6
unmuted 52:13
unmuting 27:22 28:14 29:8 52:12 54:12
unquote-- 14:20 23:9
untie 67:10
update 2:4 6:1 8:4 9:2
updates 7:14
upshot 65:18,20
Urban 9:21 10:1
use 3:15 21:14 35:20 47:1,19 48:1 49:9,12 59:13,20 60:17 60:18 68:8 70:4 74:20 75:2 77:18 81:3,4,4
useful 70:3
uses 2:7 42:7,8 42:12 43:2,2 46:15 48:18 49:5,7 70:17 70:18,19 83:19
usual 6:1 41:9
usually 37:20 57:5
utilities 22:8
Utility 7:9

V

vague 58:20
values 29:18
variance 31:19 32:4,5 61:11 63:4,10
Vassar 2:12 84:3
vehement 80:20
vehicle 8:1 26:19
verify 4:9
version 7:19 57:7
vetted 45:16
Vice 3:11
Victorian 14:21 16:4 24:21
video 4:3
view 12:9 14:18 14:19,20 15:18 18:14 51:3 76:10 80:11,17
views 16:16 18:2
virtual 83:5
visible 4:14,17 4:20 5:1,4,7,10 16:2 21:4 81:10
visual 39:3
voice 55:10
vote 8:8 39:16 40:10 82:2,18 84:17 85:9
votes 3:18
voting 40:11 82:19 85:10
vulnerable 54:19

W

waiting 58:7
waive 66:4
walk 13:12
walked 18:17
walkway 20:10
walls 25:10
want 11:11 15:20 17:2 24:4 28:6 29:12 32:21 34:1 37:21 50:20,21 55:2 55:20 58:16 61:20 63:12 73:13 74:11 79:17 80:10,13 80:20 84:12
wanted 11:17 21:6 23:6 46:13 58:12 61:2,6,12 67:4 67:11 69:13 71:7 73:2,17
wants 57:15 62:15,21 80:11
Washburn 2:6 6:20 9:1 12:1,5 13:5 14:14 28:16
wasn't 37:3 62:1 67:11,18 77:4
wasn't 77:6
water 22:11
water-resistant 22:10
waved 58:4
way 11:11 24:20 33:1 43:7 48:11 54:7 55:1 59:5,5 61:21 73:14
ways 35:11 44:7 47:14 72:11 76:20 77:17
we'll 7:8 9:2 10:5 11:18 17:16 31:5 41:9,11 45:20 48:16 55:21 57:14 70:8 71:10
we're 10:17 12:14 13:1 14:9,13 15:16 20:6 23:19 24:7,13 25:19 25:21 26:6,9 26:10 27:1 30:15,21 51:15 67:4
we've 14:2 15:7 15:17 20:6 30:14 44:9 47:7 48:21 49:4,6 51:1 53:12 75:22 84:6
webpage 4:1
website 21:20
week 7:3,12
weigh 63:12

66:22 71:13 73:2
weighing 77:22
welcome 3:9 27:3
welcoming 51:7
well-functioni... 77:17
well-intended 53:21
went 73:8
Westchester 30:15
whereof 87:12
white 18:10,15 18:16
wholeheartedly 36:18 74:13
wide 30:10,19
widen 23:12
wife 12:21
Willem 12:6
willing 23:16,19
windows 16:9 25:11 51:4
wish 27:7 51:21
witness 87:12
Woman 64:17
wonder 31:21
wonderful 10:22 35:14
wondering 35:21 56:16,20
work 10:21 12:7 13:3,21 17:18 32:21 57:13 71:22 74:18 82:22 83:2
worked 11:7 76:13
workflows 72:15,16
works 9:21 62:11
worth 47:13 74:6
wouldn't 58:16 60:20 61:7
wrap 27:18 52:9
written 9:22 27:11,11 30:4 52:3,4 84:7

X

x 2:1 19:15

Y

yard 9:1,16 11:6 11:10 15:1,3,7 15:8,9 16:5,19 17:1 19:19 23:8 26:5 30:12 31:3
yards 14:8 36:17
yeah 9:8 21:16 33:1,12,13 36:22 59:12,22 62:1,3 64:7 69:22 71:9 73:17 74:2 78:4 80:1
year 12:14 42:2 54:4
years 11:4,11,14 29:14 42:21 52:22 67:12 74:20
yellow 16:15 17:2
Yep 16:8 21:11 30:7 33:3,10 66:14 67:2
yesterday 27:10 27:12 52:2,4
young 28:19

Z

Z 10:1
zippered 31:8
zones 74:8
zoning 2:7,8 6:5 6:7,21 7:1,3,4 7:5,15,20 8:6,6 9:18,21 15:6 15:10 41:4,5 42:1,9 43:10 45:21 47:10,16 49:2 50:4 53:22 60:13 61:13 62:20 63:1,10 64:2 64:22 66:17,17 71:22 73:22 75:20 77:5,21 83:14

0

08:22 85:22

1

1 15:6 22:5
1,800 63:20
1.c 56:8
10 2:9,10 22:3 83:22
10' 30:19
10-month-old 13:6
10-year 42:11
11 41:5
11' 30:10,19
11.800 49:3,4 56:2,3 57:7 70:5,18
11.802 56:8
11.802.2 56:14
11.804 56:18
11.804a 70:9
12 10:10 87:18
120 2:12 84:3
13 1:4 3:9
14 52:22
1700 19:11
18 44:4
1990 12:3
1991 12:4
1999 12:4

2

2 3:13 29:11 83:22
2006 52:19
2013 42:15
2020 53:4
2023 1:4 3:9,13 87:13
2026 87:18
2070 22:3
22 4:5 19:15 83:15
220600 84:1
223702 84:3
225273 84:1
231274 84:3
24- 31:8
25-ish 29:14
27 7:2,9

3

3 28:3
30 10:7
300 59:6 73:8
300-foot 58:19
32 19:15
32' 30:11
35' 15:8
36 52:20 54:15

4

4 41:4 48:18 70:4
4.3 56:4
40 2:7
46 29:11
4th 7:11

5

5 2:4 15:21 16:6 16:11 28:17 30:22 56:5 71:2 73:20
5.53 24:6
5:00 27:10,12 52:2,4
500 73:7
51 2:11 84:2
52 28:3
55 2:6 6:20 9:1 12:1,5 13:5
58 56:6 70:15,16 70:20 71:3 73:19

6

6:30 1:4
6:35 3:3
6:37 5:17
6:40 8:15
63 28:16
67 26:1

7

7:21 40:19 83:9
75 9:20

8

8 2:6 56:5 71:2 73:20
804 57:1
83 2:9,10,11,12

9

9 27:9 52:1,17