



FOR THE  
CITY OF WALTHAM  
ZONING BOARD OF APPEALS

GENERAL HEARING

August 29, 2018

7:00 P.M.

at

Public Meeting Room, First Floor  
Arthur Clark Government Center  
119 School Street  
Waltham, Massachusetts 02451

Barbara Rando, Chair  
Mark Hickernell, Clerk  
Glenna Gelineau  
Marc Rudnick  
John Sergi

Arlington Reporting Corporation  
(339) 674-9100

Waltham Zoning Board of Appeals/8-29-18/2

**I N D E X**

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**A T T A C H M E N T S**

Legal Notice: Case No. 2015-25

P R O C E E D I N G S

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3 **Case Number 2015-25: Alliance Realty Partners LLC**  
4 **d/b/s Broadstone Watch City.**

5 BARBARA RANDO, CHAIR: Good evening.  
6 The Zoning Board of Appeals for Tuesday, August 29<sup>th</sup> -  
7 - Wednesday, the 29<sup>th</sup> of August at 7:00 p.m.

8 Tonight we have Case 2015-25, Alliance  
9 Realty Partners on Second Avenue. And, at this time,  
10 I'm going to call for a motion to recess this case  
11 till 8:00 when all the members can be present.

12 JOHN SERGI: So moved, Madam Chair.

13 BARBARA RANDO, CHAIR: Motion by Mr.  
14 Sergi. Do I have a second?

15 GLENNA GELINEAU: I second it.

16 BARBARA RANDO, CHAIR: Second by Ms.  
17 Gelineau.

18 How do you vote, Mr. Sergi?

19 JOHN SERGI: Yes.

20 BARBARA RANDO, CHAIR: Ms. Gelineau?

21 GLENNA GELINEAU: Yes.

22 BARBARA RANDO, CHAIR: And the Chair  
23 votes yes. So we're going to recess this case until  
24 8:00, and we will reopen it at that time.

1 Thank you.

2 (Whereupon, a one-hour recess was  
3 taken off the record until all Board members are  
4 present.)

5 BARBARA RANDO, CHAIR: Good evening.

6 The Zoning Board for Wednesday, August  
7 29th, 2018 was opened at 7:00 p.m. And a motion was  
8 made to recess the case to 8:00 p.m. So, we are  
9 ready to start. We have the full Board at this time.

10 Tonight, we have one case, Case 2015-  
11 25, Alliance Realty Partners, LLC, 341 Second Avenue.  
12 And that's a continued case.

13 Would the Clerk please read the  
14 Petition in Case 2015-25?

15 MARK HICKERNELL: (The Clerk reads the  
16 above-mentioned petition into the record. See  
17 Attached.)

18 BARBARA RANDO, CHAIR: Thank you.

19 The members sitting this evening are  
20 Mr. Sergi, Mr. Hickernell, Ms. Gelineau, Mr. Rudnick,  
21 and I am Barbara Rando.

22 All right. Is there any department  
23 head in attendance that would like to come to the  
24 microphone and make a statement?

1 (No response.)

2 BARBARA RANDO, CHAIR: Any City  
3 Councilor?

4 (No response.)

5 BARBARA RANDO, CHAIR: Is there any  
6 other department head here?

7 (No response.)

8 BARBARA RANDO, CHAIR: Is there anyone  
9 from the public that would like to speak?

10 COUNCILOR ROBERT G. LOGAN: Thank you.  
11 My name is Robert G. Logan. I live at 109 Taylor  
12 Street in Waltham. I'm the City Councilor for Ward 9  
13 Vice President of the City Council, and I was elected  
14 by the City Council to be the representative of the  
15 City Council for the purpose of this matter.

16 First, I want to -- because I know  
17 you're getting towards the end of this process -- I  
18 want to say thank you to the Zoning Board of Appeals  
19 for all the work I know that they've put in because,  
20 as a member of the City Council on the Ordinance and  
21 Rules Committee, we do a lot of special permits. And  
22 a special permit is one thing that is a lot of work.  
23 I know how much work that is. So, people see that  
24 you're here tonight, you're at the meeting, but

1 there's much more that you have to do in conjunction  
2 with these proposals. And I know how much work goes  
3 into just a special permit. In this case, it's a  
4 comprehensive permit, so you're acting in place of  
5 numerous boards and commissions and having to look at  
6 traffic reports, and engineering studies, and  
7 everything like that. So, I don't think a lot of  
8 people in the public really have an appreciation for  
9 how much work you have offered to do on this matter.  
10 So, I just wanted to point that out because I know  
11 it.

12 BARBARA RANDO, CHAIR: Thank you.

13 COUNCILOR ROBERT G. LOGAN: Another  
14 thing I know is that, again, being in a public  
15 position, that no matter what you do, you'll be  
16 criticized. But, I think it's important to point  
17 out, because if you say it, it sounds self-serving,  
18 so let me say it. Under Chapter 40B, and under all  
19 the case law associated with 40B and all the  
20 litigation that's gone on with that over the years,  
21 you don't really have a lot of flexibility. And I  
22 know that. And I just wanted to state that publicly  
23 that you're in a very difficult position. So,  
24 whatever you do, people may criticize, but they

1 really don't understand the constraints that you're  
2 working under. So, I just wanted to say that.

3 I also want to say the Ward 1  
4 Councilor -- this is located in Ward 1. He just  
5 wanted to let you know that he was unable to be here  
6 tonight because of a previous commitment but that,  
7 you know, he's already made his remarks. They're on  
8 the record, and he stands by them.

9 And I also want to acknowledge one of  
10 my colleagues, the City Council President, Councilor-  
11 at-Large Diane LeBlanc is here as well. So, let me  
12 just, if I can, I've got some notes here.

13 BARBARA RANDO, CHAIR: Councilor  
14 Logan, would you, for the record, name Ward 1's  
15 Councilor?

16 COUNCILOR ROBERT G. LOGAN: Ward 1  
17 Councilor Dan Romard.

18 BARBARA RANDO, CHAIR: Thank you.

19 COUNCILOR ROBERT G. LOGAN: He  
20 couldn't make it.

21 So, just a few things that I want to  
22 observe. First of all, you know, we still -- not  
23 that it matters -- but we disagree with the decision  
24 issued February 13, 2018, affirming DHCD's finding

1 that the Board had not met its burden of proof that  
2 Waltham had achieved the 1.5 percent land area  
3 threshold, and remanding the application back to the  
4 Board pursuant to 760 CMR 56.03(8)(c) for further  
5 proceedings in accordance with 760 CMR 56.05. We  
6 disagree with it, but that doesn't -- I suppose that  
7 doesn't count. I just wanted to state that. We just  
8 wanted to state that.

9 We haven't -- we, the City Council --  
10 I'm sure you have -- we haven't received the Board's  
11 traffic consultant's letter dated January 10, 2018  
12 from Vanasse Associates, I believe it is, which  
13 looked at all the traffic safety impacts and parking  
14 aspects, including whether the number, and location,  
15 and type of parking spaces at the development are  
16 appropriate. So, we haven't received that, so we  
17 really can't make any comment on that. But, you  
18 know, I trust that the Board has reviewed that or  
19 will review that closely to make sure that their  
20 findings make sense.

21 Our concern, that the Applicant, under  
22 the proposed decision, the Applicant would be able to  
23 unilaterally, through its annual monitoring reports,  
24 decide to reduce the shuttle service. And I have a



1 number -- as I go along, I'd like to make a few  
2 suggestions.

3 JOHN SERGI: Councilor Logan, just a  
4 quick question.

5 COUNCILOR ROBERT G. LOGAN: Yes?

6 JOHN SERGI: A clarification. Which  
7 decision are you looking at? It's dated.

8 COUNCILOR ROBERT G. LOGAN: Let's see.  
9 Do I have it here? It was the most recent one that  
10 was sent out -- 8/16/2018.

11 JOHN SERGI: I think there was one  
12 more recent, August 23<sup>rd</sup>.

13 COUNCILOR ROBERT G. LOGAN: There were  
14 two emails that we received asking us to attend the  
15 meeting. And one had like three different versions.  
16 The first email had like three different versions of  
17 a decision, like a regular one in a Word document,  
18 and then it had two PDFs, one that looked like a  
19 decision and one was a redline version. But then,  
20 subsequent to that, they sent another email with just  
21 a Word document. I assumed that that was the most  
22 recent one.

23 JOHN SERGI: No, there was another  
24 comprehensive decision that was incorporating a lot

1 of the comments --

2 BARBARA RANDO, CHAIR: It may be in  
3 the folder.

4 JOHN SERGI: -- the different parties  
5 in the City, that they discussed. So, there is a  
6 more recent version than this.

7 COUNCILOR ROBERT G. LOGAN: Okay. So,  
8 you're just going to have to take what I have to say  
9 with a grain of salt then.

10 JOHN SERGI: All right. As long as  
11 it's --

12 COUNCILOR ROBERT G. LOGAN: I'll do  
13 the best I can. I made my comments based on the most  
14 email that I received.

15 JOHN SERGI: Understood.

16 MARC RUDNICK: Cite the paragraph  
17 number so we can see --

18 COUNCILOR ROBERT G. LOGAN: Yeah. So,  
19 let me just, if I could -- if I could pass --

20 STENOGRAPHER: Could you guys all  
21 speak up tonight, the Board members, please? When  
22 you make comments, he's close to you, but the  
23 recorders aren't. Sorry. Thank you.

24 COUNCILOR ROBERT G. LOGAN: I'll pass

1 these -- I will propose a couple of amendments. They  
2 may have already been taken care of. So, if they  
3 were, good. If not, this is what I have.

4 So, the language that's in there  
5 basically says that they could reduce the shuttle  
6 service, you know, based on the usage. And I don't  
7 have a problem with that in concept, but, you know, I  
8 think the Council problem is that they can do it  
9 unilaterally without consulting or any kind of  
10 discussion or approval from any board.

11 So, on the Council, we've had these  
12 kinds of situations before where the petitioner has  
13 wanted the ability, as circumstances changed, to  
14 change conditions in the special permit. And we've  
15 handled it somewhat like this.

16 If you look at the top of that  
17 document I just handed out, it references page seven  
18 of the proposed decision, at least the proposed  
19 decision I'm working off of. The last sentence of  
20 the paragraph at the top, which begins on page six,  
21 but this is the last I think sentence maybe of the  
22 paragraph, it says, "If it is found through an annual  
23 monitoring report maintained by the Applicant that  
24 the development residents are not regularly using the

1 shuttle," and it says, "reduce the frequency of the  
2 shuttle service accordingly to respond to actual  
3 demand."

4 I propose that it be amended to say if  
5 they're not regularly using the shuttle, "the  
6 Applicant may request permission from the City of  
7 Waltham." And I put in Traffic Commission, but if  
8 you want to make that Zoning Board of Appeals because  
9 you're the permit-granting authority, either way I  
10 think they should have to go for something.

11 And then at the end I have, "which  
12 permission shall not be unreasonably denied." A lot  
13 of times petitioners are concerned about what if we  
14 go in and we've got a good argument that, you know,  
15 this is why it should be reduced, and for no good  
16 reason the Traffic Commission, or the ZBA, or the  
17 City Council just says, "Well, that's all well and  
18 good, but, no, we're not going to approve it." So,  
19 this adds some language, which, if they had to, they  
20 could litigate it and say that you were being  
21 unreasonable. But, at least it gives you or the  
22 Traffic Commission the opportunity to take a look at  
23 it before they go and reduce the shuttle service.

24 The same language is also on page 12

1 of the decision in bullet point number 13. And so I  
2 would propose doing the same change to that.

3 Another concern is that the shuttle  
4 service that is proposed is to area businesses, I  
5 assume on the premise that it would be a shuttle to  
6 work. So, it would be from their house to presumably  
7 a job that they have at one of the main businesses  
8 around 128, Beal Ave., or that area. But, if people  
9 don't have cars, then they're going to need shuttles  
10 to like the grocery store. They're going to need,  
11 you know, shuttles to other places.

12 Also not in here is anything that --  
13 any kind of mitigation, or help, or payments to the  
14 school department to try to defray the cost of  
15 transporting students from this remote location where  
16 there's no other school around over to whatever  
17 schools they're going to. So, that's something that  
18 could be considered. I don't have a specific  
19 amendment for that, but that's just something to be  
20 considered.

21 Again, same as with the traffic  
22 consultant's report. I guess there was a letter from  
23 Nitsch dated July 17, 2018 saying that they found the  
24 development similar to the design, including utility,

1 and site layouts, and stormwater. It says "to be  
2 approved." I don't know if that means to be  
3 appropriate, or adequate, or whatever, but it says,  
4 "to be approved."

5 Again, we don't have a copy of -- we,  
6 the City Council, didn't get a copy of that. So we  
7 can't comment on that. But I would hope that you'd  
8 take a closer look at that even though you got the  
9 letter from the consultant to go over that and make  
10 sure that they've covered all the points.

11 They do mention complying with the I  
12 and I, the City ordinance, Section 16-32, which is  
13 good. That's a good addition. And the only thing  
14 is, the City is under a consent decree. And I don't  
15 have a copy of that consent decree with me. I  
16 believe there may be other requirements of the City  
17 besides just the I and I. And you might want to  
18 check with engineering or the law department to make  
19 sure that there's nothing else in that consent decree  
20 that this comprehensive permit or this Petitioner  
21 also should be made to comply with.

22 And the other thing I would note is it  
23 says the mitigation fee is approved -- it mentions  
24 City Ordinance 16-32. And it says, "As presented by

1 Stephen Casazza, the mitigation fee is approved  
2 December 29, 2004." There's been a subsequent  
3 amendment to that ordinance, so you might want to  
4 check with the City Clerk's office. I don't know --  
5 I can't remember what the date of that is, but we  
6 amended the I and I limits. So you might want just  
7 the correct reference in there.

8 Let's see. Condition number 17 seems  
9 -- I don't know if this section of Second Avenue -- I  
10 don't know if maybe you can answer the question -- is  
11 this section of Second Avenue a public way or a  
12 private way? I haven't seen anything that says it's  
13 a private way. So, I would have to assume that it's  
14 a public way. If that's the case, condition 17 says,  
15 "If requested by the Police Department, the applicant  
16 will install 'No Parking' signs," and it says in what  
17 locations and everything.

18 Typically, that would be directed by  
19 the traffic commission. The traffic commission has  
20 jurisdiction over public ways and what kind of signs  
21 are appropriate. The traffic engineer, going by the  
22 Manual of Uniform Traffic Control Devices, would  
23 know, you know, what the proper type of sign, the  
24 proper wording, the proper spacing, location, and all

1 that. And that would usually go through the traffic  
2 commission. So that condition, you may want to  
3 rewrite that to say the -- reference the traffic  
4 commission instead of the -- instead of the police  
5 department.

6 Condition -- let's see -- number 18.  
7 Number 18 says, "The Applicant shall make  
8 available..." On page 12 of the proposed decision,  
9 bullet point number 18, it says, "The Applicant shall  
10 make available a minimum of one parking space." No,  
11 it says, "The Applicant shall make available one  
12 parking space free of charge to each of the  
13 affordable units." That's what it says.

14 The concern on that is that it's a  
15 good thing that they've increased the number of  
16 spaces so now they're up to 1.5 spaces per unit, but  
17 if they only give one per unit to the affordable  
18 units, that means that the market rate units will all  
19 be given more than 1.5 because you'll have those  
20 extra ones rolled in. And you'll have a disparity.  
21 You'll have all the market rate units will have an  
22 abundance, or a relative abundance, of parking spaces  
23 available and the affordable units will have one.  
24 And, to me, that's kind of discriminatory.



1                   So, what I'm proposing here, the third  
2 thing where it says page 12 of 18 -- and on these  
3 first three ones, by the way, what is underlined is  
4 what I'm adding into the existing language, so it's  
5 the existing language and what's underlined is what  
6 I'm putting in.

7                   So, in this one I add, "Make available  
8 a minimum of one parking space, free of charge, to  
9 each of the affordable units."

10                   And then I add another sentence that  
11 says -- and just to reference my math on this, where  
12 I come up with the 25 spaces, there's 49 available  
13 units. If there's 1.5 spaces per unit overall, then  
14 that means there should be 73.5 spaces for the  
15 affordable units. Round that up to 74. With the  
16 existing language saying, "One space for each  
17 affordable unit," that's only 49 spaces for the  
18 affordable units. So, if you subtract 49 from 74,  
19 that means that they should be given another 25  
20 units. Well, obviously, how do you -- how do you  
21 disburse those among 49 units? You're just going to  
22 have to do it on a first come, first-serve basis.  
23 So, I add the additional sentence: "In addition, 25  
24 additional spaces shall be made available to the

1 affordable units, free of charge, on a first come,  
2 first serve basis, provided that no affordable unit  
3 be provided with more than two spaces," because I  
4 didn't want to imply that we're saying that they  
5 should get three spaces. They don't need more than  
6 two. I would think two would be plenty.

7           Again, we have this development. And  
8 you have people out there who are going to be in  
9 these affordable units who are lower income.  
10 Typically, those are the people that have  
11 transportation obstacles. They don't necessarily  
12 have reliable transportation available to them. So,  
13 a lot of them will have to use public transportation.  
14 But those that do have cars, shouldn't be  
15 discriminated against in terms of whether or not they  
16 could have spaces available.

17           And, if you only give them one, and  
18 they need two spaces, if there are some that have two  
19 cars, because there's different number of bedrooms  
20 per unit. There's some that are one-bedroom, some  
21 that are two. If they're got two bedrooms, that's  
22 two people, they've got two cars. And if they only  
23 get one space, where is that second car? It's going  
24 to be out on the street. And we're going to have

1 cars parked all over Second Ave. and Bear Hill Road.  
2 And I don't think that that's something that we  
3 really want. So, I would recommend that change.

4 Let's see. What else do we have here?  
5 Bear with me. Okay.

6 And the last thing -- and I'm very  
7 glad to see that it's been added in to make these  
8 affordable in perpetuity. That was, I think, the  
9 most important issue in this whole discussion is that  
10 they're going to be in perpetuity. My reading of the  
11 most recent release, the most recent version of the  
12 proposal that I received, seems to indicate that it's  
13 in perpetuity. Although, the version that I saw had  
14 in perpetuity twice. It said, "Shall be in  
15 perpetuity," and then said, common, "in perpetuity,"  
16 semicolon. So, you might want to check the most  
17 recent to see if there's duplicate language in there.  
18 But, definitely, the in perpetuity is very important.

19 Finally, I don't know what kind of  
20 construction this is going to be. I don't know if  
21 it's been discussed. I'm guessing it will probably  
22 be the same wood frame construction that they are  
23 doing everywhere now, including what was used at  
24 Cooper Street. After Cooper Street, we've learned a

1 valuable lesson. And although they had done  
2 everything according to the book the first time  
3 around, you see what still happened.

4 When they came in for an extension of  
5 their special permit, we put conditions. We, the  
6 City Council, because we were the special permit  
7 granting authority in that case, put special  
8 conditions onto that extension that required them to  
9 submit the security plan to the police department and  
10 an NFPA 241 plan to the fire department. And I took  
11 the exact language that we used in our extension, the  
12 two conditions, and just amended them to be  
13 appropriate to this application. And my suggestion  
14 is these be -- there are currently 51 conditions in  
15 the proposed decision, and you could just add these  
16 as conditions 52 and 53.

17 And that is basically the information  
18 that I wanted to convey. And, once again, you know,  
19 you've done a lot of hard work. You've had a  
20 difficult decision. And no matter what you do,  
21 people will criticize. But I know everything that  
22 went into it and I appreciate it.

23 Thank you.

24 BARBARA RANDO, CHAIR: Thank you.

1                   Is there anyone else? Officer Grant,  
2                   Waltham Fire Department.

3                   DEPUTY CHIEF RICHARD GRANT:     Good  
4                   evening. Deputy Chief Richard Grant, 175 Washington  
5                   Street, Waltham.

6                   I'm here just to speak on behalf of  
7                   the fire department. The fire department has worked  
8                   hard with Alliance on the proposed design. There  
9                   have been several changes made to the design to meet  
10                  the current fire codes.

11                  I'd just like to say, the fire  
12                  department has some certain conditions that have been  
13                  discussed with Alliance. And they have stated that  
14                  they are committed to incorporating the following  
15                  conditions into their permit request. The conditions  
16                  are:

17                  Providing a suppression system during  
18                  the construction, similar to the one that we're doing  
19                  now on Cooper Street, and similar to the two new  
20                  hotels that have just been built on Second Ave.

21                  Provide smoke evacuation systems in  
22                  the garage. I believe now there's going to be two  
23                  levels of parking below grade.

24                  Provide fully addressable fire alarm

1 panels.

2 Provide BDA system, which is a  
3 bidirectional amplifier system, which is for  
4 emergency radio communications.

5 An FBA 241 plan, which is a  
6 construction safety plan, as well as a security plan,  
7 and also a third-party review of the proposed plan  
8 set.

9 And those are the conditions that we'd  
10 like met.

11 Any questions?

12 MARK HICKERNELL: Deputy Chief, did  
13 you say you had already discussed those conditions  
14 with the applicant?

15 DEPUTY CHIEF RICHARD GRANT: Yeah,  
16 I've been -- we've had emails back and forth. And I  
17 believe they're on board with them.

18 BARBARA RANDO, CHAIR: All right.

19 MARK HICKERNELL: Thank you.

20 BARBARA RANDO, CHAIR: Any other  
21 questions of the officer?

22 (No response.)

23 BARBARA RANDO, CHAIR: Hearing none.  
24 Thank you.

1                   Is there anyone else that would like  
2 to speak from the public?

3                   (No response.)

4                   BARBARA RANDO, CHAIR:     Seeing none.  
5 All right.     We can review and discuss any and all  
6 questions on the waivers and the conditions of the  
7 approved decision before we close the public hearing.

8     Are we all under the same understanding of the  
9 waivers, the I and I and whatever waiver that they  
10 have to do? Do we have any questions?

11                   MARC RUDNICK:     We need clarifications  
12 from the applicant --

13                   BARBARA RANDO, CHAIR:     We do?

14                   MARC RUDNICK:             -- especially in  
15 regards to --

16                   BARBARA RANDO, CHAIR:     So we can  
17 discuss --

18                   MARC RUDNICK:     I'd rather hear from  
19 the applicant now just --

20                   BARBARA RANDO, CHAIR:     I'm sorry?

21                   MARC RUDNICK:     I'd rather hear from  
22 the applicant now and then go back to -- I think they  
23 are going to answer a lot of these questions.

24                   BARBARA RANDO, CHAIR:     Do you have

1 something to say?

2 MICHAEL BOUJOULIAN: Good evening,  
3 Madam Chairman, members of the Board. For the  
4 record, I am Michael Boujoulian with Alliance Realty  
5 Partners. The street address is 184 High Street in  
6 Boston.

7 Thanks to the City Councilors and to  
8 the Deputy Chief for coming tonight to work with us.

9 I have limited comments. I think a  
10 lot of these, as you may know, were picked up already  
11 in the most recent drafts of the permit. But I'll  
12 speak to a handful of them.

13 I think a lot of these questions and  
14 comments by Councilor Logan are pretty well-trodden  
15 territory, but I'm happy to speak to them.

16 I think the shuttle in particular, the  
17 shuttle was something that we proposed to be a part  
18 of this project. It's something that is a critical  
19 part of our business plan. So, I'll just remind you.  
20 We have no intentions of dialing back the shuttle  
21 given we suggested it be a condition on the permit.  
22 It's a key part of our business plan in order to  
23 connect our customers with their workplace. And, as  
24 we discussed last week, as we amended that last



1 decision, the last -- excuse me -- condition, that  
2 we'll work with the Council, the 128 Business  
3 Council, to manipulate the routes as much as we can  
4 to meet the Board's needs. And I think given our  
5 relationship with them, and the fact that I've been  
6 on the executive committee and the board of directors  
7 for the 128 Business Council, that I'll be able to do  
8 that.

9 So, on the parking signs, the  
10 condition we added for adding no parking signs and  
11 coordinating with Waltham Police was really just in  
12 response to the Waltham Police Chief's, Chief  
13 MacPherson's concerns. So, certainly, I would expect  
14 if he had needs that we needed to coordinate with the  
15 City traffic commission that sounds fine. But the  
16 key for that was that we wanted to be responsive to  
17 Chief MacPherson's concerns and how we would handle  
18 the parking there, and a commitment that we would  
19 continue to work with him on addressing those. And  
20 we've been able to address all of his concerns.

21 I'm going to skip ahead and come back.  
22 I thought the two conditions suggested, 52 and 53, I  
23 don't have an opposition to these. I will note that  
24 they are required as part of our building permit

1 process. We understand there's an ad hoc  
2 collaborative process before you file for the  
3 building permit. And even as we've discussed with  
4 the Deputy Chief a number of stages before that as we  
5 developed the plans, how they address them and it all  
6 gets fitted in, smoke, evac. And these are  
7 conditions I'll note that are already listed in the  
8 permit.

9 So, those are -- if the Board wishes  
10 those to be added, that's fine. But we also know  
11 that we won't get a building permit without those  
12 conditions. So, obviously, that's up to the Board.  
13 So, I just wanted to cover those two. We expect  
14 continued work with police and fire on these in order  
15 to get the building permit and to execute on our  
16 business plan.

17 So, I guess the last note was the  
18 third item raised. I think there may have just been  
19 some talking past each other on how the parking piece  
20 works for affordable units. So, the affordable  
21 parking space, it's not that there would only be one  
22 parking space physically available for an affordable  
23 unit; it was a reflection of regulations under 760  
24 CMR that one parking space must be made available

1 free of charge. So, the first parking space for any  
2 affordable unit -- and this is something we've been  
3 discussing for a few weeks -- per the regulations  
4 cannot be charged for. So that was really a  
5 reflection of that. And we actually did last week  
6 discuss having maybe some extra spaces reserved. And  
7 our only point on that was additional spaces that  
8 we're forced to hold and reserve to meet future units  
9 as they become available, in order for us, of course,  
10 to comply with this condition, we're going to have to  
11 make sure we have a full inventory of available  
12 spaces for each of those additional affordable units.  
13 And that would erode what was a very important part  
14 of the Board's request, which was to get this parking  
15 ratio up and at substantial cost.

16 So, we don't think that there -- in  
17 response to some of that, we've added that we would  
18 include -- and this may have been on the later draft,  
19 Mr. Logan -- but we would add additional spaces for  
20 three-bedroom units where we think there actually is  
21 a good chance that there will be -- could be  
22 additional parking spaces required, you know,  
23 potentially more than one vehicle. So, we have  
24 agreed to I think it was five spaces, to hold another

1 five spaces for the three-bedroom units, which would  
2 work. Typically, we don't see affordable units with  
3 more than one car. Many of them don't have cars.  
4 So, that's another aspect.

5 So, those are the key pieces relative  
6 to Mr. Logan. I think, just to recap, the no parking  
7 signs, however the Chief would like those. We just  
8 want to make sure that whoever we're coordinating  
9 with that that direction still meets the Chief's  
10 needs for how those would work.

11 And the parking, that's, again, well-  
12 trodden territory that we were able to retain our  
13 draft of that, assuming, of course, it meets the  
14 Board's requirements.

15 And, then I agree with Deputy Chief  
16 Grant. We've spent quite a bit of time together.  
17 I'm sure he's tired of dealing with us, probably more  
18 A.J. than me. So, we have had a number of changes  
19 relative to code and preference, candidly, for how  
20 Waltham's finest have to deal with emergencies,  
21 including a change in the building for -- we have  
22 added conditions, except for two, which I'll note,  
23 and we can decide what's appropriate, in your  
24 opinion. The fire suppression systems during

1 construction, and certainly the smoke evac systems in  
2 the garage, the BDA system, and the fully addressable  
3 panel, so we're committed to doing those. Typically,  
4 as we get ready to go for the building permit, there  
5 are details that we'll still need to work on with the  
6 fire department. As I mentioned, we'll have a -- in  
7 order to get a building permit, we'll need to satisfy  
8 the chief of police of the police department and the  
9 fire department. So, those conditions have been  
10 added.

11 I think the only two that we didn't  
12 add, and we can talk, if this is something you  
13 definitely want to see. We didn't add the 241 plan  
14 or the third-party review, only because we expect  
15 that you -- we can't get a building permit without  
16 them. But if the Board -- we did commit to those.  
17 So, if the Board, if they wanted to reiterate that in  
18 the condition, that's fine. Either way, we couldn't  
19 proceed without satisfying those.

20 MARC RUDNICK: I think the chief  
21 mentioned a security plan as well was the other item.

22 MICHAEL BOUJOULIAN: Yeah, I mean in  
23 my experience, we sit with police and fire before you  
24 file for a building permit. And if you don't make

1 those guys happy, you don't get a building permit.  
2 So, we expected to have to do that. This is  
3 something we discussed with Chief MacPherson as well  
4 as the fire department. So, we can address those.

5 BARBARA RANDO, CHAIR: Mr. Logan?

6 CITY COUNCILOR ROBERT G. LOGAN: Just  
7 a technical point. On the request from the Chief of  
8 Police on the no parking signs, the Chief of Police  
9 is by state law -- it's a special act of the  
10 legislature that created the Waltham traffic  
11 commission -- is the chairman of the traffic  
12 commission. But the traffic commission is the one  
13 that actually has the authority to authorize no  
14 parking signs. So, as a technical matter, I think it  
15 should reference the approval of the traffic  
16 commission. But the chief is the chair of the  
17 traffic commission anyway. So, I wouldn't think you  
18 would have a problem with that differentiation, but  
19 it's just technically more correct.

20 MARC RUDNICK: Councilor, are those  
21 issues the same for private ways and public ways?

22 CITY COUNCILOR ROBERT G. LOGAN: No,  
23 and that's why I asked.

24 MARC RUDNICK: I believe we received

1 testimony that this is a private way.

2 CITY COUNCILOR ROBERT G. LOGAN: Is it  
3 a private way?

4 MICHAEL BOUJOULIAN: It is.

5 CITY COUNCILOR ROBERT G. LOGAN: Okay.  
6 So, that is a different story. Since it's a private  
7 way, the Petitioner basically owns the street. So,  
8 in that case, it should state it is Chief of Police  
9 because the traffic commission, again by state  
10 statute, does not have jurisdiction on private ways.  
11 So, in that case, we'll keep it that way.

12 Thank you.

13 BARBARA RANDO, CHAIR: Thank you.

14 All right. Is everyone clear on the  
15 waivers, what waivers they're requested and what  
16 waivers they are going to accept?

17 JOHN SERGI: Yes, Madam Chair.

18 BARBARA RANDO, CHAIR: Pardon me? Do  
19 you want to discuss that? Do you want the Petitioner  
20 to state what ones he's requesting? I would like to  
21 hear. Would you come to the podium and state what  
22 waivers you are asking for and what you are  
23 accepting?

24 MICHAEL BOUJOULIAN: Just a moment,

1 Madam Chair.

2 So, I'm looking at page two. And  
3 this, even the most recent draft, which I think there  
4 were a handful of minor changes that occurred since  
5 our last meeting, or hearing I should say, I believe  
6 the waivers have remained the same for the last  
7 handful of drafts.

8 So, the first item, waiver number one,  
9 is simply the use is not allowed in a commercial  
10 district. As you know, multifamily is not allowed in  
11 this district. So that waiver would be required.

12 And, similarly, item number two is  
13 Waltham's regulatory municipal regulations and  
14 ordinance requires the special permit be issued by a  
15 City Council for this use, even though it's not  
16 allowed in this. So, some of these may seem  
17 duplicitous, but we wanted to cover all bases.

18 Waiver number three is regarding the  
19 dimensional requirements. Similar to the use,  
20 Waltham's ordinance didn't contemplate this use here.  
21 So that's a waiver.

22 Number -- these are, of course, all  
23 related and reflected in the permit documents we've  
24 submitted.



1                   Waiver number four is the two-space  
2 per unit requirement for parking in a multifamily  
3 building, which I think we've covered quite a bit of.  
4 So, this is reflecting that technicality.

5                   Waiver number five is requesting a  
6 waiver for a no paint area, excluding entrances and  
7 exits, shall extend within five feet of any lot or  
8 street line nor into any front yard. And we have  
9 some parking, as you know, along the private way. We  
10 have removed, as you know, the parking on the west  
11 side of the building.

12                   And then waiver number six is trees  
13 with a minimum size of three-and-one-half inches in  
14 diameter shall be provided at the rate of one for  
15 every ten cars.

16                   Moving on to number seven, stormwater  
17 related, which is establishes road stormwater  
18 regulations and standards. As you know from Nitsch  
19 Engineering's reviews, we've complied with all of  
20 DEP's stormwater requirements as though this were a  
21 new development.

22                   And eight is -- the next handful of  
23 waivers, three I believe, are related to Waltham  
24 engineering department requirements.

1           So, waiver number eight, in general,  
2           it is required that all drainage be retained and  
3           recharged onsite for a 100-year storm with no  
4           connection to City systems.

5           Waiver number nine is flows not to be  
6           discharged directly to existing municipal storm  
7           drainage systems.

8           Number ten is all drainage designs  
9           shall comply with the guidance set forth in the  
10          Massachusetts DEP Protection stormwater standards and  
11          policies, together with the City of Waltham  
12          requirements.

13          And, finally, waiver number 11,  
14          related -- this is still related to engineering on  
15          the drainage calculations. This policy -- the policy  
16          provides regulations more restrictive than MassDEP  
17          standards.

18          That is the list.

19          BARBARA RANDO, CHAIR: All right. Any  
20          questions from Board members?

21          JOHN SERGI: No, not at this time.

22          MARK HICKERNELL: Yeah. With respect  
23          to the infiltration and inflow mitigation ordinance,  
24          Councilor Logan referenced that it had been

1 subsequently amended by the Council since the version  
2 referenced here. Do you have a problem with adding a  
3 clause after the "as presented by Stephen Casazza at  
4 the April 3, 2018 hearing?" The clause would state,  
5 "And as subsequently amended up to the date of this  
6 decision."

7 MICHAEL BOUJOULIAN: I'm sorry, Mr.  
8 Hickernell? Which page?

9 MARK HICKERNELL: General condition,  
10 paragraph 39, page 14.

11 MICHAEL BOUJOULIAN: I believe we were  
12 looking at an amendment that was much more recent  
13 than that. So, that's okay. Tell me, again, it was  
14 page -- general conditions number --

15 MARK HICKERNELL: Yeah, numbered  
16 paragraph 39 under general conditions. I have it as  
17 page 14, but we may be working from different  
18 versions.

19 MICHAEL BOUJOULIAN: Yeah, I would  
20 just say -- I don't have our civil engineer here  
21 tonight. I don't think there's a difference. But  
22 what we specifically wanted to make match there was  
23 Mr. Casazza had asked for the I and I fee, which he  
24 calculated and provided for us, for the \$413,160.

1 So, that was his request. We just want to make sure  
2 that what he asked for is what we give him. I don't  
3 know that I -- we just want to -- I mean that's what  
4 we want to comply with is what he asked for in that  
5 fee. So, the short answer is I don't know the  
6 difference between these dates.

7 MARC RUDNICK: It wouldn't change the  
8 calculation.

9 MICHAEL BOUJOULIAN: Yeah, I don't  
10 think it did either. I just want to double check  
11 before committing.

12 MARC RUDNICK: I wrote some comments  
13 here. It doesn't change the calculation.

14 MICHAEL BOUJOULIAN: Okay. I know  
15 there was an update. And some of it was how --  
16 whether or not a fee was to be provided versus  
17 replacing the flows. So, we wanted to -- Mr.  
18 Casazza, we had spoken to him about paying the fee.  
19 So, as long as that's --

20 BARBARA RANDO, CHAIR: You can ask  
21 your question, but do it to the microphone because  
22 we're trying to --

23 MARC RUDNICK: I think the Councilor  
24 is just suggesting that you refer to the current

1 version. I've already checked with Mr. Casazza. The  
2 fee is unchanged and he has correctly calculated it.

3 MICHAEL BOUJOULIAN: As long as our  
4 ability to do what we thought up until now is the  
5 same. We're going to check with our engineer, but I  
6 suspect the answer is yes.

7 MARK HICKERNELL: Yeah, I'm not  
8 suggesting amending the condition relating to the  
9 sentence in the condition about how much is to be  
10 paid. Just, again, as Councilor Logan suggested,  
11 making sure it's referring to the most current  
12 ordinance.

13 MICHAEL BOUJOULIAN: That's fine.  
14 Yeah. So, we're just going to have -- we're going to  
15 double check. And I suspect, as I said, it's fine.

16 MARK HICKERNELL: The edits I made  
17 between last week and this week were not problematic  
18 from your point of view?

19 MICHAEL BOUJOULIAN: No, as I  
20 understand it speaking with our team, they were all  
21 accepted and incorporated into a draft that we  
22 submitted today. We did bring hard copies as well.  
23 We just forwarded it with a redline, but they all  
24 seemed perfectly acceptable.

1           I think there was one minor change we  
2 made on the three-bedroom language. And I could ask  
3 counsel to explain it probably more clearly than me.  
4 But we just wanted to make sure that those five units  
5 with the extra parking space were specifically for  
6 the three-bedroom. So, Mr. Hickernell, if you  
7 wouldn't mind just double-checking that language. I  
8 think it was relatively light wordsmithing, my  
9 reading of it. Like I say, it was -- but I'd just  
10 ask -- that was the only item that we did make a  
11 minor adjustment to.

12                   MARK HICKERNELL: It's paragraph 18?

13                   MICHAEL BOUJOULIAN: Eighteen.

14                   MARK HICKERNELL: Could I take a look  
15 at the hard copy of that?

16                   MICHAEL BOUJOULIAN: Absolutely. If  
17 it pleases the Board, should I distribute hard copies  
18 to everybody? It's the same as that we shipped  
19 today.

20                   MARK HICKERNELL: I'm fine with that,  
21 that version of it.

22           I just have another question about the  
23 -- about this. And I probably just missed it. But  
24 at the end of the hearing last week, I think we had

1 gone through several conditions that were either  
2 going to be amended or added. And those were all  
3 going to go in here. And I think some of them didn't  
4 end up separate numbered ones, for example, you know,  
5 make efforts with respect to the placement of the  
6 shuttle bus stop, and make efforts to have a route  
7 that goes to the shopping center, and something with  
8 respect to the amenities. Did those get added in and  
9 I missed them?

10 MICHAEL BOUJOULIAN: They have been.  
11 If it would be helpful, I could have counsel come up  
12 here and explain it.

13 MARK HICKERNELL: That would be great.

14 MICHAEL BOUJOULIAN: Would you mind  
15 walking them through the three new conditions? I  
16 shouldn't say three. There was two new and one was  
17 the three-bedroom --

18 JOHN SERGI: They're up to 54 now.

19 MARK HICKERNELL: Right.

20 JOHN SERGI: We are up to 54.

21 MARK HICKERNELL: The version I was  
22 working from I didn't see them. So the amenity  
23 program is 54.

24 MICHAEL BOUJOULIAN: The amended one

1 handed to you.

2 MARK HICKERNELL: Yeah.

3 MICHAEL BOUJOULIAN: Can you walk them  
4 through this?

5 GREGG COSIMI: Madam Chair, members of  
6 the Board, Gregg Cosimi on behalf of the Petitioner.

7 BARBARA RANDO, CHAIR: Name and  
8 address for the record, please.

9 GREGG COSIMI: Sure. K&L Gates, One  
10 Lincoln Street, Boston, Massachusetts.

11 BARBARA RANDO, CHAIR: Thank you.

12 GREGG COSIMI: So, one of the  
13 conditions that Mr. Hickernell I think is referring  
14 to is condition number 54. And that reads, "The  
15 Applicant shall provide an amenity program that's  
16 similar to the exhibit or its representative  
17 materials of amenity and common space spaces dated  
18 August 2018," attached to the Applicant's response to  
19 comments from 8/1/18 workshop dated August 16, 2018.  
20 Do you want to take a look at that?

21 And the second -- the second condition  
22 that Mr. Hickernell referenced was with respect to  
23 the shuttle service. If you look at the end of  
24 condition 13, since this was added, "The Applicant



1 shall endeavor to coordinate with the shuttle service  
2 provider to add a stop in, at, or near the shopping  
3 center located at 1265 Main Street and to locate the  
4 stop serving the development at or within 1,000 feet  
5 of the development."

6 And then I think the third condition  
7 Mr. Hickernell was referring to -- and correct me if  
8 I'm wrong because I was not at the last hearing, as  
9 you know -- was in Section 18, which we previously  
10 discussed with respect to the three-bedroom units and  
11 the second parking space.

12 MARK HICKERNELL: Yeah, that covers  
13 them. Thank you.

14 BARBARA RANDO, CHAIR: Any other  
15 questions from Board members?

16 JOHN SERGI: Well, I guess, Madam  
17 Chair, if we're going to add the conditions  
18 recommended by Logan, I'm not sure if it's redundant  
19 at this time, but, you know, they would be conditions  
20 55 and 56 then I guess.

21 BARBARA RANDO, CHAIR: Well, we would  
22 do that in our decision, I suppose, unless you want  
23 to add it tonight.

24 MR. HICKERNELL: I mean the important

1 thing is that the Petitioner doesn't have an  
2 objection to those, is my understanding. We could  
3 add them tonight or next week; it doesn't matter as  
4 long as they're acceptable to the Petitioner and  
5 won't affect the course of the case.

6 MICHAEL BOUJOULIAN: We've already  
7 made those commitments, so and we know that they're  
8 required of us no matter what part of the process.

9 MARK HICKERNELL: Okay.

10 BARBARA RANDO, CHAIR: All right. Mr.  
11 Rudnick, do you have any questions at this time  
12 before we proceed?

13 MARC RUDNICK: You're certain the NFPA  
14 plan is a requirement of getting a building permit?

15 MICHAEL BOUJOULIAN: We'll need to  
16 make the fire department and police department happy  
17 before we're able to get a building permit.

18 MARC RUDNICK: Just by virtue of their  
19 assignments.

20 MICHAEL BOUJOULIAN: Waltham has a  
21 collaborative process where we meet with everybody.  
22 This is as we've been told by a number of groups, and  
23 Mr. Forte's of course. And I'm sure we're going to  
24 meet with all of this. And it's worth making one

1 minor note as part of his wood frame comment.  
2 However, we are under a different fire protection and  
3 fire protection standard than Cooper Street. That is  
4 a 5A building, which is combustible. While we'll  
5 still have sprinklers and all the other matters, our  
6 wood is actually fire-treated. So, our building is  
7 what is called a 3A structure, so it's held to a  
8 higher standard for noncombustibility. But those  
9 matters are all sorted out as our plans progress.  
10 And, certainly, it would be redundant to add these,  
11 but we certainly are committed to those anyway.

12 MARC RUDNICK: So, you're asserting  
13 that since the fire department wants the 241, then  
14 you're going to have to do it whether it's in there  
15 because you can't get past it.

16 MICHAEL BOUJOULIAN: Right.

17 MARC RUDNICK: Thank you.

18 BARBARA RANDO, CHAIR: Any other  
19 questions, Mr. Rudnick?

20 MARC RUDNICK: Not at the moment.

21 BARBARA RANDO, CHAIR: Ms. Gelineau?

22 GLENNA GELINEAU: No.

23 BARBARA RANDO, CHAIR: Mr. Hickernell?

24 MARK HICKERNELL: No.

1 BARBARA RANDO, CHAIR: Mr. Sergi?

2 JOHN SERGI: No, I think we've go over  
3 a lot of these issues many times, and I'm satisfied  
4 at this point.

5 BARBARA RANDO, CHAIR: All right.

6 MARC RUDNICK: I'm sorry. Certainly  
7 we brought the point up at the beginning, Mr.  
8 Boujoulian, that there may be other elements to the  
9 consent decree besides conforming to or paying the  
10 fee for the I and I. Are you aware of the terms of  
11 the consent decree?

12 MICHAEL BOUJOULIAN: Superficially.  
13 I'm aware that they require that Waltham, like many  
14 other cities in the Commonwealth that are working to  
15 -- particularly the older cities, they are working to  
16 upgrade old infrastructure. So, this is a similar  
17 process I've been through in the City of Cambridge  
18 and others. I don't know the details of it. My  
19 understanding is the meat or the teeth of it, so to  
20 speak, is helping remove flows from the systems,  
21 which would be either by payment through this  
22 calculation or replacing it.

23 MARC RUDNICK: It's my assumption that  
24 just like with the fire department, the engineer is

1 the gatekeeper for this. Can you get a building  
2 permit without complying with the I and I? I mean I  
3 know you've already agreed to --

4 MICHAEL BOUJOULIAN: Well, on this  
5 one, again, I'm not as skilled as our engineers who  
6 have been reviewing all these months, but I think it  
7 is a little different than making the fire or police  
8 teams happy. I think this is a local -- it is a --  
9 while there is a state consent decree, it is a local  
10 approvals. So, I think the jurisdiction in this  
11 matter does lie with you. We just wanted to make  
12 your department head happy and comply to the fee,  
13 which I think, again, is the meat of it. I don't  
14 know what the balance of it is.

15 MARC RUDNICK: You're not going to  
16 mind if we just check with the engineering department  
17 and see if there are any other elements that we  
18 haven't touched in this?

19 MICHAEL BOUJOULIAN: I mean I think we  
20 were hoping that our commitment to pay a pretty  
21 sizeable --

22 MARC RUDNICK: Well, you're not sure  
23 of it and I'm not sure of it. And this will help  
24 this presentation.

1                   MICHAEL BOUJOULIAN: I think what they  
2 wanted was the fee, so that was what we were looking  
3 to do. I don't know. I can't speak intelligently on  
4 this.

5                   MARC RUDNICK: Yeah. I mean it's not  
6 something I'd be holding the hearing open for, but  
7 I'll check with the engineering department to see if  
8 there are any other elements there. And you can deal  
9 with that I guess in your building permit process. I  
10 assume the fee is -- I agree that the fee is the  
11 core.

12                   MICHAEL BOUJOULIAN: I'll just say, I  
13 know that we can live with that condition as crafted.

14                   MARC RUDNICK: Okay. The one that the  
15 I and I calculated --

16                   MICHAEL BOUJOULIAN: Yes.

17                   MARC RUDNICK: Gotcha. Thank you.

18                   Thank you, Madam Chair.

19                   BARBARA RANDO, CHAIR: That's it?

20                   MARK HICKERNELL: Actually, there was  
21 another thing that Councilor Logan had brought up was  
22 with respect to condition 13 for the shuttle service,  
23 having more of a gatekeeper there for reducing the  
24 frequency. I think we had worked on this language

1 previously, and Mr. Rudnick had proposed something  
2 which I think was intended. And I think the current  
3 language is intended to fill -- to fulfill a similar  
4 role. But I'd like to hear from you if there's a  
5 disagreement between, you know, under the condition  
6 13 as it's currently drafted, if there's a  
7 disagreement between Alliance and either its tenants  
8 or, by extension, with the City, if it's a  
9 disagreement as to any proposed reduction or actual  
10 reduction in the shuttle service, how would that get  
11 enforced under this as its written?

12 MICHAEL BOUJOULIAN: Yeah, I mean if  
13 there's a disagreement with our customers, we'd be  
14 turning away customers. So, you know, I don't -- I  
15 don't know how to respond to that except that our  
16 goal of having the shuttle system had nothing to do  
17 with the Zoning Board or any other -- we think it's  
18 an important part of our business. So, I guess our  
19 concern with having a second, you know, regulatory  
20 review on that is, you know, we want flexibility to  
21 run our business as optimally as we can. If the  
22 route change that meets -- if our residents want a  
23 different route, or an extra route, or a change in  
24 route, we would like the flexibility to be able to

1 adjust it in real time so that we're not hurting our  
2 business.

3 As we've said, this is a condition we  
4 proposed to add. This was not asked. Our original  
5 application I believe three years ago included this.  
6 So, we think it is an important part of the business.  
7 We're just simply asking for a little bit of  
8 flexibility. We certainly wouldn't be immediately  
9 looking to unwind a condition that we proposed to add  
10 and we made a commitment to you and the public. We  
11 think it's a really important part of our business  
12 plan. We just don't want to get hung up on a  
13 disagreement with someone at city hall that disagrees  
14 with us on how to serve our customers.

15 So, you know, we like the condition as  
16 its drafted, you know, additional reviews, and  
17 process in order for us to adapt and work with a very  
18 expensive commitment. I work with the 128 Business  
19 Council. You know, it could be problematic. We're  
20 trying to avoid all this.

21 MARK HICKERNELL: Right. I understand  
22 and agree that, you know, an operator of this  
23 development, to operate it, you know, acting in good  
24 faith, would have a strong incentive to maintain, you



1 know, an adequate shuttle service. My question is  
2 maybe -- maybe I'll refine the question or reword it.  
3 If down the road whoever is operating this  
4 development, presumably Alliance, eliminates shuttle  
5 service, and there is still demand for it among the  
6 tenants, both affordable units and otherwise, or one  
7 or the other, and the shuttle service has been  
8 reduced not in response to actual demand, you're not  
9 in compliance with this permit anymore, right?

10 MICHAEL BOUJOULIAN: Right. We would  
11 have to -- yeah, we were saying that we would study  
12 it and need more factual data to prove that. I mean  
13 --

14 MARK HICKERNELL: And that would be  
15 actual demand. That's --

16 MICHAEL BOUJOULIAN: Yeah.

17 MARK HICKERNELL: Yeah. Okay.

18 MICHAEL BOUJOULIAN: And I think that  
19 is one of the conditions. We're going to have to --

20 MARK HICKERNELL: Because my  
21 recollection is Mr. Rudnick had worked with you to  
22 change this to actually make it a little together,  
23 which is the language we have now.

24 MICHAEL BOUJOULIAN: That's correct.

1                   MARK HICKERNELL: All right. Is that  
2 -- is that right, Marc?

3                   MARC RUDNICK: Yeah. You know, I  
4 wouldn't characterize this as tight as it could be,  
5 but it certainly is a response to -- a reasonable  
6 response to the concerns I had.

7                   I guess the piece that's missing here  
8 for me now, because I do think this is a reasonable  
9 approach in response to the actual demand, but it  
10 leaves the door open for turning the service off  
11 entirely based on a demand that you conclude doesn't  
12 require service. In other words, I know you're  
13 responding to the actual demand. But if the demand  
14 is one person wants one trip a day, this doesn't say  
15 you can't judge that that demand is not reasonable to  
16 run a bus service for and, therefore, you wouldn't do  
17 it.

18                  MICHAEL BOUJOULIAN: Well, I think  
19 what would happen is --

20                  MARC RUDNICK: I didn't mean to use  
21 that extreme example.

22                  MICHAEL BOUJOULIAN: No, I under -- I  
23 think it's fair that --

24                  MARC RUDNICK: It's more a question of

1 an additional limitation on your ability to end the  
2 service.

3 MICHAEL BOUJOULIAN: Yeah, I  
4 understand what you're doing. So I think it's a fair  
5 way to test the theory. Yeah, I mean this says that  
6 we would only be able to do it if we were able to,  
7 via I think a demand -- a transportation demand  
8 study, which we are including to that condition as  
9 well per your transportation engineer. So, you know,  
10 I think, again, adding another extensive review in  
11 order for us to modify these routes would be -- is  
12 just -- it's just not optimal for how we want to  
13 serve our customers. And, again, I just want to  
14 emphasize, this is something we came in offering.  
15 We're not looking to find a way out of this  
16 condition. We wrote this condition with this draft.

17 MARK HICKERNELL: So it says the  
18 annual report is going to be maintained by the  
19 Applicant. Maybe we discussed this in a previous  
20 hearing. I can't recall at this point. But is it  
21 going to be provided to anybody in the City? And if  
22 that's not an intention, do you have an issue or any  
23 objection to providing it, the annual report, to the  
24 traffic commission?

1                   MICHAEL BOUJOULIAN: No, I don't have  
2 an objection to providing the report, particularly if  
3 there was a question that we're trying to -- no,  
4 we're an open book. If you want to --

5                   MARK HICKERNELL: Yeah. No, obviously  
6 -- I hope you're not taking it that way. I'm not  
7 presuming bad faith at this point. But we do want,  
8 you know, some way of monitoring it to make sure down  
9 the road that the shuttle service continues as demand  
10 requires.

11                   MICHAEL BOUJOULIAN: Personally, I'd  
12 rather it be submitted to you. You're the board with  
13 the authority. But if it's the Board's wishes, you  
14 know, it's your wish, and we will comply.

15                   MARK HICKERNELL: If we write  
16 something and that it will be provided to somebody,  
17 you don't have an issue with that?

18                   MICHAEL BOUJOULIAN: Yeah. No, we're  
19 happy to share the reports.

20                   BARBARA RANDO, CHAIR: All right. Any  
21 more questions?

22                   MARC RUDNICK: I'm struggling with the  
23 piece that just says complete cancellation of the bus  
24 service will require the approval of somebody.

1                   MICHAEL BOUJOULIAN: I think that it  
2 would be fine --

3                   MARC RUDNICK: We're trusting you to  
4 do the reductions in appropriate proportion to the  
5 need. But, when we get to the point where we're  
6 going to say we think the need says no more bus  
7 service, I want there to --

8                   MICHAEL BOUJOULIAN: I would be -- I  
9 would be fine with if we were going to cancel it,  
10 we'd need to prove that to the Zoning Board ideally,  
11 because you're the Board that reviewed this. But,  
12 yeah, for a straight cancellation, sure.

13                   MARC RUDNICK: So, we'll just add that  
14 simple requirement in there. Is there a nod from  
15 anybody else about that cancel --

16                   MARK HICKERNELL: So, complete  
17 cancellation of the shuttle service shall require the  
18 prior approval of the Zoning Board of Appeals, which  
19 approval shall not be unreasonably denied.

20                   MICHAEL BOUJOULIAN: That seems  
21 perfectly reasonable.

22                   BARBARA RANDO, CHAIR: All right. Any  
23 other questions from Board members?

24                   (No response.)

1 BARBARA RANDO, CHAIR: Are we ready to  
2 close the public hearing? Just remember that if you  
3 have anything to ask, ask now. We cannot receive any  
4 information once the public hearing is closed. So if  
5 you need any clarification, do it now. All right.  
6 Do I have a --

7 MARC RUDNICK: Again, that's for the  
8 public that the Chair is stating -- when we close  
9 this public hearing, we can't take any more testimony  
10 from the public.

11 BARBARA RANDO, CHAIR: Or the  
12 Petitioner.

13 MARC RUDNICK: Or the Petitioner, of a  
14 substantial nature. So, this is your last chance to  
15 get in before we close the public hearing tonight.  
16 We're happy to accept any other comments or questions  
17 from the public.

18 MICHAEL BOUJOULIAN: One point or one  
19 question. Typically -- well, if it pleases the  
20 Board, we're happy to continue to make these changes  
21 for you and incorporate these, so even after the  
22 public hearing is closed. It's our understanding  
23 that we would be allowed to still submit that. It  
24 wouldn't be new testimony. It would all have been

1 talked about tonight. So, if it pleases the Board,  
2 we're happy to make those final changes, or however  
3 the Board would prefer the process.

4 MARK HICKERNELL: Speaking for myself,  
5 I think that would be useful since I think the  
6 Petitioner has the most recent markup of this. If  
7 you incorporate what we discussed tonight and  
8 distributed it through the law department to us so  
9 that it's also available for the public to review, I  
10 think that would make sense.

11 MARC RUDNICK: Let's incorporate that  
12 into the motion to close the hearing.

13 BARBARA RANDO, CHAIR: Well, I'm not  
14 ready for a motion at this time. Before I do that,  
15 we have a problem with the 40 days. It seems that  
16 the 40 days ends on October 8, which is a holiday.

17 MICHAEL BOUJOULIAN: I believe it's  
18 calendar days per the regulations.

19 BARBARA RANDO, CHAIR: I'm sorry?

20 MICHAEL BOUJOULIAN: I believe it's  
21 based on calendar days per the regulations, so that's  
22 correct.

23 BARBARA RANDO, CHAIR: So we were  
24 asking if we can go to the 10<sup>th</sup> because the 9<sup>th</sup> is when

1 we usually allow the Council to have a -- well, we  
2 don't allow them to. They have a meeting on Mondays.  
3 And if there's a holiday, they'll have it on a  
4 Tuesday. We usually don't have ZBA on a Tuesday.

5 MICHAEL BOUJOULIAN: Well, I will just  
6 say that I feel like -- I think this is probably  
7 bringing up another point -- but I think there were  
8 some parts of this comprehensive permit process, a  
9 number of them, that have been unorthodox or unusual.  
10 But one that has been particularly notable is that  
11 this permit was drafted in real time. Typically,  
12 this process is testimony, and response, and  
13 resubmissions, and then the hearing is closed and a  
14 permit goes off and it's drafted without any  
15 applicant testimony. And it hasn't been the case  
16 here. So I mean we certainly -- well, we wouldn't  
17 challenge. The Board certainly has its 40-day  
18 statutory authority to deliberate. And we feel like  
19 every condition has been crafted and installed in  
20 real time in response to the concerns raised by your  
21 specialists and by you. So, you know, we've kept  
22 this hearing open a number of extra times. And, you  
23 know, we're anxious to get it done. We're hoping  
24 that the deliberations here will not take 40 days.



1 BARBARA RANDO, CHAIR: But, according  
2 to 40B, do we not have the 40 days?

3 MICHAEL BOUJOULIAN: You do, yeah.  
4 So, I just -- that's my point is I think 40 days is a  
5 long time, particularly relative to how this process  
6 --

7 BARBARA RANDO, CHAIR: But it ends on  
8 a holiday.

9 MICHAEL BOUJOULIAN: Right. So, prior  
10 to that, the permit would need to be issued. We do  
11 think that's a lot of time. We've been -- we've  
12 really been very open I think with extensions and the  
13 time this process has taken. We really -- we do not  
14 want to add any further delays at this time. It's a  
15 long time.

16 BARBARA RANDO, CHAIR: I'm sorry?

17 MICHAEL BOUJOULIAN: It's a long time.  
18 We hope that you guys are -- you've been involved  
19 with this permit, as we have, and the conditions and  
20 the responses we've made. So, we hope that it  
21 doesn't take you 40 days.

22 BARBARA RANDO, CHAIR: I'm not saying  
23 it's going to take us the 40 days. But we are  
24 allowed the 40 days.

1                   MICHAEL BOUJOULIAN:       I understand  
2                   that. We'd like to stick with the statutory --

3                   BARBARA RANDO, CHAIR:   Even though it  
4                   ends on a holiday? Even if the 40<sup>th</sup> day is on a  
5                   holiday?

6                   MICHAEL BOUJOULIAN:   Yes.

7                   BARBARA RANDO, CHAIR:   And the day  
8                   before is a Sunday and a Saturday?

9                   MICHAEL BOUJOULIAN:       That's not  
10                  unusual. That's part of the regulation. So, we're  
11                  hoping that you'll balance this time, particularly  
12                  with how advanced we are in this process, that you --  
13                  that those two days -- there is no presumption that  
14                  all of those days are business days.

15                  BARBARA RANDO, CHAIR:   So, we would  
16                  have to make it by day 38.

17                  All right. I'm ready to entertain a  
18                  motion to close the public hearing.

19                  MARC RUDNICK:    Another question, if  
20                  you don't mind, Madam Chair.

21                  BARBARA RANDO, CHAIR:   I'm sorry?

22                  MARC RUDNICK:       I have another  
23                  question, if you don't mind.

24                  BARBARA RANDO, CHAIR:   Go right ahead.

1                   MARC RUDNICK: Did we put something in  
2 the comprehensive permit that references the plan set  
3 that supports the permits?

4                   MICHAEL BOUJOULIAN: I think so, yeah.

5                   MARC RUDNICK: I'm just not finding  
6 it. And we need to certainly make sure that we're  
7 referencing the current set.

8                   MICHAEL BOUJOULIAN: I believe it's  
9 upfront. There's a reference to exhibits there.

10                  MARC RUDNICK: Okay. It's right at  
11 the end.

12                  A.J. ALEVIZOS: Page 9 lists out all  
13 of the plans, every sheet of the plans.

14                  MICHAEL BOUJOULIAN: And then also on  
15 page 17 I believe there is an exhibit attached.

16                  MARC RUDNICK: Okay. Yeah, I see  
17 twice we're referring to the August, which is the  
18 current plan.

19                  MICHAEL BOUJOULIAN: So, I just, Madam  
20 Chair, before you seek a motion to close, we just  
21 want to reiterate we think this has been an  
22 incredible collaborative process. And we do think  
23 that this application has been substantially improved  
24 by the Board's input and cooperation and requests.

1 I just want to reiterate that the  
2 permit that we have, even inclusive of the comments  
3 we discussed tonight, is a permit we know we can live  
4 with and we know we can execute on. Our main goal  
5 here, unsurprisingly, is to build high-quality or  
6 first-class apartment communities in first-class  
7 communities like the City of Waltham.

8 So, we just want to reiterate how  
9 important it is that this draft is something that we  
10 can execute on because if it should go to a challenge  
11 as an appeals committee, and should it be upheld in  
12 its current draft or overturned, a lot of this work  
13 could get washed away. So, we really hope that the  
14 Board, in their deliberations, find a way to vote  
15 positively on a permit that is substantially similar  
16 to the one that we discussed tonight.

17 BARBARA RANDO, CHAIR: All right.  
18 Fine.

19 MARC RUDNICK: I did have a question.  
20 And maybe Geoff could answer this one. This was  
21 just a curiosity that came up at the beginning on the  
22 Board. And I know this is not a situation that  
23 happens typically. But what happens if we can't fill  
24 the affordable set-aside units here? And I know it

1 almost never happens, but is there a process within  
2 40B to deal with inability to fill the restricted  
3 units?

4 GEOFF ENGLER: No. Well --

5 BARBARA RANDO, CHAIR: Name and  
6 address.

7 GEOFF ENGLER: Geoff -- I apologize.  
8 For the record, Geoff Engler from SEB. My address is  
9 257 Hillside Ave., Needham, MA, 02494.

10 They have to stay open. It's not like  
11 -- and there's no petitioning the Board to say, "Hey,  
12 we marketed for -- we've done all the affirmative  
13 marketing. We couldn't fill the units, so can we  
14 convert them to market or whatever." They'll stay  
15 open. Listen, we've done the lotteries for Currents  
16 on the Charles, for Merc at Moody, for Lincoln  
17 Properties, for the Watch Tower. Granted, those are  
18 10 percent in terms of the total building, but they  
19 all filled up. It's the same, you know, up to 80  
20 percent. So they'll fill, particularly if -- where  
21 it's an issue, and I'm longwinded again, of course --  
22 is when you're an hour outside of Boston and you  
23 have, you know, 100 affordable units, and it's just a  
24 less desirable community in general. But when you're

1 in Waltham or an area that's very desirable from a  
2 housing standpoint, they're going to fill up. I mean  
3 I can't tell you if it's going to take a month or two  
4 months, but they'll fill up. And if they didn't, to  
5 answer your question, they can't be converted or  
6 there's no petitioning to change them or anything.

7 MARC RUDNICK: Thank you very much. I  
8 think I'm done, Madam Chair.

9 BARBARA RANDO, CHAIR: You're done?  
10 Okay.

11 Anyone else?

12 (No response.)

13 BARBARA RANDO, CHAIR: All right.  
14 I'll entertain a motion to close the public hearing.

15 JOHN SERGI: I make a motion to close  
16 the public hearing as of tonight, Madam Chair.

17 BARBARA RANDO, CHAIR: Motion by Mr.  
18 Sergi to close the public hearing.

19 Do I have a second?

20 MARC RUDNICK: Can we just amend that  
21 to say with the understanding that we'll accept the  
22 submission of the revised decision from the Applicant  
23 based on the changes that happened tonight?

24 BARBARA RANDO, CHAIR: Absolutely.

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1 Did you hear that?

2 MICHAEL BOUJOULIAN: Yes.

3 MARK HICKERNELL: So is that your  
4 second?

5 MARC RUDNICK: That's my amendment,  
6 and then I would second as amended.

7 BARBARA RANDO, CHAIR: Second by Mr.  
8 Rudnick.

9 How do you vote, Mr. Sergi?

10 JOHN SERGI: Yes.

11 BARBARA RANDO, CHAIR: Mr. Hickernell?

12 MARK HICKERNELL: Yes.

13 BARBARA RANDO, CHAIR: Ms. Gelineau?

14 GLENNA GELINEAU: Yes.

15 BARBARA RANDO, CHAIR: Mr. Rudnick?

16 MARC RUDNICK: Yes.

17 BARBARA RANDO, CHAIR: And the Chair  
18 votes yes.

19 All right. The public hearing is  
20 closed.

21 Does anyone else have any information  
22 that they -- at this time, we can decide to vote on  
23 it, we can approve it, we can approve it with  
24 conditions, or we can go into next week's work

1 session on Tuesday and Wednesday. What is the wish  
2 of the Board?

3 MARC RUDNICK: It's certainly my  
4 preference, since we've already scheduled a meeting  
5 for next week, that we begin deliberations next week  
6 rather than at this hearing. But I would like to  
7 give our consultant an opportunity to address the  
8 Board and any lingering questions in this issue as  
9 well.

10 BARBARA RANDO, CHAIR: Okay. I would  
11 like to make a motion to ask a representative from  
12 the law department --

13 JUDI BARRETT: Are you asking for  
14 input from me now or are we talking about next week?

15 MARC RUDNICK: Yeah, now, Judi. But  
16 give us a couple of minutes.

17 JUDI BARRETT: Oh, sure. That's fine.

18 BARBARA RANDO, CHAIR: I forgot what I  
19 was saying. A representative on our working session  
20 because there are a couple of questions that I would  
21 like clarified as far as legal matters, someone that  
22 knows zoning, not just anyone from the law  
23 department. So, I would like to make that motion.

24 Do I have a second?



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1 MARK HICKERNELL: The motion is to  
2 invite someone from the law department to attend next  
3 Wednesday?

4 BARBARA RANDO, CHAIR: To ask someone  
5 to attend the work session, someone that is a Zoning  
6 Board attorney. I have a couple of questions, legal  
7 questions, that I would like answered and I think  
8 would help us in making a decision sooner than later.

9 MARK HICKERNELL: I mean as long as  
10 it's not something that we needed to be in public  
11 hearing to hear from the law department, I don't  
12 object to that.

13 BARBARA RANDO, CHAIR: It's a public  
14 meeting. The meeting will be a public meeting. The  
15 public is invited. They can't speak, but they --  
16 they can't give us information, but they're invited.

17 MARK HICKERNELL: No, I understand  
18 that. As long as it's not new information, or  
19 rebuttable, arguments, or anything like that.

20 BARBARA RANDO, CHAIR: Oh, right. No  
21 rebuttal.

22 MARK HICKERNELL: Not just no  
23 rebuttal, but nothing that could be rebutted. Sure,  
24 I'll second the motion.

1 BARBARA RANDO, CHAIR: All right.

2 Motion by the Chair. Second by Mr. Hickernell.

3 How do you vote, Mr. Sergi?

4 JOHN SERGI: Yes.

5 BARBARA RANDO, CHAIR: Mr. Hickernell:

6 MARK HICKERNELL: Yes.

7 BARBARA RANDO, CHAIR: Ms. Gelineau?

8 GLENNA GELINEAU: Yes.

9 BARBARA RANDO, CHAIR: Mr. Rudnick?

10 MARC RUDNICK: Yes.

11 BARBARA RANDO, CHAIR: And the Chair  
12 votes yes.

13 All right. Now, you made a motion to  
14 -- you had asked something and I interrupted you.

15 MARC RUDNICK: I just wanted to hear  
16 from our consultant before -- if we're going to close  
17 the hearing -- I mean if we're going to not go on and  
18 deliberate tonight, I'd just like to give Judi a  
19 chance to speak to us.

20 BARBARA RANDO, CHAIR: Right.

21 MARC RUDNICK: For the record, our  
22 consultant is Judi Barrett. And she was unable to be  
23 here tonight, so she is here by telephone.

24 BARBARA RANDO, CHAIR: Did she have

1 something to say?

2 MARC RUDNICK: Judi, would you like to  
3 take the floor? Do you have something to add to  
4 this?

5 JUDI BARRETT: So, as I mentioned  
6 earlier, it's a little bit difficult to hear. I  
7 gather you closed the hearing, yes?

8 MARC RUDNICK: Correct.

9 BARBARA RANDO, CHAIR: Yes.

10 JUDI BARRETT: Does the Board feel  
11 ready to vote or are you planning to deliberate next  
12 week? Kind of where are you at this point on  
13 actually making a decision?

14 MARC RUDNICK: Well, I expressed my  
15 opinion that I'd rather wait till next week since we  
16 have a hearing already scheduled for Wednesday. The  
17 Chair made a motion to ask the law department to  
18 attend that meeting. So it sounds like deliberations  
19 will not begin -- I haven't heard from the other  
20 Board members, but the Chair and I have both made  
21 statements that would support the argument that we'd  
22 start next Wednesday on deliberations.

23 BARBARA RANDO, CHAIR: Right.

24 JUDI BARRETT: Okay. I see. Okay.

1 BARBARA RANDO, CHAIR: All right. Is  
2 that a motion? Are you making a motion that we  
3 deliberate on Tuesday?

4 MARK HICKERNELL: I don't know that we  
5 need a motion.

6 MARC RUDNICK: I would just close -- I  
7 would just --

8 BARBARA RANDO, CHAIR: Well, is  
9 everyone in favor?

10 MARC RUDNICK: I would just adjourn  
11 the meeting and --

12 BARBARA RANDO, CHAIR: What is  
13 everyone's feeling? Are they ready to vote tonight  
14 or to go to the deliberation on Tuesday or Wednesday  
15 and Thursday?

16 MARK HICKERNELL: So, I would rather  
17 we have a chance to deliberate. I'd rather not vote  
18 tonight.

19 BARBARA RANDO, CHAIR: Mr. Sergi?

20 JOHN SERGI: I agree. I'd rather --

21 JUDI BARRETT: May I ask a question?

22 BARBARA RANDO, CHAIR: Ms. Gelineau?

23 JUDI BARRETT: May I ask a question?

24 BARBARA RANDO, CHAIR: Sure.

1                   MARC RUDNICK: Go ahead, Judi.

2                   JUDI BARRETT: Just so I understand,  
3 because every town does this a little bit  
4 differently. Will the law department be reviewing a  
5 final draft of the decision or be participating in  
6 some substantive way in the Board's decision? I mean  
7 part of this is I'm trying to figure out perhaps what  
8 will we look like next week as well. So, maybe you  
9 could give me some -- just some understanding about  
10 how you folks typically work.

11                   BARBARA RANDO, CHAIR: Well, I have a  
12 couple of questions, legal questions, that I would  
13 like to ask the attorney during the work session.

14                   JUDI BARRETT: Okay.

15                   BARBARA RANDO, CHAIR: That is my  
16 request. And you had already made a motion that she  
17 is going to --

18                   MARC RUDNICK: Again, I'm not  
19 concerned about having the law department here. The  
20 Chair made that motion and it was passed.

21                   JUDI BARRETT: Sure. Okay. That's  
22 fine. I'm just trying to understand.

23                   MARC RUDNICK: I'm just concerned not  
24 to start the deliberations tonight, on a hot night in

1 an non-air conditioned room.

2 JUDI BARRETT: Okay. That is the  
3 Board's call. I mean, you know, you have to -- as  
4 you know, you have 40 days. But you don't have to  
5 take 40 days. You have the deliberation sessions  
6 scheduled, I believe, next Wednesday and Thursday  
7 nights. If that's what you need, that's what you  
8 need.

9 BARBARA RANDO, CHAIR: That's fine.  
10 Wednesday night is at five -- no -- yes. And,  
11 Thursday -- no, Wednesday is at seven, and Thursday  
12 is from five to seven p.m. And it's in the public  
13 meeting room.

14 JUDI BARRETT: I think it's just -- I  
15 just would want to underscore, however, that -- and  
16 I'm sure you already know this -- but I just want to  
17 make this clear. When you move into deliberations,  
18 it's the Board that deliberate it. So, you know, if  
19 there are six staff or whoever that, you know, they  
20 want to attend, they're not part of the  
21 deliberations. It's the Board.

22 MARC RUDNICK: I think the Board is  
23 technical advice there.

24 BARBARA RANDO, CHAIR: Right. To ask

1 questions.

2 MARC RUDNICK: Thank you, Judi.

3 JUDI BARRETT: Okay.

4 BARBARA RANDO, CHAIR: All right.  
5 We're all in agreement that we will recess tonight,  
6 end tonight's meeting, and we will meet next  
7 Wednesday at five.

8 MARC RUDNICK: Seven.

9 BARBARA RANDO, CHAIR: Seven.

10 MARC RUDNICK: So everyone is aware  
11 that the meeting is Wednesday at 7:00 p.m.

12 BARBARA RANDO, CHAIR: Five to seven  
13 on Thursday.

14 MICHAEL BOUJOULIAN: I think the vote  
15 was Wednesday at five.

16 MARC RUDNICK: I'm sorry.

17 MICHAEL BOUJOULIAN: Just be sure --

18 BARBARA RANDO, CHAIR: Five on  
19 Thursday. Five to seven on Thursday.

20 JUDI BARRETT: Is it at 8:00 p.m. next  
21 week?

22 MARC RUDNICK: Hang on, Judi.

23 MARK HICKERNELL: No, nothing at eight  
24 next week.

1 MARC RUDNICK: Sorry about that.

2 JUDI BARRETT: Sure. Sure.

3 MICHAEL BOUJOULIAN: I apologize.

4 JUDI BARRETT: That's okay. That's  
5 all right.

6 MARC RUDNICK: Seven on Wednesday,  
7 five on Thursday. Right?

8 BARBARA RANDO, CHAIR: Right.

9 MARC RUDNICK: Okay. So we're all in  
10 agreement about the time next week. We'll expect to  
11 see the Applicant, the public. Please be aware,  
12 you're all invited to these meetings, but these are  
13 no longer public hearings. So, we won't be receiving  
14 any further testimony from the public.

15 BARBARA RANDO, CHAIR: True.

16 JUDI BARRETT: Right. Right.

17 BARBARA RANDO, CHAIR: All right. I  
18 will entertain a motion to adjourn.

19 JOHN SERGI: Motion to adjourn, Madam  
20 Chair.

21 BARBARA RANDO, CHAIR: Motion to  
22 adjourn by Mr. Sergi. Second?

23 MARK HICKERNELL: Second.

24 BARBARA RANDO, CHAIR: Second by Mr.



1 Hickernell.  
2 How do you vote, Mr. Sergi?  
3 JOHN SERGI: Yes.  
4 BARBARA RANDO, CHAIR: Mr. Hickernell?  
5 MARK HICKERNELL: Yes.  
6 BARBARA RANDO, CHAIR: Ms. Gelineau?  
7 GLENNA GELINEAU: Yes.  
8 BARBARA RANDO, CHAIR: Mr. Rudnick?  
9 MARC RUDNICK: Yes.  
10 BARBARA RANDO, CHAIR: And the Chair  
11 votes yes. So, we're adjourned at 9:45.  
12 Thank you and good evening.  
13 (Whereupon, the hearing was adjourned  
14 at 9:45 p.m.)  
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C E R T I F I C A T E

I, Judith Luciano, do hereby certify that the foregoing record is a true and accurate transcription of the proceedings in the above-captioned matter to the best of my skill and ability.

*Judith Luciano*

Judith Luciano